Fish and Game Commission

Meeting Binder

June 21-22, 2017

Commission Meeting

Smith River

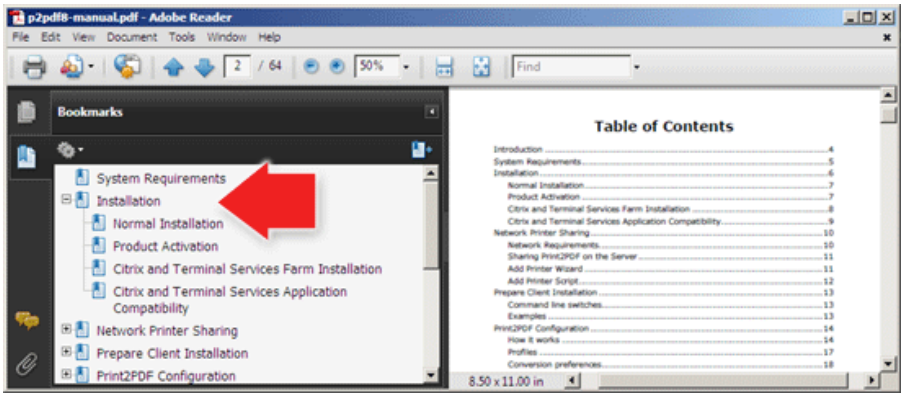
EASY GUIDE TO USING THE BINDER

1. Download and open the binder document using your Adobe Acrobat program/app.

2. If a bookmark panel does not automatically appear on either the top or left side of the screen, click/tap on the “bookmark symbol” located near the top left-hand corner.



3. To make adjustments to the view, use the Page Display option in the View tab. You should see something like:



4. We suggest leaving open the bookmark panel to help you move efficiently among the staff summaries and numerous supporting documents in the binder. It’s helpful to think of these bookmarks as a table of contents that allows you to go to specific points in the binder without having to scroll through hundreds of pages.

5. You can resize the two panels by placing your cursor in the dark, vertical line located between the panels and using a long click /tap to move in either direction. ⇹

6. You may also adjust the sizing of the documents by adjusting the sizing preferences located on the Page Display icons found in the top toolbar or in the View tab.

7. Upon locating a staff summary for an agenda item, notice that you can obtain more information by clicking/tapping on any item underlined in blue.

8. Return to the staff summary by simply clicking/tapping on the item in the bookmark panel.

9. Do not hesitate to contact staff if you have any questions or would like assistance.

OVERVIEW OF FISH AND GAME COMMISSION BUSINESS MEETINGS

- This is the 147th year of continuous operation of the California Fish and Game Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making. These meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

- We are operating under Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast via Cal-Span.

- In the unlikely event of an emergency, please note the location of the nearest emergency exits. Additionally, the restrooms are located _____.

- Items may be heard in any order pursuant to the determination of the Commission President.

- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.

- Speaker cards need to be filled out **legibly** and turned in to the staff **before** we start the agenda item. Please make sure to list the agenda items you wish to speak to on the speaker card.

- We will be calling the names of several speakers at a time so please line up behind the speakers' podium when your name is called. If you are not in the room when your name is called you may forfeit your opportunity to speak on the item.

- When you speak, please state your name and any affiliation. Please be respectful. Disruptions from the audience will not be tolerated. Time is precious so please be concise.

- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.

- All petitions for regulation change must be submitted in writing on the authorized petition form, FGC 1, Petition to the California Fish and Game Commission for Regulation Change, available at http://www.fgc.ca.gov/public/information/petitionforregulatorychange.aspx.

- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.

- **Warning**! The use of a laser pointer by someone other than a speaker doing a presentation may result in arrest.

INTRODUCTIONS FOR FISH AND GAME COMMISSION MEETINGS

Fish and Game Commission

Eric Sklar	President (Saint Helena)
Jacque Hostler-Carmesin	Vice-President (McKinleyville)
Anthony Williams	Member (Huntington Beach)
Russell Burns	Member (Napa)
Peter Silva	Member (El Cajon)

Commission Staff

Valerie Termini	Executive Director
Melissa Miller-Henson	Deputy Executive Director
Mike Yaun	Legal Counsel
Erin Chappell	Wildlife Advisor
Susan Ashcraft	Marine Advisor
Mary Brittain	Administrative Assistant
Sherrie Fonbuena	Analyst

California Department of Fish and Wildlife

Chuck Bonham	Director
Wendy Bogdan	General Counsel
Jordan Traverso	Deputy Director, Communications, Education and Outreach
David Bess	Deputy Director and Chief, Law Enforcement Division
Stafford Lehr	Deputy Director, Wildlife and Fisheries Division
Kevin Shaffer	Fisheries Branch Chief
T.O. Smith	Wildlife Branch Chief
Craig Shuman	Marine Region Manager

I would also like to acknowledge special guests who are present:
(i.e., elected officials, tribal chairpersons, other special guests)

Onstantcontact.com
Commissioners
Eric Sklar, President
Saint Helena
Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
Huntington Beach
Russell E. Burns, Member
Napa
Peter S. Silva, Member
El Cajon

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

REVISED* MEETING AGENDA
June 21-22, 2017

Howonquet Hall Community Center
101 Indian Court, Smith River 95567

The meeting will be live streamed at www.cal-span.org

* This agenda is revised to add a new agenda item 33, related to abalone, shown in ***bold, italicized*** font.

NOTE: See important meeting deadlines and procedures at the end of the agenda. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as the Department.

Invitation: The Commission invites interested stakeholders to join a discussion on June 21 at 3:00 p.m. in Howonquet Hall to explore what may contribute to resiliency and long-term prosperity of fishing communities in northern California. The discussion is part of an ongoing dialogue to help clarify common concerns throughout the state and help inform future Commission action.

DAY 1 – JUNE 21, 2017, 9:00 AM

Call to order/roll call to establish quorum

1. Approve agenda and order of items

2. Public forum for items not on agenda
   The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting. (Sections 11125, 11125.7(a), Government Code)

CONSENT ITEMS

3. Approve Department's request for a 30-day extension of time to complete its evaluation of the petition to list Cascades frog (*Rana cascadae*) as endangered or threatened under the California Endangered Species Act (CESA)
   (Pursuant to Section 2073.5, Fish and Game Code)

4. Approve proposed Duck Stamp projects for fiscal year 2017-18
(Pursuant to Section 3702, Fish and Game Code)

5. Approve initial Private Lands Wildlife Habitat Enhancement and Management Area (PLM) plan and 2017-2022 license for:
(Pursuant to Section 601, Title 14, CCR)

   (A) Shasta County
      I. Rickert Ranch

6. Approve annual PLM plans and 2017-2018 licenses for:
(Pursuant to Section 601, Title 14, CCR)

   (A) Butte County
      I. Llano Seco Rancho
      II. Soper-Wheeler
      III. Rock Creek
   (B) Calaveras County
      I. Ordway Ranch
   (C) Glenn County
      I. Bird Haven Ranch
      II. Spurlock Ranch
   (D) Kern County
      I. Tejon Ranch
      II. Temblor Ranch
   (E) Lassen County
      I. Clarks Valley Ranch
      II. Dixie Valley Ranch
      III. Five Dot Ranch-Avila
      IV. Five Dot Ranch-Horse Lake
      V. Five Dot Ranch-School Section
      VI. Five Dot Ranch-Tunnel Springs
      VII. Five Dot Ranch-Willow Creek
      VIII. Kramer Ranch
      IX. Mendiboure Cold Springs Ranch
      X. Mendiboure Ranch
      XI. Red Rock Ranch
   (F) Los Angeles
      I. Santa Catalina Island
      II. Tejon Ranch
   (G) Mendocino County
      I. Ackerman-South Daugherty WMA
      II. Capistran Ranch
      III. R-R Ranch
      IV. Schneider Ranch
      V. Spring Valley Ranch
   (H) Modoc County
      I. Basin View Ranch
      II. SL Ranch

(I) Monterey County
I. Bardin Ranch
II. Sky Rose Ranch, LLC
(J) San Luis Obispo County
I. Carnaza Ranch
II. Carrizo Ranch
III. Hearst Ranch
IV. Temblor Ranch
(K) Shasta County
I. Black Ranch
II. Clover Creek Ranch
III. Hathaway Oak Run Ranch
IV. JS Ranch
V. Roaring River Ranch
VI. Triple B Ranch
(L) Siskiyou County
I. Long Prairie Farms
II. Red Rock Valley Farms
III. Roseburg Resources-Pondosa
(M) Tehama County
I. Big Bluff Ranch
II. Little Dry Creek Ranch
III. Rock Creek
IV. Salt Creek Ranch
(N) Yuba County
I. Sugarloaf-Bangor Ranch

7. Approve five-year PLM plans and 2017-2022 licenses for:
(Pursuant to Section 601, Title 14, CCR)

(A) Butte County
I. Deseret Farms-Ballard Unit
II. Deseret Farms-Wilson Unit
(B) Lassen County
I. Ash Valley Ranch
II. Walton Homestead Family, LLC
(C) Modoc County
I. Lookout Ranch
(D) Shasta County
I. Jerusalem Creek Ranch
(E) Tehama County
I. El Rancho Rio Frio

8. Tribal Committee

(A) June 2017 meeting summary
I. Receive and adopt recommendations
(B) Work plan development
I. Update on work plan and draft timeline
II. Discuss and approve new topics

9. Wildlife Resources Committee

   (A) May 2017 meeting summary
      I. Receive and adopt recommendations
   (B) Work plan development
      I. Update on work plan and draft timeline
      II. Discuss and approve new topics

10. Adopt proposed changes to upland game bird hunting regulations
(Section 300, Title 14, CCR)

11. Authorize publication of notice of intent to adopt regulations concerning the commercial use and possession of native rattlesnakes for biomedical and therapeutic purposes
(Add Section 42 and amend sections 43, 651 and 703, Title 14, CCR)

12. Ratify findings on the petition to list northern spotted owl (*Strix occidentalis caurina*) as a threatened or endangered species under CESA
(Pursuant to Section 2075.5, Fish and Game Code)

13. Consider the petition, Department's evaluation report, and comments received to determine whether listing foothill yellow-legged frog (*Rana boyii*) as a threatened species under CESA may be warranted
(Pursuant to Section 2074.2, Fish and Game Code)
Note: If the Commission determines listing may be warranted, a one-year status review will commence before the final decision on listing is made.

14. Non-marine items of interest from previous meetings

15. Non-marine petitions for regulation change from previous meetings

   (A) Action on petitions for regulation change
      I. 2017-002 to eliminate parking use exemption for Los Angeles County at Ballona Wetlands Ecological Reserve
   (B) Action on pending regulation petitions referred to staff and the Department for review – none scheduled at this time

16. Non-marine, non-regulatory requests from previous meetings

   (A) Action on non-regulatory requests
   (B) Action on pending non-regulatory requests referred to staff and the Department for review

17. Department informational items

   (A) Director's report
   (B) Wildlife and Fisheries Division, and Ecosystem Conservation Division
   (C) Law Enforcement Division
   (D) Other

18. Announce recipient of the annual Wildlife Prosecutor of the Year award

19. Receive and discuss proposed meeting dates and locations for 2018

20. Other informational items

    (A) Staff report
    (B) Legislative update and possible action
    (C) Federal agencies report
    (D) Other

21. Announce results from Executive Session

Recess

DAY 2 – JUNE 22, 2017, 9:00 AM

Call to order/roll call to establish quorum

22. Public forum for items not on agenda
    The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting. (Sections 11125, 11125.7(a), Government Code)

CONSENT ITEMS

23. Receive Department's White Seabass Fishery Management Plan 2015-2016 Annual Review report
    (Pursuant to Section 5.9, Fishery Management Plan)

24. Receive and approve request to transfer California Halibut Trawl Vessel Permit No. BT0006 from Robert J. Drewisch to Justin M. Drewisch

25. Marine Resources Committee

    (A) Work plan development
        I. Update on work plan and draft timeline
        II. Discuss and approve new topics

26. Santa Barbara Mariculture

    (A) Update on application for new state water bottom lease for aquaculture adjacent to existing State Water Bottom Lease No. M-653-02
    (B) Approve Department request for extension of State Water Bottom Lease No. M-653-02 for six months

27. Adopt proposed changes to crab and lobster recreational gear marking, and commercial lobster harbor restricted fishing area regulations
    (Sections 29.80 and 122, Title 14, CCR)

28. Discuss proposed regulations for a process to automatically conform state recreational fishing regulations to federal regulations
    (Add Section 1.95, Title 14, CCR)

29. Authorize publication of notice of intent to adopt commercial sea cucumber regulations (Add Section 128, Title 14, CCR)

30. Authorize publication of notice of intent to amend nearshore and deeper nearshore fishing permit and appeal regulations (Sections 150, 150.02, 150.03 and 705, Title 14, CCR)

31. Authorize publication of notice of intent to adopt commercial fisheries landing requirements regulations (Add Section 197, Title 14, CCR)

32. Discuss recent action by the Department director to continue closure of the commercial rock crab fishery north of Bodega Bay due to elevated levels of domoic acid (Pursuant to subsection 5523(a)(2), Fish and Game Code)

33. ***Department update on the status of the recreational abalone fishery and development of a red abalone fishery management plan***

34. Marine items of interest from previous meetings

35. Marine petitions for regulation change from previous meetings

    (A) Action on petitions for regulation change – none scheduled at this time
    (B) Action on pending regulation petitions referred to staff and Department for review
        I. August 6, 2014 petition from Mike McCorkle to reinstate incidental take allowance for ridgeback prawn in state trawl fisheries
        II. Petition #2015-006 to remove special closure regulations for Rockport Rocks
        III. Petition #2016-013 to permit use of cast nets south of Point Conception for consistency in all state marine waters

36. Marine non-regulatory requests from previous meetings

    (A) Action on non-regulatory requests
    (B) Action on pending non-regulatory requests referred to staff and the Department for review

37. Department informational items

    (A) Director's report
    (B) Marine Region

38. Discuss and act on Commission administrative items

    (A) Delegation of authority to executive director to provide comments on California Law Review Commission recommendations
    (B) Next meetings
    (C) Rulemaking timetable updates
    (D) New business
    (E) Other

Adjourn

EXECUTIVE SESSION

(Not Open to Public)

Pursuant to the authority of Government Code Section 11126(a)(1), (c)(3), and (e)(1), and Section 309 of the Fish and Game Code, the Commission will meet in closed Executive Session. The purpose of this Executive Session is to consider:

(A) Pending litigation to which the Commission is a Party

I. California Fish and Game Commission v. Central Coast Forest Assoc. and Big Creek Lumber Company (Coho listing, south of San Francisco)

II. Tri-State Crab Producers Assoc v. California Department of Fish and Wildlife; California Fish and Game Commission (Dungeness Crab “Fair Start” provision in section 8279.1 of the Fish and Game Code).

III. Dennis Sturgell v. California Fish and Game Commission, California Department of Fish and Wildlife, and Office of Administrative Hearings (revocation of Dungeness Crab Vessel Permit No. CT0544-T1)

IV. Kele Young v. California Fish and Game Commission, et al. (restricted species inspection fee waiver)

V. Public Interest Coalition v. California Fish and Game Commission (California Environmental Quality Act)

VI. California Cattlemen’s Association and California Farm Bureau Federation v. California Fish and Game Commission (gray wolf listing)

(B) Possible litigation involving the Commission

(C) Staffing

(D) Deliberation and action on license and permit items

CALIFORNIA FISH AND GAME COMMISSION
2017 MEETING SCHEDULE

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations.

MEETING DATE	COMMISSION MEETING	COMMITTEE MEETING	OTHER MEETINGS
July 13			**Predator Policy Workgroup** California Department of Parks and Recreation Redwood Conference Room, 14th Floor 1416 Ninth Street Sacramento, CA 95814
July 20		**Marine Resources** Flamingo Conference Resort & Spa 2777 Fourth Street Santa Rosa, CA 95405	
August 16-17	Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
September 13		**Wildlife Resources** California Tower 3737 Main Street Highgrove Room 200 Riverside, CA 92501	
October 10		**Tribal** SpringHill Suites by Marriott 900 El Camino Real Atascadero, CA 93422	
October 11-12	SpringHill Suites by Marriott 900 El Camino Real Atascadero, CA 93422		
November 9		**Marine Resources** Marina	
December 6-7	Handlery Hotel 950 Hotel Circle North San Diego, CA 92108		

OTHER MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies
- September 10-13, Snowbird, UT

Pacific Fishery Management Council
- September 12-18, Boise, ID
- November 14-20, Costa Mesa, CA

Pacific Flyway Council
- August 25, Spokane, WA

Western Association of Fish and Wildlife Agencies
- July 6-11, Vail, CO

Wildlife Conservation Board
- August 24, Sacramento
- November 30, Sacramento

IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION

WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION
This is the 147th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

PERSONS WITH DISABILITIES
Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

STAY INFORMED
To receive meeting agendas and regulatory notices about those subjects of interest to you, visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.

SUBMITTING WRITTEN COMMENTS
The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: **E-mail** to fgc@fgc.ca.gov; **delivery** to Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Commission meeting.** Materials provided to the Commission may be made available to the general public.

COMMENT DEADLINES
The **Written Comment Deadline** for this meeting is **5:00 p.m. on June 8, 2017.** Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Late Comment Deadline** for this meeting is **noon on June 16, 2017.** Comments received by this deadline will be marked "late" and made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – Please bring ten (10) copies of written comments to the meeting.

NON-REGULATORY REQUESTS
All non-regulatory requests will follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Late Comment Deadline** (or heard during public forum at the meeting) will be scheduled for receipt at this meeting, and scheduled for consideration at the next business meeting.

PETITIONS FOR REGULATION CHANGE
Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, titled, "Petition to the California Fish and Game Commission for Regulation Change" (as required by Section 662, Title 14, CCR). The form is available at

http://www.fgc.ca.gov/public/information/petitionforregulatorychange.aspx. To be received by the Commission at this meeting, petition forms must have been delivered by the **Late Comment Deadline** (or delivered during public forum at the meeting) and will be scheduled for consideration at the next business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

VISUAL PRESENTATIONS/MATERIALS
All electronic presentations must be submitted by the **Late Comment Deadline** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov.
2. All electronic formats must be Windows PC compatible.
3. It is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.
4. A data projector, laptop and presentation mouse will be available for use at the meeting.

CONSENT CALENDAR
A summary of all items will be available for review at the meeting. Items on the consent calendar are generally non-controversial items for which no opposition has been received and will be voted upon under single action without discussion. Any item may be removed from the consent calendar by the Commission upon request of a Commissioner, the Department, or member of the public who wishes to speak to that item, to allow for discussion and separate action.

LASER POINTERS may only be used by a speaker during a presentation; use at any other time may result in arrest.

SPEAKING AT THE MEETING
To speak on an agenda item, please complete a “Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
    a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
    b. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the **Late Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.

c. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
d. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

5. If you are presenting handouts/written material to the Commission at the meeting, please provide ten (10) copies to the designated staff member just prior to speaking.

STAFF SUMMARY FOR JUNE 21-22, 2017

2. PUBLIC FORUM (DAY 1)

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

Receipt of public comments, petitions for regulation change, and requests for non-regulatory actions.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Jun 21-22, 2017; Smith River**
- Direction to grant, deny or refer Aug 16-17, 2017; Sacramento

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff also includes written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by written comment deadline), or as late comments at the meeting (if received by late comment deadline), for official FGC "receipt."

Public comments are generally categorized into three types under public forum: (1) petitions for regulation change; (2) requests for non-regulatory action; and (3) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change and non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change and non-regulatory requests received at today's meeting at the next in-person FGC meeting following staff evaluation.

As required by the Administrative Procedure Act, petitions for regulation change will be either denied or granted and notice made of that determination. Action on petitions received at previous meetings is scheduled under a separate agenda item titled "Petitions for regulation change from previous meetings." Action on non-regulatory requests received at previous meetings is scheduled under a separate agenda item titled "Non-regulatory requests from previous meetings.

Significant Public Comments

1. Petitions for regulation change are summarized in Exhibit 1 and the original petitions are provided in exhibits 3-5.
2. Non-regulatory requests are summarized in Exhibit 2 and the original requests are provided in exhibits 6-7.
3. An informational comment is provided in Exhibit 8.

Recommendation

Consider whether any new future agenda items are needed to address issues that are raised during public comment and are within FGC's authority.

STAFF SUMMARY FOR JUNE 21-22, 2017

Exhibits

1. Summary table of new petitons for regulation change received by Jun 8 at 5:00 p.m.
2. Summary table of new non-regulatory requests received by Jun 8 at 5:00 p.m.
3. Petiton 2017-003: Parking exemption at Ballona Wetlands Ecological Reserve
4. Petition 2017-004: Market squid fishing quota for northern California
5. Petition 2017-005: Northern pink shrimp permits
6. Email from Marin Audubon Society regarding Tomales Bay aquaculture leases, received May 31, 2017
7. Letter from Chris Markoff regarding experimental permits, received May 31, 2017
8. Informational email from San Andreas Shellfish regarding Tomales Bay aquaculture lease request, received Apr 25, 2017

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

3. CASCADES FROG (CONSENT)

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

Approve DFW request for an extension of 30 days to evaluate the petition to list Cascades frog as a threatened or endangered species under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- Received petition — Mar 1, 2017
- FGC transmitted petition to DFW — Mar 6, 2017
- Published notice of receipt of petition — Mar 31, 2017
- Public receipt of petition — Apr 26-27, 2017; Van Nuys
- **Today act on DFW request for 30-day extension — Jun 21-22, 2017; Smith River**

Background

A petition to list Cacades frog as a threatened or endangered species under CESA was submitted by Center for Biological Diversity on Mar 1, 2017. On Mar 6, 2017, FGC transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Mar 31, 2017.

California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit to FGC a written evaluation with a recommendation; under this section DFW may request an extension of up to 30 days to complete the evaluation. DFW has requested a 30-day extension (Exhibit 1). The requested extension would change the due date for DFW's evaluation from 90 days, due on Jun 4, 2017 to 120 days, due on Jul 4, 2017.

Significant Public Comments

This meeting is not intended for FGC discussion as the law requires the public to have 30 days to review the petition and public release of the evaluation report; however, under Bagley-Keene, FGC must allow public comment on this item if requested.

Recommendation

FGC staff: Approve DFW's request for an extension of 30 days under a motion to adopt the consent calendar.

Exhibits

1. DFW memo, received Jun 8, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the consent calendar, items 3-7.

STAFF SUMMARY FOR JUNE 21-22, 2017

4. DUCK STAMP (CONSENT)

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

Approve projects for State Duck Stamp Account funds in Fiscal Year (FY) 2017-18.

Summary of Previous/Future Actions (N/A)

Background

Pursuant to Fish and Game Code Section 3702, FGC must approve any projects for State Duck Stamp Account expenditures; funds deposited in the account shall be used for projects or endowments to protect, preserve, restore, enhance, and develop migratory waterfowl breeding and wintering habitat, evaluate habitat projects, and conduct waterfowl resource assessments and other waterfowl related research.

DFW annually requests and reviews proposals for projects that meet the statutory goals of this dedicated account, which are reviewed by the Duck Stamp Advisory Committee and then submitted to FGC as a list of recommended projects. Exhibit 1 contains a summary of the proposed projects for consideration and approval for funding with State Duck Stamp Account funds in FY 2017-18.

For FY 2017-18, spending authority for expenditures from this fund is $1,746,000. A total of 17 projects are proposed, in addition to the mandatory allocation to Canada for the purposes of the North American Waterfowl Management Plan, pursuant to Fish and Game Code Section 3704.

Significant Public Comments (N/A)

Recommendation

FGC staff: Under a motion to adopt the consent calendar, approve DFW's recommendations.

DFW: Approve the projects identified in Exhibit 1 for funding from the State Duck Stamp Account in FY 2017-18.

Exhibits

1. DFW memo and summary of recommended 2017-18 duck stamp projects, received May 22, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the consent calendar, items 3-7.

STAFF SUMMARY FOR JUNE 21-22, 2017

5. INITIAL PLM AND HARVEST PROGRAM (CONSENT)

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

Approve the initial Private Lands Wildlife Habitat Enhancement and Management (PLM) Area license for 2017-2022, and season, harvest and habitat improvements for 2017-18 on one property.

Summary of Previous/Future Actions (N/A)

Background

Fish and Game Code sections 3400-3409, and Title 14 Section 601 prescribe conditions for a PLM program that provides incentives for landholders to manage their property for the benefit of fish and wildlife in exchange for access to increased recreational opportunities, such as hunting tags or extended seasons ("harvest program"). In return for a harvest program, the landholder must prepare a biologically-sound wildlife management plan and complete specific wildlife habitat improvements on the PLM property.

There are three types of actions associated with the PLM program: an initial five-year PLM license; an annual list of PLM seasons, harvests, and habitat improvements; and a five-year PLM license renewal, with conditions unique to each participant's property.

The proposed wildlife management plan and annual season, harvest, and habitat improvements for one property have been reviewed by DFW and found to be in compliance with FGC regulations and policies for PLMs; the applicant has identified the location where records will be kept and made available for inspection (see Exhibit 1).

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve the initial PLM license, management plan, and annual season, harvest and habitat improvements as recommended by DFW, under a motion to adopt the consent calendar.

DFW: Approve the specified wildlife management plan, initial PLM license for 2017-2022, and season, harvest, and habitat improvements for 2017-18 on one property, under the conditions specified in Exhibit 2.

Exhibits

1. DFW memo, received May 22, 2017
2. PLM proposed initial details

Motion/Direction

Moved by _____and seconded by_____ that the Commission adopts the consent calendar, items 3-7.

STAFF SUMMARY FOR JUNE 21-22, 2017

6. ANNUAL PLM HARVEST PROGRAMS (CONSENT)

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

Approve the annual Private Lands Wildlife Habitat Enhancement and Management (PLM) Area seasons, harvests and habitat improvements for 2017-2018 on 45 properties.

Summary of Previous/Future Actions (N/A)

Background

Fish and Game Code sections 3400-3409, and Title 14 Section 601 prescribe conditions for a PLM program that provides incentives for landholders to manage their property for the benefit of fish and wildlife in exchange for access to increased recreational opportunities, such as hunting tags or extended seasons ("harvest program"). In return for a harvest program, the landholder must prepare a biologically-sound wildlife management plan and complete specific wildlife habitat improvements on the PLM property.

There are three types of actions associated with the PLM program: an initial five-year PLM license; an annual list of PLM seasons, harvests, and habitat improvements; and a five-year PLM license renewal, with conditions unique to each participant's property.

These areas have previously been licensed under Commission regulations in Section 601, Title 14, CCR; full payment was made for all tags used in 2016 and all habitat work was completed (Exhibit 1).

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve annual seasons, harvests, and habitat improvements for 45 PLM properties as recommended by DFW, under a motion to adopt the consent calendar.

DFW: Approve annual seasons, harvests, and habitat improvements for 45 properties, under the conditions specified in Exhibit 2.

Exhibits

1. DFW memo, received May 22, 2017
2. PLM proposed annual details
3. Alphabetical listing of 45 properties

Motion/Direction

Moved by _____and seconded by_____ that the Commission adopts the consent calendar, items 3-7.

STAFF SUMMARY FOR JUNE 21-22, 2017

7. FIVE-YEAR PLM PLANS AND HARVEST PROGRAMS (CONSENT)

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

Approve the five-year renewal of Private Lands Wildlife Habitat Enhancement and Management (PLM) Area licenses for 2017-2022, and seasons, harvests and habitat improvements for 2017-2018 on seven properties.

Summary of Previous/Future Actions (N/A)

Background

Fish and Game Code sections 3400-3409, and Title 14 Section 601 prescribe conditions for a PLM program that provides incentives for landholders to manage their property for the benefit of fish and wildlife in exchange for access to increased recreational opportunities, such as hunting tags or extended seasons ("harvest program"). In return for a harvest program, the landholder must prepare a biologically-sound wildlife management plan and complete specific wildlife habitat improvements on the PLM property.

There are three types of actions associated with the PLM program: an initial five-year PLM license; an annual list of PLM seasons, harvests, and habitat improvements; and a five-year PLM license renewal, with conditions unique to each participant's property.

Proposed wildlife management plans and annual seasons, harvests, and habitat improvements for the seven properties have been reviewed by DFW and found to be in compliance with FGC regulations and policies for PLMs; applicants have identified the locations where records will be kept and made available for inspection (Exhibit 1).

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve five-year renewal of PLM licenses, and annual seasons, harvests and habitat improvements as recommended by DFW, under a motion to adopt the consent calendar.

DFW: Approve the specified wildlife management plans, five-year PLM license renewals for 2017-2022, and seasons, harvests, and habitat improvements for 2017-2018 for seven properties, under the conditions specified in Exhibit 2.

Exhibits

1. DFW memo, received May 22, 2017
2. PLM proposed five-year details
3. Alphabetical listing of seven properties

Motion/Direction

Moved by _____and seconded by_____ that the Commission adopts the consent calendar, items 3-7.

STAFF SUMMARY FOR JUNE 21-22, 2017

8. TRIBAL COMMITTEE

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

Receive summary from the Jun 20, 2017 TC meeting and adopt TC recommendations. Receive update on TC work plan and draft timeline. Discuss and approve new topics for TC review.

Summary of Previous/Future Actions

- Most recent TC meeting — Jun 20, 2017; Smith River
- **Today approve TC recomendations** — **Jun 21-22 2017; Smith River**
- Next TC meeting — Oct 10, 2017; Atascadero

Background

The agenda for the Jun 20, TC meeting (Exhibit 1) included the following substantive items:

1. Staff updates, including efforts to formalize TC in statute, planning for the annual FGC-Tribal planning meeting pursuant to FGC's tribal consultation policy, and other FGC committee updates.
2. DFW updates, including discussion of ongoing commercial kelp and algae harvest management review, elk management plan presentation, development of deer and antelope management plans, and the amendment process for the Marine Life Management Act master plan for fisheries.
3. Ocean Protection Council updates, including outreach to tribes regarding Marine Protected Areas Statewide Leadership Team representation, and a presentation regarding Safeguarding California (California Climate Change Adaptation Strategy and Sea level rise guidance).
4. Continue discussion on developing vision statement on co-management.
5. Commision regulatory calendar review and guidance.
6. Any new future agenda topics as well as a review of the existing work plan (Exhibit 2).

A verbal report on discussion of these items and any resulting recommendations will be provided on Day 1 of the FGC meeting.

Significant Public Comments (N/A)

Recommendation

FGC staff: Consider approving TC recommendations.

Exhibits

1. TC meeting agenda for Jun 20, 2017
2. TC work plan, revised Apr 2017

STAFF SUMMARY FOR JUNE 21-22, 2017

Motion/Direction

Moved by _____and seconded by _____ that the Commission approves the _____recommendations from the Jun 20, 2017 Tribal Committee meeting.

STAFF SUMMARY FOR JUNE 21-22, 2017

9. WILDLIFE RESOURCES COMMITTEE

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

Receive summary from the May 24, 2017 WRC meeting and adopt WRC recommendations. Receive update on WRC work plan and draft timeline. Discuss and approve new topics for WRC review.

Summary of Previous/Future Actions

- Most recent WRC meeting — May 24, 2017; WRC, Sacramento
- **Today approve WRC recommendations** — **Jun 21-22, 2017; Smith River**
- Next WRC meeting — Sep 13, 2017; WRC, Riverside

Background

Meeting Summary: FGC directs the work of WRC. WRC met on May 24; a written summary of the meeting is provided in Exhibit 1.

At the May 24 meeting, WRC covered the following topics:

- Draft FGC climate change policy
- Annual regulations for sport fishing
- Falconry regulations
- Wild pig management
- Predator Policy Workgroup

WRC Recommendations: Based on the meeting discussion, WRC has one recommendation for FGC consideration.

1. Authorize publication of a notice of intent to amend the 2018 sport fish regulations consistent with changes discussed during the May 24 WRC meeting and refer Petition 2015-014 to DFW for further evaluation and recommendation.

New Agenda Topics: Current topics already referred to WRC are shown in Exhibit 2. No new agenda topics are recommended at this time.

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve WRC recommendation.

Exhibits

1. May 24, 2017 WRC meeting summary
2. WRC work plan, updated Jun 2017

STAFF SUMMARY FOR JUNE 21-22, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the recommendations from the May 2017 Wildlife Resources Committee meeting.

STAFF SUMMARY FOR JUNE 21-22, 2017

10. UPLAND GAME BIRD

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

Adopt proposed changes to upland game bird hunting regulations..

Summary of Previous/Future Actions

- WRC vetting — Sep 21, 2016; WRC Sacramento
- Notice hearing — Feb 8-9, 2017; Rohnert Park
- Discussion hearing — Apr 26-27, 2017; Van Nuys
- **Today's adoption hearing** — **Jun 21-22, 2017; Smith River**

Background

The regulations in Section 300, Title 14, provide general hunting seasons for taking resident and migratory upland game birds. DFW is recommending the following regulation change:

- Amend subsection 300(a)(1)(D)4 to adjust the annual number of General Season sage grouse hunting permits by zone for the 2017-18 season.
- Non-substantive changes to the authority and reference sections as a result of changes to the Fish and Game Code by Senate Bill 1473 (Chapter 546, Statutes of 2016), which took effect on Jan 1, 2017.

Update: DFW conducted lek counts (counting the number of males at breeding sites, or leks) in all four hunt zones, statewide. The sage grouse lek counts show a decline in population sizes from 2012 - 2017 of 47 - 62% (Exhibit 10.2.) DFW is recommending to replace the noticed ranges with "0" permits for East Lassen, Central Lassen, North Mono and South Mono hunt zones; this will result in "no change" for East Lassen, Central Lassen and South Mono; and "~~30~~ 0" in North Mono.

Significant Public Comments

- 4,258 emails were received in opposition to sage grouse hunting; 4,248 are from an online email petition supporting the Center for Biological Diversity's recommendation.
- 3 emails were received from people who wished to continue hunting sage grouse, but these were received before the 2017 lek counts.

Recommendation (N/A)

FGC staff: Adopt DFW's recommendation for zero permits for sage grouse in all four hunt zones for the 2017-18 season.

DFW: Adopt the regulations as presented in the pre-adoption statement of reasons.

Exhibits

1. Initial statement of reasons
2. Pre-adoption statement of reasons, received Jun 9, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the proposed changes to Section 300 related to upland game bird regulations for the 2017-18 season.

STAFF SUMMARY FOR JUNE 21-22, 2017

11. COMMERCIAL USE AND POSSESSION OF NATIVE RATTLESNAKES

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

Authorization to publish notice of intent to add a section to allow for commercial use of native rattlesnakes.

Summary of Previous/Future Actions

- **Today's notice hearing** **Jun 21-22, 2017; Smith River**
- Discussion/adoption hearing Oct 11-12, 2017; Atascadero

Background

FGC received a petition in 2015 to amend existing regulations or adopt new regulations that would allow for the commercial use of native rattlesnakes to develop antivenom, vaccines, and other therapeutic agents. FGC approved the petition request at its Feb 11, 2016 meeting in Sacramento and forwarded it to DFW for evaluation.

DFW staff met with the petitioners during 2016 to gather additional information. The petitioners had initially proposed using "nuisance" snakes collected by rattlesnake removal businesses for this purpose, as well as raising the possession limit on native rattlesnakes for aversion trainers. However, those proposals would have required additional public outreach and scoping of affected businesses that would have greatly delayed the development of the new regulations. Therefore, with the petitioners' consent, DFW narrowed the scope of the regulatory proposal to address only commercialized use of native rattlesnakes for venom extraction in conjunction with research and development of biomedical and therapeutic agents. In addition, DFW added propagation of native rattlesnakes at the request of the petitioners. The proposed regulations would authorize limited commercial use of native rattlesnakes for the purposes of developing biomedical and therapeutic products that will benefit humans and domestic animals.

The proposed Section 42 regulation will allow California businesses to develop and sell regionally specific antivenom, vaccines, and therapeutic agents derived from native rattlesnake venom that would benefit human, pet, and livestock health. The new permit is structured to allow for businesses that seek to maintain live native rattlesnake species for venom extraction to develop and sell therapeutic products from the native rattlesnake venom, or businesses that only intend to develop and sell therapeutic products from the native rattlesnake venom.

In addition, it is necessary to make minor amendments to Sections 43, 651, and 703 to provide consistency and clarity with the proposed Section 42 (see Exhibit 2).

Significant Public Comments (N/A)

Recommendation

FGC staff: Authorize publication of the notice as recommended by DFW

Exhibits

1. DFW memo, received May 26, 2017
2. Initial statement of reasons
3. Cates et al., American Journal of Veterinary Research, 2015, Mar: 76(3):272-79, document relied upon

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to add Section 42, amend sections 43, 651 and 703, related to commercial use of rattlesnakes for biomedical and therapeutic purposes.

STAFF SUMMARY FOR JUNE 21-22, 2017

12. NORTHERN SPOTTED OWL

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

Adopt findings on the petition to list northern spotted owl (*Strix occidentalis caurina*) as a threatened or endangered species under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

• Received petition	Sept 7, 2012
• FGC transmits petition to DFW	Sept 10, 2012
• Published notice of receipt of petition	Oct 5, 2012
• Approved DFW request for 30-day extension	Dec 12, 2012; San Diego
• Received DFW's evaluation and recommendation	Mar 6, 2013; Mount Shasta
• Deferred decision whether listing may be warranted	Apr 17, 2013; Santa Rosa
• FGC determined listing may be warranted	Aug 7, 2013; San Luis Obispo
• Approved DFW request for six month extension	Dec 3, 2014; Van Nuys
• Received DFW status review report	Feb 10-11, 2016; Sacramento
• Discussion; deferred action to Jun 2016 meeting	April 13-14, 2016; Santa Rosa
• Discussion; deferred action to Aug 2016 meeting	Jun 22-23, 2016; Bakersfield
• Determination that listing is warranted	Aug 24-25, 2016; Folsom
• Considered draft findings	Feb 8-9, 2017; Rohnert Park
• Deferred taking action on draft findings	April 26-27, 2017; Van Nuys
• **Today adopt findings**	**Jun 21-22, 2017; Smith River**

Background

On Aug 25, 2016, FGC made a finding pursuant to Fish and Game Code Section 2075.5, that the petitioned action to list northern spotted owl as threatened under CESA is warranted.

On Feb 8, 2017, FGC considered draft findings supporting the Aug 2016 determination. FGC received several comments suggesting revisions to the draft findings and, in light of those comments, FGC directed staff to review the comments and findings to allow FGC consideration at the Apr meeting. The Environmental Protection Information Center, the sole entity that filed the petition to list the northern spotted owl, requested that FGC delay consideration of findings until the Jun 21-22, 2017 FGC meeting in Smith River.

FGC staff evaluated the comments received in Feb and revised the draft findings to reflect discussions FGC has had over the last several meetings.

Significant Public Comments (N/A)

Recommendation

FGC staff: Adopt FGC staff's revised proposed notice of findings that listing northern spotted owl as threatened is warranted pursuant to Section 2075.5 of the Fish and Game Code.

Exhibits

1. *Draft Notice of Findings, Northern Spotted Owl (revised June 2017)*

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts staff's revised proposed notice of findings that listing northern spotted owl as threatened is warranted pursuant to Section 2075.5 of the Fish and Game Code.

13. FOOTHILL YELLOW-LEGGED FROG

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

Determine whether listing foothill yellow-legged frog as threatened under the California Endangered Species Act (CESA) may be warranted pursuant to Section 2074.2 of the Fish and Game Code.

Summary of Previous/Future Actions

- Received petition — Dec 14, 2016
- FGC transmitted petition to DFW — Dec 22, 2016
- Published notice of receipt of petition — Jan 20, 2017
- Receipt of DFW's 90-day evaluation — Apr 26-27, 2017; Van Nuys
- **Today's determine if listing may be warranted** — June 21-22, 2017; Smith River

Background

A petition to list foothill yellow-legged frog was submitted by the Center for Biological Diversity on Dec 14, 2016. On Dec 22, 2016, FGC transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Jan 20, 2017. California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit to FGC a written evaluation with a recommendation (Exhibit 1).

Based upon the information contained in the petition and other relevant information, DFW has determined that there is sufficient scientific information available at this time to indicate that the petitioned action may be warranted.

Significant Public Comments (N/A)

Recommendation

FGC staff: Accept DFW's recommendation to accept and consider the petition for further evaluation.

DFW: Accept and consider the petition for further evaluation.

Exhibits

1. Petition
2. DFW memo, received Apr 19, 2017
3. DFW 90-day evaluation, dated Apr 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2074.2 of the Fish and Game Code, finds the petitioned action to list foothill yellow-legged frog as an endangered species **may be** warranted based on the information in the record before the Commission, and therefore designates foothill yellow-legged frog as a candidate for endangered species status.

OR

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2074.2 of the Fish and Game Code, finds that the petition to designate foothill yellow-legged frog as an endangered species and other information in the record before the Commission **does not** provide sufficient information to indicate that the petitioned action may be warranted.

STAFF SUMMARY FOR JUNE 21-22, 2017

14. ITEMS OF INTEREST FROM PREVIOUS MEETINGS (NON-MARINE)

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

This is a standing agenda item to provide FGC with updates on non-marine items of interest from previous meetings.

Summary of Previous/Future Actions (N/A)

Background

This item is an opportunity for FGC staff and DFW to provide any follow-up information on non-marine topics previously before FGC. FGC staff has not identified any items for discussion today. However, comments about American bullfrogs and non-native turtles received following discussion at the Apr 2017 meeting are provided below.

Significant Public Comments

Received three comments supporting a ban on importing American bullfrogs and non-native turtles (example provided in Exhibit 1) and one comment supporting the addition of American bullfrogs and non-native turtles to the list of restricted species (Exhibit 2). Exhibits 3 and 4 include comments specifically related to the discussion at the Apr FGC meeting. Exhibit 5 is an article submitted about the San Francisco live food market.

Recommendation (N/A)

Exhibits

1. Letter from Mark Purdy regarding importation, received May 22, 2017
2. Email from Christa Romanowski regarding restricted species list, received Apr 26, 2017
3. Email from Save the Frogs! regarding staff comments, received May 4, 2017
4. Email from the International Society for the Preservation of Tropical Rainforest regarding the staff proposal, received May 12, 2017
5. Letter from Action for Animals with live food market article, received May 8, 2017

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

15. NON-MARINE PETITIONS FOR REGULATION CHANGE

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

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

(A) Action on petitions for regulation change received at the Apr 2017 meeting.

(B) Update on pending regulation petitions referred to staff or DFW for review.

Summary of Previous/Future Actions

(A)

- Receipt of new petitions — Apr 26-27, 2017; Van Nuys
- **Today's action on petitions** — **Jun 21-22, 2017; Smith River**

(B)

- **Today's update** — **Jun 21-22, 2017; Smith River**

Background

As of Oct 1, 2015, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14). Petitions received at the previous meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Petitions scheduled for consideration today under (A) were received at the Apr 2017 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum. Petitions considered under (B) were scheduled for action at a previous meeting and were referred by FGC to DFW or FGC staff for for further review prior to action.

(A) ***Petitions for regulation change.*** Exhibit A1 summarizes the regulation petitions scheduled for FGC action today and provides staff recommendations for each request.

Today, one non-marine regulation petition received in Apr 2017 is scheduled for FGC action (for individual petition see Exhibit A2).

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

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

Significant Public Comments

(A) Comments on Petition #2017-002
- The petitioner submitted additional information in support of the petition (Exhibit A3), which requests amendment of the regulations to eliminate the parking use exemption for County of Los Angeles leases.
- Received 28 emails supporting the petition and restoration of the non-reserve-related parking lots back to natural habitat (examples provided in exhibits A4-A6). Of the emails received, 18 also specifically opposed the development of a proposed 3-story parking garage on the site (example provided in Exhibit A7).
- Received two letters from the County of Los Angeles: one from its Department of Beaches and Harbors (Exhibit A8) and the other from its Office of the Sheriff (Exhibit A9), requesting that FGC not amend the regulations and continue to allow the county to use the parking lots.

Recommendation

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

Exhibits

A1. FGC table of non-marine petitions for regulation change received through Apr 27, 2017
A2. Petition #2017-002: Parking exception at Ballona Wetlands Ecological Reserve
A3. Email from Ballona Wetlands Land Trust with additional information for Petition #2017-002, received Jun 8, 2017
A4. Email from Marion Klein supporting Petition #2017-002, received May 26, 2017
A5. Email from Jeanette Vosburg, Sierra Club Airport Marina Group, supporting Petition #2017-002, received Jun 6, 2017
A6. Letter from Ballona Creek Renaissance supporting Petition #2017-002, dated Jun 8, 2017
A7. Email from Andrew Wilder supporting Petition #2017-002, received May 25, 2017
A8. Letter from County of Los Angeles, Department of Beaches and Harbors, regarding parking at Ballona Wetlands Ecological Reserve, received Jun 8, 2017
A9. Letter from County of Los Angeles, Office of the Sheriff, regarding parking at Ballona Wetlands Ecological Reserve, received Jun 8, 2017

Motion/Direction

(A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation for action on the April 2017 petition for regulation change.

STAFF SUMMARY FOR JUNE 21-22, 2017

16. NON-MARINE NON-REGULATORY REQUESTS

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

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

(A) Action on non-regulatory requests received at the Apr 2017 meeting.

(B) Update on pending non-regulatory requests referred to staff or DFW for review.

Summary of Previous/Future Actions

(A)

- FGC receipt of requests — Apr 26-27, 2017; Van Nuys
- **Today's action on requests** — **Jun 21-22, 2017; Smith River**

(B)

- **Today's update and possible action on referrals** — **Jun 21-22, 2017; Smith River**

Background

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

(A) ***Non-regulatory requests.*** Non-regulatory requests scheduled for consideration today were received at the Apr 2017 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum.

Eight non-regulatory requests received in Apr 2017 are scheduled for action. Exhibit A1 summarizes the requests and contains staff recommendations for each request (for individual requests see exhibits A2-A7).

(B) ***Pending non-regulatory requests.*** This item is an opportunity for staff to provide a recommendation on non-regulatory requests that were scheduled for action at a previous meeting and referred by FGC to DFW or FGC staff for further review. FGC may act on any staff recommendations made today.

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

Significant Public Comments (N/A)

Recommendation

(A) Adopt staff recommendations for non-regulatory requests to (1) deny, (2) grant, or (3) refer to committee, DFW staff, or FGC staff for further evaluation or information gathering. See Exhibit A1 for staff recommendations for each non-regulatory request.

Exhibits

A1. FGC table of non-marine, non-regulatory requests received through Apr 27, 2017
A2. Email from California Sportfishing League, received Feb 24, 2017
A3. Letter from Mia Laurence, received Feb 26, 2017
A4. Email from Jean Welch, received Mar 2, 2017
A5. Email from Marilyn Jasper, received Mar 29, 2017
A6. Email from Francis Coats, received Mar 30, 2017
A7. Email from Christine Harris, received Apr 13, 2017

Motion/Direction

(A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on April 2017 non-regulatory requests.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on April 2017 non-regulatory requests, except for item(s) _____ for which the action is _____.

STAFF SUMMARY FOR JUNE 21-22, 2017

17. DEPARTMENT INFORMATIONAL ITEMS (NON-MARINE)

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

Standing agenda item to receive and discuss informational updates from DFW:

(A) Director's Report
(B) Wildlife and Fisheries Division, and Ecosystem Conservation Division
(C) Law Enforcement Division
(D) Other

Summary of Previous/Future Actions (N/A)

Background

Verbal reports are expected at the meeting for items (A) through (C).

(C) At the Apr 2017 FGC meeting in Van Nuys, Chief Bess verbally shared information about DFW wildlife officers recognized for special service acts; Exhibit C1 provides details about those two officers and their Medal of Valor awards.

(D) Other items of potential interest include:

1. DFW is accepting proposals for up to $1.5 million in habitat restoration projects within those California watershed most impacted by unregulated cannabis cultivation (Exhibit D1).
2. DFW is now accepting proposals for up to $31 million in ecosystem restoration and protection projects that fulfill the objectives of 2014's Proposition 1, including up to $7 million in projects that specifically benefit the Sacramento-San Joaquin Delta (Exhibit D2).
3. California Governor Jerry Brown and Oregon Governor Kate Brown have requested U.S. Secretary of Commerce Wilbur Ross declare a catastrophic regional fishery disisater and commercial fishery failure for salmon, which would begin the process for requesting federal aid to assist commercial salmon fishermen and salmon-dependent businesses (Exhibit D3).

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

C1. DFW news release: *California Wildlife Officers Recognized for Special Service Acts, with Medal of Valor Awards*, dated May 23, 2017
D1. DFW news release: *CDFW Seeking Grant Proposals to Restore Habitat Impacted by Cannabis Cultivation*, dated Jun 5, 2017
D2. DFW news release: *CDFW Now Accepting Proposals for Proposition 1 Restoration Grant Programs*, dated May 26, 2017

D3. DFW news release: *California and Oregon Governors Request Salmon Disaster Assistance*, dated May 25, 2017

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

18. Announce Annual Wildlife Prosecutor of the Year Award

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

Announcement regarding the Wildlife Prosecutor of the Year award.

Summary of Previous/Future Actions (N/A)

Background

Yearly, the DFW Law Enforcement Division makes up to four nominations and FGC awards a California district attorney or deputy district attorney with the Wildlife Prosecutor of the Year Award. The award honors those attorneys who, in the previous year, went above and beyond to prosecute wildlife crimes.

Specifcally, the award recognizes a district attorney or deputy district attorney who exhibits one or more of the following:

(1) exceptional skill and an outstanding commitment to protecting California's fish, wildlife and natural resources;

(2) superior performance in prosecuting wildlife, natural resource and environmental crimes;

(3) relentless pursuit of justice for the most egregious violators and keen ability to prosecute complex, controversial or landmark cases; or

(4) exemplary work promoting and maintaining a collaborative working relationship with wildlife officers in pursuit of conserving our natural resources.

This year's award for outstanding service in 2016 was formally presented on Jun 20 at the summer meeting of the California District Attorneys Association, where FGC President Eric Sklar and DFW Chief of Law Enforcement David Bess attended to present the award. The selection process was based upon recommendations from DFW Law Enforcement Division staff that regularly works with the various district attorneys' offices.

This year, FGC honors Deputy District Attorney Sabrina Ashjian from the Fresno County District Attorney's Office.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. Wildlife Prosecutor of the Year nomination for 2016 service

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

19. 2018 MEETING DATES AND LOCATIONS

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

Receive and discuss proposed meeting dates and locations for 2018.

Summary of Previous/Future Actions

- **Discuss draft 2018 meeting dates and locations** **June 21-22, 2017; Smith River**
- Approve 2018 meeting dates and locations Aug 16-17, 2017; Sacramento

Background

FGC conducts its annual business during eight meetings per year consisting of six two-day meetings (Feb, Apr, Jun, Aug, Oct and Dec) and two one-day teleconferences (Mar and Apr). Committees each hold three half- to full-day meetings per year, either staggered between FGC business meetings (WRC, MRC), or the afternoon before the first day of each 2-day FGC meeting (TC).

Adequate meeting facilities have become more difficult to secure and advanced-planning increases the likelihood of locating suitable and available venues. Thus, in order to ensure that staff has adequate time to identify and secure venue options that meet FGC's requirements related to cost, information technology and security conditions, and State-mandated bids, contracting conditions, and timelines, it is important for meeting dates and locations to be identified well in advance.

Staff has prepared a list of proposed meeting dates and locations for 2018, for FGC consideration and discussion today, and adoption in Aug 2017. Adopting the 2018 meeting dates and location in Aug will support staff's ability to identify and pursue facility options in the meeting locations preferred by FGC members.

Staff developed the proposed meeting dates and locations taking into consideration State holidays, other relevant meeting schedules, and regulatory deadlines. Staff recommends avoiding high-cost areas such as San Luis Obispo, Palm Desert, Palm Springs and Santa Barbara, where meeting and lodging costs are usually prohibitive relative to approved rates for State business.

In 2018, marine items are recommended to be heard on the first day and non-marine items are recommended for the second day of FGC meetings.

Proposed 2018 FGC and Committee Meeting Dates and Locations

Proposed Dates	Meeting Type	Proposed Location
January 11	WRC	Santa Rosa
February 6	TC	Sacramento
February 7-8	FGC	Sacramento
March 6	MRC	Petaluma area
March 15	Teleconference	Arcata, Napa, Sacramento, Los Alamitos and San Diego
April 12	Teleconference	Arcata, Napa, Sacramento, Los Alamitos and San Diego
April 18-19	FGC	Ventura
May 17	WRC	Los Alamitos
June 19	TC	Sacramento
June 20-21	FGC	Sacramento
July 17	MRC	San Clemente area
August 22-23	FGC	TBD
September 20	WRC	Sacramento
October 16	TC	TBD
October 17-18	FGC	TBD
November 14	MRC	Sacramento
December 12-13	FGC	Los Angeles

Other Relevant 2018 Meetings

- Western Association of Fish and Wildlife Agencies – January 3-8 and July TBD
- Pacific Fishery Management Council – March 8-14, April 4-11, June 6-14, September 5-12, and November 1-8
- Wildlife Conservation Board – Dates unknown at this time

Significant Public Comments (N/A)

Recommendation

FGC staff:

a. Confirm intent to schedule FGC meetings on Wednesdays and Thursdays, MRC meetings on Tuesdays (except the second Tuesday of the month), and WRC meetings on Thursdays (except the last two Thursdays in May).

b. Provide direction on proposed 2018 dates and locations, including possible adjustments.

Exhibits

1. FGC meeting locations 2014-2018

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

20A. OTHER INFORMATIONAL ITEMS – STAFF REPORT

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

Receive the staff report, including staffing updates, staff time allocations, and previous meeting outcomes.

Summary of Previous/Future Actions (N/A)

Background

Staffing update:

- Refilling the vacant associate governmental program analyst is still in process; second interviews are scheduled following the FGC meeting. In the meantime, the analyst's responsibilities have been distributed among other FGC staff to the extent possible.
- The program manager position remains vacant. Funding for the position has now been identified and staff is submiting documentation to receive authorization to advertise the position; this position is expected to remain vacant for at least several more months during the recruitment process. In the meantime, the program manager's responsibilities have been distributed among FGC staff to the extent possible.
- Recent legislation has created the need to amend Title 14, CCR with new Fish and Game Code citations; as this project will generate significant workload, a retired annuitant with a legal or regulatory background is needed to provide project support. With the focus on completing the interview and hiring process for the regulatory analyst, and securing approval to advertise the program manager position, staff has been unable to focus on filling this need. In the meantime, FGC staff is addressing updates to Title 14 with individual rulemaking files.

Staff time allocations: To help keep FGC current on where its staff is expending time, Exhibit 1 reports the allocation of time in general categories for the previous two months, as well as highlights some specific activities during that time. *Note that, not including the retired annuitant, unfilled positions and leave represented 28% and 26% of staff's April and May hours, respectively, which has significantly impacted capacity.*

Previous meeting outcomes: Due to staffing constraints, previous meeting outcomes have not been completed; official meeting minutes for FGC meetings are the video files, which are available on the FGC website at fgc.ca.gov/meetings.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. *Staff Report on Time Allocation and Accomplishments*, dated Jun 9, 2017

Motion/Direction (N/A)

20B. OTHER INFORMATIONAL ITEMS – LEGISLATIVE REPORT

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

Review and discuss legislation of interest, and provide any staff direction.

Summary of Previous/Future Actions (N/A)

Background

FGC staff has prepared a list of legislation that may affect FGC's resources and workload (see below); each description includes a brief synopsis and current bill status. Additional information is also available in DFW's Jun 2017 Legislative Report (Exhibit B3).

This is an opportunity for FGC to provide direction to staff concerning any proposed legislation. At any meeting, FGC may direct staff to provide information to or share concerns with bill authors. FGC members also have the option to take positions on bills at the same meeting an update is provided.

Updates on FGC Positions

As directed by FGC in Apr 2017, staff drafted a letter of support for SB 188 by Senator Jackson (Santa Barbara). The draft letter of support is provided in Exhibit B2.

Introduced Legislation

SB 49 (De Leon and Stern) – California Environmental, Public Health, and Workers Defense Act of 2017. Status: ordered to Assembly. Read first time. Held at Desk. This bill is one in a package of bills aimed at insulating the state from rollbacks in federal environmental regulations and public health protections, including SB 51 (Jackson), SB 50

SB 161 (McGuire) – Fish and Game Commission: tribal committee. Status: In Assembly. Read first time. Held at Desk. This bill would require FGC to form a tribal committee from its membership consisting of at least one commissioner and would require the committee to report to FGC from time to time on its activities and to make recommendations on all tribal matters considered by FGC, consistent with requirements for MRC and WRC.

SB 188 (Jackson) – State Lands: Leasing: oil and gas. Status: In assembly. From committee with author's amendments. Read second time and amended. Re-referred to Com. on NAT. RES. This bill would prohibit the commission and the local trustees of granted public trust lands from entering into any new lease or other conveyance that authorizes the exploration for, or the development and production of, oil and natural gas upon those lands. The bill would prohibit the commission and the local trustees of granted public trust lands from entering into any lease renewal, extension, or modification that authorizes a lessee to engage in new or additional exploration, development, or production of oil and natural gas.

AB 234 (Berryhill) – Fishing: local regulation: report. Status: In Assembly. Read first time. Held at Desk. This bill would require FGC to undertake a survey and an evaluation of local

ordinances that regulate fishing, and to submit the survey and evaluation to the California State Legislature in a report by Dec 31, 2018.

AB 473 (Hertzberg) - California Endangered Species Act. This bill makes several changes to the California Endangered Species Act that reflect input from academic, business, and conservation interests.

AB 907 (Garcia) - Office of Outdoor Recreation and Public Lands Enhancement. Status: In committee: Held under submission. This bill would establish the Office of Outdoor Recreation and Public Lands Enhancement in the Governor's Office of Business and Economic Development for specified purposes, including promoting active healthy lifestyles and improving the quality of life for all Californians, and would require the director of the Governor's Office of Business and Economic Development to administer the Office of Outdoor Recreation and Public Lands Enhancement. The bill would require the Office of Outdoor Recreation and Public Lands Enhancement to create an advisory group to offer advice, expertise, support, and service to it, without compensation.

AB 1228 (Bloom) - Experimental fishing permits. Status: In Senate. Read first time. To Com. on RLS. for assignment. This bill would authorized DFW to issue experimental fishing permits for specified purposes that would authorize commercial or recreational fishing activity otherwise prohibited by the Fish and Game Code or regulations adopted pursuant to that code, subject to certain requirements, including a requirement that activities conducted under the permit be consistent with specified policies enacted as part of the Marine Life Management Act of 1998 and any applicable fishery management plan, and a requirement that the permit be subject to certain DFW conditions. Because a violation of the terms of a permit would be a crime, this bill would impose a state-mandated local program.

AB 1337 (Patterson and Cooley) – Fish and Game Commission: meetings and hearings: live broadcast. Status: In Senate. Referred to Com. on N.R. & W. This bill would require FGC provide a live video broadcast on its web site of every FGC meeting or hearing that is open and public and every meeting or hearing conducted by the marine resources committee, wildlife resources committee, or tribal committee that is open and public.

AB 1544 (Dahle and Mathis) - Hunting: nonlead ammunition. Status: in committee: Hearing canceled at the request of author. This bill would require FGC to temporarily suspend the prohibition on the use of nonlead ammunition for the taking of all wildlife for a specific hunting season and caliber if FGC finds that nonlead ammunition of the specific caliber is not-available for any reason. The bill would require FGC, on or before Jan 1, 2019, to adopt criteria to determine when nonlead ammunition is not available for purposes of this provision and would require those criteria to include regional availability and cost of nonlead ammunition. The bill would prohibit a suspension from remaining in effect for longer than three years. The bill would require FGC to make any finding that nonlead ammunition is not-available-publicly available on its website.

AB 1617 (Bloom and Chiu) - Department of Fish and Wildlife: Fish and Game Commission: funding: strategic vision. Requires the secretary of the Natural Resources Agency to appoint a stakeholder advisory group to report on the progress made toward implementingthe California Fish and Wildlife Strategic Vision. Requires the secretary to direct

DFW to evaluate and implement program efficiencies and to establish a task force that reviews and makes recommendations regarding FGC and DFW mandates, efficiencies and funding. Requires DFW to identify and propose new sources of revenue to fund its responsibilities.

Significant Public Comments

Two organizations copied FGC on letters of opposition to AB 1617 (Exhibit B1).

Recommendation (N/A)

Exhibits

B1. Letters from California Sportsfishing League and Coastside Fishing Club to Assemblymeber Bloom opposing AB 1617, received May 31, 2017

B2. Draft FGC letter of support for SB 188

B3. DFW legislative report, dated June 2017

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

20C. OTHER INFORMATIONAL ITEMS – FEDERAL AGENCIES REPORT

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

Standing agenda item to receive reports on any recent federal agency activities of interest not otherwise addressed under other agenda items.

Summary of Previous/Future Actions (N/A)

New Administration: As of Jun 12, 2017, appointments had not yet been made for the NOAA administrator or assistant administrator for fisheries (National Marine Fisheries Service), director of the National Park Service, or director of the U.S. Fish and Wildlife Service.

National Oceanic and Atmospheric Administration (NOAA): The U.S. experienced the 8th warmest and 11th wettest spring on record, while the slightly warmer-than-average May makes the country's year-to-date temperatures the 2nd warmest in recorded history, at 4.7 degrees above the 20th-Century average (Exhibit 1).

U.S. Secretary for Interior: On May 1, Secretary Zinke signed two secretarial orders, one to direct development of a new five-year outer continental shelf oil and gas leasing program to spur offshore energy development, and the other establishing the position of counselor to the secretary for energy policy (Exhibit 2).

U.S. Fish and Wildlife Service: Millions of acres of public lands are being overrun with illegal marijuana growing operations, leading to degraded habitat and toxic trash that directly leads to wildlife deaths and threats to local water supplies (Exhibit 3).

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. NOAA news release: *U.S. had the 8th warmest, 11th wettest spring on record*, dated Jun 7, 2017
2. DOI news release: *Secretary Zinke Signs Orders Implementing America-First Offshore Energy Strategy*, dated May 1, 2017
3. USFWS news release: *Illegal marijuana grow sites: A stain on public lands*, dated Jun 6, 2017

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

20D. OTHER INFORMATIONAL ITEMS – OTHER

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

Standing agenda item to allow staff to identify any additional informational items that arise after meeting materials are produced, or for Commissioners to provide updates on recent FGC-related activities.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits (N/A)

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

21. EXECUTIVE SESSION

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

Announce results from Executive Session, which will include:

(A) Pending litigation to which FGC is a party
(B) Possible litigation involving FGC
(C) Staffing
(D) Deliberation on license and permit items

Summary of Previous/Future Actions (N/A)

Background

Pursuant to the authority of Government Code Section 11126(a)(1), (c)(3), and (e)(1), and Section 309 of the Fish and Game Code, FGC meets in closed executive session at each meeting. The purpose of executive session is to consider topics A-D as reflected on the meeting agenda.

(A) See agenda for a list of civil litigation to which FGC is a party and pending at the time the agenda was posted. On May 31, 2017, the trial court overseeing the case of Sturgell v. DFW and FGC entered an order against DFW and FGC; that order is attached as Exhibit A1.

(B) No possible litigation to report at the time the meeting binder was prepared.

(C) Three positions are currently open: Staff services manager, associate governmental program analyst, and legal/regulatory clerk.

(D) No license and permit items are ready for final action by FGC.

Recommendation (N/A)

Exhibits

A1. Order re Petition for Writ of Administrative Mandate in Sturgell v. California Department of Fish and Wildlife et al., filed May 31, 2017

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

22. PUBLIC FORUM (DAY 2)

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

Receipt of public comments and requests for regulatory and non-regulatory actions.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Jun 21-22, 2017; Smith River**
- Direction to grant, deny or refer Aug 16-17, 2017; Sacramento

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff includes written materials and comments received prior to the meeting comment deadline as exhibits in the meeting binder (under Day 1 Public Forum), or as late comments at the meeting (if received by late comment deadline), for official FGC "receipt."

Action on regulatory petitions and non-regulatory requests received at previous meetings is scheduled under separate agenda items called "Petitions for regulation change from previous meetings" and "Non-regulatory requests from previous meetings".

Significant Public Comments

All written comments were summarized and provided as exhibits under Day 1 Public Forum.

Recommendation

Consider whether any new future agenda items are needed to address issues that are raised during public comment and within FGC's authority.

Exhibits

See exhibits for Agenda Item 2

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

23. WHITE SEABASS (CONSENT)

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

Receive DFW's *White Seabass Fishery Management Plan 2015-2016 Annual Review* report.

Summary of Previous/Future Actions

- Adopted White Seabass Fishery Management Plan 2002
- Received annual reviews 2003-2016
- **Today receive 2015-2016 annual review** **Jun 21-22, 2017; Smith River**

Background

White seabass is managed under the *White Seabass Fishery Management Plan* (FMP) adopted by FGC in 2002, which requires annual monitoring and review of the commercial and recreational fisheries and resource. Annual review includes fishery-dependent and fishery-independent data, if available, documented changes within the social and economic structure of industries that utilize the white seabass resource within California, information on the harvest of white seabass in Mexican waters, and other relevant data. The data are used to evaluate the status of the resource relative to criteria ("points of concern") adopted by FGC to help determine when management measures are needed to address resource issues.

The White Seabass Scientific and Constituent Advisory Panel (WSSCAP) was established to assist DFW and FGC with reviewing annual fishery assessments, as well as management recommendations and plan amendments when needed. DFW met with WSSCAP in Apr 2017 to review fishery information for the 2015-2016 season (Sep 1 to Aug 31), and consider whether current management measures were providing adequate protection for the white seabass resource. Based on review of the points of concern, DFW and WSSCAP concurred that none of the criteria for additional management measures were met in 2015-2016. After several years of decreases in commercial and recreational landings of white seabass, both fisheries showed an increase in landings for 2015-2016. However, an existing or imminent overfishing condition was not indicated from the scientific information presently available.

Today DFW is providing a transmittal memo and its annual review report (exhibits 1-2) to support DFW recommendations that no changes to the current management of the commercial and recreational white seabass fisheries be implemented.

Significant Public Comments (N/A)

Recommendation

***FGC Staff*:** Staff concurs with DFW review and findings, and recommends that FGC approve this item under a motion adopting the consent calendar.

DFW: DFW recommends no changes to current recreational and commercial white seabass fisheries management.

Exhibits

1. DFW memo, dated May 18, 2017
2. DFW report, *White Seabass Fishery Management Plan 2015-2016 Annual Review*, dated Apr 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission hereby adopts the consent calendar, items 23-24.

STAFF SUMMARY FOR JUNE 21-22, 2017

24. HALIBUT TRAWL, DREWISCH (CONSENT)

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

Approve request from Mr. Robert T. Drewisch to transfer California Halibut Bottom Trawl Vessel Permit No. BT0006 to Justin M. Drewisch.

Summary of Previous/Future Actions (N/A)

Background

Since Apr 2006, any vessel using bottom trawl gear in the state-managed halibut fishery must possess a valid California halibut bottom trawl vessel permit (CHBTVP) issued pursuant to Fish and Game Code Section 8494. A CHBTVP may only be transferred under specific conditions.

Mr. Robert T. Drewisch, who holds a CHBTVP for use on *F/V Bella Marie,* has submitted an application to transfer his permit with the vessel to another owner (Exhibit 1). Pursuant to Fish and Game Code Section 8594(d)(3), a CHBTVP permitholder, or his/her conservator or estate representative, may request to transfer the permit with the vessel to a new permitholder if, prior to the implementation of a halibut trawl restricted access program, specific conditions are met. Because there is not a formal restricted access program for the California halibut fishery, FGC must determine if Robert T. Drewisch is eligible to transfer the permit to another owner.

Two conditions must be met for FGC to approve a CHBTVP transfer: (1) The permitholder has died, is permanently disabled, or is at least 65 years of age and is retiring from commercial fishing; and (2) California halibut landings contributed significantly to the record and economic income derived from the vessel, as determined by regulations adopted by FGC.

DFW reviewed documentation submitted by Robert T. Drewisch (Exhibit 1) as well as landings data to support FGC consideration. Robert T. Drewisch's documentation and application indicate that he is at least 65 years of age and that he is retiring from commercial fishing, meeting the first condition. Regarding the second condition, FGC has not yet adopted regulations for deteriming whether landings have contributed significantly to the record and economic income derived from the vessel." In the absence of regulations, DFW limited its review of landings data to verifying that Robert T. Drewsich has actively made landings of California halibut from the vessel. DFW confirmed that, between 2011 and 2016, Robert T. Drewisch made annual California halibut landings as a permit holder participating in the fishery (Exhibit 2).

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve the application from Robert T. Drewisch to transfer California halibut trawl vessel permit BT0006, under the condition recommended by DFW that Robert T. Drewisch not possess a commercial fishing license or otherwise participate/assist in any commercial fishing activity henceforth.

DFW: Consider the application, with approval contingent on agreement that Robert T. Drewisch shall not possess a commercial fishing license or otherwise participate/assist in any commercial fishing activity henceforth.

Exhibits

1. Transfer application and non-confidential documentation submitted by Robert T. Drewisch
2. DFW Memo - to be delivered at meeting

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the consent calendar, items 23-24.

STAFF SUMMARY FOR JUNE 21-22, 2017

25. MARINE RESOURCE COMMITTEE

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

Review tasks referred to the Marine Resources Committee (MRC), review potential agenda topics for the Jul 20, 2017 MRC meeting, and consider new topics for MRC review.

Summary of Previous/Future Actions

- Most recent MRC meeting — Mar 23, 2017; MRC, San Clemente
- **Today approve draft MRC topics** — **Jun 21-22, 2017; Smith River**
- Next MRC meeting — Jul 20, 2017; MRC, Santa Rosa

Background

FGC directs committee work. MRC generally meets three times per year to discuss topics referred by FGC, and provides a summary and recommendations to FGC after each meeting.

MRC Work Plan and Draft Timeline

Current topics already referred to MRC are shown in the MRC work plan (Exhibit 1). Draft agenda topics for the Jul 2017 MRC meeting are shown in the "Jul – Santa Rosa" column for FGC review and consideration today.

Discuss and Approve New MRC Topics

Based on public requests received in Apr 2017, staff recommends two new discussion topics:

- New aquaculture leases planning (for Jul MRC), and
- California halibut trawl permit transferability (for Nov MRC).

Significant Public Comments

1. Request from Audubon California to discuss marine spatial planning for aquaculture leases in Tomales Bay (see Exhibit 36A.4 under Agenda Item 36, marine non-regulatory requests from previous meetings).
2. Requests from two commercial fishermen to discuss California halibut trawl permit transferability at an MRC meeting (exhibits 2-3)

Recommendation

FGC staff:

1. Approve new work plan topics for MRC
    - Approach to considering new aquaculture leases
    - California halibut trawl permit transferability
2. Approve draft agenda topics for the Jul 2017 MRC meeting
    - Amendment to Marine Life Management Act master plan for fisheries
    - Red Abalone Fishery Management Plan (FMP) development update

- Herring FMP development update
- Fishing communities project update
- Fisheries Bycatch Workgroup update
- Marine debris informational update
- Informational presentation on federal drift gillnet fishery for swordfish and shark
- Marine aquaculture leases
    - Best management practices discussion
    - Approach to considering new aquaculture leases

Exhibits

1. MRC draft work plan and draft agenda topics for Jul 20, 2017 meeting
2. Letter submitted by Morgan Castagnola during oral testimony on Apr 27, 2017
3. Document submitted by Mike McCorkle during oral testimony on Apr 27, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the new topics for referral as recommended by staff, and approves the draft agenda topics for the July 20, 2017 Marine Resources Committee meeting.

STAFF SUMMARY FOR JUNE 21-22, 2017

26. SANTA BARBARA MARICULTURE'S STATE WATER BOTTOM LEASE

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

(A) Receive update on Santa Barbara Mariculture's application for a new state water bottom lease for aquaculture adjacent to an existing lease; and

(B) Approve a six-month extension of Santa Barbara Mariculture's existing State Water Bottom Lease No. M-653-02 for aquaculture.

Summary of Previous/Future Actions

- Approved one-year lease extension — Dec 3, 2014; Van Nuys
- Received request to renew lease — Jun 9, 2015; Mammoth Lakes
- Approved one-year lease extension — Dec 9-10, 2015; San Diego
- Approved six-month lease extension — Dec 7-8, 2016; San Diego
- **Today discuss/approve lease extension — Jun 21-22, 2017; Smith River**

Background

FGC has the authority to lease state water bottoms to any person for aquaculture if such a lease is in the public interest (Section 15400, Fish and Game Code). The lessee shall have a prior right to renew the lease on terms agreed upon between FGC and the lessee (Section 15406, Fish and Game Code).

Santa Barbara Mariculture holds FGC-issued State Water Bottom Lease No. M-653-02 (exhibits 1 and 2). Since the original lease period of 2005-2010, FGC has approved several short-term extensions (Exhibit 3). The extensions have, in part, been in response to a request from the leaseholder to renew the 72-acre lease under a reconfigured geographic shape and position. In 2015, based on guidance from legal counsel, the request was divided into two separate but interrelated discretionary actions for FGC consideration:

1. Application for a new lease ("New Lease Application") for the portion of the reconfigured shape outside the existing lease footprint, subject to environmental review under the California Environmental Quality Act (CEQA).
2. Renewal of the existing lease ("Existing Lease Renewal") for the portion of the reconfigured shape that overlaps the existing lease footprint.

FGC directed staff to schedule the two actions concurrently for FGC consideration. Completing CEQA review for the New Lease Application has been the driver for the timeline, requiring several extensions to the Existing Lease Renewal, to keep the two action timelines aligned (Exhibit 3). The most recent extension to the Existing Lease Renewal will expire on Jul 27, 2017.

New Lease Application update: DFW has reported substantial progress on completing CEQA during the past six months, but the petitioner is still in the process of incorporating input provided from other State and federal agencies into the document, in consultation with DFW. DFW anticipates that finalizing and circulating the document will be completed by Dec 2017 to inform FGC consideration of the application (Exhibit 4).

Existing Lease Renewal update: DFW has requested an extension of the existing lease under existing lease terms and conditions for six months, to correspond to the revised timeline for the New Lease Application review.

Significant Public Comments (N/A)

Recommendation

FGC staff: FGC staff supports extending the existing lease for an additional six months as recommended by DFW and scheduling consideration of the lease renewal and new lease application for Dec 2017.

DFW: Extend the existing lease for a period of six months under existing terms and conditions.

Exhibits

1. Map of lease areas
2. Lease No. M-653-02, dated Nov 3, 2005
3. Lease timeline history, 1984 to Jun 2017
4. DFW memo, dated Jun 6, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the request for a six-month extension of the lease period for Santa Barbara Mariculture's State Water Bottom Lease No. M-653-02.

STAFF SUMMARY FOR JUNE 21-22, 2017

27. CRAB AND LOBSTER

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

Adopt proposed changes to the crab and lobster recreational gear and commercial lobster harbor restricted fishing area regulations.

Summary of Previous/Future Actions

- Notice hearing — Feb 8-9, 2017; Rohnert Park
- Discussion hearing — Apr 26-27, 2017; Van Nuys
- **Today's adoption hearing** — **Jun 21-22, 2017; Smith River**

Background

The proposed regulations were developed in response to concerns raised by the public in Oct 2015 during adoption of recreational crab trap regulations, in Jun 2016 during adoption of the California Spiny Lobster Fishery Management Plan (FMP), and later in 2016 during adoption of the FMP implementing regulations. Of particular interest to the public during this current rulemaking process has been proposed amendments to the restricted fishing areas (RFAs) specified in subsection 122(d)(2). The Dana Point Harbor RFA is proposed to be modified from a southerly orientation to a more westerly orientation (Exhibit 3), which has not been opposed. A new RFA for Port Hueneme is also proposed, which would cover approximately 3.25 square nautical miles where lobster traps would be prohibited for operational and navigational safety purposes (Exhibit 4); the proposed Port Hueneme change has generated significant public interest.

At the Apr 2017 FGC meeting, a Port of Hueneme (Port) representative indicated that the Port currently holds a neutral position in regard to the proposed regulation for a new Port Huemene RFA; however, the Port supports having its Harbor Safety Committee (HSC) serve as the lead for the proposal moving forward. During the Apr meeting, commerical fisherman raised concerns about the proposed regulations for Port Huemene (Exhibit 7). Following public comment, FGC instructed the Port's HSC to work with commercial lobster fishermen to determine if a compromise could be reached on the proposed Port Hueneme RFA.

Since that time, the Oxnard Harbor District, which owns and operates the Port, hired an independent third party to facilitate discussions between the Port and affected stakeholders to develop a new proposal. Based on those discussions a proposal with new restricted fishing area boundary lines was presented at a special meeting of HSC on Jun 6, 2017. HSC voted on revised boundary lines and submitted a letter to FGC requesting the current proposed regulations be modified using the revised boundary lines provided in the letter (Exhibit 17).

Significant Public Comments

- Received five comments (example provided in Exhibit 11) and a petition with 146 signatures (Exhibit 12) opposing the proposed RFA for Port Huemene. Included in the comments are descriptions of a stakeholder meeting held on Jun 1, 2017 and the HSC meeting held on Jun 6, 2017, as well as a statement that navigational safety should be

addressed by the U.S. Coast Guard Marine Safety Division (examples provided in exhibits 13 and 14).

- Received an email alleging that the Port's HSC failed to follow the Brown Act when preparing its initial proposal by not including the minutes from those meetings (Exhibit 15).
- Port Hueneme, Oxnard Harbor District, submitted a letter providing additional details on the statements made by the Port's representative at the Apr 2017 FGC meeting and clarifying that the original request for the RFA, which was submitted by the former chief operations officer, was not authorzed by the port (Exhibit 16).

Recommendation

FGC staff: Adopt the proposed regulation changes, *except for the Port Hueneme Restricted Fishing Area*.

Exhibits

1. DFW memo, dated Jan 4, 2017
2. Initial statement of reasons (ISOR)
3. ISOR Attachment 1 – Document relied upon
4. ISOR Attachment 2 – Document relied upon
5. DFW memo, received Jun 8, 2017
6. Pre-adoption statement of reasons (PA), dated May 18, 2017
7. PA Attachment A
8. DFW memo, received Jun 8, 2017
9. Draft notice of exemption (NOE) attachment for sections 29.80 and 122, dated Jun 22, 2017
10. Draft NOE attachment for Port Hueneme, dated Jun 22, 2017
11. Email from Sportfishing Association of California, received Jun 8, 2017
12. Signatures opposing Port Hueneme proposal from Ken Ranke, received May 31, 2017
13. Email from Kat Jones, received Jun 4, 2017
14. Email from Teresa Ewart, received Jun 12, 2017
15. Email from Kat Jones, attaching Harbor Safety Minutes, received Jun 8, 2017
16. Email from the Port Hueneme, Harbor Safety Committee, received Jun 12, 2017
17. Email from Harbor Safety Committee of the Port Hueneme Region, received Jun 12, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the proposed regulations regarding sections 29.80 et al., Title 14, CCR, regarding crab and lobster recreational gear marking and commercial lobster harbor restricted fishing areas.

OR

Moved by _____ and seconded by _____ that the Commission adopts the proposed regulations regarding sections 29.80 et al., regarding crab and lobster recreational gear marking and commercial lobster harbor restricted fishing areas, with the exception of the proposed Port Hueneme Restricted Fishing Area for which the no change alternative is selected.

STAFF SUMMARY FOR JUNE 21-22, 2017

28. FISHERIES AUTOMATIC CONFORMANCE PROCESS

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

Discuss proposed automatic conformance process regulations.

Summary of Previous/Future Actions

- Notice hearing — Apr 26-27, 2017; Van Nuys
- **Today's discussion hearing** — **Jun 21-22, 2017; Smith River**
- Adoption hearing — Aug 16-17, 2017; Sacramento

Background

For species managed under federal fishery management plans or regulation, FGC usually takes concurrent action to conform State recreational regulations to federal regulations adopted by the National Marine Fisheries Services (NMFS); this dual process is redundant and inefficient. The proposed regulation, Section 1.95, Title 14, will establish a process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations, unless FGC adopts regulations for said species using the regular rulemaking process.

For annual regulations or corrections to annual regulations for salmon and Pacific halibut, the proposed regulation would require, no later than 10 days after federal regulations are published in the Federal Register, that:

- FGC submit amended State regulations to the Office of Administrative Law for publication in the California Code of Regulations and file the amended State regulations with the Secretary of State;
- DFW issue a news release announcing the Federal Register in which the federal regulations are published and the effective date of the conformed State regulations;
- FGC mail or email the news release to interested parties;
- To the extent practicable, DFW provide information on any changes to the State regulations via public contact, electronic notification, and online and printed publications.

The proposed regulation would also require that an update on the conformed State regulations be included on the agenda of the next regularly-scheduled FGC meeting.

For in-season changes to regulations for salmon and Pacific halibut, the proposed regulation indicates that State regulations shall conform to the applicable federal regulations publicly noticed through the NMFS ocean salmon hotline and NMFS Area 2A Pacific halibut hotline, respectively.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. DFW memo, received Apr 11, 2017
2. Initial statement of reasons
3. Draft notice of exemption

Motion/Direction (N/A)

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29. SEA CUCUMBER

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

Authorization to publish notice of intent to add a section for commercial sea cucumber regulations.

Summary of Previous/Future Actions

• Receive/accept DFW recommendation to add sea cucumber to 2016 rulemaking calendar	Dec 3, 2014; Van Nuys
• FGC approved MRC recommendation to add an update on this fishery to a future MRC meeting	Dec 9-10, 2015; San Diego
• MRC vetting	Mar 23, 2017; MRC, Oceanside
• Receive/accept MRC recommendation	Apr 26-27, 2017; Van Nuys
• **Today's notice hearing**	**Jun 21-22, 2017; Smith River**
• MRC recommendation	Jul 20, 2017; MRC, Santa Rosa
• Discussion hearing	Aug 16-17, 2017; Sacramento
• Adoption hearing	Oct 11-12, 2017; Atascadero

Background

The commercial sea cucumber fishery is a limited entry fishery with separate permits for the dive and trawl fisheries, which primarily target warty and giant red (*A. californicus*) species, respectively. The fisheries are governed by Fish and Game Code, which specifies gear types, fees, records, the number of permits, and permit renewal and transfer processes. Currently there are no statues or regulations that specify seasons, size limits, catch limits or limits on dive gear usage. However, Fish and Game Code Section 8505.3 gives authority to FGC to adopt regulations that are reasonably necessary to protect the sea cucumber resource.

At the Mar 23, 2017 MRC meeting, DFW presented its research findings and information on the status of the warty sea cucumber commercial fishery; the results indicate a significant risk to the long-term sustainability of this fishery (exhibits 2-3). From 2013 to 2016 DFW conducted fishery analyses and collected additional essential fishery information required to inform the development of management measures for the fisheries. At its Apr 26-27, 2017 meeting, FGC accepted MRC's recommendation to add a rulemaking to FGC's 2017 rulemaking calendar to address DFW's concerns.

Informed by an evaluation of fishery trends, reproductive patterns of the species, a 2014 survey of fishery participants, and meetings with the fleet in Mar and Apr 2017, DFW determined that a seasonal closure during the key spawning period for warty sea cucumber is the preferred first step for addressing sustainability concerns. DFW is proposing three closure options: (1) Apr 1 – Jun 30; (2) Mar 1 – Jun 14; (3) or Jan 1 – Jun 14. A survey of commercial divers was distributed in early Jun; results will be presented at the Jun 2017 FGC meeting.

DFW is requesting authorization to prepare and publish an initial statement of reasons (ISOR) that includes the three seasonal closure options. The ISOR and rulemaking documents will be available for public review and comment prior to the Aug 2017 FGC meeting.

Significant Public Comments (N/A)

Recommendation

FGC staff: Authorize publication of the notice as recommended by DFW.

Exhibits

1. DFW memo, received Jun 5, 2017
2. Mar 23, 2017, committee staff summary and exhibit for item 6
3. Mar 23, 2017, MRC meeting summary (see item 6)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to add Section 128, Title 14, California Code of Regulations, related to commercial take of sea cucumbers.

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30. NEARSHORE AND DEEPER NEARSHORE FISHERIES

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

Authorization to publish notice of intent to amend the commercial nearshore fishery regulations.

Summary of Previous/Future Actions

- **Today's Notice hearing** **Jun 21-22, 2017; Smith River**
- Discussion hearing Aug 16-17, 2017; Sacramento
- Adoption hearing Oct 11-12, 2017; Atascadero

Background

Under current regulations (Section 150), only persons with a Nearshore Fishery Permit are allowed to take nearshore species (cabezon; California scorpionfish; California sheephead; kelp and rock greenlings; and, black-and-yellow, China, gopher, grass and kelp rockfishes). Transfer of a Nearshore Fishery Permit is allowed on a two-for-one basis with the new permittee purchasing two permits, and agreeing to retire one permit and fish using the other. The number of permits has declined 35 percent in the past 13 years and it has become very difficult to find two permits for sale in the same regional management area. Proposed changes for Section 150 include:

- clarify that Nearshore Fishery Permit holders can only have one permit, regardless of the management area, at any time;
- add a requirement that the estate of a non-transferable Nearshore Fishery Permit shall immediately surrender the permit to DFW;
- allow for permit transfers on a one-for-one basis, making it easier for new permittees to enter the fishery as well as current permittees to retire;
- standardize the paperwork by changing from notarized letters to a notarized application;
- allow the estate of a deceased permittee two years to transfer a permit;
- require that the estate of a deceased permittee temporarily relinquish the permit until the transfer can be made;
- delay a transfer pending resolution of any criminal, civil and/or administrative action involving the current permittee; and
- change the process for appealing denial of a transfer from a two-step process to a one-step process whereby the person denied a transfer can appeal directly to FGC within 60 calendar days of DFW's denial.

Under current regulations (Section 150.02), only persons who held a valid Deeper Nearshore Species Fishery Permit (for the take of black, blue, brown, calico, copper, olive, quillback and treefish rockfishes) during the immediately preceding permit year are eligible to obtain a permit for the following permit year, which has resulted in a permit moratorium that prohibits any new entrants into the fishery. The proposed regulation would allow new individuals to enter the fishery by obtaining a permit from an existing permit holder. Additionally, the proposed

regulations would require completion of a notarized transfer application. Proposed changes for Section 150.02 include:

- establish permit transfer provisions;
- establish that all Deeper Nearshore Species Fishery Permits are transferable;
- establish a notarized application for the permit transfer;
- allow the estate of a deceased permittee two years to transfer a permit
- require that the estate of a deceased permittee temporarily relinquish the permit until the transfer can be made;
- delay a transfer pending resolution of any criminal, civil and/or administrative action involving the current permittee, and
- establish a permit transfer fee as specified in Section 705.

Current regulations (Section 150.03) allow persons with a Nearshore Fishery Permit to use trap gear with a Nearshore Fishery Gear Endorsement, which is transferable on a one-for-one basis. Proposed changes for Section 150.03 include:

- standardize the paperwork by changing from notarized letters to a notarized application;
- allow the estate of a deceased permittee two years to transfer the gear endorsement;
- require that the estate of a deceased permittee temporarily relinquish the gear endorsement until the transfer can be made;
- delay a transfer pending resolution of any criminal, civil and/or administrative action involving the current permittee; and
- change the process for appealing denial of a transfer from a two-step process to a one-step process whereby the person denied a transfer can appeal directly to FGC within 60 calendar days of DFW's denial.

Current regulations (Section 705) establish a Nearshore Fishery Permit Transfer Fee of $500. The proposed regulations would increase the permit transfer fee to somewhere in a range of $1,000 to $2,500 and also establish a transfer fee somewhere in the range of $1,000 to $2,500 for the Deeper Nearshore Species Fishery Permit. The proposed regulations would also include reference to the proposed Nearshore Fishery Permit and Nearshore Fishery Trap Endorsement Transfer Application (DFW 1045) and the proposed Deeper Nearshore Species Fishery Permit Transfer Application (DFW 1048).

Additional minor changes are proposed to correct grammatical errors and remove section references to Title 14, CCR, to improve clarity and standardize regulatory format.

Significant Public Comments (N/A)

Recommendation

FGC staff: Authorize publication of notice.

DFW: Authorize publication of notice as detailed in the initial statement of reasons (ISOR) (Exhibit 2).

Exhibits

1. DFW memo, received May 8, 2017
2. ISOR

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 150 et al., related to commercial nearshore and deeper nearshore fishing permit and appeal regulations.

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31. COMMERCIAL FISHERIES LANDING REQUIREMENTS

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

Authorize publication of notice of intent to amend commercial fisheries landing requirements regulations.

Summary of Previous/Future Actions

- **Today's notice hearing** **Jun 21-22, 2017; Smith River**
- Discussion/adoption hearing Oct 11-12, 2017; Atascadero

Background

The proposed regulations implement a transition from the current paper-based reporting system to electronic forms via a new electronic reporting system for commercial fisheries landings. DFW proposes these regulations since no regulations exist and activities are currently governed by statutues alone.

DFW is working closely with the Pacific States Marine Fisheries Commission (PSMFC) to streamline and integrate state electronic reporting with the PSMFC electronic reporting sysem currently in use in Washington, Oregon and California for certain federally-managed fisheries. Integration will allow fish receivers to use one system to meet both federal and state reporting requirements and will transition all state fisheries landings to electronic reporting (see Exhibit 2).

Significant Public Comments (N/A)

Recommendation

FGC staff: Authorize publication of notice.

DFW: Authorize publication of notice as detailed in the initial statement of reasons (Exhibit 2).

Exhibits

1. DFW memo, received May 26, 2017
2. Initial statement of reasons

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to add Section197 related to commercial fisheries landing requirements.

32. COMMERCIAL ROCK CRAB FISHERY CLOSURE

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

Discuss recent action by DFW director to continue closure of commercial rock crab fishery north of Bodega Bay due to elevated levels of domoic acid.

Summary of Previous/Future Actions

- DFW emergency closure of commercial rock crab fishery — Nov 17, 2016
- Emergency closure expired — May 16, 2017
- Closure under DFW director's authority — May 16, 2017
- **Today's public discussion on fishery closure** — **June 21-22, 2017; Smith River**

Background

In Nov 2016, California's health agencies (California Department of Public Health (CDPH) and the Office of Environmental Health Hazard Assessment (OEHHA)) recommended that DFW close the commercial fishery north of Pigeon Point, San Mateo County, due to unhealthy levels of domoic acid in tissue samples from the area. DFW took action to close the fishery under an emergency rulemaking on Nov 17, 2016, with an expiration date of May 16, 2016. The recreational fishery for rock crab remained open statewide with a warning from CDPH to recreational anglers to avoid consuming the viscera of rock crab caught in the closure area.

Pursuant to new Fish and Game Code Section 5523(a), DFW's director now has authority to order the closure of any State waters or restrict the take of any fish species if state health agencies determine that the fish is likely to pose a human health risk from high levels of toxins. If the director takes such measures, the director is required to notify FGC and request that FGC schedule a public discussion of the closure at its next scheduled full FGC meeting. Any actions taken pursuant to Section 5523 are exempt from the Administrative Procedure Act.

On May 16, 2017, DFW's director issued a declaration to continue the commercial rock crab fishery closure north of Pigeon Point, as state public health agencies had not recommended opening the fishery by that time (Exhibit 1). Pursuant to Section 5523(b), the closure will continue until the director is notified by public health agencies that a health risk no longer exists. The director notified FGC of his action and requested a public discussion at the next scheduled full FGC meeting, as required (Exhibit 2).

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. DFW declaration of fishery closure due to public health threat, dated May 16, 2017
2. DFW memo, dated May 15, 2017

Motion/Direction (N/A)

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33. ABALONE

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

DFW update on the status of the recreational abalone fishery and development of a red abalone fishery management plan.

Summary of Previous/Future Actions

- Adopted emergency regulations — Dec 7-8, 2016; San Diego
- **Today's update from DFW** — **Jun 21-22; Smith River**
- Proposed emergency action and notice hearing for compliance rulemaking — Aug 16-17, 2017; Sacramento

Background

On Dec 7, 2016, FGC took emergency action to change abalone regulations by reducing the annual limit from 18 to 12 (except for Sonoma County, which remained at 9) and reducing the months open to fishing from seven to five by closing Apr and Nov. The emergency regulations became effective on Apr 1, 2017 and will expire on Sep 29, 2017.

Early indications, based on recent DFW creel surveys and in-water reports and observations, suggest conditions continue to be very poor and are not likely to quickly improve. Body shrinkage score for red abalone (N=3800) assessed from nine sites throughout the fishery in May 2017 show 25% of the abalone are shrunken and starving. Kelp food resources continue to be poor and the density of purple sea urchin competitors remains high.

There is also growing concern that this summer's density survey results could trigger recommendations for additional restrictions, including closures. Therefore, DFW recommends FGC schedule consideration of readoption of the emergency regulation for 2017 and notice of its intent to amend regulations to make the 2017 or more restrictive regulations effective for the 2018 fishery season (Exhibit 1).

DFW, under direction of FGC, is in the process of drafting a fishery management plan for abalone and will provide an update on progress and next steps.

Significant Public Comments

1. Letter to Senator McGuire and similar letter sent to Assemblyman Wood from Mr. Guil Dye regarding the abalone fishery, stating that Mendocino County in particular is in serious trouble (Exhibit 2)
2. Photos showing bare kelp stalks and bleached rocks where there should be a kelp forest (Exhibit 3).
3. Fort Bragg resident concerned about the decline of our ocean ecosystem (Exhibit 4)

Recommendation

FGC staff: Accept DFW's recommendation.

DFW: FGC schedule at its Aug meeting consideration of readoption of the emergency regulation for 2017 and notice of its intent to amend regulations to make the 2017 regulations effective for the 2018 fishery season.

Exhibits

1. DFW memo, dated May 23, 2017
2. Email from Guil Dye, received Jun 5, 2017
3. Email from Guil Dye, received Jun 5, 2017
4. Email from Chad Swimmer, received Jun 6, 2017

Motion/Direction (N/A)

Note that action on the proposed regulatory timetable changes will be addressed under agenda item 38C.

STAFF SUMMARY FOR JUNE 21-22, 2017

34. ITEMS OF INTEREST FROM PREVIOUS MEETINGS (MARINE)

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

This is a standing agenda item to provide FGC with updates on marine items of interest from previous meetings.

Summary of Previous/Future Actions

- FGC grants request to send letter to agencies on proposed Huntington Beach Desalination Project — Feb 10-11 2016; Sacramento
- **Today's update** — **Jun 21-22 2017; Smith River**

Background

This item is an opportunity for staff to provide any follow-up information on marine topics previously before FGC.

FGC Comment Letter on Huntington Beach Desalination Project

At its Feb 2016 meeting, FGC directed staff to prepare a letter to the California Coastal Commission (CCC) to express ecological concerns related to the proposed Huntington Beach Desalination Project under its consideration (Exhibit 1). The letter was sent on Feb 1, 2017, corresponding to scheduled consideration by CCC.

On May 16, 2017, a letter was received from the project applicant, Poseidon Surfside, with responses to concerns expressed by FGC, and an offer to meet with FGC members or staff (Exhibit 2).

Significant Public Comments

Letter from Scott Malone, vice-president of Poseidon Water, in response to FGC comment letter to CCC, to clarify that Poseidon Water:

- supports FGC's mission;
- has amended the proposed project over time to address concerns of various State agencies;
- relies on new technology that minimizes ecological impacts;
- refutes concerns for impacts to marine life in marine protected areas (MPAs) based on location of intake and discharge structures away from MPAs, California Environmental Quality Act review, and cited literature;
- highlights mitigation that would occur to offset potential impacts to marine life and habitats; and
- proposes a meeting between Poseidon staff and FGC members or staff to clarify remaining issues.

Recommendations

FGC staff: Provide direction to staff regarding any follow-up with desalination project applicant Poseidon Surfside and its parent company, Poseidon Water.

Exhibits

1. Letter from FGC to CCC, dated Feb 1, 2017
2. Letter from Scott Malone, Poseidon Water, received May 16, 2017

Motion/Direction (N/A)

35. MARINE PETITION FOR REGULATION CHANGE

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

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

(A) Action on petitions for regulation change received at the Apr 2017 meeting.

(B) Update on pending regulation petitions referred to staff or DFW for review.

Summary of Previous/Future Actions

(A)

- Receipt of new petitions — Apr 26-27, 2017; Van Nuys
- **Today's action on petitions** — **Jun 21-22, 2017; Smith River**

(B)

- **Today's update and possible action on referrals** — **Jun 21-22, 2017; Smith River**

Background

As of Oct 1, 2015, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14). Petitions received at the previous meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Petitions scheduled for consideration today under (A) were received at the Apr 2017 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum. Petitions considered under (B) were scheduled for action at a previous meeting and were referred by FGC to DFW or FGC staff for further review prior to action.

(A) ***Petitions for regulation change.***

No marine regulation petitions were received in Apr 2017 or scheduled for FGC action at this meeting.

(B) ***Pending regulation petitions and non-regulatory requests.*** This item is an opportunity for staff to provide a recommendation on petitions previously referred by FGC to DFW or FGC staff for review. Exhibit B1 provides a summary table of pending regulation petitions with staff recommendations for each request described below; FGC may act on any staff recommendations made today.

Three updates on pending petitions referred to FGC staff or DFW are scheduled for action at this meeting.

I. *Petition from Aug 6, 2014 (reinstate incidental take allowance for ridgeback prawn in State trawl fisheries)*: Staff from DFW and FGC conferred to review

the regulatory history and recommend that the petition be *granted* (no exhibit for original petition).

II. *Petition #2015-006 (remove Rockport Rocks Special Closure)*: In Apr 2017, DFW provided a review and recommendation for this petition. Based on review, DFW recommends that the petition be *granted* (see petition and DFW memo in exhibits B2 and B3).

III. *Petition #2016-013 (permit use of cast nets south of Point Conception)*: In Apr 2017, DFW provided a review and recommendation for this petition. Based on review, DFW recommends that the petition be *denied* (see petition and DFW memo in exhibits B4 and B5).

Significant Public Comments (N/A)

Recommendation

(A) N/A

(B) Adopt staff recommendations for referred regulation petitions to (1) deny or (2) grant. See Exhibit B1 for FGC and DFW staff recommendations for each regulation petition.

Exhibits

B1. FGC table of pending referred marine petitions for regulatory change, for action in Jun 2017

B2. Petition #2015-006: Rockport Rocks Special Closure

B3. DFW memo regarding Petition #2015-006, received Apr 19, 2017

B4. Petition #2016-013: Use of cast nets south of Point Conception

B5. DFW memo regarding Petition #2016-013, dated Apr 3, 2017

Motion/Direction

(B) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on pending petitions for regulation change.

OR

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

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36. MARINE NON-REGULATORY REQUESTS

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

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

(A) Action on non-regulatory requests received at the Apr 2017 meeting.

(B) Update on pending non-regulatory requests referred to staff or DFW for review.

Summary of Previous/Future Actions

(A)

- FGC receipt of requests — Apr 26-27, 2017; Van Nuys
- **Today's action on requests** — **Jun 21-22, 2017; Smith River**

(B)

- **Today's update and possible action on referrals** — **Jun 21-22, 2017; Smith River**

Background

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

(A) ***Non-regulatory requests.*** Non-regulatory requests scheduled for consideration today were received at the Apr 2017 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum.

Three non-regulatory requests received in Apr 2017 are scheduled for action. Exhibit A1 summarizes the requests and contains staff recommedations for each request (for individual requests see exhibits A2-A4).

(B) ***Pending non-regulatory requests.*** This item is an opportunity for staff to provide a recommendation on non-regulatory requests that were scheduled for action at a previous meeting and referred by FGC to DFW or FGC staff for further review. FGC may act on any staff recommendations made today.

One request referred to staff for review is ready for action:

Request for FGC resolution supporting prohibition of oil and gas exploration off California. In Feb 2017, FGC granted a request from Heal the Bay and Environment California to adopt a resolution supporting the federal prohibition on new offshore oil and gas leasing in federal waters offshore California. Based on FGC request, a draft resolution was submitted by the petitioners at the Apr 2017 FGC meeting. FGC directed staff to review the draft resolution and propose a revised draft resolution for action at the Jun 2017 FGC meeting. A staff-revised draft resolution is provided for consideration today (Exhibit B1).

Significant Public Comments (N/A)

Recommendation

(A) Adopt staff recommendations for non-regulatory requests to (1) deny; (2) grant; or (3) refer to committee, DFW staff, or FGC staff for further evaluation or information-gathering. Staff recommendations for each non-regulatory request are provided in Exhibit A1.

(B) Adopt staff-revised draft resolution opposing new oil and gas leasing in federal waters offshore California (Exhibit B1).

Exhibits

A1. FGC table of marine non-regulatory requests received through Apr 27, 2017
A2. Email from Cynthia Harland, received Feb 26, 2017
A3. Email from Mike Wright, received Mar 23, 2017
A4. Email from Audubon California, received Apr 13, 2017
B1. Staff-revised draft resolution, dated Jun 13, 2017

Motion/Direction

(A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on April 2017 non-regulatory requests.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on April 2017 non-regulatory requests, except for item(s) _____ for which the action is _____.

AND

(B) Moved by _____ and seconded by _____ that the Commission adopts the resolution supporting the prohibition on new oil and gas leasing in federal waters offshore California as recommended by staff.

OR

Moved by _____ and seconded by _____ that the Commission adopts the the resolution supporting prohibition on new oil and gas leasing in federal waters offshore California as recommended by staff with the following modifications: _____.

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37. DEPARTMENT INFORMATIONAL ITEMS (MARINE)

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

Standing agenda item to receive and discuss informational updates from DFW:

(A) Director's Report
(B) Marine Region
(C) Other

Summary of Previous/Future Actions (N/A)

Background

Verbal reports are expected at the meeting for items (A) and (B).

(B) In addition to a verbal report, DFW's Marine Region will provide an informational update on the northern pink shrimp fishery, including a capacity review (Exhibit B.1).

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

B1. DFW presentation

Motion/Direction (N/A)

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38A. ADMINISTRATIVE ITEMS – DELEGATION REGARDING LAW REVISION COMMISSION

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

Delegate authority to executive director to provide comments on California Law Revision Commission recommendations.

Summary of Previous/Future Actions (N/A)

Background

In 2016, the legislature adopted Assembly Concurrent Resolution148, filed as Chapter 150 of the Statutes of 2016, which authorized the California Law Revision Commission to continue its review of the Fish and Game Code and determine whether the Code "should be revised to improve its organization, clarify its meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements, without making any significant substantive change to the effect of the law."

At the California Law Revision Commission's Apr 2017 meeting, it approved for public circulation "Part 1" of a draft tentative recommendation for reorganizing the Fish and Game Code into a new Fish and Wildlife Code. Part 1 of the tentative recommendation includes the material contained in proposed divisions 1 through 4, out of 17 divisions in total for the new code.

The California Law Revision Commission is soliciting comments regarding Part 1; the tentative recommendation (Exhibit 1) includes specific requests for comments regarding changes California Law Revision Commission staff identified, with comments due by Jul 18, 2017. FGC staff has begun but not completed its review of the tentative recommendation.

Significant Public Comments (N/A)

Recommendation

FGC staff: Delegate authority to the executive director to provide comments on the California Law Revision Commission recommendations.

Exhibits

1. California Law Revision Commission: *Tentative Recommendation, Fish and Wildlife Code, Part 1 (Divisions 1-4),* dated Apr 2017.

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes the executive director to provide comments on California Law Revision Commission recommendations.

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38B. ADMINISTRATIVE ITEMS – NEXT MEETINGS

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

This is a standing item to review logistics and approve draft agenda items for the next FGC meeting.

Summary of Previous/Future Actions (N/A)

Background

The next FGC meeting is scheduled for Aug 16-17 in Sacramento. Staff does not anticipate any special logistics for this meeting.

Potential agenda items for the Aug meeting are provided in Exhibit 1 for consideration.

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve draft agenda topics for Aug FGC meeting.

Exhibits

1. Potential agenda items for Aug meeting

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the draft agenda items for the August 16-17, 2017 Commission meeting, as amended.

STAFF SUMMARY FOR JUNE 21-22, 2017

38C. ADMINISTRATIVE ITEMS – REGULATORY TIMETABLE

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

Review and approve requested changes to the perpetual timetable for anticipated regulatory actions.

Summary of Previous/Future Actions (N/A)

Background

Each year FGC adopts and submits to the Office of Administrative Law a rulemaking calendar. Subsequently, FGC maintains a perpetual timetable for anticipated regulatory actions. At each FGC meeting, staff provides the latest approved regulatory timetable along with proposed changes highlighted in bolded blue text (Exhibit 1).

DFW submitted a memo (Exhibit 2) requesting two changes to the FGC regulatory timetable:

1. Remove the annual rulemaking for commercial herring from the calendar for 2017, based on current biomass data that supports the existing quotas.
2. Extend the current emergency regulations for red abalone for a period of 90 days and add a certificate of compliance rulemaking to the 2017 calendar to make the emergency regulations permanent; the emergency action and notice hearing for compliance are requested in Aug, with discussion and adoption for compliance in Oct and Dec, respectively.

FGC staff requests one change to the timetable:

1. Add "Aquaculture" to "Shellfish Management Practices" to more accurately describe the proposal.

Significant Public Comments (N/A)

Recommendation

FGC staff: Adopt the proposed changes to the timetable for anticipated regulatory actions and provide direction on the scheduling of any proposed rulemaking changes identified during the meeting.

Exhibits

1. Proposed timetable for anticipated regulatory actions, updated Jun 8, 2017
2. DFW memo, received Jun 6, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the proposed amendments to the timetable for anticipated regulatory actions.

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38D. ADMININISTRATIVE ITEMS – NEW BUSINESS

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

This is a standing agenda item to allow Commissioners to bring new items of business to FGC.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits (N/A)

Motion/Direction (N/A)

STAFF SUMMARY FOR JUNE 21-22, 2017

38E. ADMINISTRATIVE ITEMS – OTHER

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

This is an opportunity for Commissioners or staff to raise any other topics related to future meetings and other administrative items that have arisen since binder production.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits (N/A)

Motion/Direction (N/A)

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR REGULATION CHANGE PETITIONS: RECEIVED BY 5 PM ON JUNE 8, 2017
Revised 06-09-2017

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	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision
2017-003	5/26/2017	A	Patricia McPherson	Ballona Wetlands Ecological Reserve existing parking areas	630(h)(3), T14	Eliminate parking use exemption for County of Los Angeles leases	**RECEIPT: 6/21-22/2017** **ACTION: Scheduled 8/16-17/2017**
2017-004	6/6/2017	A	Robert Juntz	Market squid	53.03, T14	Authorize a commercial open access fishing opportunity for market squid in northern California (north of Point Arena to the California/Oregon border) under a seasonal quota of 950 tons and daily boat limit of 5 tons	**RECEIPT: 6/21-22/2017** **ACTION: Scheduled 8/16-17/2017**
2017-005	6/6/2017	A	Scott Hartzell	Northern pink shrimp permits	120.2, T14	Create 20 new, non-transferrable, northern pink shrimp permits with specified fees, annual renewal, modified boundaries, and forfeiture conditions	**RECEIPT: 6/21-22/2017** **ACTION: Scheduled 8/16-17/2017**

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR NON-REGULATORY REQUESTS: RECEIVED BY 5 PM ON JUNE 8, 2017
Revised 06-09-2017

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

Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Decision
5/31/2017	Barbara Salzman and Phil Peterson Marin Audubon Society	Aquaculture leases	Recommends FGC not approve any new aquaculture leases in Tomales Bay until an ecological assessment is completed.	**RECEIPT: 6/21-22/2017 ACTION: Scheduled 8/16-17/2017**
5/31/2017	Chris Markoff	Experimental fishing permit	Requests a box crab and California king crab experimental fishing permit .	**RECEIPT: 6/21-22/2017 ACTION: Scheduled 8/16-17/2017**

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

2017-003

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

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Patricia McPherson, Grassroots Coalition

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish & Game Code Section 1580 ("The commission may adopt regulations for the occupation, utilization, operation,protection, enhancement, maintenance, and administration of ecological reserves..")

3. **Overview (Required) -** Summarize the proposed changes to regulations: This petition proposes to amend Section 630 of the Code of California Regulations, Title 14 to eliminate the parking use exception for "(e)xisting parking areas under leases to the County of Los Angeles" in the Ballona Wetlands Ecological Reserve, by striking paragraph (b)(9)(f). The purpose of this proposed change is to convert approximately 72,000 square feet of paved parking lot, used by an unrelated County agency and by staff and patrons of a private shopping plaza, to a use more compatible for a public ecological reserve.

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: Ballona Wetlands--During private ownership, destruction of the pickleweed habitat in this protion of Ballona was done roughly 15-20 years ago to create a "temporary" gravel parking lot for use during the Olympics in Los Angeles. The "temporary-ness" of the parking gave way to the private owners' leasing of the site to the County for employees working in the Fisherman's Village site, across the street. Fisherman's Village, as well as restaurants and businesses across from Ballona's Area A—have contiguous parking lots stretching from Lincoln Blvd. and extending through Fisherman's Village. Throughout the past 20 plus years, the Ballona Wetlands were being tenaciously fought for by multiple organizations and individuals, seeking to save the rare wetlands. After over 20 years of lawsuits and new geiotechnical findings, a willing seller emerged in 2004, costing taxpayers over 140 million dollars

in bond funds to acquire and restore Ballona. None of the bond funds approved by the public for acquisition and restoration of Ballona included any foreseeable need of parking features being constructed on the site would would casue a further lessening of habitat acreage in the small Reserve.

Plentiful lots for public parking already exist throughout the area inclusive of free public lots that are directly adjacent to Ballona. There is plentiful roadway parking available. Ample public parking lots currently exist directly adjacent to and just off-site of BWER which include free public parking lots. Numerous public parking lots exist throughout the Marina del Rey, Venice and Playa del Rey area, inclusive of lots that enlist shuttle buses that traverse the area negating any need of development upon the already small wildlife habitat Reserve.

CDFW FAILURE TO DISCLOSE The current EIR/S process did not notice the public of any potential use of any portion of BWER for development into parking or parking structures. CDFW activities regarding Ballona's restoration and CDFW internal communications with the Department of Beaches and Harbor regarding the creation of a 3-story parking structure on Area A (across from Fisherman's Village), were DISCOVERED by Grassroots Coalition in a Public Record Act requests to the County of LA. At no time did CDFW discuss or alert the public to the ongoing use of bond money for contracted architectural diagrams and work planning pertaining to the the parking structure and lot area on Ballona Wetlands. In fact, the area's County Supervisor's office disavowed any knowledge of such ongoing work. Further Public Record Act responses revealed that, at least since 2011, CDFW had been working with County Dept. of Beaches and Harbor and their desire to construct a large 3-story parking structure within Ballona Reserve, across from Fisherman's Village as both looked to the potential future mega development of the marina and Fisherman's Village.

This proposal is currently part of all 3 alternatives in an administrative draft EIR/S. The 'No Project' alternative is the only alternative that excludes the parking structure. The current parking exception was adopted by the Commission at its August 19,2005 meeting. During this timeframe, the public had just recently acquired the Ballona Wetlands Ecological Reserve (BWER) and there was no effort made by CDFW or the Commission to alert the public regarding the parking exemption and its potential negative effects upon the newly acquired BWER. Most of the public are not aware of the current status and situation of this item coming before the Commission.

CDFW's has had a lack of good faith effort in protective oversight of Ballona. CDFW has had a lack of transparency in dealing with the public and has failed to include the public regarding Ballona. Section 630 provides CDFW, the sole discretion as to whether a more appropriate use of this parcel should take place. It is without a doubt and not questionable that this parcel of land would better serve the flora and fauna of Ballona by being allowed to return as habitat. It is also without question that the public, who purchased Ballona to save it from further destructive development, would be better served by returning the parking lot back to nature.

Under Section 630, CDFW has instead chosen to not exercise its discretion to protect Ballona and has instead, gone behind the backs of the public in its dealmaking regarding Ballonad.

We, as members of the public and as stakeholders, request this regulatory change in order to protect Ballona's habitat for future generations of wildlife and the public's ability to protect and enjoy that wildlife.

Grassroots Coalition also supports the Petition submitted by the Ballona Wetlands Landtrust. Petition 2017-002

5.

SECTION II: Optional Information

6. Date of Petition: May 25, 2017

7. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☒ Other, please specify: Ecological Reserves

8. 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):630
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.

9. 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.

10. 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.

11. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Please note attachments in this email and/or subsequent email citing this petition and support to Petition from Ballona Wetlands Land Trust.#2017-002

12.

13. 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: Elimination of the existing parking lease with Beaches and Harbors would result in $1, 608 in annual lease payuments. Elimination of the existing parking lot and a restoration of the habitat would provide more acreage to the small BWER, hence improve its potentials to function as a wetland habitat and therefore provide the public a higher potential of ecosystem learning and enjoyment benefits.

14. 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.~~ May 26, 2017

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: June 21-22, 2017

Meeting date for FGC consideration: August 16-17, 2017

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

2017-004

Tracking Number: ~~(Reference attached document)~~

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: Robert Juntz, Representing: Caito Fisheries Inc, North Coast Fisheries Inc, Ocean Fresh LLC, Noyo Fish Company, Dan Yoakum (F/V Casey III), Bill Forkner (F/V Shirley) and the Fort Bragg Fishing Community.

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: Authority cited: Sections 7078, 7701, 7708, 8026, 8425 and 8429.5 and the Fish and Game Code.

3. **Overview (Required) -** Summarize the proposed changes to regulations: We are requesting changes to existing market squid regulations to allow anybody holding a current CA commercial fishing license, and on a CA commercially registered vessel to be able to harvest 5 tons per day of market squid with a cap of 950 tons total in the waters north of Point Arena to the California Oregon border. The fishing methods would be consistent with existing rules, methods, times IE, Methods seine, lampara, braile etc. This 950 tons if not caught between Apr 1st – Jan 1st would revert back to the limited entry permittees. This 950 tons is less than 1 % of existing quota. We are open to variations of this proposal as to fit controlling agencies and user groups. After implementation we would like to reassess this fishery every 3 – 5 years.

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: The biggest problem we are facing is the FMP unknowingly took the biggest and most abundant fishery in California and gave it to 55 fishers without taking into account the future needs and access of Northern California Fishing Communities. The prices of these permits have skyrocketed to over one million dollars, and made it unattainable for the fishermen of Northern California to have access to a resource that is right out in front of the harbor. Another problem is the quota is based on central California south, not taking into account the enormous amount of squid we have here. These squid are here year in and

out; they are not here due to El Nino conditions only. The solution is a community based squid fishery with its own quota in the ports of Noyo, Eureka and Crescent City. This quota will give the local fishing-based communities an opportunity to make use of a natural local resource, create jobs, industry and save these ports that are in serious danger of failing.

SECTION II: Optional Information

5. Date of Petition: 6th of June, 2017

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COMMISSION
2017 JUN -8 PM 3:15

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):149
☐ 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 2015-007
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: As Soon As Possible.

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: This proposal would help create jobs and revenue to support the local fishing communities. We are open to current economic taxation on market squid and if this would increase workload on the department an increased tax to accommodate excess workload.

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: 6/8/17 ~~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: June 9, 2017

Meeting date for FGC consideration: August 16-17, 2017

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 2

2017-005

Tracking Number: (unsure- please enter)

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.

RECEIVED
2017 JUN -6 PM 2:11
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FISH AND GAME
COMMISSION

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: Scott R. Hartzell .

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: **Sections 713, 1050, 8591, 8841, & 8842 Fish & Game Code Ref: Sections 1050, 7852.2, 7858, 8101, 8591,& 8842.**

3. **Overview (Required)** - Summarize the proposed changes to regulations: Create 20 new non-transferable Northern Pink Shrimp permits. To be sold @ $50,000 each & renewed every year or forfeiture. No overall length limit to be associated with the permit. Move the fishery back inside the 3 mile demarcation line with certain exceptions. Require: 10 shrimp deliveries within 5 years or forfeiture

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Under utilized fishery, needed revenue for the state and commercial fishermen.

SECTION II: Optional Information

5. **Date of Petition: May 29, 2017**.

6. **Category of Proposed Change**
   ☐ Sport Fishing
   x 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*)
x Amend Title 14 Section(s):Section 120.2, Title 14, CCR, H
☐ 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 x 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: as soon as possible.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: none.

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: The current Pink Shrimp Fishery has evolve: to have minimal impact on the bottom terrain & its non-targeted species. Create economic gains for California's much needed commercial fisheries.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:
none

SECTION 3: FGC Staff Only

Date received: ~~Click here to enter text.~~ June 6, 2017

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

Tracking Number

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

Meeting date for FGC consideration: _____

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

Marin Audubon Society

P.O. Box 599 | Mill Valley, CA 94942-0599 | marinaudubon.org

May 31, 2017

VIA EMAIL
Valerie Termini, Executive Director
CA Fish and Game Commission
Members of the Fish and Game Commission

Dear Ms. Termini and Commissioners:

This is to convey Marin Audubon Society's concern about possible Commission approval of new aquaculture leases for oyster and geoduck farming on Tomales Bay. We recommend that an environmental assessment be prepared before any further leases are approved. The assessment should recommend whether any leases, in addition to those that already exist, be approved.

As stated in Audubon California's April 13, 2013 letter on this subject, "Tomales Bay's intertidal hand subtidal habitats have extraordinary resource values for birds, commercial fish and herring." Aquaculture farms are a monoculture that exclude the diversity of species that depend on Tamales Bay. Tomales Bay waters are essential habitat for migratory waterfowl particularly Black Brant which are only found along the coast and nowhere else in the San Francisco Bay Area. It is our understanding that the Black Brant population is showing signs of stress and that scientists think declining habitat quality along migratory routes and overwintering areas is the cause. Eelgrass is a valuable resources that supports many fish and bird species. Aquaculture directly impacts shorebird use of intertidal habitats. As identified in John Kelly's 2001 study, western sandpipers and dunlin avoid intertidal aquaculture areas. During their critical winter migratory period, waterbirds are disturbed by vessel traffic to maintain the aquaculture facilities. In addition, Lagunitas Creek, which empties into Tomales Bay, is a major spawning habitat for the endangered Coho and steelhead. Young of these species depend on wetlands and shallow waters of Tomales Bay as they make their way to the ocean.

A new 45-acre aquaculture farm would cover intertidal habitat and affect water quality of the Bay. It is essential that any approvals for an activity that would have such significant influence on this marine ecosystem be approached with caution and study, and be based on understanding of the resources that it could impact. To ensure Tomales Bay and its resources are not damaged and destroyed, we recommend that:

- A biological assessment be prepared that provides basic information on the biological resources of Tomales Bay to inform the current and any future decision on aquaculture in the Bay. The assessment should identify the potential impacts of aquaculture farming the resources that could be impacted, the locations that are most vulnerable, and sensitive and those that should be avoided.

- A cumulative impact analysis that looks at current uses that already impact the resources, including aquaculture, boating, camping and agriculture, must be prepared.

- Suitable areas that would avoid or minimize impacts to biological resources should be identified, should it be determined that additional aquaculture farms could be operated without damage to the resources.

- A CEQA document must be prepared to analyze the potential impacts of the project

The goal of the environmental assessment, along with review and planning, should be to ensure that the resources of Tomales Bay are not adversely impacted. Whether or not to issue additional leases should be determined after the above assessment and planning efforts are completed.

Tank you for considering our input. The Marin Audubon is a 501(c) (3) organization and the chapter of National Audubon Society in which county Tomales Bay is located. We have approximately 2,000 members.

Sincerely,

Barbara Salzman, Co-chair
Conservation Committee

Phil Peterson, Co-chair
Conservation Committee

cc: Craig Shuman, Director Marin Region CDFW
Susan Ashcraft, Marine Advisor CFGC

F/V JOANNA

CHRIS MARKOFF, Owner and Captain:

May 31, 2017

TO: California Fish and Game Comission

RE: experimental permit for Box Crab and California King Crab

Dear Commission members-

I am a commercial fisherman in San Diego fishing Spot Prawns and Rock Crab. I understand there is a pending experimental permit targeting Box Crab and California King Crab. I would like to be included in this fishery. There is one commercial fisherman in SD that is bragging that he is the only one to get this permit and will have the market cornered for these two products. I don't know if that is accurate but I'd find it very unfair if it were. I am honest, work hard and would like not to be excluded from this experimental fishery.

From reading on the internet. NOAA considers these two species underutilized species.

Please include me in this experimental fishery. The traps I would like to use are made of 2"X2" mesh

Thank You Very Much,

Chris Markoff

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COMMISSION
2017 JUN -6 PM 1:55

A-Mark Superior Seafoods, Inc
16027 Summer Sage Road. Poway, CA 92064

San Andreas Shellfish

April 25, 2017
Re: Update status from Applicant for aquaculture lease in Tomales Bay

Dear Fish and Wildlife Commission,

We write as a courtesy to inform the commission about current development for the proposed aquaculture lease in Tomales Bay.

We would like to thank the commission for accepting the application for a new aquaculture operation on February 2017, as we are sure you are aware of the importance to help promote the growth of this industry. Due to the nature and complexity of such proposals, we realize that the proposal remain transparent. We encourage input from the Commission and others, while understanding the need for flexibility and amendments to a proposal is vital for its success.

Our current mission is to address the many concerns brought forth with detailed and absolute precision to encompass public use, environmental values and protection.

One item that has been contingent upon completion prior to the next step in the application process; (in the public's interest, and initial study), is eelgrass. "Eelgrass provides important foraging areas and shelter to young fish and invertebrates, food for migratory waterfowl and sea turtles, and spawning surfaces for invertebrates and fish such as the Pacific herring." "All mapping efforts should be completed during the active growth period for eelgrass (typically May through September for northern California) and should be considered valid for a period of 60 days to ensure significant changes in eelgrass distribution and density do not occur between survey date and the project start date. The 60 day period is particularly important for eelgrass habitat survey conducted at the very beginning of the growing season, if eelgrass habitat expansion occurs as the growing season progresses."

Because the original application was submitted outside the recommended eelgrass survey season, we are aware the footprint of the proposed area may be altered due to further analysis of actual eelgrass locations. We are aware the Commission and Department recommend avoid farming within 10 feet of eelgrass. NOAA Fisheries, California Eelgrass Policy and Implementing Guidelines, notes "The influence of eelgrass on the local environment can extend up to 10 m from individual eelgrass patches" For this reason and until a more detailed survey has been completed, we outlined our original footprint inside both recommended buffers. Due to the fluctuation of weather and tidal patterns, scheduling an ideal time for surveys can be challenging. We currently have a survey team scheduled for a low tide in June, 2017. The middle of the eelgrass-growing season. This should provide an accurate base survey, which may be verified by the CDFW and can be repeated within 60 days prior to the acceptance of the proposal if needed.

It is not the intent of San Andreas Shellfish to have this letter included as part of the agenda at the upcoming Fish and Wildlife Commission meeting on April 26th and 27th, but rather to inform the commission that we have been working diligently to address the many topics and concerns presently, and in the future. We are aware of the degree of severity, to protect and enhance the delicate ecosystem in and around the waters of Tomales Bay in a responsible and sustainable manner through communication and accountability.

- http://www.slc.ca.gov/About/Public_Trust.html
- http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final%20CEMP%20October%202014/cemp_oct_2014_final.pdf

State of California
Department of Fish and Wildlife

RECEIVED
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COMMISSION

2017 JUN -8 PM 3:15

Memorandum

Date: June 6, 2017

To: Valerie Termini, Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Request for 30-day extension, Cascades Frog (*Rana cascadae*)**

The Department of Fish and Wildlife (Department) requests a 30-day extension of time pursuant to Fish and Game Code section 2073.5 to allow the Department additional time to analyze and evaluate the petition to list Cascades Frog (*Rana cascadae*) under the California Endangered Species Act and to complete our evaluation report. This extension would change the due date for the Department's evaluation from 90 days, due on Monday, June 5, 2017, to 120 days, due on Wednesday, July 5, 2017.

If you have any questions or need additional information, please contact Mr. T.O. Smith, Wildlife Branch Chief, at Timothy.Smith@Wildlife.ca.gov or 916-445-3555.

ec: Department of Fish and Wildlife

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

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

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

Neil Manji, Regional Manager
Northern Region
Neil.Manji@wildlife.ca.gov

Michael Yaun, Attorney
Fish and Game Commission
Michael.Yaun@fgc.ca.gov

Mary Loum, Attorney
Office of the General Counsel
Mary.Loum@wildlife.ca.gov

Scott Gardner, Acting Environmental Program Manager
Nongame Wildlife Program
Scott.Gardner@wildlife.ca.gov

Tony LaBlanca, Environmental Program Manager
Northern Region
Tony.LaBlanca@wildlife.ca.gov

Laura Patterson, Senior Environmental Scientist
Nongame Wildlife Program
Laura.Patterson@wildlife.ca.gov

Justin Garwood, Environmental Scientist
Northern Region
Justin.Garwood@wildlife.ca.gov

State of California
Department of Fish and Wildlife

Memorandum

Date: May 18, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

2017 MAY 22 AM 11:07
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FISH AND GAME
COMMISSION

Subject: Agenda Item for the June 21-22, 2017, Fish and Game Commission Meeting Duck Stamp Proposals for Fiscal Year 2017-18

Pursuant to Fish and Game Code § 3702-3705, the Department of Fish and Wildlife (Department) submits the attached summary of proposed projects to the Fish and Game Commission (Commission) for consideration and approval for funding with Duck Stamp Dedicated Account funds in Fiscal Year (FY) 2017-18. These projects were reviewed by the Department and the Duck Stamp Advisory Committee.

The estimated Account's beginning balance will be $4,652,687 on July 1, 2017, with estimated revenue of $1,344,104 from the sale of duck stamps during FY 2016-17. The Department proposes to spend revenues to accomplish the goals established for the Duck Stamp Dedicated Account as authorized.

For FY 2017-18, spending authority for expenditures from this fund are $1,746,000. After deducting the required administrative overhead costs (limited to 6% per §3701 or $80,646), the mandated amount portioned to Canada ($2.25 per stamp/validation per §3704 or $154,935), and $246,072 to capital outlay projects a total of $1,264,347 is available for new and ongoing projects.

The Department reviewed 21 project proposals totaling nearly $1.8 million dollars. The attached list of recommended projects includes ongoing projects (approved in past years) recommended for continued authorization. The proposals include 1 capital outlay project that was originally approved for FY 2015-16 but required Department of Finance approval. The new and ongoing projects in California total $1,264,347. This figure includes contingency funding to allow for emergencies or project costs that differ slightly from the original estimates.

As always, the Department appreciates the Commission's consideration of our proposal and requests its approval for funding of the noted projects totaling $1,746,000.

If you have any questions regarding this item, please contact T.O. Smith, Chief, Wildlife Branch, at (916) 445-3555.

Attachment

ec: **Department of Fish and Wildlife**

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FILE: D, DD-WFD

Summary of Department Recommendations
For FY 2017-18 California Duck Stamp

Canada Habitat Project

Wetland and Upland Conservation – Alberta, Canada $154,935

Establish a conservation easement and or restore wetlands associated with key breeding uplands in Alberta for pintail. Specific project parameters are still in development with the landowner. This project will also be matched by North America Wetland Conservation Act dollars.

Capital Outlay Project - California

Yolo Wildlife Area – Parker Units $246,072

Originally approved for 2015-16 FY. Enhance 271 wetland acres by installing lift pump.

Ongoing Projects - California

Willow Creek Wildlife Area- Field 17 ..... $74,300

This project was approved for funding in 2014-15 FY however; the project was not able to be completed during the contract period. Maintain 716 of wetland acres by replacing pipe and control valves.

Duck Banding (pintail) – California Waterfowl Association $35,000

This is a cooperative project to maintain sufficient banded samples of pintail to assess harvest and survival rates.

Duck Banding (mallard) $20,000

Mallard banding is used for the Western Mallard Model. The model is used to establish the duck hunting frameworks for most species in the Pacific Flyway.

CA VCF Portion of Breeding Population Survey $45,000

This project will continue the survey to estimate visibility correction factors for the waterfowl breeding population survey in California.

Tule Greater
White-fronted Goose Population Study $7,000

This project will continue ongoing population estimation, habitat use, and distribution of these special status geese by purchasing and marking birds with radio transmitters.

Department of Fish and Wildlife – Internal Expenditures $120,000

This funding provides the match for the Pittman Robertson Act funding for the Waterfowl Program in the Wildlife Branch.

Department of Fish and Wildlife – Duck Stamp Administration $3,000

The Department recommends these funds to complete the delivery of physical stamps to purchasers, as required under Fish and Game Code, and other administrative charges related to ALDS.

Department of Fish and Wildlife – Contingency Fund $103,976

The Department recommends this continuing funding to provide for small funding adjustments for authorized projects and to provide flexibility for emergencies (drought related or otherwise) as may occur.

New Projects – California

Ash Creek Wildlife Area – Brood Pond and Wet Meadow $103,153
Maintain 475 wetland and 460 upland acres by rehabilitating a pump.

Shasta Valley Wildlife Area – Trout Lake Pump Station $228,288
Maintain 120 wetland and 165 upland acres by replacing a low lift pump station..

Modoc National Wildlife Refuge – Sandy Slough Unit $66,468
Maintain 198 wet meadow acres by installing water structures, channel plugs, ditch work and re-contouring.

Modoc National Wildlife Refuge – Pine Creek Field $105,181
Maintain 327 wet meadow acres by new swales, ditches, water structures, and re-contouring.

Gray Lodge Wildlife Area – Field 75 ..... $139,890
Enhance 40 wetland and 23 upland acres by building a new levee, water structures, earthwork, and islands. This project requires Department of Finance approval and if approved, will be funded from 2019-20 FY.

Sacramento National Wildlife Refuge – Tract 43N & Pool 2 ..... $146,966
Maintain 56 wetland and 24 upland acres by replacing water structures, ditch work, earthwork, and seeding.

Grizzly Island Wildlife Area-Crescent Unit $87,580
Enhance 200 wetland acres by replacing water structures, ditch work, riprap, and swales.

San Luis National Wildlife Refuge- Kesterson, San Luis, and West Bear Creek $118,436
Maintain 1,255 wetland acres by replacing a lift pump and culvert.

State of California
Department of Fish and Wildlife

Memorandum

Date: May 4, 18, 2017

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 MAY 22 AM 11

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Agenda Item for the June 21-22, 2017 Fish and Game Commission Meeting Private Lands Wildlife Habitat Enhancement and Management (PLM) Area Licenses

The Department of Fish and Wildlife has reviewed the Annual renewals, 5-year renewals and an Initial Management Plan for 53 properties in 15 counties consisting of approximately 652,304 acres.

The Annual renewal PLM areas were previously licensed under Commission regulations Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 2016, and all habitat work was completed.

The 5-year renewal management plans are in compliance with Commission policy for private lands management. The applicants have identified the location where records will be kept and made available for inspection. Public notices were published in local newspapers, and certified letters were mailed to adjacent landowners with notification of each Initial applicant's intent to enter into the program. No letters of concern were received by the Department.

Habitat improvements accomplished under these plans will enhance and maintain wildlife resources on and around the PLM areas. The goals and objectives stated in the management plans are compatible with Department management plans for appropriate species in these areas. In addition, access to public lands will not be diminished under implementation of these management plans.

The Department recommends that the Commission approve the specified wildlife management plans, applications, and each 2017/18 harvest program under conditions specified in the attached table.

If you have any questions, please contact Ms. Victoria Barr at (916) 445-4034 or by email at victoria.barr@wildlife.ca.gov.

Attachment

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PLM AREA LICENSE *INITIAL MANAGEMENT PLANS, 2017-2022* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
NORTHERN REGION		
RICKERT RANCH DEER ZONE C3 SHASTA COUNTY 4,441 ACRES	***Authorized Harvest:*** 6 forked horn or better buck deer • Issue 6 buck deer tags for the period of September 16, 2017 through October 22, 2017.	➢ Remove and replace 2 existing non-wildlife friendly water troughs with 1 wildlife-friendly guzzler at the French Creek Homestead spring. Install fencing to exclude livestock from a 24 x 24 foot area around the guzzler. ➢ Install a 1,500-2,500-gallon water tank that will be filled from a stock pond and rain water. Gravity-irrigate a 1-acre forage plot at French Creek Flat. Install wildlife-friendly fencing around the forage plot to exclude livestock. ➢ Crush decadent manzanita and buckbrush along 0.5 linear miles on the north rim of Swede Creek to enhance seeding and regeneration of brush to improve forage for wildlife. ➢ Develop a 1-acre dry land grain (wheat and/or barley) forage plot along Little Cow Creek. Install wildlife-friendly fencing to exclude livestock from the forage plot. ➢ Cut small diameter interior live oak saplings on 0.25 acres to promote stump sprouting to provide forage for wildlife.

State of California
Department of Fish and Wildlife

Memorandum

Date: May 4, 18, 2017

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The 5-year renewal management plans are in compliance with Commission policy for private lands management. The applicants have identified the location where records will be kept and made available for inspection. Public notices were published in local newspapers, and certified letters were mailed to adjacent landowners with notification of each Initial applicant's intent to enter into the program. No letters of concern were received by the Department.

Habitat improvements accomplished under these plans will enhance and maintain wildlife resources on and around the PLM areas. The goals and objectives stated in the management plans are compatible with Department management plans for appropriate species in these areas. In addition, access to public lands will not be diminished under implementation of these management plans.

The Department recommends that the Commission approve the specified wildlife management plans, applications, and each 2017/18 harvest program under conditions specified in the attached table.

If you have any questions, please contact Ms. Victoria Barr at (916) 445-4034 or by email at victoria.barr@wildlife.ca.gov.

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PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
NORTHERN REGION		
ACKERMAN-SOUTH DAUGHERTY WMA DEER ZONE A MENDOCINO 10,831 ACRES	***Authorized Harvest:*** 16 buck deer forked horn or better • Issue 16 buck deer tags for the period of July 8, 2017 through November 30, 2017. • No more than 10 buck deer may be harvested after September 24, 2017.	➢ Remove encroaching Douglas-fir (up to 16-in. DBH) by chainsaw or hand tools from 10 acres of grassy openings near Bark Dump. ➢ Enhance access and depth to an additional water source inside 8.0-Mile Gate by mechanically removing vegetation and developing a gradual ramp. ➢ Remove additional 0.25 miles of hog wire fencing near 8.0-Mile Access to facilitate fawn movement. ➢ Burn vegetation and/or rip topsoil on 15-acre grassland at Bark Dump. As a secondary step, sow native forbs (*Eriogonum* spp., *Hosackia* spp., *Achillea* spp., *Potentilla* spp.) in 3 5x5-m test plots and compare to 3 unseeded control plots to determine which method is best for creating forage for deer.
BASIN VIEW RANCH DEER ZONE X2 MODOC 8,500 ACRES	***Authorized Harvest:*** 7 buck deer forked horn or better • Issue 7 buck deer tags for the period of October 1, 2017 through November 26, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Remove all western junipers from 100 acres in Unit 7 in order to encourage shrub and forb recruitment. ➢ Remove (by hand) all western junipers from 70 acres in Unit 6. ➢ Inspect and, as necessary, repair 10 miles of interior fencing that controls livestock movement and grazing. ➢ Exclude livestock grazing from 1 of the rotation management units (775 acres) year-round. ➢ Till and seed annual grain on 150 acres in Unit 7 for weed control, with the eventual goal of establishing permanent range grasses.
BIG BLUFF RANCH DEER ZONE B5 TEHAMA 3,736 ACRES	***Authorized Harvest:*** 8 deer of which no more than 5 may be forked horn or better buck deer and 3 may be antlerless deer • Issue 8 either-sex deer tags for the period of August 15, 2017 through November 30, 2017.	➢ Maintain and improve the Red Bank Restoration Project improvements (native vegetation restoration of 30 acres along 3 miles of creek) by repairing any damage to the livestock control fencing and irrigating until plants are fully established.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
BIG BLUFF RANCH CONT.	• No antlerless deer shall be harvested before September 15, 2017.	➢ Maintain the water development at Miller Place as needed to provide water for wildlife by repairing any damage to the system. ➢ Maintain the wildlife-friendly fence below Sunflower Dam to exclude livestock and allow wildlife access to wetlands. ➢ Fill a 500-gallon water trough and 3,000-gallon storage tank as needed to provide water for livestock and wildlife away from riparian areas. ➢ Participate in the Sunflower Coordinated Resource Management Program which is working, in part, to improve wildlife habitat on the surrounding 40,000 acres. ➢ Continue to participate in the CAL FIRE Vegetation Management Program to manage mixed chaparral fuels, enhance wildlife habitat, and reduce exotic weeds.
BLACK RANCH SHASTA DEER ZONE C3 1,000 ACRES	***Authorized Harvest:*** 2 buck deer forked horn or better, 2 antlerless deer, 1 bull elk, and 1 antlerless elk • Issue 2 buck deer tags and 2 antlerless deer tags for the period of November 1, 2017 through November 30, 2017. • Issue 1 bull elk tag and 1 antlerless elk tag for the period of November 1, 2017 through November 30, 2017.	➢ Maintain the 145-acre wetlands project that was constructed last year to re-establish the native hydrology of the floodplain to Burney Creek. ➢ Install wildlife-friendly fencing around the 145-acre restoration area. ➢ Maintain 30 wood duck nest boxes, 4 owl boxes, 7 bat boxes, and 6 goose nesting platforms by checking use and replacing nesting material as necessary. ➢ Remove 1,300 ft. of internal barbed wire fencing running north-south to reduce wildlife entanglement. ➢ Limit livestock grazing to a 5-acre pen and barn area (exclusion area is 995 acres).
CAPISTRAN RANCH DEER ZONE B1 MENDOCINO 13,200 ACRES	***Authorized Harvest:*** 20 deer of which no more than 15 may be forked-horn or better buck deer and 5 may be antlerless deer, 2 bull elk, and 2 antlerless elk • Issue 10 either-sex deer tags for the period of August 1, 2017 through November 30, 2017. • No antlerless deer shall be harvested before September 15, 2017.	➢ Continue the reduced amount of livestock grazing (no more than 200 cow/calf pairs on 13,200 acres) for the period of October 15, 2016 through June 20, 2017 to increase residual vegetation for wildlife, reduce competition, and where necessary, manage invasive plants by focused high-intensity, short-term grazing.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
CAPISTRAN RANCH CONT.	• No more than 10 buck deer may be harvested after October 22, 2017. • On or before October 15, 2017, the licensee may request (in writing) up to 10 additional either-sex tags to accomplish the authorized harvest. • Issue 2 bull elk tags for the period of August 1, 2017 through December 1, 2017. • Issue 2 antlerless elk tags for the period of September 15, 2017 through December 1, 2017.	➢ Maintain 10 springs by checking the flow and wildlife escape ramps and repairing any damaged parts. ➢ Exclude trespass livestock from USFS and BLM grazing allotments by inspecting and repairing the boundary fence. ➢ Replace the nesting material in 3 bluebird nest boxes. Boxes will be relocated if not used the previous season. ➢ Maintain 3 wood duck nest boxes. ➢ Construct a brush pile for wildlife cover and oak seedling protection. The 20 x 5-ft. pile will be created using slash from down trees and brush, and will be located near a routinely-used water source. ➢ Maintain and monitor 3 approximately 1,000-sq. ft. food plots spread out over the property and in areas where green summer browse is limited. Each food plot is fenced from cattle and wild pigs. Each will have a motion-sensing camera to record day and night deer activity. The annual report will include a table of total number and composition of deer photographed. ➢ Using a tractor, create a 6 ft. wide and 300-ft. long trail through decadent chaparral to provide access and new palatable forage for wildlife.
CLARKS VALLEY RANCH DEER ZONE X3B LASSEN 2,793 ACRES	***Authorized Harvest:*** 1 buck deer forked horn or better • Issue 3 buck deer tags for the period of September 23, 2017 through November 19, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Remove western juniper from 40 acres in Sections 27 or 23 in Clarks Valley. ➢ Maintain previously-developed springs by checking for broken pipes and repairing as necessary. ➢ Maintain 3 aspen and willow enclosures by inspecting fencing and making any necessary repairs. ➢ Continue rotational grazing by resting a different pasture each spring to protect critical wildlife habitat areas and aspen. ➢ Remove western juniper from 2 acres within the aspen and willow enclosures to encourage aspen and willow growth.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
CLOVER CREEK RANCH DEER ZONE C3 SHASTA 880 ACRES	***Authorized Harvest:*** 3 buck deer forked horn or better • Issue 3 buck deer tags for the period of August 1, 2017 through November 30, 2017.	➢ Replace the bottom strand of barbed wire with smooth wire 18 in. from the ground on at least 1 mile of fencing. ➢ Enhance a spring by removing encroaching blackberries. ➢ Develop an irrigated forage plot and wildlife-friendly water trough by installing 600 ft. of pipe from the spring going to a 2,500-gallon water tank. ➢ Build and install 6 wood duck boxes on Clover Creek. ➢ Develop 1 pond in an area of the ranch that does not currently have water to encourage less cattle use of riparian areas. ➢ Plant a 1-acre fenced-in dry land food plot with grain or legumes, using 70 lbs. of seed per acre, or alfalfa using 15-25 lbs. of seed per acre. ➢ Reduce erosion and control sediment by creating water bars on graded dirt roads ➢ Manage grazing intensity to retain 400 lbs. of residual dry matter per acre. ➢ Begin spring grazing after grass height reaches at least 8 inches to provide forage for wildlife. ➢ Reduce cattle grazing by 30 cows/calves from previous year and allow grazing only from December 1 to May 1.
DIXIE VALLEY RANCH DEER ZONE X3A LASSEN 12,500 ACRES	***Authorized Harvest:*** 4 buck deer forked horn or better • Issue 4 buck deer tags to take forked horn or better buck deer for the period of August 1, 2017 through November 30, 2017. • No more than 3 buck deer may be harvested after October 22, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Remove all western juniper from 100 acres (goal is 1000 junipers/yr.) to increase shrub recruitment for wildlife forage. ➢ Exclude cattle grazing from 250 acres of a natural pasture that contains a large pond, a creek, and several springs to provide forage and water for wildlife. ➢ Establish a 10-acre legume plot for elk within the 800-acre irrigated pasture from which cattle are excluded. ➢ Plant and irrigate at least 50 acres of grain or other suitable deer food, retaining 5 of the 50 acres to provide forage for wildlife. ➢ Maintain and improve existing water sources by removing obstacles, checking dams for erosion or cattle damage, repairing spillways, and where appropriate, enlarging ponds. ➢ Plant 15 willow saplings at a water source.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
FIVE DOT RANCH - AVILA DEER ZONE X3A LASSEN 11,000 ACRES	***Authorized Harvest***: 6 buck deer forked horn or better and 1 buck pronghorn antelope • Issue 10 buck deer tags to take 6 forked horn or better buck deer for the period of September 16, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • In no case shall the number of tags issued be used to exceed the authorized harvest. • The number of tag holders actively hunting shall not exceed the number of deer available to harvest. • Issue 1 buck pronghorn antelope tag for the period of August 9, 2017 through September 17, 2017.	➢ Continue reduced livestock use at 300-400 head (previously 450 head). ➢ Continue to exclude livestock from 7 aspen and wetland habitat enclosures by inspecting fencing and making any necessary repairs. These areas provide important deer fawning habitat. ➢ Maintain 6 nesting platforms for Canada geese at 4 reservoirs by checking use and replacing nesting material as necessary. ➢ Cut and disperse 50-100 mountain mahogany branches with ripe seeds in order to recruit young plants. ➢ Maintain 6 existing springs by checking for broken pipes and repairing as necessary. ➢ Maintain 4 existing reservoirs by inspecting spillways and dams for damage and making any necessary repairs.
FIVE DOT RANCH - HORSE LAKE DEER ZONE X5A LASSEN 8,025 ACRES	***Authorized Harvest:*** 1 buck deer forked horn or better and 1 buck pronghorn antelope • Issue 1 buck deer tag for the period of September 16, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Issue 1 buck pronghorn antelope tag for the period of August 9, 2017 through September 17, 2017.	➢ Rehabilitate a spring and riparian vegetation on 20 acres by excluding cattle (allow grazing for 4-5 days only), installing a water storage tank, solar panel, and troughs, and removing juniper from 80 acres surrounding the spring. ➢ Livestock grazing of the 300-acre Packard Field will be deferred until after July 1 to improve duck and goose brood survival. Grazing will occur between July 1, 2017 and October 1, 2017. ➢ Maintain 5 goose nesting platforms at Packard Reservoir and Coon Camp Reservoir as needed. ➢ Knock seed off Bitterbrush plants so cattle can stomp them into the ground for regeneration. Bitterbrush regeneration will be monitored annually.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
FIVE DOT RANCH – SCHOOL SECTION DEER ZONE X5A LASSEN 640 ACRES	***Authorized Harvest:*** 1 buck deer forked horn or better • Issue 1 buck deer tag for the period of September 16, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Exclude cattle grazing in 2017. ➢ For use in future years when cattle is not excluded, maintain livestock exclusion fence around half-acre aspen patch by inspecting it regularly and making any necessary repairs. ➢ Cut and disperse 50 mountain mahogany branches with ripe seeds in order to recruit young plants.
FIVE DOT RANCH - TUNNEL SPRINGS DEER ZONE X5A LASSEN 2,600 ACRES	***Authorized Harvest:*** 1 buck deer forked horn or better and 2 buck pronghorn antelope • Issue 1 buck deer tag for the period of September 16, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Issue 2 buck pronghorn antelope tags for the period of August 9, 2017 through September 17, 2017.	➢ Repair damaged livestock-exclusion fencing with wildlife-friendly fencing at Tunnel Springs. ➢ Retain water in 2 reservoirs at 50% of the current year's water capacity for wildlife by filling them as needed. ➢ Remove 100 junipers from around Tunnel Springs and the reservoirs. ➢ Knock seeds off bitterbrush plants in the fall so cattle can stomp them into the ground for regeneration. Bitterbrush regeneration will be monitored annually. ➢ Maintain the solar panel water pump system that keeps 12 water troughs full to provide water for wildlife. ➢ Coordinate with BLM to facilitate the gathering of wild horses on the property as soon as possible.
FIVE DOT RANCH - WILLOW CREEK DEER ZONE X4 LASSEN 7,200 ACRES	***Authorized Harvest:*** 7 buck deer forked horn or better and 2 buck pronghorn antelope • Issue 8 buck deer tags to take 7 buck deer for the period of September 16, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • In no case shall the number of tags issued be used to exceed the authorized harvest. • The number of tag holders actively hunting shall not exceed the number of deer available to harvest.	➢ Repair any damaged livestock-exclusion fencing around 4 aspen and willow stands totaling 30 acres that provide deer fawning habitat. ➢ Crush at least 35 acres of snowbrush to provide new palatable forage at different sites in Sections 21, 22, 27, or 28. ➢ Exclude livestock grazing on 50 acres of native sagebrush vegetation in the Triangle Field for sage-grouse and other sagebrush dependent species. ➢ Retain water in reservoirs and ponds at 50% of the current year's water capacity for wildlife by filling them as needed.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
FIVE DOT RANCH - WILLOW CREEK CONT.	• Issue 2 buck pronghorn antelope tags for the period of August 9, 2017 through September 17, 2017.	➢ Leave the third cutting of alfalfa on 100 acres west of Hwy 139 for deer and pronghorn antelope use. ➢ Maintain a 50-acre field of alfalfa and grass, providing forage for deer. ➢ Maintain trout population by stocking and restricting fishing to catch and release only, and maintain 4 goose nesting platforms at Round Valley Reservoir.
HATHAWAY OAK RUN RANCH DEER ZONE C3 SHASTA 6,640 ACRES	***Authorized Harvest:*** 12 buck deer forked horn or better • Issue 12 buck deer tags for the period September 16, 2017 through November 30, 2017. • No more than 9 buck deer may be harvested after October 22, 2017.	➢ Maintain the 6-acre riparian livestock exclusion on Swede Creek by inspecting fencing and making any necessary repairs. ➢ Maintain or improve 7 springs that provide year-round water for wildlife by checking for broken pipes and repairing as necessary, and clearing sediment and vegetation out of source. ➢ Maintain existing deer forage areas by diverting spring water over the maximum area possible and along the contour through a shallow ditch system. ➢ Promote vernal pool flora and fauna by protecting and maintaining 2 vernal pools in Section 9 and 18 from mechanical disruption and allowing cattle to graze. ➢ Maintain 10 wood duck boxes along Oak Run Creek by checking use and replacing material as necessary. ➢ Maintain 2 owl boxes along Oak Run Creek by checking use and replacing material as necessary. ➢ Modify at least 0.5 mile of fencing to make it wildlife-friendly by replacing the bottom strand of barbed wire with smooth wire.
JS RANCH DEER ZONE C3 SHASTA 6,500 ACRES	***Authorized Harvest:*** 12 buck deer forked horn or better and 1 bull elk • Issue 12 buck deer tags for the period of August 1, 2017 through November 30, 2017. • No more than 6 buck deer may be harvested after October 22, 2017.	➢ Retain vegetation for wildlife cover along irrigation canal banks to the extent it does not interfere with ditch maintenance. ➢ Inspect and repair check dams in irrigation canals. Water is kept in canals year-round and is accessible to wildlife.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
JS RANCH CONT.	• Issue 1 bull elk tag for the period of August 1, 2017 through November 30, 2017.	➢ Mechanically control the spread of extensive blackberry thickets within a 650-acre area. Bramble margins and some interior areas will be cut or crushed to reduce blackberry water consumption and increase forage. ➢ Install water bars on dirt roads adjacent to Cow Creek to prevent sediment erosion. ➢ Maintain the exclusion of livestock from 0.5 miles of riparian area by inspecting exclusion fencing and repairing any damage. ➢ Improve water coverage by adding irrigation to 20-30 acres in Clover Creek Flats. ➢ Increase field size for 1 food plot from 10-15 acres to 20-30 acres. ➢ Expand livestock exclusion area from 650 acres to 1,000 acres to provide forage for wildlife during late summer and early fall. Livestock are excluded from June 1 through October 31. ➢ Remove a minimum of 0.5 miles of interior fencing to enhance wildlife movement. ➢ Add 20 new wood duck boxes and maintain 30 existing wood duck boxes. Check all boxes for use annually on Old Cow Creek and Clover Creek. ➢ Enhance and maintain 2 ponds by enlarging and repairing spillways and dams and making any other necessary repairs. ➢ Maintain a 200-acre fenced area with no human disturbance or cattle grazing for wildlife use year-round.
KRAMER RANCH DEER ZONE X1 LASSEN 4,070 ACRES	***Authorized Harvest:*** 5 buck deer forked horn or better • Issue 5 buck deer tags for the period of August 20, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Remove all western junipers from at least 33 acres in Area 2 except for any large, old-growth juniper that are being used by wildlife. ➢ Create 1 brush pile for every 1-5 acres of western juniper removal to provide cover for wildlife. ➢ Replace 4,230 ft. of 5-strand barbed wire fencing with wildlife-friendly fencing. ➢ Remove noxious weeds including scotch thistle, perennial pepper weed, and diffuse knapweed from at least 2 acres by chemical

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
KRAMER RANCH CONT.		treatment or hand grubbing. ➢ Implement rotational grazing practices in the juniper removal area to allow for establishment of native grasses, forbs, and shrubs for wildlife. Rotate cattle to next pasture before grasses reach a 6-in. stubble height. Available forage for wildlife on the ranch will be monitored using 1-m^2 grazing exclosure cages.
LITTLE DRY CREEK RANCH DEER ZONE C4 TEHAMA 2,000 ACRES	***Authorized Harvest:*** 2 buck deer forked horn or better • Issue 2 buck deer tags for the period of October 20, 2017 through November 30, 2017.	➢ Continue to exclude livestock grazing from the entire ranch to benefit wildlife. ➢ Maintain 3 springs by checking for broken pipes and repairing as necessary. Install wildlife escapement ramps within existing troughs. ➢ Treat at least 2 acres of yellow star thistle with herbicides. ➢ Keep trespass livestock off the ranch by annually inspecting the perimeter fence and repairing any damage.
LONG PRAIRIE FARMS DEER ZONE X1 SISKIYOU 1,814 ACRES	***Authorized Harvest:*** 2 either-sex deer and 1 bull elk • Issue 2 either-sex deer tags for the period of September 15, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Only 1 buck deer shall be harvested after October 15, 2017. • Issue 1 bull elk tag for the period of September 1, 2017 through December 31, 2017.	➢ Remove western juniper from at least 5 acres to improve shrub recruitment. ➢ Increase forage quality for wildlife by pruning bitterbrush and mechanically disturbing the soil within a 5-acre area. ➢ Maintain 8 miles of exclusion fencing on the ranch to prohibit grazing from trespass cattle. ➢ Use ground water pumps to create and maintain a 1-acre wetland to provide year-round water for wildlife. ➢ Retain 150 acres of alfalfa and Timothy grass in the crop pivot corners to provide fall forage for wildlife. ➢ Identify and retain at least 3 pine and/or juniper trees currently providing nesting opportunities for raptors on the ranch.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
MENDIBOURE COLD SPRINGS RANCH DEER ZONE X5B LASSEN 1,880 ACRES	***Authorized Harvest:*** 1 buck deer forked horn or better • Issue 1 buck deer tag for the period of October 6, 2017 through October 22, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Protect young aspen above Hall Cabin with a 2-acre livestock exclosure. ➢ Cut at least 50 mountain mahogany branches with ripe seeds and leave on the ground in order to recruit young plants. ➢ Mechanically remove all western juniper from 5 acres in the southeast corner of Section 36 to improve shrub and forb recruitment. ➢ Maintain East Meadow spring by checking and repairing any damaged parts. ➢ Maintain the Halls Cabin pond by digging out the pond to make it deeper. ➢ Implement rotational cattle grazing between 2 pastures so that the residual dry matter does not fall below 40% using the Double-Weight sampling technique.
MENDIBOURE RANCH DEER ZONE X5B LASSEN 8,840 ACRES	***Authorized Harvest:*** 3 buck deer forked horn or better and 1 buck pronghorn antelope • Issue 6 buck deer tags to take 3 buck deer for the period of September 23, 2017 through October 22, 2017. • No person may take more than 1 buck deer annually in the X zones. • In no case shall the number of tags issued be used to exceed the authorized harvest. • The number of tag holders actively hunting shall not exceed the number of deer available to harvest. • Issue 1 buck pronghorn antelope tag for the period of August 26, 2017 through September 10, 2017.	➢ Maintain aspen and willow livestock exclosure fencing at Etchecopar Spring, Van Loan Creek, and Big Springs by checking and repairing fencing if needed. ➢ Monitor 60 acres of dryland alfalfa and reseed as necessary for wildlife. Construct a wildlife-friendly fence to exclude cattle from the plot. ➢ Maintain springs and water sources. ➢ Cut 100-150 mountain mahogany branches with ripe seeds to recruit young plants. ➢ Remove all junipers from 485 acres near Smith Flat to improve shrub and forb recruitment. ➢ Maintain perimeter fences. ➢ Implement rotational cattle grazing so that the residual dry matter does not fall below 40% using the Double-Weight sampling technique..

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
RED ROCK RANCH LASSEN DEER ZONE X3B 6,887 ACRES	***Authorized Harvest***: 7 buck deer forked horn or better and 2 buck pronghorn antelope • Issue 7 buck deer tags for the period of September 23, 2017 through November 19, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Issue 2 buck pronghorn antelope tags for the period of August 12, 2017 through September 17, 2017.	➢ Maintain the livestock fencing at 2 springs near Windy Flat to exclude livestock. ➢ Maintain a spring box at Windy Flat by checking and repairing any damaged parts. ➢ Inspect and make any necessary repairs to the livestock exclusion fencing around 2 aspen and willow stands that provide deer fawning habitat. ➢ Remove all western juniper from upper Neuland area to enhance shrub recruitment. ➢ Construct a new aspen enclosure in Boot Lake Canyon, west of Boot Lake, to exclude livestock grazing and encourage the development of additional fawning habitat. ➢ Continue rotational grazing to rest at least 1 meadow for wildlife cover and forage.
RED ROCK VALLEY FARMS DEER ZONE X1 SISKIYOU 5,562 ACRES	***Authorized Harvest:*** 3 either-sex deer and 1 bull elk • Issue 3 either-sex deer tags for the period of September 15, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Only 1 buck deer shall be harvested after October 15, 2017. • Issue 1 bull elk tag for the period of September 1, 2017 through December 31, 2017.	➢ Selectively remove western juniper from at least 5 acres improve shrub recruitment. ➢ Increase forage quality for wildlife by pruning bitterbrush and mechanically disturbing the soil within a 5-acre area. ➢ Maintain 12 miles of exclusion fencing on the ranch to prohibit grazing from trespass cattle. ➢ Retain 400 acres of alfalfa and timothy grass in the crop pivot corners to provide fall forage for wildlife. ➢ Maintain a restored 2-acre wetland by pumping water into it to providing year-round water for wildlife. ➢ Identify and retain at least 5 pine and juniper trees that provide nesting and perching opportunities for raptors ➢ Maintain Tecnor Spring by removing western juniper trees and silt as necessary.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
ROARING RIVER RANCH DEER ZONE B5 SHASTA 472 ACRES	***Authorized Harvest:*** 2 buck deer forked horn or better • Issue 2 buck deer tags for the period August 1, 2017 through November 30, 2017.	➢ Provide water for wildlife by maintaining 2 small ponds (pumping water into them when levels are low and clearing fallen debris). ➢ Maintain livestock exclusion fencing around 22 acres of irrigated grain fields (peas, oats, and barley) by checking and repairing as necessary. ➢ Treat at least 6 acres of yellow star thistle using herbicides. ➢ Prohibit commercial firewood cutting in order to retain oaks. ➢ Leave all foothill pine snags standing for wildlife habitat. ➢ Replace old trough to provide water for wildlife. Check for broken pipes and repair as necessary. ➢ Plant 15 willow saplings to provide cover for fawns. Replace if eaten by cattle. ➢ Create 2 brush piles for quail.
ROSEBURG RESOURCES – PONDOSA DEER ZONE X1 SISKIYOU 27,734 ACRES	***Authorized Harvest:*** 3 either-sex deer, 2 bull elk, and 2 antlerless elk • Issue 3 either-sex deer tags for the period of August 15, 2017 through November 15, 2017. • No antlerless deer shall be harvested before September 15, 2017. • Issue 2 bull elk tags and 2 antlerless elk tags for the period of September 1, 2017 through October 31, 2017.	➢ Maintain 35+ acres of aspen and meadow restoration areas by removing encroaching conifer seedlings and saplings. ➢ Create 4 brush piles for wildlife cover. ➢ Continue cow:calf recruitment study. ➢ Recruit 20 acres of late seral habitat by retaining up to 10% of the standing inventory within even-aged timber units. ➢ Decommission 1 mile of unused road by blocking access and installing erosion control.
R-R RANCH MENDOCINO 1,460 ACRES	***Authorized Harvest:*** 2 bull and 6 antlerless elk ➢ Issue 2 bull elk tags for the period of August 1, 2017 through November 30, 2017. ➢ Issue 4 antlerless elk tags for the period of September 15, 2017 through November 30, 2017.	➢ Irrigate a 7-acre alfalfa pasture. If the alfalfa production falls below a total cover of 50% in the fall, rip, replant and roll the pasture at a rate of 20 lbs./acre the following March or April with a clover and alfalfa seed mix to provide high quality forage for wildlife. ➢ Maintain the existing 100-acre dryland plot with a rye grass/clover mix by harvesting and thatching every summer. Manually fill 2 water troughs near the irrigated alfalfa as needed for elk use. Clean (through a rotor-

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
R-R RANCH CONT.	➢ On or before October 15, 2017, the licensee may request (in writing) up to 2 additional antlerless elk tags to accomplish the authorized harvest.	rooter process) and maintain 3 natural springs and associated bathtub holding structures found on the Ranch to facilitate water flow from the springs to the tubs. ➢ Exclude livestock from the ranch to improve forage and cover for wildlife. ➢ Expand (remove sediment and enlarge) Mud Lake with a tractor in late summer when the pond has dried and as conditions allow to ensure the lake holds water all year. ➢ Make wood piles for non-game wildlife. The location, size, and number are determined by the amount of large oak trees and branches that have fallen during the winter. However, in an effort to help pre-suppress wildfire on the Ranch approximately 50% of the piles will be burned each year.
SALT CREEK RANCH DEER ZONE B5 TEHAMA 640 ACRES	***Authorized Harvest:*** 3 buck deer forked horn or better • Issue 3 buck deer tags for the period of September 1, 2017 through November 30, 2017.	➢ Mechanically crush at least 10 acres of decadent brush to promote new growth. ➢ Mechanically crush at least 3 additional acres of decadent brush and plant with rye, oats, and clover. ➢ Maintain existing open areas (approx. 18 acres have been brush-cleared) by replanting with annual grains and clover. ➢ Continue to improve water retention ponds by repairing and plugging any leaks in the dams.
SCHNEIDER RANCH DEER ZONE B1 MENDOCINO 4,222 ACRES	***Authorized Harvest:*** 9 buck deer forked horn or better • Issue 9 buck deer tags for the period of August 1, 2017 through November 30, 2017. • No more than 4 buck deer may be harvested after October 22, 2017.	➢ Maintain the 1-acre irrigated forage plot at Mark's Place, which provides valuable summer forage and also contributes subsurface water to an additional 8 acres downslope. Maintenance includes weed control, soil management, and ensuring the functionality of the water supply system. ➢ Cultivate with tractor equipment and irrigate the 1-acre Cabin food plot, which provides a year-round deer feeding area. ➢ Create 6 brush piles for wildlife cover. The piles will each be approximately 10 ft. in diameter and 6 ft. tall and will provide good habitat for both deer and quail.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
SCHNEIDER RANCH CONT.		➢ Burn 6 brush piles. The remnant charcoal and ashes are nutrient rich and deer roll in them, perhaps for control of external parasites. ➢ Cut/hinge at least 10 smaller sub-canopy oaks so they droop to a point where branches are within reach of deer. ➢ Inspect 8 previously improved springs and repair any damaged parts, clear any brush that is intruding on the collection galleries, cleaning out accumulated debris and mud, and ensure the box is structurally sound. ➢ Exclude all livestock from the ranch, including regular fence maintenance in order to prohibit trespass cattle from USFS and BLM grazing allotments.
SL RANCH DEER ZONE X3A MODOC 7,500 ACRES	***Authorized Harvest:*** 4 buck deer forked horn or better and 1 buck pronghorn antelope • Issue 4 buck deer tags for the period of August 15, 2017 through November 15, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Issue 1 buck pronghorn antelope tag for the period of August 1, 2017 through September 30, 2017.	➢ Use a combination of chainsaws and herbicides to remove western juniper from 10-20 acres around springs. ➢ Return 400 acres to wild rice, and flood 40 acres for waterfowl use after harvest. ➢ Maintain the livestock exclusion fence around the spring below Likely Mill to exclude cattle. ➢ Maintain 2 springs on Rocky Prairie and 1 pond by ensuring that fencing excludes cattle. Any damaged fences and structures will be repaired as necessary. ➢ Maintain the livestock exclusion fencing along the West Side Canal where willows are present. Fences and structures will be repaired as necessary. ➢ Plant 200 willows along north and south banks of the Westside Irrigation Canal (the source of the water is the South Fork of the Pit River). ➢ Maintain and replace goose nesting platforms as needed.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
SPRING VALLEY RANCH DEER ZONE A MENDOCINO 4,860 ACRES	***Authorized harvest:*** 24 buck deer forked horn or better and 4 bull elk • Issue 24 buck deer tags for the period of August 1, 2017 through November 30, 2017. • No more than 8 buck deer may be harvested after September 24, 2017. • Issue 4 bull elk tags for the period of August 1, 2017 through November 30, 2017. • On or before October 15, 2017, the licensee may request (in writing) up to 1 additional bull elk tag to complete the authorized harvest.	➢ Create 2, 10 x 6-ft. brush piles. ➢ Remove and manipulate 0.25 acres of blackberries by tractor, hand, and/or herbicide. Treatment areas will be monitored to determine the most effective method of removal and manipulation. ➢ Mechanically remove with a tractor and by hand 0.5 acres of decadent manzanita to improve wildlife forage. Eradicate 1.5 acres of scotch broom and coyote brush. ➢ Construct 1 rail-type fence crossing for elk. The top cross rail will be no higher than 48 in. above the ground to accommodate adult elk and the bottom cross rail will be no lower than 22 in. to facilitate crossing by elk calves. ➢ Repair existing elk crossings as necessary. ➢ Inspect and if necessary repair the 9 previously improved water development projects. ➢ Develop 1 new spring. Dig out spring and use collector boxes. Pipe water to troughs. ➢ Remove at least 1,000 ft. of woven wire cross fencing to reduce wildlife entanglement. ➢ Maintain a 5-acre pond for use by migratory birds and other wildlife, including large mammals. The pond provides year-round water, as well as roosting, feeding, and nesting habitat.
TRIPLE B RANCH DEER ZONE C3 SHASTA 600 ACRES	***Authorized Harvest:*** 3 buck deer forked horn or better • Issue 3 buck deer tags for the period of August 1, 2017 through November 30, 2017.	➢ Maintain 10 water sources to provide water for wildlife by checking for broken pipes and repairing as necessary. ➢ Maintain 20 artificial cavity nesting structures by checking boxes, repairing any if necessary and cleaning out the boxes each year. ➢ Build 3 more artificial cavity nesting structures. ➢ Complete solar pumping station #2 to pipe water to ponds to provide water for wildlife. ➢ Maintain livestock at 150 AUMs during the winter grazing period (December through April) in order to reduce erosion impacts to streams.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
TRIPLE B RANCH CONT.		➢ Plant a 5-acre forage plot with wheat for wildlife use. ➢ Maintain pond by repairing erosion in the spillway area of the dam. ➢ Add 1 cattle watering area on west side of ranch to reduce cattle incursion into riparian habitats.
NORTH CENTRAL REGION		
BIRD HAVEN RANCH DEER ZONE D-3 GLENN 2,500 ACRES	***Authorized Harvest:*** 6 buck deer forked horn or better • Issue 6 buck deer tags, with 1 of the 6 tags being reserved for a junior hunter. 1 or 2 of these tags can be donated to a non-profit such as California Waterfowl Association or Ducks Unlimited, or sold to generate revenue for any such non-profit. The harvest period will be from August 19, 2017 through November 30, 2017.	➢ Maintain current conditions. ➢ Plant 10 valley oak trees. ➢ Install and monitor 5 wood duck boxes. ➢ Install 5 bat boxes. ➢ Create 5 brush piles. ➢ Plant 4 separate 3-5 acre corn or milo food plots (total 12-20 acres).
LLANO SECO RANCHO DEER ZONE C4 BUTTE 14,500 ACRES	***Authorized Harvest:*** 25 buck deer forked horn or better • Issue 25 buck deer tags for the period of September 1, 2017 through November 30, 2017	➢ Treat 800 acres of yellow star and bull thistle. ➢ Plant 800 acres of vetch, rye grass, and oats. ➢ Grow 480 acres of dry land or irrigated wheat, and 315 acres of irrigated barley. ➢ Install 4 new pond turtle basking structures. ➢ Maintain or replace existing 50 barn owl and wood duck nest boxes. ➢ Plant 65 acres of native grass in the river bottom. ➢ Coordinate with CDFW on deer surveys and captures for CDFW Sacramento River Herd Study.
ORDWAY RANCH DEER ZONE D-5 CALAVERAS 850 ACRES	***Authorized Harvest:*** 6 buck deer forked horn or better • Issue 6 buck deer tags for the period of September 23, 2017 through November 30, 2017.	➢ No cattle grazing in Pasture D. ➢ Maintain 3 water sources for wildlife (including 2 solar-powered wells). ➢ Maintain 50 acres of fencing around two natural springs and creek to exclude cattle. ➢ Continue control of invasive weeds. ➢ Develop new wildlife brush piles and enhance existing brush piles.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
ROCK CREEK DEER ZONE C4 BUTTE/TEHAMA 9,945 ACRES	***Authorized Harvest:*** 30 buck deer forked horn or better • Issue 33 deer tags to take 30 buck deer for the period of August 19, 2017 through November 30, 2017.	➢ Begin work on the Stone Corral Spring project. Half will be done in 2017 and then the other half completed in 2018. ➢ Replace 1 mile of "wildlife friendly" cross fencing on the Rose Ranch in the vicinity of Barbara Flats. ➢ A 90' bridge over Rock Creek is planned to be installed on the Rose Ranch. ➢ Continue to graze at a sustainable level. Cattle levels and duration will be adjusted for drought. ➢ Continue maintenance on all ponds, springs, wells, troughs, and fencing.
SOPER-WHEELER DEER ZONE D-3 BUTTE 5,250 ACRES	***Authorized Harvest:*** 18 buck deer forked horn or better, 26 turkey, 200 quail, and 16 bear tags to take 8 bear • Issue 18 buck tags for the period of August 19, 2017 through November 30, 2017. 1 to 3 tags to be donated to California Deer Association for auction with the season extended to December 10, 2017 for any donated tags. • Issue 26 turkey tags for the periods of October 14, 2017 through November 30, 2017 (fall season, either-sex harvest) and March 10, 2018 through May 13, 2018 (spring season, bearded turkey only harvest). 2 tags to be donated to the Hunter Education Instructor Tag Incentive Program (HEI). • Issue 200 quail tags for the periods of October 1, 2017 through February 28, 2018. • 16 bear tags to take up to 8 bears with either archery or rifle. The season will run August 19, 2017 through December 25, 2017 or until 1,700 bears have been taken statewide.	➢ Put in a water tank on Buck Ridge. ➢ Develop 5 more brush piles. ➢ Maintain and provide maintenance on all wells, water sources, and guzzlers. ➢ Continue planting turkey mullein or other similar seed. ➢ Maintain restrictions on grazing.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
SPURLOCK RANCH DEER ZONE B-3 GLENN 2,630 ACRES	***Authorized Harvest***: 10 buck deer forked horn or better • Issue 10 deer tags for the period of September 16, 2017 through November 30, 2017.	➢ Cattle numbers at or below 200 cow/calf pairs. ➢ Cattle grazing season October 25 to May 20; post- season grazing standard of 1,200 lbs/acre RDM. ➢ Treat approximately 20-25 acres of yellow starthistle and/or bull thistle with herbicide. ➢ Construct ¾ wildlife-friendly cattle exclusion fence in riparian area of Johnson Valley. ➢ Plant 100 willow seedlings below fenced dam in Fig Tree Field.
SUGARLOAF- BANGOR RANCH DEER ZONE D-3 YUBA 2,626 ACRES	***Authorized Harvest:*** 12 buck deer forked horn or better, 50 turkey, and 200 quail • Issue 12 buck deer tags for the period of September 23, 2017 through November 30, 2017. • Issue 50 turkey tags for the periods of October 1, 2017 through January 15, 2018 (fall season, either-sex harvest) and March 1, 2018 through May 15, 2018 (spring season, gobbler-only harvest). • Issue 200 upland game seals for the period of September 1, 2017 through February 28, 2018. Additional orders are approved in 100 seal increments up to the authorized harvest.	➢ Moderate livestock grazing program. ➢ Maintain hot line around Round Lake to keep livestock from willow and cottonwood plantings. ➢ Maintain solar-operated well that is water source for Round Lake. ➢ Crush brush to improve deer browse; pile brush for quail habitat. ➢ Maintain ditch and pipe that supplies water to Wood Duck Lake. ➢ Modify water intake for Wood Duck Lake. ➢ Maintain 40 bluebird nest boxes.
CENTRAL REGION		
BARDIN RANCH MONTEREY COUNTY 8,000ACRES	***Authorized Harvest:*** 2 bull and 4 antlerless elk • Issue 2 bull elk tags for the period of October 1, 2017 through December 31, 2017. • Issue 4 antlerless elk tags for the period of October 1, 2017 through December 31, 2017.	➢ Maintain existing springs, pipe lines & troughs to provide water for wildlife. ➢ Plant 30 acres of forage grass for use by wildlife. ➢ Maintain rotational grazing system & allow cattle access to the upper hills only from November through June. ➢ Recondition West Sycamore stock pond for wildlife. ➢ Mechanically remove & stack brush to enhance fowl habitat.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
CARNAZA RANCH SAN LUIS OBISPO COUNTY 8,475 ACRES	***Authorized Harvest:*** 3 bull elk and 3 antlerless elk • Issue 3 bull elk tags for the period of July 15, 2017 through December 31, 2017. • Issue 3 antlerless elk tags for the period of August 15, 2017 through December 31, 2017.	➢ Plant 100 acres of dryland barley for use by wildlife. ➢ Pump water to 5 water troughs on a year round basis to provide water for wildlife. ➢ Plant 10, 1-gallon native trees to enhance wildlife habitat. ➢ Construct 3 brush piles to enhance habitat for upland game.
CARRIZO RANCH SAN LUIS OBISPO COUNTY 11,040 ACRES	***Authorized Harvest***: 3 bull elk and 2 antlerless elk • Issue up to 3 bull elk tags for the period of July 15, 2017 through December 31, 2017. • Issue up to 2 antlerless elk tags for the period of August 15, 2017 through December 31, 2017.	➢ Plant 10, 1-gallon native trees and 10, 1-gallon shrubs to enhance wildlife habitat. ➢ Plant 200 acres of dryland barley to enhance wildlife habitat. ➢ Create 3 brush piles to enhance habitat for upland game.
HEARST RANCH SAN LUIS OBISPO COUNTY 5,381 ACRES	***Authorized Harvest***: 2 bull elk and 5 antlerless elk • Issue 2 bull elk tags for the period of July 15, 2017 through December 31, 2017. • Issue 5 antlerless elk tags for the period of August 15, 2017 through December 31, 2017.	➢ Irrigate 152 acres of pasture for year round use by wildlife. ➢ Maintain livestock exclusionary fencing on 105 acres (2.5 miles of fencing) of riparian pasture during periods of stream flow to enhance fishery and wildlife habitat. ➢ Treat and remove 1-acre of nonnative Scotch Broom to enhance habitat for native plants and animals. ➢ Treat and remove 1-acre of nonnative Jubata grass to enhance habitat for native plants and animals. ➢ Install 4 raptor roosting poles.

PLM AREA LICENSE ANNUAL RENEWALS, 2017/2018 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
SKY ROSE RANCH, LLC. DEER ZONE A MONTEREY COUNTY 14,039 ACRES	***Authorized Harvest:*** 4 buck deer forked horn or better and 2 antlerless deer • Issue 4 buck deer tags for the period of July 1, 2017 through November 30, 2017. • Issue 2 antlerless deer tags for the period of July 1, 2017 through November 30, 2017.	➢ Plant 10 acres of barley, cereal crop or pasture mix to provide feed and cover for wildlife. ➢ Create 10 brush piles to provide escape cover and nesting habitat for wildlife. ➢ Install 4 watering devices (such as guzzlers) to provide continual water sources for wildlife. ➢ Install any combination of 10 bluebird, owl or bat boxes along perimeter fences near alfalfa fields. ➢ Remove non-native "tree of heaven" from the ranch headquarters area along Deer Canyon Road. ➢ Identify and control invasive populations of tocalote and puncture vine on the ranch property. ➢ Install 3 miles of water pipeline along Three Mile Road to bring water to new watering troughs and other watering devices.
TEJON RANCH DEER ZONE D11 KERN AND LOS ANGELES COUNTIES 270,000 ACRES	***Authorized Harvest:*** 40 either-sex deer, 5 antlerless deer, 12 bull elk, 3 cow elk, and 10 bearded turkeys. • Issue 20 either-sex tags for the period of September 24, 2017 through November 5, 2017 (early season opening). • Issue 20 either-sex tags for the period of November 6, 2017 through December 3, 2017 (late season opening). • Issue 5 antlerless deer tags for the period of September 24, 2017 through December 31, 2017. • On or before October 25, 2017, the licensee may request (in writing) up to 10 either-sex deer tags to achieve the authorized harvest quota. • Issue 12 bull elk tags and 3 antlerless elk tags for the period of September 1, 2017 through December 31, 2017.	➢ Maintenance of 200+ water troughs and wildlife guzzlers (Antelope Valley). ➢ Maintenance of wildlife escape ramps in livestock water troughs. ➢ Maintenance of netting covering open water tanks and large spring containments. ➢ Enhancement of water systems; Maintenance of 11-mile water pipeline system (White Wolf to Comanche Point). ➢ Maintain fencing to exclude cattle grazing (Sacatara Canyon) to protect riparian habitat. ➢ Residual Dry Matter (RDM) monitoring of cattle grazing locations for comprehensive wildlife management. ➢ Maintain wildlife corridor between Big Sycamore and Bronco Canyon.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
TEJON RANCH CONT.	• No persons shall take more than 1 buck deer, 1 bull elk and 1 antlerless elk. • Issue 10 bearded turkey tags for the period of March 17, 2018 through May 20, 2018.	➢ Modified pasture fences (Antelope Valley) for pronghorn movement; replaced with smooth wire where needed or required. ➢ Monitor riparian zones using Best Management Practices for Wildlife management and Cattle grazing. ➢ Conduct comprehensive invasive plant control plan in collaboration with the Tejon Conservancy. ➢ Harvest of feral pigs to reduce damages to riparian habitat and native wildlife; feral pig management study underway. ➢ Utilize Quality Deer Management (QDM) program, hunter education and harvest methods, to better manage the population. ➢ Utilize guided only Hunts to better manage the Rocky Mountain elk, mule deer, and wild turkey populations.
TEMBLOR RANCH SAN LUIS OBISPO AND KERN COUNTIES 30,000 ACRES	***Authorized Harvest***: 7 bull elk and 10 antlerless elk • Issue 7 bull elk tags for the period of July 15, 2017 through December 31, 2017. • Issue 10 antlerless elk tags for the period of August 15, 2017 through December 31, 2017. • Upon request of the licensee on or prior to November 1, 2017, the licensee may request up to 7 additional bull elk tags and 10 additional antlerless elk tags to accomplish the authorized harvest of not more than 17 elk.	➢ Plant and maintain 1-acre of irrigated pasture for use by wildlife. ➢ Install ½ mile of new waterline to provide water for wildlife. ➢ Plant 10, 1-gallon trees to enhance habitat for wildlife.

PLM AREA LICENSE *ANNUAL RENEWALS, 2017/2018* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
SOUTH COAST REGION		
SANTA CATALINA ISLAND DEER ZONE D15 LOS ANGELES 42,100 ACRES	***Authorized Harvest:*** 500 deer: 250 antlerless deer and 250 either-sex deer. • Issue 300 tags, 150 antlerless deer tags and 150 either sex deer tags for the period of July 3, 2017 to December 31, 2017. • Upon written request of the licensee on or before October 1, 2017, issue up to an additional 50 antlerless deer tags and up to an additional 50 either-sex deer tags to accomplish the authorized harvest. Any tags not requested during this request-period can be rolled over into and allocated during the next request period. • Upon written request of the licensee on or before December 1, 2017, issue up to an additional 50 antlerless deer tags and up to 50 either-sex deer tags to accomplish the authorized harvest.	➢ Continue annual Catalina Island fox recovery activities including: census, vaccination of 300 individuals against CDV/rabies, and monitoring 50 radio collared individuals. ➢ Continued monitoring of island for non-native mammals (e.g., raccoons). ➢ Continued bison herd management through contraception (maintain <150). ➢ Continue animal and plant baseline monitoring activities. ➢ Continue to optimize weather data collection and analysis. ➢ Continue invasive plant removal through the Catalina Habitat Improvement and Restoration Program (CHIRP). ➢ Continue monitoring and maintenance of deer exclosures erected post-fire and for rare species. ➢ Continue and expand education and outreach through Naturalist Training, Kids in Nature, Island Scholars, Families in Nature, and Nature Works programs.

Alphabetical list of annual PLM plans and 2017-2018 licenses for approval: (Pursuant to Section 601, Title 14, CCR)

- Ackerman-South Daugherty WMA (Mendocino County)
- Bardin Ranch (Monterey County)
- Basin View Ranch (Modoc County)
- Big Bluff Ranch (Tehama County)
- Bird Haven Ranch (Glenn County)
- Black Ranch (Shasta County)
- Capistran Ranch (Mendocino County)
- Carnaza Ranch (San Luis Obispo County)
- Carrizo Ranch (San Luis Obispo County)
- Clarks Valley Ranch (Lassen County)
- Clover Creek Ranch (Shasta County)
- Dixie Valley (Lassen County)
- Five Dot Ranch- Avila (Lassen County)
- Five Dot Ranch- Horse Lake (Lassen County)
- Five Dot Ranch- School Section (Lassen County)
- Five Dot Ranch- Tunnel Springs (Lassen County
- Five Dot Ranch- Willow Creek (Lassen County)
- Hathaway Oak Run Ranch (Shasta County)
- Hearst Ranch (San Luis Obispo County)
- JS Ranch (Shasta County)
- Kramer Ranch (Lassen County)
- Little Dry Creek Ranch (Tehama County)
- Llano Seco Rancho (Butte County)
- Long Prairie Farms (Siskiyou County)
- Mendiboure Cold Springs Ranch (Lassen County)
- Mendiboure Ranch (Lassen County)
- Ordway Ranch (Calaveras County)
- Red Rock Ranch (Lassen County)
- Red Rock Valley Farms (Siskiyou County)
- Roaring River Ranch (Shasta County)
- Rock Creek (Butte County) (Tehama County)
- Roseburg Resources- Pondosa (Siskiyou County)
- R-R Ranch Mendocino County)
- Salt Creek Ranch (Tehama County)
- Santa Catalina Island (Los Angeles County)
- Schneider Ranch (Mendocino County)
- Sky Rose Ranch, LLC. (Monterey County)
- SL Ranch (Modoc County)

- Soper- Wheeler (Butte County)
- Spring Valley Ranch (Mendocino County)
- Spurlock Ranch (Glenn County)
- Sugarloaf- Bangor Ranch (Yuba County)
- Tejon Ranch (Kern County) (Los Angeles County)
- Temblor Ranch (San Luis Obispo County) (Kern County)
- Triple B Ranch (Shasta County)

State of California
Department of Fish and Wildlife

Memorandum

Date: May 4, 18, 2017

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 MAY 22 AM 11

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Agenda Item for the June 21-22, 2017 Fish and Game Commission Meeting Private Lands Wildlife Habitat Enhancement and Management (PLM) Area Licenses

The Department of Fish and Wildlife has reviewed the Annual renewals, 5-year renewals and an Initial Management Plan for 53 properties in 15 counties consisting of approximately 652,304 acres.

The Annual renewal PLM areas were previously licensed under Commission regulations Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 2016, and all habitat work was completed.

The 5-year renewal management plans are in compliance with Commission policy for private lands management. The applicants have identified the location where records will be kept and made available for inspection. Public notices were published in local newspapers, and certified letters were mailed to adjacent landowners with notification of each Initial applicant's intent to enter into the program. No letters of concern were received by the Department.

Habitat improvements accomplished under these plans will enhance and maintain wildlife resources on and around the PLM areas. The goals and objectives stated in the management plans are compatible with Department management plans for appropriate species in these areas. In addition, access to public lands will not be diminished under implementation of these management plans.

The Department recommends that the Commission approve the specified wildlife management plans, applications, and each 2017/18 harvest program under conditions specified in the attached table.

If you have any questions, please contact Ms. Victoria Barr at (916) 445-4034 or by email at victoria.barr@wildlife.ca.gov.

Attachment

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Wildlife and Fisheries Division
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PLM AREA LICENSE *NEW 5-YEAR MANAGEMENT PLANS, 2017-2022* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
	NORTHERN REGION	
ASH VALLEY RANCH DEER ZONE X3A LASSEN 8,736 ACRES	***Authorized Harvest:*** 4 buck deer forked horn or better and 1 pronghorn antelope • Issue 6 buck deer tags for the period October 7, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones. • In no case shall the number of tags issued be used to exceed the authorized harvest. • The number of tag holders actively hunting shall not exceed the number of deer available to harvest. • Issue 1 buck pronghorn antelope tag for the period of August 5, 2017 through September 30, 2017.	➢ Remove at least 20 acres of noxious weeds by grubbing and/or chemical application. ➢ Through the use of rotational grazing prescriptions, maintain previously completed habitat restoration work. ➢ Replace 0.5 mile of perimeter fence with wildlife-friendly fence.
EL RANCHO RIO FRIO DEER ZONE B5 TEHAMA 12,682 ACRES	***Authorized Harvest:*** 24 buck deer forked horn or better • Issue 24 buck deer tags for the period of August 15, 2017 through November 30, 2017. • No more than 12 deer may be harvested after October 22, 2017.	➢ Install 2 10,000-gallon guzzlers to provide additional water for wildlife. ➢ Burn 300-500 acres of decadent shrubs (mostly chamise) to enhance deer habitat. ➢ Develop a 3-acre irrigated forage plot by first ripping to dislodge brush and then spraying brush sprouts with herbicide. Seed any mechanically disturbed areas with a mix of perennial grasses and annual clovers.
JERUSALEM CREEK RANCH DEER ZONE B5 SHASTA 726 ACRES	***Authorized Harvest:*** 4 buck deer forked horn or better • Issue 4 buck deer tags for the period of August 1, 2017 through November 30, 2017.	➢ Maintain 2 water sources that provide water for wildlife by checking for broken pipes and repairing as necessary. ➢ Thin at least 5 acres of dense thickets of stunted interior live oak trees by, on average, cutting 1-2 weaker, branching trunks from multi-trunk trees. The new shoots provide high-quality forage for wildlife.

PLM AREA LICENSE NEW 5-YEAR MANAGEMENT PLANS, 2017-2022 PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
LOOKOUT RANCH DEER ZONE X1 MODOC 6,880 ACRES	***Authorized Harvest:*** 6 buck deer forked horn or better • Issue 6 buck deer tags for the period of August 15, 2017 through November 30, 2017. • No person shall take more than 1 buck deer annually in the X zones.	➢ Renovate and re-level at least 80 acres of wild rice to improve water storage for waterfowl. ➢ Thin western juniper from 3 acres at Moon Pasture. ➢ Plant 250 willows in the Buck Pasture draw below the 3rd pond and 250 willows in the southwest corner of the marsh. ➢ Plant 30 acres of millet, chufa, and dwarf corn on the eastside marsh to be left unharvested and ungrazed, 12 acres of wild rice to be left unharvested in Buck Pasture, 10 acres of barley to be left unharvested in Bass Pond, and 15 acres in the pivot corners to provide forage for wildlife. ➢ Rotate 200 head of cattle through all of deeded ground. During summer, graze 75% of cattle on private lease ground, then bring cattle back to the ranch in fall to manage crop residue that restricts plant growth and development. Gather cattle and ship to winter pasture. ➢ Build at least 5 brush piles (average size of 12 x 8 ft.) in the Moon Pasture to provide escape cover for wildlife.
WALTON HOMESTEAD FAMILY, LLC DEER ZONE X3A LASSEN 5,980 ACRES	***Authorized Harvest:*** 5 either-sex deer and 1 buck pronghorn antelope • Issue 5 either-sex deer tags for the period of August 19, 2017 through October 29, 2017. • No person shall take more than 1 buck deer annually in the X zones. • Issue 1 buck pronghorn antelope tag for the period of August 1, 2017 through August 27, 2017.	➢ Thin or remove juniper (200-500 acres/yr.) and seed with native grasses and wildflowers. Use residual slash to create wildlife brush piles. ➢ Enlarge and deepen the containment basin for Hanna's Spring from the current 3-5 ft. to 5-10 ft. Install water trough downhill from the spring with piping to fill as necessary. Build livestock enclosure around spring and basin with wildlife-friendly fencing, and use solar pumping or gravity flow to give cattle and wildlife water access outside the fence. ➢ Enlarge and deepen the containment basin for Horse Meadows Spring from the current 5-10 ft. to 12-15 ft. Install water trough downhill from the spring with piping or solar pumping to fill as necessary. Build an enclosure around the spring and basin with wildlife-friendly fencing. ➢ Replace perimeter fencing with wildlife-friendly fencing (200-500 yards/yr.).

PLM AREA LICENSE *NEW 5-YEAR MANAGEMENT PLANS, 2017-2022* *PROPOSED SEASONS, HARVESTS, AND HABITAT IMPROVEMENTS*		
PLM Area	**Proposed Season and Harvest**	**Habitat Improvement Program**
NORTH CENTRAL REGION		
DESERET FARMS-BALLARD UNIT DEER ZONE C-4 BUTTE 2,948 ACRES	***Authorized Harvest:*** 2 buck deer forked horn or better and 10 antlerless deer • Issue 2 buck deer tags and 10 antlerless tags for the period of November 1, 2017 through December 31, 2017. 1 of the antlerless tags must be a Junior tag.	➢ Enhance existing brush piles in upland areas at south end of lake and in island area toward north end of south portion of lake. Five brush piles on the island area, three at northwest portion of lake, and eight at the south end of the lake. ➢ Mechanically control star thistle areas. ➢ Fix blown out levees from 2017 storm events. ➢ Build and install 10 owl boxes. ➢ Monitor and replace any plantings that may have died and keep a record of plant survival. ➢ Maintain current conditions in riparian areas. ➢ Continue feral pig eradication. ➢ Monitor wood duck and owl box occupancy. ➢ If new orchards are installed construct fencing to reduce depredation.
DESERET FARMS-WILSON UNIT DEER ZONE C-4 BUTTE 7,989 ACRES	***Authorized Harvest:*** 6 buck deer forked horn or better and 15 antlerless deer • Issue 15 antlerless tags and 6 buck deer tags for the period of November 1, 2017 through December 31, 2017. 1 of the antlerless tags must be a Junior tag.	➢ Place fallen tree in pond for western pond turtle basking. ➢ Enhance 3 brush piles on the west end of the Gianella Pond and 4 in the open area of the riparian area. ➢ Begin removing salt cedar and Himalayan Blackberry in the Gianella Pond. ➢ Build and install 8 wood duck boxes ➢ Monitor plantings and replace any that may have died and keep a record of plant survival. ➢ Maintain current conditions in riparian areas. ➢ Continue feral pig eradication. ➢ Monitor wood duck and owl box occupancy. ➢ If new orchards are installed construct fencing to reduce depredation.

Alphabetical listing of five-year PLM plans and 2017-2022 licenses for approval:
(Pursuant to Section 601, Title 14, CCR)

- Ash Valley Ranch (Lassen County)
- Deseret Farms – Ballard Unit (Butte County)
- Deseret Farms – Wilson Unit (Butte County)
- El Rancho Rio Frio (Tehama County)
- Jerusalem Creek Ranch (Shasta County)
- Lookout Ranch (Modoc County)
- Walton Homestead Family, LLC (Lassen County)

Commissioners
Eric Sklar, President
Saint Helena
Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
Huntington Beach
Russell E. Burns, Member
Napa
Peter S. Silva, Member
El Cajon

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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

TRIBAL COMMITTEE

Committee Chair: Commissioner Hostler-Carmesin

Meeting Agenda
June 20, 2017
1:30 P.M.

Howonquet Hall Community Center
101 Indian Court, Smith River 95567

This meeting may be audio-recorded

NOTE: See important meeting procedures and information at the end of the agenda. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department. All agenda items are informational and/or discussion only. The Committee develops recommendations to the Commission, but does not have authority to make policy or regulatory decisions on behalf of the Commission.

Call to order

1. Approve agenda and order of items

2. Public forum for items not on the agenda
   The Committee may not discuss or take action on any matter raised during this item, except to consider whether to recommend that the matter be added to the agenda of a future meeting. [Sections 11125, 11125.7(a), Government Code]

3. Staff updates
   - (A) Efforts to formalize the Tribal Committee in statute
   - (B) Annual Commission-tribal planning meeting pursuant to the Commission's Tribal Consultation Policy
   - (C) Committee updates
     - I. Wildlife Resources Committee
     - II. Marine Resources Committee
       - a. Fishing communities

4. Department of Fish and Wildlife updates
   - (A) Elk Management Plan and presentation regarding North Coast elk study
   - (B) Development of deer and antelope management plans

(C) Commercial kelp and seaweed harvest regulations
(D) Amendment to the Master Plan for marine fisheries under the Marine Life Management Act

5. Ocean Protection Council updates

(A) Update on tribal participation in the statewide leadership team for marine protected areas
(B) Update on Safeguarding California: California Climate Change Adaption Strategy and Sea Level Rise guidance

6. Continue discussion on the development of a vision statement regarding co-management (*may allow time for tribal caucusing if needed*)

7. Commission regulatory calendar overview

8. Future agenda topics

(A) Review work plan agenda topics and timeline
(B) Potential new agenda topics for Commission consideration

Adjourn

CALIFORNIA FISH AND GAME COMMISSION
2017 MEETING SCHEDULE

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations.

MEETING DATE	COMMISSION MEETING	COMMITTEE MEETING	OTHER MEETINGS
June 21-22	Howonquet Hall Community Center 101 Indian Court Smith River, CA 95567		
July 13			**Predator Policy Workgroup** Department of Parks and Recreation Redwood Conference Room, 14th Floor 1416 Ninth Street Sacramento, CA 95814
July 20		**Marine Resources** Flamingo Conference Resort & Spa 2777 Fourth Street Santa Rosa, CA 95405	
August 16-17	Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
September 13		**Wildlife Resources** California Tower 3737 Main Street Highgrove Room 200 Riverside, CA 92501	
October 10		**Tribal** SpringHill Suites by Marriott 900 El Camino Real Atascadero, CA 93422	
October 11-12	SpringHill Suites by Marriott 900 El Camino Real Atascadero, CA 93422		
November 9		**Marine Resources** Marina	
December 6-7	Handlery Hotel 950 Hotel Circle North San Diego, CA 92108		

OTHER MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies
- September 10-13, Snowbird, UT

Pacific Fishery Management Council
- September 12-18, Boise, ID
- November 14-20, Costa Mesa, CA

Pacific Flyway Council
- August 25, Spokane, WA

Western Association of Fish and Wildlife Agencies
- July 6-11, Vail, CO

Wildlife Conservation Board
- August 24, Sacramento
- November 30, Sacramento

IMPORTANT COMMITTEE MEETING PROCEDURES INFORMATION

Welcome to a meeting of the California Fish and Game Commission's Tribal Committee. The Committee is chaired by up to two Commissioners; these assignments are made by the Commission.

The goal of the Committee is to allow greater time to investigate issues before the Commission than would otherwise be possible. Committee meetings are less formal in nature and provide for additional access to the Commission. The Committee follows the noticing requirements of the Bagley-Keene Open Meeting Act. It is important to note that the Committee chairs cannot take action independent of the full Commission; instead, the chairs make recommendations to the full Commission at regularly scheduled meetings.

The Commission's goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Committee meetings are vital in developing recommendations to help the Commission achieve that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome, and please let us know if you have any questions.

PERSONS WITH DISABILITIES
Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

SUBMITTING WRITTEN MATERIALS
The public is encouraged to attend Committee meetings and engage in the discussion about items on the agenda; the public is also welcome to comment on agenda items in writing. You may submit your written comments by one of the following methods (only one is necessary): **Email** to fgc@fgc.ca.gov**; deliver** to California Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814**;** or **hand-deliver to a Committee meeting.**

COMMENT DEADLINES:
The **Written Comment Deadline** for this meeting is **5:00 p.m. on June 8, 2017.** Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Late Comment Deadline** for this meeting is **noon on June 16, 2017**. Comments received by this deadline will be marked "late" and made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – please bring five (5) copies of written comments to the meeting.

The Committee **will not** consider comments regarding proposed changes to regulations that have been noticed by the Commission. If you wish to provide comment on a noticed item, please provide your comments during Commission business meetings, via email, or deliver to the Commission office.

NOTE: Materials provided to the Committee may be made available to the general public.

REGULATION CHANGE PETITIONS
As a general rule, requests for regulatory change need to be redirected to the full Commission and submitted on the required petition form, FGC 1, titled "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14, CCR). However, at the Committee's discretion, the Committee may request that staff follow up on items of potential interest to the Committee and possible recommendation to the Commission.

SPEAKING AT THE MEETING
Committee meetings operate informally and provide opportunity for everyone to comment on agenda items. If you wish to speak on an agenda item, please follow these guidelines:

1. Raise your hand and wait to be recognized by the Committee co-chair(s).
2. Once recognized, please begin by giving your name and affiliation (if any) and the number of people you represent.
3. Time is limited; please keep your comments concise so that everyone has an opportunity to speak.
4. If there are several speakers with the same concerns, please try to appoint a spokesperson and avoid repetitive comments.
5. If you would like to present handouts or written materials to the Committee, please provide five copies to the designated staff member just prior to speaking.
6. If speaking during public forum, the subject matter you present should not be related to any item on the current agenda (public comment on agenda items will be taken at the time the Committee members discuss that item). As a general rule, public forum is an opportunity to bring matters to the attention of the Committee, but you may also do so via email or standard mail. At the discretion of the Committee, staff may be requested to follow up on the subject you raise.

VISUAL PRESENTATIONS/MATERIALS
All electronic presentations must be submitted by the **Late Comment Deadline** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email or delivered to the Commission on a USB flash drive by the deadline.
2. All electronic formats must be Windows PC compatible.
3. It is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.
4. A data projector, laptop and presentation mouse will be available.

LASER POINTERS may only be used by a speaker during a presentation.

California Fish and Game Commission
Tribal Committee (TC) Work Plan

Revised April 2017

Topic	Type	Goals	2017		
			Feb 7	Jun 20	Oct 10
			Santa Rosa	Smith River	Atascadero
Special Projects					
Co-management	TC workgroup	Development of a vision statement	X	X	
Regulatory/Legislative					
Formalizing Tribal Committee in statute	TC project	Legislative Bill	X	X	
Kelp and algae harvest management	DFW project	Recommendation and guidance	X	X	
Emerging Management Issues					
FGC Climate Policy	FGC policy	Development of a policy for the FGC. Looking for recommendations and guidance as we move forward.	X		X
Fishing communities	MRC project	Recommendation and guidance	X	X	
Management Plans					
Marine Life Management Act (MLMA) Master Plan for Fisheries	Management framework document - part of MRC crosswalk	Updates on DFW process to amend the Master Plan for Fisheries, and identify areas of interest to Tribes	X		
Elk	DFW	Identification of informational needs? Gaps in knowledge?	X	X	
Informational/Special topics					
Cross pollination with MRC and WRC	Ongoing FGC committee coordination	Identification of tribal concerns and common themes that overlap between WRC and MRC.	X	X	X
Annual Commission-Tribal planning meeting pursuant to Commission's tribal consultation policy	Annual FGC- Tribal coordination and consultation	1) Identify process to inform Tribes of anticipated regulatory and policy topics to be considered each year; 2) Identify tribal priorities from within topics; 3) Develop collaborative interests; 4) Contribute to planning logistics for annual meeting	X	X	X
OPC update on tribal participation in the statewide leadership team	OPC project			X	
OPC update on Safeguarding California and Sea Level Rise	OPC project			X	
Request for a presentation and update on the implementation of Prop 64	DFW/LED				X
FGC staff to provide a regulatory calendar overview and where tribal interests could provide feedback	FGC			X	

FGC = California Fish and Game Commission MRC = FGC's Marine Resources Committee WRC = FGC's Wildlife Resources Committee
DFW = California Department of Fish and Wildlife LED = DFW's Law Enforcement Division OPC = California Ocean Protection Council

Commissioners
Eric Sklar, President
Saint Helena
Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
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WILDLIFE RESOURCES COMMITTEE

Committee Co-Chairs: Commissioner Williams and Commissioner Burns

May 24, 2017 Meeting Summary

Following is a summary of the meeting as prepared by staff.

Call to order

The meeting was called to order at 1:05 p.m. by Commissioner Williams at the Resources Building Auditorium, 1416 Ninth Street, Sacramento. Commissioner Williams gave welcoming remarks.

Erin Chappell introduced California Fish and Game Commission (FGC) staff and California Department of Fish and Wildlife (DFW) staff, and outlined the meeting procedures and guidelines, noting that the Committee is a non-decision making body that provides recommendations to FGC. She reminded participants that the meeting was being audio-recorded and that the audio-recording will be posted to the FGC website.

Committee Co-Chairs

Anthony Williams	Present
Russell Burns	Present

Commission Staff

Valerie Termini	Executive Director
Erin Chappell	Wildlife Advisor
Heather Benko	Sea Grant State Fellow

DFW Staff

Stafford Lehr	Deputy Director, Wildlife and Fisheries Division
T.O. Smith	Chief, Wildlife Branch
Patrick Foy	Captain, Law Enforcement Division
Chris Stoots	Lieutenant, Law Enforcement Division
Scott Gardner	Acting Environmental Program Manager, Wildlife Branch
Karen Mitchell	Senior Environmental Scientist, Fisheries Branch

1. Approve agenda and order of items

The Committee Co-Chairs approved the agenda and the order of items. During the meeting the Co-Chairs approved moving agenda item 7 before agenda item 6 (Note: for this summary, agenda items are presented in original order). Commissioner Williams left the meeting immediately following the staff overview of agenda item 6.

2. Public forum for items not on the agenda

Marilyn Jasper: Commented on GPS dog collars and the use of technology by hunters in general, noting that public trust agencies cannot rely on hunter ethics alone. She also stated that GPS collars increase risks to sensitive wildlife, increase risk of poaching, and that use of GPS dog collars for hunting mammals is neither ethical nor should they be legal in the interest of fair chase.

Dennis Fox: Suggested holding the next meeting in Oregon in order to discuss salmon and wolf issues with Oregon officials.

Teri Faulkner: Urged the Co-Chairs to consider community interests in addition to other stakeholder's interests when making decisions and used bears coming too close to homes as an example. She also suggested utilizing DFW scientists to better understand populations.

3. Staff update on draft Commission climate change policy

Executive Director Termini provided a brief update on the development of FGC's climate change policy. The goal of the policy is to provide guidance to FGC in accounting for climate change in a comprehensive manner when making decisions. As part of the update, she provided background and history of FGC highlighting FGC's authority. She also noted California's leadership on climate change and the State's focus on readiness, reduction, and research. She emphasized the unique opportunity provided by FGC and committee meetings to engage with a wide variety of stakeholders on the impacts of climate change and how to address them. In closing, she noted that FGC would like to get a sense of priorities and common concerns from stakeholders and invited stakeholders to engage with FGC staff on this issue.

Commissioner Williams asked about the timeline for developing the policy. Executive Director Termini responded that staff will provide the policy to FGC within the next year.

Public Discussion:

Several questions were asked about increasing temperatures, Pacific oscillation, El Nino, snowpack, and changing vegetation types. Both Executive Director Termini and Erin Chappell noted the extensive work underway by the various State agencies and the wide variety of resources available, including the *Safeguarding California Plan*. T.O. Smith highlighted the climate change information available on DFW's website and that one of DFW Wildlife Branch's priorities is maintaining habitat connectivity in part by using geospatial maps to identify habitat corridors available to facilitate species movements. Executive Director Termini emphasized that the policy is intended to help FGC address climate change in its decision-making capacity.

4. Discuss and approve recommendations for 2018 sport fishing regulations

Erin Chappell provided background information, noting this is the last opportunity for WRC to make any recommendation on the proposed changes before the notice hearing in August, and introduced Karen Mitchell. Karen presented the proposed changes to the freshwater sport fishing regulations for the 2018 season. DFW did not propose any changes to the regulations based on the four petitions referred by FGC for consideration in this rulemaking package.

Public Discussion:

A stakeholder asked if the Rock Creek closure proposed for Shasta crayfish applied to all fishing or just fishing for crayfish. Karen Mitchell responded that the waters would be closed to all fishing. A stakeholder requested confirmation on three bodies of water proposed for bow-fishing of catfish. Karen Mitchell confirmed the proposed change was for the three included in the presentation (Delta, Lake Isabella, and Big Bear). Another stakeholder requested clarification on where to find DFW's evaluation of the petitions. Karen Mitchell responded that they would be included in the initial statement of reasons provided toFGC at the notice hearing in August.

The petitioner for Petition #2016-003, which proposes changes in bag and size limits for striped bass on a portion of the San Joaquin River, provided information on the intent of the petition. He noted that this petition is intended as counter-proposal to the current plan in the San Joaquin Restoration Project to fill in the quarries on the San Joaquin River to reduce predation by striped bass, which is an expensive way to solve the problem.

There was also discussion of Petition #2015-014, which proposes changes to low flow restrictions on coastal streams. A supporter of the petition noted that the current regulations disproportionately impact fly fishers by allowing fishing on the upper river and eliminating fishing on the lower river. He noted that the petition considered various parts of the river and the data indicates that fish are not being trapped as they are on other rivers. He also recommended eliminating bait fishing due to higher mortality and highlighted impacts on smolts. Stafford Lehr responded that the regulations were a result of a long process starting with the National Oceanic and Atmospheric Administration's proposal in 2011, and that DFW is committed to engaging with stakeholders to work through these issues. He suggested pulling the petition from this rulemaking package to give the DFW time to work with all interested stakeholders through a forum or workshop to identify a possible solution. Erin Chappell advised that to do that the WRC could make a recommendation to the remove the petition from the rulemaking package and refer it to DFW for further evaluation in order to give DFW time to meet with stakeholders.

Committee Recommendation: WRC recommends that FGC authorize publication of a notice of its intent to amend the 2018 sport fish regulations consistent with changes approved during today's meeting and recommends referring Petition #2015-014 to DFW for further evaluation and recommendation.

5. Discuss potential options for phase 2 falconry regulation changes

Erin Chappell provided background and a brief overview of the discussion at the January WRC meeting. T.O. Smith presented three topics currently being discussed for

consideration with stakeholders: (1) changes the random drawing for prairie falcons; (2) authorizing the transfer of depredating raptors that cannot be released to licensed falconers; and (3) authorizing the transfer of raptors that cannot be released from an approved wildlife rehabilitation facility to licensed falconers. T.O. Smith highlighted DFW concerns about changes to the drawing, noting that the capture of wild prairie falcons is limited to 14 birds per year, so DFW will need to ensure that any changes to the systems would not result in that limit being exceeded. He also noted the need for further discussions with all stakeholders regarding the transfer of rehabilitated birds.

Public Discussion:

During the discussion, comments were made about both the current regulations being too extensive and unnecessary and that raptors are a public trust resource that should be strongly regulated, inspections, and the need for updated data on prairie falcons. Some stakeholders expressed support for changes to drawing for prairie falcons and support for the transfer of both depredating raptors and rehabilitated raptors that cannot be released into the wild to licensed falconers. Stafford Lehr clarified that peregrine falcons and golden eagles are fully protected species and are not being included in the discussion since they cannot be possessed.

DFW and stakeholders will continue to work through the issues discussed today and will provide an update at the September WRC meeting.

6. Discuss potential wild pig management options

Erin Chappell provided background on the previous WRC discussions about wild pig management and presented an overview of the updated proposal. The proposal outlines potential changes in statutes and regulations to address stakeholder concerns and includes two options for consideration. Option 1 would change designation of wild pigs from game mammal to nongame mammal and Option 2 would create a new designation for wild pigs. Following the presentation, Erin requested input from stakeholders on the proposal more broadly and specifically, preferences for either Option 1 or Option 2.

Public Discussion:

Note, for the purposes of this summary the comments are organized by topic area.

Importation and Transportation: Kent Fowler (California Department of Food and Agriculture) noted that addressing wild pigs has been a circular issue that has continued to come up over the years but he is hopeful that we are on a pathway forward at this point. He suggested not using the term “heritage swine” as there are a number of domestic breeds that fall under that terminology, and to use the phenotypic characteristics instead. He also highlighted an issue arising from Canadian outfits that raise wild swine in captivity and legally import them into California as domestic swine noting that they can ultimately contribute to the wild pig problem. Kent discussed the need to track swine to help to ensure that feral swine are not being imported into the state, which is why we need to look at possible options for clearly marking domestic swine with these phenotypic characteristics. However, he noted the provision requiring the castration of male boars being imported may be a problem because the regulations now revolve around disease prevention but overall the proposal is on the right track. A concern was raised about requiring castration of imported swine with these phenotypic

characteristics since there are farmers producing pasture-raised domestic pigs who bring in Russian boars specifically to get those characteristics into their herds. There was no opposition to requiring tattoos or other permanent identification for imported pigs within the domesticated system but concerns were raised about requiring it for the offspring. Finally, there was a comment about making sure that the proposed definition changes will close the current loophole for fenced hunting operations.

Depredation: There was support for eliminating the depredation permit requirement but the commenter highlighted the need for flexibility on other issues, particularly the use of bait and traps. Concern was raised about the requirement to utilize the carcasses due to limitations on how the meat can be used, given that the animals require USDA inspection to be brought to a slaughterhouse and sold for human consumption. Currently there are no USDA inspection facilities in California. There was also support for mandatory removal or burial of wild pigs, in particular until lead ammunition requirement kicks in, but also to reduce potential human-wildlife conflicts arising from the carcasses becoming an attractant or bait for other wildlife. A concern was raised about the use of snares and support for banning or limiting the use of snares.

Recreational Take and Access: There was support for increasing hunting opportunities, keeping the current regulations in place, and for switching from individual tags to a validation. It was noted that the provision in the proposal still says $15 per tag and would need to be revised. Concern was raised about the use of dogs while hunting due to concerns about safety and there was a suggestion to either ban the use of dogs or limit the number of dogs from three per hunter to three per hunting party. It was also suggested that use of dogs by landowners should also require a hunting license.

Revenue: Questions were raised about how the Big Game Management Account (BGMA) funds were allocated and whether revenue from the sale of wild pig tags/validation could go specifically to population control or habitat restoration. Stafford Lehr responded that the BGMA focuses on the big charismatic megafauna, habitat restoration and improvement, and support for the big game program. T.O. Smith responded that from manager's perspective the BGMA allows for management at the landscape level as well as providing matching funds for federal money. Erin Chappell noted that there is a grant program associated with the BGMA, which distributes about $1 million a year for projects; therefore, there may be potential to fund some targeted projects through that process.

Options: Several stakeholders supported Option 2 and one stakeholder opposed Option 1.

Following the discussion, Erin Chappell proposed working with the stakeholders on the remaining issues raised today and revising the proposal to focus on Option 2.

Committee Direction: Commissioner Burns directed staff to work with stakeholders on the remaining issues and modify the proposal using Option 2.

7. Predator Policy Workgroup (PPWG)

Erin Chappell provided an overview of the February and March PPWG meetings and the status of the draft predator policy. In February, PPWG made additional changes draft policy based on the input from the January WRC meeting but did not reach consensus on the revised language. PPWG made further revisions to the draft policy in March but were still unable to

reach consensus. While there is agreement on most aspects of the draft policy there is still some debate about a couple of aspects, including the word “humane” and how that would be interpreted by future commissioners and whether or not to specify certain methods when addressing human-wildlife conflicts.

Commissioner Williams suggested that since it seems unlikely PPWG will reach consensus on the draft policy that it would be helpful to get feedback from PPWG on where there is consensus on the policy and to outline the differing perspectives where there is not consensus. Commissioner Burns supported the approach and asked about the timeline. Erin Chappell responded that PPWG has a meeting scheduled in July and could develop recommendations on the policy for presentation at the September WRC meeting. She also noted the progress being made on the regulations and suggested that PPWG could include recommendations on next steps for those as well. Commissioner Williams then suggested providing time at the September meeting to allow PPWG members to provide a balanced representation of the different views.

Public Discussion:

Two PPWG members expressed support for the proposed approach. There was also recognition of the work that the reviewers have contributed. A reviewer provided a handout with a compilation of scientific peer-reviewed papers on predators and predator management and expressed the desire of some reviewers to continue working on this issue. The reviewer also spoke on behalf of another reviewer emphasizing the importance of modernizing California’s predator policies. Another reviewer recommended that the human-wildlife interface be considered more explicitly. Commission Williams thanked all the reviewers for their work on this effort.

8. Future agenda items

(A) Review work plan agenda topics and timeline

Erin Chappell reviewed the current work plan and proposed agenda topics for the September WRC meeting, which include discussion of five regulatory packages, falconry, lead ban implementation, wild pig management, Predator Policy Workgroup, and the Delta Fisheries Forum. Given the large number of topics, Erin recommended removing lead ban implementation from the list. Stafford Lehr suggested that the Russian River sport fishing regulations discussion scheduled for January could be included in the stakeholder forum being planned (see agenda item #4) due to the similarities. Erin Chappell suggested that FGC and DFW staff review both petitions to make sure that combining the two would work.

(B) Potential new agenda topics for FGC consideration

No new agenda topics were proposed for consideration.

Adjournment

Commissioner Burns adjourned the meeting at approximately 4:00 p.m.

Wildlife Resources Committee (WRC) 2016-2017 Draft Work Plan: Schedule topics and timeline for items referred to WRC (Updated for Jun 2017 FGC meeting)

Topic	Type of Topic	2017			2018
		JAN (Redding)	MAY (Sacramento)	**SEP (Riverside)**	JAN (TBD)
Annual Regulations					
Upland Game Birds	Annual	X / R		**X**	X / R
Sport Fish	Annual	X	X / R		X
Mammals	Annual			**X / R**	
Waterfowl	Annual			**X / R**	
Central Valley Salmon	Annual			**X / R**	
Klamath River Sport Fish	Annual			**X / R**	
Regulations & Legislative Mandates					
Falconry	Referral for review	X	X	**X / R**	
Russian River sport fishing	Referral for review				X
Emerging Management Issues					
Lead Ban Implementation	DFW project	X			X
Wild Pig Management	Referral for review	X	X	**X / R**	
Special Projects					
Predator Policy Workgroup	WRC workgroup	X	X	**X / R**	
Delta Fisheries Forum (May 24, 2017)	Referral			**X / R**	

KEY **X** Discussion scheduled **R** Recommendation developed and moved to FGC

DRAFT

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

Amend Sections 300
Title 14, California Code of Regulations
Re: Upland Game Birds

I. Date of Initial Statement of Reasons: December 13, 2016

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: February 8, 2017
Location: Rohnert Park, CA

(b) Discussion Hearing: Date: April 26, 2017
Location: Van Nuys, CA

(c) Adoption Hearing: Date: June 21, 2017
Location: Smith River, 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:

The Fish and Game Commission (Commission) annually considers the recommendations of the Department of Fish and Wildlife (Department) in establishing upland game bird regulations. Section 300 provides definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits for resident and migratory upland game birds.

A limited number of permits are issued for sage grouse, and that number is based on annual population surveys. Concerns about the potential effects of hunting to sage grouse through additive mortality have been expressed in the scientific literature, including studies from California. The Department has responded to these concerns by recommending highly conservative permit numbers for the last 10 years. The permit system used in California is considered one of the best-controlled hunts in sage grouse range.

In 2010, the United States Fish and Wildlife Service (USFWS) determined that Greater sage grouse were “warranted, but precluded” for protection under the Endangered Species Act (ESA) both statewide and as a Distinct Population Segment (DPS) in Mono County. In 2015, the USFWS further determined that sage grouse did not need to be listed under ESA largely

because of conservation plans and federal land use amendments that reduced the threats to the species.

In 2012, the Commission took emergency action because of the Rush Fire, which encompassed more than 272,000 acres almost entirely within the East Lassen Hunt Zone, by reducing the number of sage grouse permits for both Lassen hunt zones to zero. Because of substantial breeding population declines in spring 2013 following the fire, the Department did not recommend issuing any hunting permits in 2013.

The Commission, acting on the recommendation of the Department, has adopted the same permit numbers for the past three sage grouse seasons:

a. East Lassen: 0 (2-bird) permits
b. Central Lassen: 0 (2-bird) permits
c. North Mono: 30 (1-bird) permits
d. South Mono: 0 (1-bird) permits

For the 2017-2018 season, the Department will present the Commission a recommendation for permits based on the spring 2017 lek counts. A lek is a communal area in which two or more male sage grouse perform courtship displays to mate with females. Male sage grouse reliably attend these leks throughout the breeding season. The Department performs multiple counts of all known leks in California, including leks both within hunt zones and in non-hunted areas. These lek counts are used to estimate population size and a population model expands the count of males to predict the size of the fall population.

METHODS FOR POPULATION ESTIMATION:

The Department will use the following parameters and assumptions to estimate population size in the spring and project it at the time of the hunting season (the second Saturday in September extending for 2 days):

a) Male population size counted in the spring is 1.1 x peak lek attendance (the most males counted) from at least three surveys of each lek statewide. In other words, the Department assumes that 90% of the males are visibly counted on each lek.

b) The sex ratio for the population is 1:1, assuming there are an equal number of females as males counted.

c) The recruited population (adult birds) experiences 15% mortality between spring and fall.

d) The high model assumes the population produces 1.2 chicks per female (this model is used to provide a range of population size, but is not used to derive permit numbers).

e) The low population model assumes the population produces 0 chicks per female (this model is used to derive permit numbers).

Both the low and high fall population projections are considered conservative by the Department, particularly with regard to the female population size and chick production. Sex ratios of 1:1 are used as a conservative approach, but sage grouse often have skewed sex ratios with more females than males. The low population projection, assuming no reproduction, is not a likely scenario except for the most extreme possible conditions, and the Department is using this model to avoid any potential errors in assumption of chick production.

The number of permits proposed will not exceed 5% of the projected fall population size, which is among the most conservative scientific recommendations for allowable harvest. In addition to population size, the Department will consider population trajectory in its recommendation, and will not recommend any permits for populations that are in decline and below the long-term average for that hunt zone. The Department has not recommended any permits in either of the Lassen hunt zones since 2012 or the South Mono Zone since 2013 because of concerns about downward population trajectories and to allow these populations time to recover from the effects of wildfire and drought. The Department's conservative approach to estimating spring populations and projecting fall populations is designed to underestimate populations and there are likely more grouse on the landscape.

The numbers of permits ultimately recommended for each hunt zone will be based on the following criteria:

a) Size and trend of the spring breeding population in each hunt zone based on lek counts conducted in March and April.

b) The allowable harvest level will not exceed 5% of the predicted fall population.

c) If the allowable harvest in any zone provides for a minimum number of permits to be recommended in any zone of 5 permits or less, no permits will be recommended for that zone.

PROPOSED REGULATIONS:

Amend subsection 300(a)(1)(D)4.: Adjust the annual number of General Season sage grouse hunting permits by zone for the 2017-18 season.

The regulation as set forth in this ISOR proposes a range from which the final numbers of sage grouse permits will be determined. A range, instead of a specific number, is necessary at this time because the final number of permits cannot be determined until the Department conducts spring lek

counts in March and April as previously described. Based on recent population size in each of the hunt zones, the proposed ranges are as follows:

a. East Lassen Zone: [0 - 25] (2-bird) permits
b. Central Lassen Zone: [0 - 15] (2-bird) permits
c. North Mono Zone: [0 - 45] (1-bird) permits
d. South Mono Zone: [0 - 20] (1-bird) permits

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

Authority cited: Sections 200, 203, 265 and 355, Fish and Game Code. Reference: Sections 200, 203, 203.1, 215, 220, 265, 355 and 356, 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:

Without a regulation change to subsection 300(a)(1)(D)4:

Sage grouse permit numbers would not change from 2016 and permits for 2017 would not be calculated based on current year data.

(c) Alternatives considered but rejected:

No Alternatives were identified

(d) 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, because the regulations propose only minor changes not affecting business.

(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 Commission does not anticipate any impacts on the creation or elimination of jobs or businesses in California or on the expansion of businesses in California; and, does not anticipate benefits to worker safety, because the regulations propose only minor changes not affecting jobs.

The Commission anticipates benefits to the health and welfare of California residents. The proposed regulations are intended to provide continued recreational opportunity to the public. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources.

The Commission anticipates benefits to the environment by the sustainable management of California's upland game resources. The fees that hunters pay for licenses and stamps are used for conservation.

(c) Cost Impacts on a Representative Private Person or 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) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

The following amendments to the regulations are proposed:

Amend subsection 300(a)(1)(D)4.: Adjust the annual number of General Season sage grouse hunting permits by zone for the 2017-18 season.

(a) Effects of the regulations on the creation or elimination of jobs within the state:

The proposed regulations will not affect the creation or elimination of jobs because there are no changes in fees, addition of fees, or addition of costs to businesses or individuals. Generally, positive impacts to jobs and/or businesses that provide services to hunters are anticipated with the adoption of the proposed hunting regulations for the 2017-18 season. The U.S. Fish and Wildlife National Survey of Fishing, Hunting, and Wildlife-Associated Recreation for California (revised Feb. 2014) estimates that small game hunters contributed about $143 million to businesses in California during the 2011 small game hunting season. The long-term intent of the proposed regulations is to sustainably manage upland game bird populations, which will additionally support the long-term viability of the primarily small businesses that serve hunting activities. The 2014 report is posted on the US Dept. of Commerce website at http://www.census.gov/prod/ 013pubs/fhw11 ca.pdf.

(b) Effects of the regulations on the creation of new businesses or the elimination of existing businesses within the state:

The effect of the regulations on the creation of new businesses or the elimination of existing businesses within the state will be neutral. Minor variations in the number of sage grouse hunting permits as proposed in the regulations are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from them are expected to remain more or less the same.

(c) Effects of the regulations on the expansion of businesses currently doing business within the state:

The effect of the regulations on the expansion of businesses currently doing business within the state will be neutral. The long-term intent of the proposed regulations is to sustainably manage upland game bird populations, and consequently, the long-term viability of small businesses that serve recreational upland game bird hunters.

(d) Benefits of the regulations to the health and welfare of California residents:

Hunting is an outdoor activity that can provide several benefits for those who partake in it and for the environment as well. The fees that hunters pay for licenses and stamps are used for conservation. In addition, the efforts of hunters can help to reduce wildlife depredation on private lands. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed on from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the regulations to worker safety.

The regulations will not affect worker safety because they do not address working conditions.

(f) Benefits of the regulations to the state's environment:

It is the policy of this state to encourage the conservation, maintenance, and utilization of upland game bird resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of upland game birds to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based upland game bird seasons, bag and possession limits provides for the maintenance of sufficient populations of game birds to ensure those objectives are met.

(g) Other Benefits of the Regulations:

None

Informative Digest/Policy Statement Overview

The regulations in Section 300, Title 14, California Code of Regulations (CCR), provide general hunting seasons for taking resident and migratory upland game birds. The Department is recommending the following regulation changes:

Amend subsection 300(a)(1)(D)4.: Adjust the annual number of General Season sage grouse hunting permits by zone for the 2017-18 season.

Additionally, non-substantive changes to the authority and reference sections, are the result of changes to the Fish and Game Code by SB 1473 which took effect on January 1, 2017.

Benefits of the Proposed Regulations

Adoption of sustainable upland game seasons, bag and possession limits, and authorized methods of take provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of sage grouse populations, The Commission does not anticipate non-monetary benefits to 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 Existing Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 300 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.

REGULATORY LANGUAGE

Section 300, Title 14, CCR, is amended to read as follows:

§ 300. Upland Game Birds.

(a) Resident Upland Game Birds
(1) General Seasons: Shotgun; Crossbow; and Pistol/Revolver for Sooty/Ruffed Grouse Only; Bag and Possession Limits and Open Areas
(see Authorized Methods of Take, Section 311)

. . .[No Changes subsections 300(a)(1)(A) through (a)(1)(D)3.]

4. Number of Permits:

a. East Lassen Zone:	~~0~~	[0 - 25]	(2-bird) permits
b. Central Lassen Zone:	~~0~~	[0 - 15]	(2-bird) permits
c. North Mono Zone:	~~30~~	[0 - 45]	(1-bird) permits
d. South Mono Zone:	~~0~~	[0 - 20]	(1-bird) permits

. . .[No Changes subsections 300(a)(1)(D)5. through (b)]

Note: Authority cited: Sections 200, 203, 265 and 355, Fish and Game Code. Reference: Sections 200, 203, 203.1, 215, 220, 265, 355 and 356, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-adoption Statement of Reasons)

Amend Sections 300,
Title 14, California Code of Regulations

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 JUN -9 AM 9:3

Re: Upland Game Birds

I. Date of Initial Statement of Reasons: December 13, 2016

II. Date of Pre-adoption Statement of Reasons: June 2, 2017

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: February 8, 2017
Location: Rohnert Park, CA

(b) Discussion Hearing: Date: April 26, 2017
Location: Van Nuys, CA

(c) Adoption Hearing: Date: June 21, 2017
Location: Smith River, CA

IV. Description of Modification of Originally Proposed Language of Initial Statement of Reasons:

Amend subsection 300(a)(1)(D)4. Upland Game Birds. The Department is recommending that no permits be issued for any of the sage grouse hunting zones in 2017.

V. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

The Department is providing the Commission a recommendation to replace the ranges currently established in the ISOR with 0 permits for all sage-grouse hunting zones in 2017 as follows:

East Lassen:	0 (2-bird) permits
Central Lassen:	0 (2-bird) permits
North Mono:	0 (1-bird) permits
South Mono:	0 (1-bird) permits

In spring 2017, the Department conducted lek counts in all four hunt zones statewide (Table 1). Table 1 contains the 2017 lek counts with comparison to the 2012 lek counts, which was at the onset of the drought and following the Rush Fire, both of which had a large impact to sage grouse habitats. Additionally, a projected low fall population range is provided based on modeling of lek counts, which represents the predicted size of the population during the hunting season.

Spring lek counts were down significantly following the drought conditions in 2016 and a severe winter. Populations in all four hunt zones are significantly decreased following the onset of drought in 2012. No permits have been issued in either Lassen zone since the Rush Fire in 2012 and both remain at least 50% below pre-fire levels. Additionally, no permits have been issued in the South Mono Hunt Zone since 2013, which has declined an estimated 62% since 2012 and is impacted by the effects of drought. The Department is recommending zero permits for each of these zones again in 2017 (Table 1).

Hunting permits have only been issued consistently from 2012 through 2016 in the North Mono Zone, which remained well above the long-term average in recent years. However, lek counts were significantly down in 2017 and the estimated population in the North Mono Zone is now 47% below the high in 2012. These counts may be confounded by poor access to the area with winter conditions that persisted into the lek count season. Because of the decline in males observed on leks, the Department is recommending no permits for the North Mono Hunt Zone in 2017. Additionally, sage grouse are being actively translocated from North Mono to supplement a small population of grouse outside the hunt zone in Parker Meadows, which places another stress on this population (Table 1).

Table 1. 2017 Sage grouse lek counts, percent change from 2012, projected fall population size, and proposed permit allocations.

Hunt Zone	2012 Males	2016 Males	2017 Males	Change From 2012	Projected Low Fall Population 2017	2016 Permits	2017 Proposed Permits
East Lassen	393	282	195	-50%	365	0	0
Central Lassen	199	135	92	-54%	172	0	0
North Mono	510	395	271	-47%	507	30	0
South Mono	418	158	159	-62%	297	0	0

VI. Summary of Primary Considerations Raised in Opposition and in Support:

Well over 4,000 public comments have been received to date. The vast majority of these are form e-mails urging the Commission to end sage grouse hunting in California (see example below). Three individual email comments have been received in support of continued sage grouse hunting in the state.

Example form email:

From: Joel Meza [redacted]
Sent: Thursday, June 01, 2017 3:48 PM
To: FGC
Subject: Stop Sage Grouse Hunting in California

Dear Commissioners,
I'm writing to urge you to end sage grouse hunting in California. Greater sage grouse populations in California have declined dramatically from historic levels due to loss and degradation of habitat. And this year's harsh winter conditions may reduce populations even further. While hunting is not the greatest threat faced by this bird, any deaths caused by hunting may further jeopardize the few small, isolated sage grouse populations still clinging to survival in California. That's why I'm urging the California Fish and Game Commission to end hunting of sage grouse and focus instead on providing additional protections for this iconic sagebrush species.
Thank you,
Joel Meza
94121

Updated Informative Digest/Policy Statement Overview

The regulations in Section 300, Title 14, California Code of Regulations (CCR), provide general hunting seasons for taking resident and migratory upland game birds. The Department is recommending the following regulation changes:

1. Subsection 300(a)(1)(D)4.: **Replace the range of permits established in the ISOR for sage grouse hunting with zero for the 2017 season in all four hunt zones.**

Benefits of the Proposed Regulations

Adoption of sustainable upland game seasons, bag and possession limits, and authorized methods of take provides for the maintenance of sufficient populations of upland game birds to ensure their continued existence.

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.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to section 300 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.

Update:

Based on the results of spring lek counts and population projections for the fall of 2017, the Department recommends that no sage grouse permits be issued for the 2017-18 season.

State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 MAY 26 AM 11:26

Memorandum

Date: May 18, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the June 21-22, 2017, Fish and Game Commission Meeting Request for Notice Authorization to Add Section 42, Title 14, California Code of Regulations (CCR), and Amend sections 43, 651 and 703, Title 14, CCR, RE: Commercial Use and Possession of Native Rattlesnakes for Biomedical and Therapeutic Purposes**

Attached, please find the Initial Statement of Reasons to add Section 42 and subsection (a)(2) of Section 703 to Title 14, CCR and to amend subsection (c) of Section 43 and subsection (a) of Section 651, Title 14, CCR.

The Fish and Game Commission (Commission) received a petition in 2015 (Petition No. 2015-004) to amend existing regulations or adopt new regulations that would allow for the commercial use of native rattlesnakes to develop antivenom, vaccines, and other therapeutic agents. The Commission approved the petition request at its February 11, 2016 meeting in Sacramento and forwarded it to the Department of Fish and Wildlife (Department) for evaluation.

Department staff met with the petitioners during 2016 to gather additional information. The petitioners had initially proposed using "nuisance" snakes collected by rattlesnake removal businesses for this purpose, as well as raising the possession limit on native rattlesnakes for aversion trainers. However, those proposals would have required additional public outreach and scoping of affected businesses that would have greatly delayed the development of the new regulations. Therefore, with the petitioners' consent, the Department narrowed the scope of the regulatory proposal to address only commercialized use of native rattlesnakes for venom extraction in conjunction with research and development of biomedical and therapeutic agents. In addition, the Department added propagation of native rattlesnakes at the request of the petitioners.

The Commission has the statutory authority to adopt regulations for the commercial use of native reptiles pursuant to Fish and Game Code Section 5061. The current regulatory proposal would authorize limited commercial use of native rattlesnakes for the purposes of developing biomedical and therapeutic products that will benefit humans and domestic animals.

It establishes a new Commercial Native Rattlesnake Permit Application (Form DFW 1044) and a new Commercial Native Rattlesnake Record (Form DFW 1044A) issued by the Department.

If you have any questions regarding this item, please contact T.O. Smith, Chief, Wildlife Branch, by telephone at (916) 445-3555 or by e-mail at Timothy.Smith@wildlife.ca.gov. The public notice should identify Laura Patterson, Senior Environmental Scientist in the Nongame Wildlife Program, as the Department's point of contact for this rulemaking. Ms. Patterson can be reached at (916) 341-6981 or by e-mail at Laura.Patterson@wildlife.ca.gov.

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

Add Section 42 and subsection (a)(2) of Section 703, and
Amend subsection (c) of Section 43 and subsection (a) of Section 651,
Title 14, California Code of Regulations
Re: Commercial Use and Possession of Native Rattlesnakes
for Biomedical and Therapeutic Purposes

I. Date of Initial Statement of Reasons: April 12, 2017

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: June 21, 2017
Location: Smith River

(b) Discussion and Adoption Hearing: Date: October 11, 2017
Location: Atascadero

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Fish and Game Commission (Commission) received a petition in 2015 to amend existing regulations or adopt new regulations that would allow for the commercial use of native rattlesnakes to develop antivenom, vaccines, and other therapeutic agents. The Commission approved the petition request at its February 11, 2016 meeting in Sacramento and forwarded it to the Department of Fish and Wildlife (Department) for evaluation.

Department staff met with the petitioners during 2016 to gather additional information. The petitioners had initially proposed using “nuisance” snakes collected by rattlesnake removal businesses for this purpose, as well as raising the possession limit on native rattlesnakes for aversion trainers. However, those proposals would have required additional public outreach and scoping of affected businesses that would have greatly delayed the development of the new regulations. Therefore, with the petitioners’ consent, the Department narrowed the scope of the regulatory proposal to address only commercialized use of native rattlesnakes for venom extraction in conjunction with research and development of biomedical and therapeutic agents. In addition, the Department added propagation of native rattlesnakes at the request of the petitioners.

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The Commission has the statutory authority to adopt regulations for the commercial use of native reptiles pursuant to Fish and Game Code Section 5061. Currently, there are only two authorized commercial activities in California: captive propagation and sale of three species of snakes, which is allowed under Section 43, and wild collection and sale of native reptiles by Biological Supply Houses, which is allowed under Section 651.

According to the California Poison Control System, over 300 rattlesnake bites are reported in the state each year. According to the National Institutes of Health, approximately 7,000-8,000 people receive venomous bites in the United States and about 5 people die. While exact numbers are unavailable, it has been estimated that well over 100,000 domesticated animals are bitten annually in the United States by venomous snakes, sometimes resulting in death. Rattlesnake bites are known to cause serious tissue, muscle, liver, and neurological damage. The composition of rattlesnake venom differs by species, and in some cases by location within the species. For example, Southern Pacific Rattlesnake (*Crotalus oreganus helleri*) venom has unique properties that differ across its range. Antivenom and vaccines that are derived from different species of rattlesnakes than the species that inflicted the bite are less effective, and sometimes not effective at all, in treatment of the bite. The currently available rattlesnake vaccine for domestic animals is derived from Western Diamondback Rattlesnake (*Crotalus atrox*) venom. A study in the American Journal of Veterinary Medicine (Cates et al. 2015) found this vaccine improved survival rate and survival time after envenomation from Western Diamondback Rattlesnakes. However, while it may offer some limited protection against Northern Pacific Rattlesnake (*Crotalus oreganus oreganus*) venom, it did not provide significant protection against Southern Pacific Rattlesnake venom.

Amendments to existing commercially authorized activities pursuant to Sections 43 and 651 are impractical. Section 43 pertains to the production of captive born reptiles for the purpose of selling them in the pet trade and has no application to the commercialization of rattlesnake venom or products derived from venom. Section 651 is restricted to the sale of native reptiles and amphibians collected from the wild to scientific and educational institutions by owners of biological supply houses that have been issued a permit from the Department. Therefore, to advance public and domestic animal health and safety, a new regulation is being proposed (Section 42) to address the need for regionally specific antivenom, vaccines, and other venom-derived therapeutic agents, that are effective against the bites from native rattlesnakes and provide other biomedical benefits. This new regulation would authorize commercial development of these products by California businesses under a permit issued by the Department.

Existing Regulations

The text of Section 42 was repealed in January 2002, but the title and note are still listed in Title 14, California Code of Regulations (CCR). Section 43 contains

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regulations for the captive propagation of native reptiles and sale of three species of native snakes for the pet trade. Section 651 regulations specify the wild collection and sale of native reptiles by Biological Supply Houses.

Proposed Regulations
The proposed new Section 42 regulation will allow California businesses to develop and sell regionally specific antivenom, vaccines, and other therapeutic agents derived from native rattlesnake venom. These products would benefit livestock, pet, and eventually, human health. The new permit will allow:

1. Businesses to maintain live native rattlesnake species for the purposes of venom extraction and the development and sale of therapeutic products derived from native rattlesnake venom, or
2. Businesses to develop and sell therapeutic products derived from commercially obtained native rattlesnake venom.

In addition, it is necessary to make minor amendments to sections 43, 651, and 703 to provide consistency and clarity with the proposed Section 42.

Section 42

Subsection (a) of Section 42 details the activities allowed under a commercial native rattlesnake permit issued by the Department. This subsection is necessary to provide the context for the purpose of the regulation and to specify the activities that would be authorized under a permit issued pursuant to the regulation.

Subsection (b) of Section 42 specifies that this regulation does not supersede any other federal, state, or local laws regulating or prohibiting possession of native rattlesnakes or the activities authorized under a commercial native rattlesnake permit. This subsection is necessary to ensure consistency with other laws and to clarify that this regulation does not supplant existing or future restrictions on the possession and use of native rattlesnakes by other jurisdictions.

Subsection (c) of Section 42 lists the species of native rattlesnakes that may be used under this regulation. This subsection is necessary to make it explicit that all currently recognized species of native rattlesnakes, their subspecies and taxonomic successors, are allowed to be used for the purposes of this regulation with the exception of the Red Diamond Rattlesnake (*Crotalus ruber*), which is a California Species of Special Concern.

Subsection (d) of Section 42 specifies requirements for the permit application, fees associated with the application, duration of permit, and qualification requirements. A separate permit is proposed for each facility housing native

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rattlesnake species or creating products from venom extracted from native rattlesnake species. The qualification requirements differ depending on whether the applicant plans to house live native rattlesnakes in their facility as follows:

1. If the applicant proposes to house live native rattlesnake species for the purposes of developing therapeutic products from venom, minimum experience and animal husbandry qualifications are proposed. A resume demonstrating a minimum of 1,000 hours experience with captive husbandry of snakes and 200 hours working directly with captive rattlesnakes or other venomous snakes within five years of the date of application is required. The Department believes these are the minimum amounts of time necessary for individuals to obtain the skills needed to competently, and safely handle native rattlesnakes. In addition, an original, signed letter of reference is required as documentation that the experience requirements have been met. A statement of purpose for maintaining native rattlesnakes and a Written Emergency Action Plan are also required. Proof of minimum age (18 years) is also required.
2. If the applicant proposes only to develop therapeutic products from venom, the animal husbandry and Emergency Action Plan requirements no longer apply. A resume and an original, signed letter of reference documenting the applicant's experience are required. A statement of purpose for the planned use of the venom and proof of minimum age (18 years) are also required.

This subsection is necessary to inform potential applicants of the application process, minimum qualifications, and fees involved in obtaining and maintaining a permit issued pursuant to this section. The proposed regulation establishes a new Commercial Native Rattlesnake Application (Form DFW 1044 (New 4/2017)), which is incorporated by reference herein.

Subsection (e) of Section 42 describes the general conditions associated with possessing a permit pursuant to this Section, including agreeing to random inspections, ability to transfer or exchange rattlesnakes among permittees, prohibition of release into the wild, and conditions under which applications will be denied or permits will be revoked. This subsection is necessary to inform potential applicants of the terms and conditions associated with possessing a permit pursuant to this section.

Subsection (f) of Section 42 describes the humane care and treatment that permittees must provide to native rattlesnakes possessed under this regulation. This subsection specifies requirements for enclosure size, substrate, and cleanliness; appropriate food and water; pest control; and observation and handling. This subsection will align the new regulations with the existing requirements in subsection 43(g). This subsection is necessary to inform applicants of the minimum care and treatment standards required to obtain a permit pursuant to this regulation and for consistency with the requirements of

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subsection 43(g).

Subsection (g) of Section 42 describes the requirement for each facility to maintain an Emergency Action Plan and the minimum contents of that plan in the event a bite, escape, or emergency evacuation. This subsection is necessary because permitted facilities may be housing large numbers of venomous snakes which may result in a public health and safety issue. The Emergency Action Plan will prepare the permittee and its employees in responses to accidental escapes and bites and ensure appropriate equipment is stored on site. It will also ensure appropriate agencies are notified in a timely manner of an escape or any serious injury or death of a person bitten by a native rattlesnake possessed under a commercial native rattlesnake permit.

Subsection (h) of Section 42 describes the records a permittee must maintain while operating under a permit pursuant to this section and the duration the records must be kept and made available to the Department. This subsection is necessary to ensure that the permittee is complying with the terms of the permit and regulation. The proposed regulation establishes a new Commercial Native Rattlesnake Record (Form DFW 1044A (New 4/2017)), which is incorporated by reference herein.

Subsection (i) of Section 42 describes the annual reporting requirements under the regulation. This subsection is necessary to inform applicants that the records maintained under subsection (h) must be submitted to the Department on an annual basis.

Subsection (j) of Section 42 describes the terms of shipping live native rattlesnakes under the authority of this regulation and clarifies that this regulation does not supersede any federal, state, local, or shipping entity's rules regarding shipment of live rattlesnakes. This subsection is necessary to ensure proper notification to postal workers, documentation to law enforcement that the native rattlesnakes are being shipped legally under the authority of this regulation, and to ensure this regulation does not conflict with any other jurisdiction's rules or regulations regarding shipping native rattlesnakes.

Subsection (c) of Section 43

Subsection (c) of Section 43 restricts the sale, possession, transportation, importation, exportation, and propagation of native reptiles for commercial purposes to subsection 40(f) and the regulations contained within Section 43. To ensure consistency with the new regulations, this subsection needs to be amended to allow an exception for entities permitted through Section 42.

Subsection (a) of Section 651

Subsection (a) of Section 651 limits the sale of native reptiles and amphibians to

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scientific or educational institutions to biological supply houses that operate under a permit issued by the Department. Confusion regarding whether these institutions can also develop commercial products from the native reptiles and amphibians requires the addition of clarifying language proposed in this amendment. The proposed language explicitly states that persons who hold a valid commercial native rattlesnake permit issued by the Department and commercial developers of biomedical or therapeutic agents shall be considered scientific and educational institutions for the purposes of this Section.

Subsection (a)(2) of Section 703

Subsection (a)(2) of Section 703 provides the forms and fees associated with the Commercial Native Rattlesnake Permit.

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

Authority: Section 5061, Fish and Game Code. Section 597, Penal Code. Sections 11503 and 11506, Government Code.

Reference: Sections 5060 and 5061, Fish and Game Code. Section 597, Penal Code. Sections 11503 and 11506, Government Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Cates, C.C., E.V. Valore, G.W. Lawson, and J.G. McCabe. 2015. Comparison of the protective effect of a commercially available western diamondback rattlesnake toxoid vaccine for dogs against envenomation of mice with western diamondback rattlesnake (*Crotalus atrox*), northern Pacific rattlesnake (*Crotalus oreganus oreganus*), and southern Pacific rattlesnake (*Crotalus oreganus helleri*) venom. American Journal of Veterinary Research 76(3):272-279.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

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(a) Alternatives to Regulation Change:

The Department evaluated amending Section 43 “Captive Propagation and Commercialization of Native Reptiles” to include native rattlesnakes in subsection (c). This alternative was rejected due to the desire to maintain a narrow scope on the allowable commercial use of native rattlesnakes in the new regulation (i.e., solely for the development and sale of therapeutic products). Because the original purpose of Section 43 was to authorize propagation of select species for the pet trade, it is necessary to keep commercial use of native rattlesnakes in a separate section to avoid confusion and the unintended creation of a commercial market for native rattlesnakes.

(b) No Change Alternative:

Under the no change alternative, no commercial production of antivenom, vaccines, or other biomedical and therapeutic agents derived from native rattlesnakes could legally occur in California.

(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 is not expected to have a significant effect 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. It

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establishes the ability for California companies to compete with out-of-state companies in the development and sale of pharmaceutical products derived from native rattlesnakes.

(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 Commission does not anticipate significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California due to the limited number of anticipated permit applications.

The Commission anticipates benefits to the health and welfare of California residents through the development of improved therapeutic agents to treat rattlesnake bites in pets and domestic livestock.

The Commission does not anticipate any non-monetary benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission estimates that a representative private person or business would necessarily incur $815 in permitting and inspection costs in the first year and $113 in annual costs in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Commission anticipates revenue to recover the Department's administrative costs from initial inspections and permit fees for the first year from each business and annual renewal fees thereafter. The proposed action will not affect any other State Agency.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None

(f) Programs Mandated on Local Agencies or School Districts:

None.

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(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, Government Code:

None.

(h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Due to the limited number of expected applicants, the regulation has the potential to create a small number of jobs in the State. The proposed regulation should not eliminate any jobs.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The regulation is expected to provide new business opportunities within the State.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

None.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Allowing for limited collection and possession of native rattlesnakes as described in Section 42 is expected to result in more effective and cheaper antivenom and vaccines as well as other therapeutic agents**.**

(e) Benefits of the Regulation to Worker Safety:

None.

(f) Benefits of the Regulation to the State's Environment:

None.

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(g) Other Benefits of the Regulation:

None.

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Informative Digest/Policy Statement Overview

The Fish and Game Commission (Commission) received a petition in 2015 to amend existing regulations or adopt new regulations that would allow for the commercial use of native rattlesnakes to develop antivenom, vaccines, and other therapeutic agents. The Commission approved the petition request at its February 11, 2016 meeting in Sacramento and forwarded it to the Department of Fish and Wildlife (Department) for evaluation. Department staff met with the petitioners during 2016 to gather additional information. The petitioners had initially proposed using "nuisance" snakes collected by rattlesnake removal businesses for this purpose, as well as raising the possession limit on native rattlesnakes for aversion trainers. However, those proposals would have required additional public outreach and scoping of affected businesses that would have greatly delayed the development of the new regulations. Therefore, with the petitioners' consent, the Department narrowed the scope of the regulatory proposal to address only commercialized use of native rattlesnakes for venom extraction in conjunction with research and development of biomedical and therapeutic agents. In addition, the Department added propagation of native rattlesnakes at the request of the petitioners.

The Commission has the statutory authority to adopt regulations for the commercial use of native reptiles pursuant to Fish and Game Code Section 5061. Currently, there are only two authorized commercial activities in California: captive propagation and sale of three species of snakes, which is allowed under Section 43, and wild collection and sale of native reptiles by Biological Supply Houses, which is allowed under Section 651.

Venom from rattlesnakes differs by species, and in some cases by location within the species. For example, Southern Pacific Rattlesnake (*Crotalus oreganus helleri*) venom has unique properties that differ across its range. Antivenom and vaccines that are derived from different species of rattlesnakes than the species that inflicted the bite are less effective, and sometimes not effective at all, in treatment of the bite. Currently, the only way antivenom, vaccines, and therapeutic agents can be derived from native rattlesnakes in California is through non-commercial research and development through a valid Scientific Collecting Permit pursuant to Section 650. However, Biological Supply Houses can collect native rattlesnakes and sell them to out-of-state scientific and educational facilities that develop and sell these products.

Existing Regulations
The text of Section 42 was repealed in January 2002, but the title and note are still listed in Title 14, Code of Regulations (CCR). Section 43 contains regulations for the captive propagation of native reptiles and sale of three species of native snakes. Section 651 regulations specify the wild collection and sale of native reptiles by Biological Supply Houses.

Proposed Regulations
The proposed Section 42 regulation will allow California businesses to develop and sell regionally specific antivenom, vaccines, and therapeutic agents derived from native

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rattlesnake venom that would benefit human, pet, and livestock health. The new permit is structured to allow for:

1. Businesses which seek to maintain live native rattlesnake species for venom extraction and develop and sell therapeutic products from the native rattlesnake venom, or
2. Businesses which only intend to develop and sell therapeutic products from the native rattlesnake venom.

In addition, it is necessary to make minor amendments to Sections 43, 651, and 703 to provide consistency and clarity with the proposed Section 42.

Subsection (a) of Section 42 details the activities that the activities that allowed with a commercial native rattlesnake permit issued by the Department.

Subsection (b) of Section 42 specifies that this regulation does not supersede any other federal, state, or local laws regulating or prohibiting possession of native rattlesnakes or the activities authorized under a commercial native rattlesnake permit.

Subsection (c) of Section 42 lists the species of native rattlesnakes that may be used under this regulation.

Subsection (d) of Section 42 specifies regulations for the permit application, fees, duration of permit, and qualification requirements, such as minimum qualifications, letter of reference, statement of purpose, an emergency action plan, an initial inspection and minimum age. A separate permit is proposed for each facility housing native rattlesnake species or creating products from venom extracted from native rattlesnake species. The proposed regulation establishes a new Commercial Native Rattlesnake Application (Form DFW 1044 (New 4/2017)), which is incorporated by reference herein.

Subsection (e) of Section 42 describes the general conditions associated with possessing a permit pursuant to this section, including agreeing to random inspections, ability to transfer or exchange rattlesnakes among permittees, prohibition of release into the wild, and conditions under which applications will be denied or permits will be revoked.

Subsection (f) of Section 42 describes the humane care and treatment that permittees must provide to native rattlesnakes possessed under this regulation. It includes requirements on enclosure size, substrate, and cleanliness; appropriate food and water; pest control; and observation and handling.

Subsection (g) of Section 42 describes the requirement for each facility to maintain an Emergency Action Plan and the minimum contents of that plan in the event of a bite, escape, or emergency evacuation.

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Subsection (h) of Section 42 describes the records a permittee must maintain while operating under a permit pursuant to this section and the duration the records must be kept and made available to the department. The proposed regulation establishes a new Commercial Native Rattlesnake Record (Form DFW 1044A (New 4/2017)), which is incorporated by reference herein.

Subsection (i) of Section 42 describes the annual reporting requirements under the regulation.

Subsection (j) of Section 42 describes the terms of shipping live native rattlesnakes under the authority of this regulation and clarifies that this regulation does not supersede any federal, state, local, or shipping entity's rules regarding shipment of live rattlesnakes.

Subsection (c) of Section 43 restricts the sale, possession, transportation, importation, exportation, and propagation of native reptiles for commercial purposes except as provided in subsection 40(f) and the species identified within Section 43. To ensure consistency with the new regulation, this amendment adds an exception for entities permitted through Section 42.

Subsection (a) of Section 651 limits the sale of native reptiles and amphibians to scientific or educational institutions to biological supply houses that operate under a permit issued by the Department. This proposed amendment states that persons who hold a valid commercial native rattlesnake permit issued by the department and commercial developers of biomedical or therapeutic agents shall be considered scientific and educational institutions for the purposes of this section.

Subsection (a)(2) of Section 703 specifies the forms and fees associated with the Commercial Native Rattlesnake Permit.

Benefits of the regulations

Allowing for limited collection and possession of native rattlesnakes as described in Section 42 is expected to result in more effective and cheaper antivenom and vaccines as well as other therapeutic agents.

Consistency with State and Federal Regulations

Article IV, section 20 of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate commercial take of native reptiles (Fish & Game Code, §5061). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to native rattlesnakes. Further, the

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Commission has determined that the proposed regulations are neither incompatible nor inconsistent with existing federal regulations.

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Regulatory Language

Add Section 42, to Title 14, CCR:

Section 42. ~~Protected Reptiles~~Commercial Use and Possession of Native Rattlesnakes for Biomedical and Therapeutic Purposes.

(a) Except as otherwise provided in these regulations, it shall be unlawful for persons without a valid commercial native rattlesnake permit issued by the department to:

(1) possess, purchase, propagate, exchange, or transport native rattlesnakes for commercialized venom extraction; or

(2) sell, import, or export native rattlesnake venom or products derived from native rattlesnake venom for commercial purposes.

(b) Consistency with Federal, State, and Local Laws.

A permit issued pursuant to this section does not supersede any federal, state, or local law regulating or prohibiting native rattlesnakes or the activities authorized in a commercial native rattlesnake permit.

(c) Authorized Native Rattlesnake Species.

A commercial native rattlesnake permit may be issued pursuant to this section for the following native rattlesnake species, including their subspecies and taxonomic successors:

(1) Western diamond-backed rattlesnake (*Crotalus atrox*),

(2) Mohave rattlesnake (*Crotalus scutulatus*),

(3) Western rattlesnake (*Crotalus oreganus*),

(4) Speckled rattlesnake (*Crotalus mitchellii*),

(5) Sidewinder (*Crotalus cerastes*), and

(6) Panamint rattlesnake (*Crotalus stephensi*).

(d) Permit Application and Fees.

(1) Application for a permit shall be made on the application form specified in Section 703. Application forms are available on the department's website at www.wildlife.ca.gov. The application form shall be completed in its entirety and submitted with the permit and nonrefundable inspection fees as specified in Section 703.

(2) Duration of Permit. Permits issued under this section shall be valid from January 1 through December 31 each year, or if issued after the beginning of that term, for the remainder thereof. Applications for renewal must be received by the department no later than November 1.

(3) Permitted facilities. A person shall obtain a separate commercial native rattlesnake permit for each facility housing native rattlesnake species or creating products from venom extracted from native rattlesnake species described in subsection (c) for purposes described in subsection (a).

(4) Qualifications. The following information and documents shall accompany an application for each new permit or renewal unless specified as exempt or as specifically required:

(A) For an application that proposes housing live native rattlesnake species and will

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develop products derived from venom extracted from native rattlesnake species:
1. A resume that provides the dates and description of an applicant's or their employee's experience working with venomous snakes and husbandry of captive snakes, demonstrating the following qualifications:
a. Possess a minimum of 1000 hours experience with captive husbandry of snakes within five (5) years of the date of application; and
b. Possess a minimum of 200 hours of experience working with captive rattlesnakes or other venomous snakes within five (5) years of the date of application.
2. A letter of reference from an expert in venomous snake captive husbandry and research, dated within five (5) years of the date of application, on letterhead stationery with an original signature signed in ink by the owner or operator of a facility where the applicant or their employee gained his/her experience. The letter shall provide the printed name of the owner or operator and detailed information regarding the quality and extent of the applicant's or their employee's knowledge and experience related to the permit requested.
3. A statement of purpose describing in detail the planned uses for the species.
4. A written Emergency Action Plan as specified in subsection (g).
5. An initial inspection is required for new permits prior to the permit being issued.
6. Proof that the applicant is at least 18 years of age at the time of application.
(B) For an application that does not propose housing live native rattlesnakes and will only develop products derived from venom extracted from native rattlesnake species:
1. A resume that provides the dates and description of an applicant's or their employee's experience researching and creating products from venom extracted from native rattlesnake species.
2. A letter of reference from an expert in venomous snake research, dated within five (5) years of the date of application, on letterhead stationery with an original signature signed in ink by the owner or operator of a facility where the applicant or their employee gained his/her experience. The letter shall provide the printed name of the owner or operator and detailed information regarding the quality and extent of the applicant's or their employee's knowledge and experience related to the permit requested
3. A statement of purpose describing in detail the planned uses for the venom.
4. Proof that the applicant is at least 18 years of age at the time of application.

(e) General Conditions.

(1) Inspections. The department may enter the facilities of any permittee where native rattlesnakes are housed, or reasonably may be housed, at any reasonable hour to inspect the animals and their enclosures and to inspect, audit or copy records required by this section.
(A) The department may deny the issuance of, or immediately suspend, the permit of a permittee who refuses to allow inspection of a facility, permit, book, or other record required to be kept by the permittee. A refusal to allow inspection may be inferred if, after reasonable attempts by the department, the permittee does not make the facility,

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permit, book, or other record available for inspection. The department may reinstate a permit suspended pursuant to this subsection if the permittee allows the department to inspect the facility, permit, book, or other record.
(2) Native rattlesnakes possessed pursuant to this section may be transferred to or exchanged with a person with a valid commercial native rattlesnake permit. The receiving permittee may be charged only to recover actual transportation and shipping costs.
(3) Native rattlesnakes which have been in captivity, including wild-caught and captive-bred individuals or offspring, shall not be released into the wild.
(4) Denial. The department shall deny a commercial native rattlesnake permit initial application or renewal application for any applicant who fails to comply with any provision in this regulation, and may deny an initial application or renewal application for any applicant who violates the Fish and Game Code, Title 14 regulations, any term or condition of a commercial native rattlesnake permit, or any other state or federal statute or regulation pertaining to wildlife or animal cruelty. Within 30 calendar days of a denial, an applicant may submit a written request for a hearing before the commission to show cause why his/her permit should be issued.
(5) Revocation. Any permit issued pursuant to these regulations may be suspended or revoked at any time by the department as described below.
(A) For a permittee who has been convicted in a court of competent jurisdiction of violating the Fish and Game Code, Title 14 regulations, or any other state or federal statute or regulation pertaining to wildlife or animal cruelty, the suspension or revocation shall take effect when the permittee receives a notice of suspension or revocation. The permittee may submit a written request to the commission for a hearing to show cause why his/her permit should be reinstated.
(B) For a permittee who has violated the Fish and Game Code, Title 14 regulations, any term or condition of a commercial native rattlesnake permit, or any other state or federal statute or regulation pertaining to wildlife or animal cruelty, but has not been convicted of any such violation, the suspension or revocation shall not take effect unless 15 calendar days have passed from the date the permittee receives an accusation sent pursuant to Government Code Section 11503, and the permittee has not submitted to the commission a notice of defense described in Government Code Section 11506. If a permittee submits a timely notice of defense, the suspension or revocation shall take effect if, after a commission hearing, the commission finds by a preponderance of evidence that the department's suspension or revocation is warranted.
(f) Humane Care and Treatment. Permitted facilities that house live native rattlesnakes shall comply with the following provisions:
(1) Enclosures. The perimeter of the enclosure for snakes 33 inches in length or less shall be 1.5 times the length of the snake. The perimeter of the enclosure for snakes more than 33 inches in length shall be 1.25 times the length of the snake. The perimeter shall be measured on the inside of the top edge of the enclosure. Snakes may be kept in smaller cages or containers for 31 calendar days from the date of birth or hatching and while being transported. All enclosures shall be adequately ventilated. The substrate shall facilitate the ability to maintain a clean and healthy environment for each animal.

(2) Food. Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the animal in good health.
(3) Water. Potable water shall be accessible to the animals at all times or provided as often as necessary for the health and comfort of the animal. All water receptacles shall be clean and sanitary.
(4) Cleaning of enclosures. Excrement shall be removed from enclosures as often as necessary to maintain animals in a healthy condition.
(5) Disinfection of enclosures. All enclosures shall be disinfected after an animal with an infectious or transmissible disease is removed from an enclosure.
(6) Pest control. Programs of disease prevention and parasite control, euthanasia and adequate veterinary care shall be established and maintained by the permittee.
(7) Observation. Animals shall be observed at least twice a week by the permittee or once a week if the animals are in hibernation. Sick, diseased, stressed, or injured animals shall be provided with care consistent with standards and procedures used by veterinarians or humanely destroyed.
(8) Handling. Animals shall be handled carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal.
(g) Emergency Action Plan.
(1) Every commercial native rattlesnake permittee that houses live native rattlesnakes shall have a written Emergency Action Plan readily available, posted in a conspicuous place, and shall submit a copy to the department with the initial permit and renewal application. The Emergency Action Plan shall be titled, with a revision date, updated annually and include, but is not limited to the following:
(A) List of the re-capture equipment available;
(B) Description of humane lethal dispatch methods and a list of qualified personnel who are trained to carry out the methods;
(C) List of medical supplies/first aid kits and where they are located;
(D) Description of mobile transport cages and equipment on hand;
(E) List of emergency telephone numbers that includes the local department regional office, 911, and animal control agencies; and
(F) Written plan of action for emergencies to include but not be limited to rattlesnake bites, escape of rattlesnakes, and emergency facility evacuations.
(2) Permittees are responsible for the capture, and for the costs incurred by the department related to capture or elimination of the threat, of an escaped rattlesnake or the use of humane lethal force required to capture a rattlesnake that escapes.
(3) Any incident involving a rattlesnake held under a commercial native rattlesnake permit that results in serious injury or death to a person shall be reported immediately to the nearest department regional office. If the department determines that serious injury or death has occurred as a result of contact with a rattlesnake, the permit may be reviewed and subject to change by the department. Additional conditions to the permit may be added at any time to provide for public health and safety.
(4) Permittees shall immediately report by telephone the escape of a rattlesnake possessed pursuant to this section to the nearest department regional office and the nearest law enforcement agency of the city or county in which the rattlesnake escaped.
(h) Records. Every permittee that houses live native rattlesnakes shall keep accurate

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accounting records for three (3) years from most recent issuance or renewal of the permit in which all of the following shall be recorded:
(1) The complete scientific name and number of all native rattlesnakes purchased, propagated, transferred, exchanged, died and possessed.
(2) The person from whom the native rattlesnakes were purchased, exchanged or transferred.
(3) The date that the native rattlesnakes were purchased, exchanged, transferred, propagated or died.
(4) All required records shall be legible and in the English language and maintained within the State of California.
(i) Annual Reporting Requirement. No permit shall be renewed unless the permittee submits the record specified in Section 703, on or before December 31 of each year. The permittee must submit the record even if there is zero activity to report, or the permittee is not going to renew the permit.
(j) Shipments. All deliveries or shipments of live native rattlesnakes taken under authority of this section shall have a legible copy of the valid permit attached to the outside of the shipping container, which shall be conspicuously labeled: "Live Rattlesnakes - Handle With Care". This subsection does not supersede any federal, state, or local law or regulation or shipper's requirements concerning shipment of live rattlesnakes.

Note: Authority cited: Sections ~~200, 202, 205, 210, 219 and 2205~~5061, Fish and Game Code. Penal Code 597. Government Code Sections 11503 and 11506. Reference: Sections ~~200 202, 205, 206, 210, 215, 219 and 2205~~5060 and 5061, Fish and Game Code. Penal Code 597. Government Code Sections 11503 and 11506.

Subsection (c) of Section 43, Title 14, CCR, is amended to read as follows:

§ 43. Captive Propagation and Commercialization of Native Reptiles.

… No proposed changes to subsections (a) and (b)

(c) Propagation and Possession for Commercial Purposes. Native reptiles may not be sold, possessed, transported, imported, exported or propagated for commercial purposes, except as provided in ~~Section 40(f), and except~~sections 40(f) and 42 and as follows:

… No proposed changes to subsections (c)(1), (c)(2), and (d) through (k)

Note: Authority cited: Sections 200, ~~202,~~ 205, ~~220,~~265, 5061 and 6896, Fish and Game Code. Reference: Sections 200, ~~202,~~ 205, ~~220,~~265, 5061 and 6896, Fish and Game Code.

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Subsection (a) of Section 651, Title 14, CCR, is amended to read as follows:

§ 651. Commercial Take of Native Reptiles and Amphibians for Scientific or Educational Institutions.
(a) Native reptiles and amphibians may be sold to scientific or educational institutions only by owners of biological supply houses who have been issued a permit by the department for such purposes. Persons who hold a valid commercial native rattlesnake permit pursuant to Section 42 or commercial developers of biomedical and therapeutic agents shall be considered scientific and educational institutions for the purposes of this section.

… No proposed changes to subsections (a)(1), (a)(2), (a)(3), and (b) through (i)

Note: Authority cited: Sections 1002, 5061, 6851 and 6896, Fish and Game Code. Reference: Sections 1002, 5050, 5060, 5061, 6850, 6852, ~~6854~~ 6854, 6855, 6895 and 6896, Fish and Game Code.

Subsection (a)(2) of Section 703, Title 14, CCR is added as follows:

§ 703. Miscellaneous Applications, Tags, Seals, Licenses, Permits, and Fees.
(a) Applications, Forms and Fees for January 1 through December 31 (Calendar Year).

…No proposed changes to subsection (a)(1))

(2) Commercial Permit for Native Rattlesnakes
(A) 2018 Commercial Native Rattlesnake Permit Application, DFW 1044 (NEW 4/2017), incorporated by reference herein.

1.	Commercial Native Rattlesnake Permit Fee (New)	$ 208.50
2.	Commercial Native Rattlesnake Permit Fee (Renewal)	$ 113.00
3.	Fee for one initial inspection per facility	$ 606.50

(B) Commercial Native Rattlesnake Permit Record, DFW 1044A (NEW 4/2017), incorporated by reference herein.

…No proposed changes to subsections (a)(3) and (b)

Note: Authority cited: Sections 713, 1002, 1050, 1053, 1745, 2118, 2120, 2122, 2150, 2150.2 ~~and 2157~~, 2157 and 5060, Fish and Game Code. Reference: Sections 395, 396, 398, 713, 1050, 1053, 1745, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2150.4, 2151, 2157, 2190, 2193, 2271, 3005.5, 3007, 3503, 3503.5, 3511, 3513, 3950, 5060, 5061, 10500, 12000 and 12002, Fish and Game Code; and Title 50, Code of Federal Regulations, Parts 21.29 and 21.30.

DRAFT

Comparison of the protective effect of a commercially available western diamondback rattlesnake toxoid vaccine for dogs against envenomation of mice with western diamondback rattlesnake (*Crotalus atrox*), northern Pacific rattlesnake (*Crotalus oreganus oreganus*), and southern Pacific rattlesnake (*Crotalus oreganus helleri*) venom

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OBJECTIVE

To evaluate effectiveness of a commercially available toxoid manufactured from western diamondback (WD) rattlesnake (*Crotalus atrox*) venom against envenomation of mice with WD, northern Pacific (NP) rattlesnake (*Crotalus oreganus oreganus*), and southern Pacific (SP) rattlesnake (*Crotalus oreganus helleri*) venom.

ANIMALS

90 specific pathogen–free female mice.

PROCEDURES

Mice were allocated into 3 cohorts (30 mice/cohort). Mice received SC injections of *C atrox* toxoid (CAT) vaccine (n = 15/group) or adjuvant (15/group) at day 0 and again at 4 weeks. At 8 weeks, mice were challenge-exposed with 1 of 3 venoms. Survival until 48 hours was evaluated by use of log-rank analysis of survival curves and the *z* test for proportions.

RESULTS

6 of 15 WD-challenged CAT-vaccinated mice, 3 of 15 NP-challenged CAT-vaccinated mice, and 0 of 15 SP-challenged CAT-vaccinated mice survived until 48 hours. All adjuvant-only vaccinates survived ≤ 21 hours. Mean survival time of CAT vaccinates was longer than that of adjuvant-only vaccinates for all venoms (1,311 vs 368 minutes for WD, 842 vs 284 minutes for NP, and 697 vs 585 minutes for SP). Results of the *z* test indicated a significantly increased survival rate for vaccinates exposed to WD rattlesnake venom but not for vaccinates exposed to NP or SP rattlesnake venom. Log-rank analysis revealed a significant difference between survival curves of vaccinated versus unvaccinated mice exposed to NP but not WD or SP venom.

CONCLUSIONS AND CLINICAL RELEVANCE

CAT vaccination improved survival rate and survival time after challenge exposure with WD rattlesnake venom and may offer limited protection against NP rattlesnake venom but did not provide significant cross-protection against SP rattlesnake venom. (*Am J Vet Res* 2015;76:272–279)

In 2011, 5,700 incidents of snake envenomation in humans were reported by the American Association of Poison Control Hotlines.[1] The true number of envenomations likely is higher because reporting is not mandatory, many snakebites go unreported, some snake-bite victims do not seek treatment, and some treating physicians do not consult with a poison control center.[2,3] Although the incidence of rattlesnake envenomation in the pet population has not been quantified, it is thought to exceed that for humans (> 150,000 bites/y by 1 estimate[4]) because of a high rate of outdoor exposure, unreported or unnoticed incidents, and a presumed limited-threat judgment for bitten animals.[4,5]

A conditionally licensed WD rattlesnake (*Crotalus atrox*) toxoid vaccine is available for administration to dogs and horses at risk for snakebite and is intended to aid in the reduction of morbidity and deaths attributable to rattlesnake envenomation.[6,7] The authors are not aware of any data on evaluation of the effectiveness of the CAT vaccine in scientific journals.[8] Manufacturer data and advertisements suggest this CAT vaccine is efficacious against bites from WD rattlesnakes and also provides cross-protection against envenomation from other rattlesnake species.[9,a] However, analysis of snake venom reveals it to be a complex milieu of peptides and proteins, and venom from related species and subspecies of rattlesnakes can differ markedly in composition.[10-13] A vaccine that

ABBREVIATIONS

ADE	Antibody-dependent enhancement
CAT	*Crotalus atrox* toxoid
NP	Northern Pacific
OD	Optical density
SP	Southern Pacific
WD	Western diamondback

comprises venom from a single species might provide only limited protection against envenomation by other species of rattlesnakes. In California, companion animals are not typically exposed to WD rattlesnakes because these rattlesnakes are found only in sparsely populated areas in the southeast region of the state. Rather, pets are much more likely to encounter NP rattlesnakes (*Crotalus oreganus oreganus*) and SP rattlesnakes (*Crotalus oreganus helleri*), which inhabit heavily populated and traversed regions of central and coastal California. Therefore, we hypothesized that the CAT vaccine might provide limited cross-protection against 2 important species of rattlesnakes found in California. The purpose of the study reported here was to use rattlesnake envenomation of mice to evaluate the comparative effectiveness of the CAT vaccine against the venom of WD, NP, and SP rattlesnakes.

Materials and Methods

ANIMALS

Ninety specific pathogen–free outbred female Swiss Webster mice (4 to 6 weeks old) were obtained from a commercial source. Mice were allowed to acclimate for 72 hours. Mice were housed in groups (5 mice/cage) on corncob bedding with cotton nesting material in individually ventilated cages in an Association for Assessment and Accreditation of Laboratory Animal Care International–accredited biocontainment facility. All mice were fed standard laboratory rodent chow and provided with ad libitum access to reverse-osmosis-purified acidified water. The room was maintained at 20° to 21°C with relative humidity of 30% to 70%, 10 to 15 air changes/h, and a photoperiod of 12 hours of light to 12 hours of darkness. Use of the mice in this study was approved by the Institutional Animal Care and Use Committee of the University of California-Los Angeles.

EXPERIMENTAL PROCEDURES

A randomized, blinded, placebo-controlled study was conducted. On the basis of an a priori power analysis (power = 0.8, 0% censoring, and 50-to-50 ratio of control mice to experimental mice), the 90 mice were randomly selected by an individual unaffiliated with the study and assigned to treatment and control groups (45 mice/group). Treatment mice received an injection (0.2 mL, SC) of CAT vaccine[b] at day 0 and again at 4 weeks. Control mice received an injection (0.2 mL, SC) of pharmaceutical-grade aluminum hydroxide adjuvant[c] at day 0 and again at 4 weeks. Four weeks after administration of the second injection of CAT vaccine or adjuvant, mice were challenge-exposed with rattlesnake venom.

VENOM

The Society for the Study of Amphibians and Reptiles classification of the western rattlesnake (*Crotalus oreganus*) was used for the present study. The NP and SP rattlesnakes are 2 of 5 recognized subspecies of western rattlesnake, and the WD rattlesnake is a monotypic species with no recognized subspecies. Lyophilized WD rattlesnake venom was obtained.[d] The venom was collected from WD rattlesnakes throughout the range of these rattlesnakes within the United States. Venom of NP and SP rattlesnakes was collected from various regions throughout northern and southern California[14–16] **(Figure 1)**. Samples of NP rattlesnake venom were collected at Sanger (Fresno County), Sutter Butte (Sutter County), Lake Berryessa (Napa County), Vacaville (Solano County), Johnsondale (Tulare County), and Modesto (Stanislaus County). Samples of SP rattlesnake venom were collected at Rasnow Peak, Hidden Valley, Santa Rosa Valley, Carlisle Canyon, Lake Sherwood, and Oak Park (Ventura County); Acton, Castaic, Leona Valley, Topanga Canyon, Malibu Canyon, and Griffith Park (Los Angeles County); Oak Hills, Phelan, Devil's Canyon, and Big Bear (San Bernardino County); Idyllwild-Pine Cove and Garner Valley (Riverside County); and De Luz (San Diego County). Venom samples were processed in accordance with a standardized protocol. The final lyophilized venom product contained equal parts (vol/vol) from each sample location. In preliminary experiments, the LD_{50} was estimated for each venom on the basis of the animal-sparing up-and-down LD_{50} testing paradigm.[17–26] Those LD_{50} values then were used in the study as follows: WD rattlesnake venom, 2.8 mg/kg; NP rattlesnake venom, 1.7 mg/kg; and SP rattlesnake venom, 1.5 mg/kg. These LD_{50} values are similar to those published previously.[27–31]



Figure 1—Map of the distribution for WD rattlesnakes (*Crotalus atrox*; black-shaded area), NP rattlesnakes (*Crotalus oreganus oreganus*; light gray–shaded area), and SP rattlesnakes (*Crotalus oreganus helleri*; dark gray–shaded area) in California and locations for collection of venom samples (circles). The range of each of the rattlesnakes was obtained from previously published information.[14–16] Notice that major metropolitan population centers are located exclusively in the ranges of NP and SP rattlesnakes.

Table 1—Summary of survival data for mice inoculated with CAT vaccine or adjuvant only at 0 and 4 weeks and challenge-exposed 4 weeks later with venom of WD rattlesnakes (*Crotalus atrox*), NP rattlesnakes (*Crotalus oreganus oreganus*), and SP rattlesnakes (*Crotalus oreganus helleri*).

	WD rattlesnake venom		NP rattlesnake venom		SP rattlesnake venom	
Variable	**Vaccine**	**Adjuvant only**	**Vaccine**	**Adjuvant only**	**Vaccine**	**Adjuvant only**
No. of mice injected with venom	15	15	15	15	15	15
No. of mice that survived to 48 h after venom injection	6	0	3	0	0	0
Survival time (min)						
Mean	1,311	368	842	284	697	585
Minimum	121	238	82	160	295	114
Maximum*	2,880	422	2,880	401	1,440	1,269
P value†						
z test for proportions	0.006		0.068		—	
Log-rank analysis	0.146		0.010		0.166	

*An endpoint of 2,880 min (ie, 48 hours) for survival was determined prior to the study (ie, surviving mice were euthanized at 48 hours after venom injection). Despite the fact some mice were expected to live > 48 hours after venom injection, survival time was limited in this manner to avoid effects on reported mean survival times in surviving mice and is in accordance with commonly accepted practices for survival studies.[23] †Values were significant at $P \leq 0.05$.

— = Not applicable because there were no surviving mice in either of these groups.

VENOM CHALLENGE EXPOSURE

Three cohorts (30 mice/cohort [15 treated mice and 15 control mice]) were challenge-exposed with 1 of the 3 venoms at 4 weeks after the second injection of CAT vaccine or adjuvant. Venom was administered to each mouse via IP injection at twice the calculated LD_{50}. For injection, lyophilized venom was reconstituted in sterile water to create a stock solution of 5 mg/mL, which was then diluted as needed to provide the dose for administration. Mice were closely monitored for 48 hours after venom administration.

Before venom administration, body weight and baseline core body temperature were recorded. Temperature was obtained with a 1.5-cm-long thermistor probe inserted via the rectum into the colon; temperature was recorded once per hour for up to 10 hours and thereafter as needed. An observer who was unaware of the venom administered or vaccination status of the mice assessed their condition and determined when a mouse would be euthanized. Mice were euthanized by gradual-fill CO_2 inhalation when they became nonresponsive to stimuli, were in marked respiratory distress (agonal breathing or intermittent gasping), or had a prolonged period of moribundity (severely limited response to stimuli and core body temperature < 70% of the baseline core temperature for > 2 hours). Surviving mice were euthanized 48 hours after venom administration, and a postmortem blood sample was obtained via cardiocentesis.

ANTIBODY TITERS

Blood samples were collected from the retroorbital venous sinus of isoflurane-anesthetized mice 1 week before venom challenge exposure (ie, 3 weeks after the second injection of CAT vaccine or adjuvant) for use in determination of 2 sets of serum antibody titers. First, to verify that mice generated antibodies against the CAT vaccine, serial serum antibody titers of 3 randomly selected vaccinated mice were compared with serial serum antibody titers of 3 randomly selected adjuvant-only control mice. Second, to compare specificity of antibodies generated, dilutions (1:8,000) of serum obtained from 8 randomly selected vaccinated mice were tested against each of the 3 venoms. To generate serial titers and evaluate antibody specificity, 96-well ELISA plates were coated (100 µL/well) with reconstituted venom diluted in 0.1M carbonate buffer (1 µg/mL). Plates were sealed with acetate and incubated overnight at 22°C. After incubation, wells were washed (PBS solution with 0.05% Tween20) and then blocked by incubating on a plate shaker for 15 minutes at 22°C. Diluted serial serum samples were then applied to wells in triplicate. Plates were incubated on a plate shaker for 30 minutes at 22°C. Wells then were washed and horseradish peroxidase–conjugated goat anti-mouse IgG was added; plates were incubated on a plate shaker for 30 minutes at 22°C. Wells were then washed, and the chromogenic substrate tetramethylbenzidine was added. After incubation on a plate shaker for 10 minutes, the reaction was stopped by the addition of 2N sulfuric acid; plates then were immediately evaluated to determine the OD at 450 nm by use of an automated ELISA reader. The OD was used as an indicator of the presence of antivenom IgG as well as for comparisons of relative reactivity between venom types and general assessment of interindividual variation.

STATISTICAL ANALYSIS

Mean survival time in minutes and Kaplan-Meier survival curves were generated for the 3 venoms and saline (0.9% NaCl) solution control samples. A *z* test of proportions was used to compare survival rates of vaccinated versus control mice for all venoms. Log-rank analysis was used to compare Kaplan-Meier survival curves of vaccinated versus control mice for all venoms. Multilevel, mixed-effects linear regression modeling[e] was used to compare specificity of an antibody

titer of 1:8,000 for all venoms. Significance for all tests was set at $P \leq 0.05$.

Results

SURVIVAL RATE AND SURVIVAL TIME

Both survival rate and survival time were analyzed **(Table 1)**. For mice vaccinated with CAT vaccine, 6 of 15 mice challenge-exposed with WD rattlesnake venom, 3 of 15 mice challenge-exposed with NP rattlesnake venom, and 0 of 15 mice challenge-exposed with SP rattlesnake venom were alive at 48 hours after venom injection, whereas adjuvant-only control mice survived ≤ 21 hours after injection of any of the 3 rattlesnake venoms. Mean survival time of vaccinated mice was longer than that of adjuvant-only control mice for all venoms (1,311 vs 368 minutes for WD rattlesnake venom, 842 vs 284 minutes for NP rattlesnake venom, and 697 vs 585 minutes for SP rattlesnake venom). Survival analysis for individual venom revealed that results of the *z* test for proportions were significant ($P = 0.01$) only for WD rattlesnake venom. Log-rank analysis of survival curves revealed significant ($P = 0.01$) differences only for NP rattlesnake venom **(Figure 2)**. Maximum survival time was greatest for vaccinated mice, compared with survival time for adjuvant-only control mice, for all venoms. Notably, minimum survival time was greater for control mice than for vaccinated mice for both WD and NP rattlesnake venoms. This was evident on the Kaplan-Meier survival curve for WD rattlesnake venom as an initial increase in death of vaccinated mice, compared with that of control mice, at early time points (< 300 minutes after venom injection). Because of this finding, a log-rank analysis for WD rattlesnake venom that excluded early time points was conducted (n = 7 mice) and revealed a significant ($P = 0.004$) effect.

Student *t* test analysis of prestudy mean body weight and baseline core body temperature revealed that these variables did not differ significantly among any of the groups ($P = 0.08$ to 0.67; data not shown). No morbidity or deaths were associated with receiving the vaccine or adjuvant alone.

ANTIBODY TITERS

Antibody titers against all 3 rattlesnake venoms for the 3 vaccinated and 3 control mice were plotted **(Figure 3)**. Dilutions tested were 1:4,000, 1:8,000, 1:16,000, 1:32,000, 1:64,000, and 1:128,000. Mice vaccinated with CAT developed measurable antibody titers against all 3 venoms, whereas mice receiving only adjuvant had no evidence of reactive serum antibodies against any venom. The OD for a 1:8,000 dilution of serum obtained from 8 additional randomly selected vaccinated mice tested against all 3 venoms was plotted **(Figure 4)**. Comparison of OD for the various venoms suggested a decreasing reactivity as follows: the reactivity of WD rattlesnake venom was greater than that of NP rattlesnake venom, and the reactivity of NP rattlesnake venom was greater than that of SP rattlesnake venom. Analysis of a multilevel mixed-effects linear regression model with venom as the sole categorical predictor revealed significant ($P \leq 0.001$) differences in OD for each venom. Interindividual variation was also evident because the majority (6/8) of the mice had titers with OD values approaching or exceeding 1.0, whereas the remainder (2/8) had OD values < 0.5.

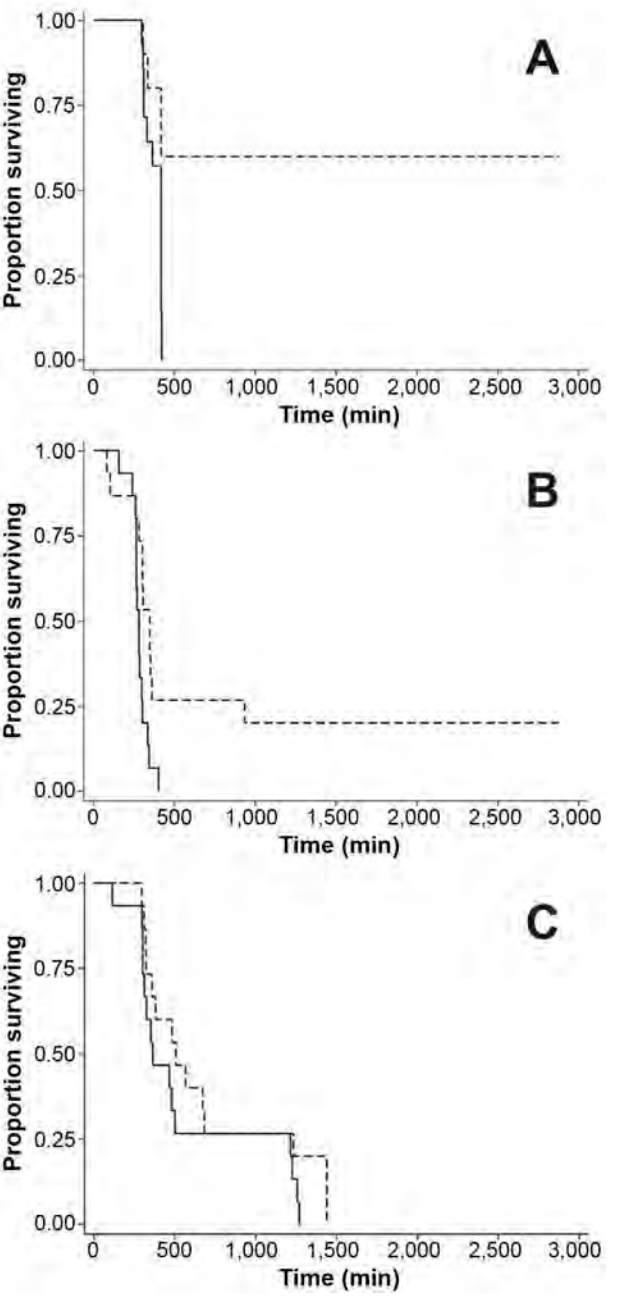


Figure 2—Kaplan-Meier survival curves for vaccinated mice (dashed lines) and adjuvant-only control mice (solid lines) after challenge exposure with WD rattlesnake venom (A), NP rattlesnake venom (B), and SP rattlesnake venom (C). There were 15 mice in each group. Time of challenge exposure (injection of venom) was designated as time 0. There was a significant ($P = 0.01$; log-rank analysis) difference in survival curves of vaccinated versus adjuvant-only mice after injection of only NP rattlesnake venom. In panel A, notice the possible early death phenomenon attributable to ADE of WD rattlesnake venom.

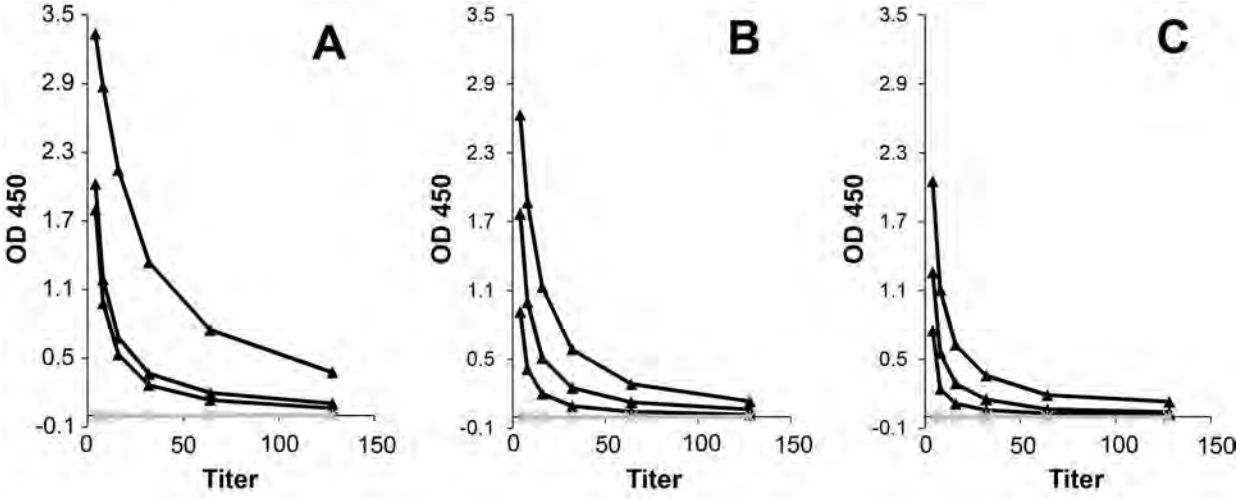


Figure 3—Serial serum dilution antibody titers for 3 vaccinated mice (black symbols) and 3 adjuvant-only control mice (gray symbols) against venom of WD rattlesnakes (A), NP rattlesnakes (B), and SP rattlesnakes (C) as determined by OD measured at 450 nm (OD 450). Each black symbol represents results for 1 mouse; the gray symbol represents results for 3 mice. Notice that the antibody response of vaccinated mice was greater than that of the control mice for all venoms. There was a pattern that specificity (ie, increased OD 450) was greater against venom of WD rattlesnakes than against venom of NP or SP rattlesnakes. The x-axis represents a dilution factor of 1:1,000. Dilutions tested were 1:4,000, 1:8,000, 1:16,000, 1:32,000, 1:64,000, and 1:128,000.

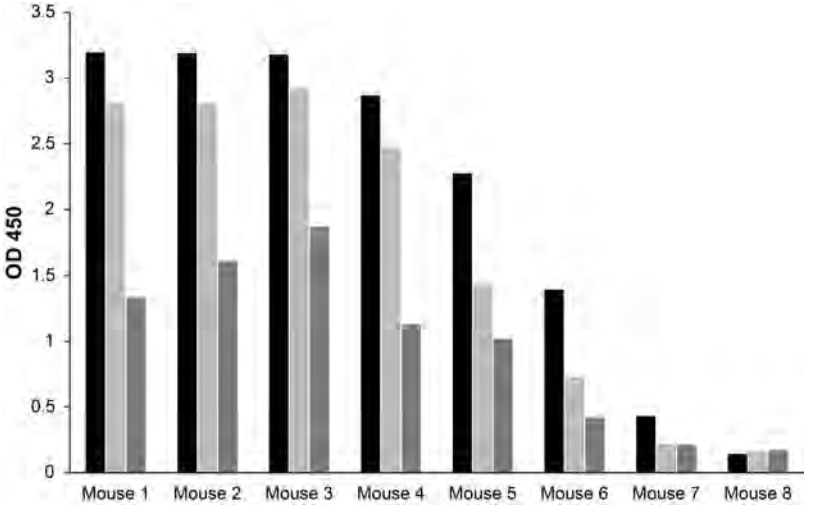


Figure 4—Single serum dilution (1:8,000) antibody titers for 8 randomly selected mice against venom of WD rattlesnakes (black bars), NP rattlesnakes (light gray bars), and SP rattlesnakes (dark gray bars). Notice the marked interindividual differences as well as differences in specificity among venoms (WD rattlesnake > NP rattlesnake > SP rattlesnakes venom). There was a significant ($P \leq 0.001$; multilevel mixed-effects linear regression) difference in OD 450 among venoms.

Discussion

In the present study, survival analysis after rattlesnake envenomation of mice was conducted in a randomized, blinded, placebo-controlled study to evaluate the comparative effectiveness of CAT vaccine against 3 rattlesnake venoms. The data reported included evaluation of survival rate (whether a mouse died ≤ 48 hours after venom injection) as well as evaluation of survival time (number of minutes a mouse survived after venom injection, up to 48 hours). Survival time is an important consideration in light of the fact a venom vaccine may be useful if it extends the course of the envenomation, thereby allowing additional time to seek primary medical treatments such as antivenin and intensive care. In addition, antibody titers of vaccinated and adjuvant-only control mice were compared as well as specificity of the antibodies generated against each of the 3 venoms. Overall, results of the challenge-exposure experiment indicated that CAT vaccination resulted in a significant increase in survival rate and survival time against injection with WD rattlesnake venom; equivocal results after injection of NP rattlesnake venom, which would likely require a greater number of mice to verify a difference; and no significant improvement in survival measures after injection of SP rattlesnake venom. Analysis of antibody titers revealed a clearly measurable antibody response in vaccinated mice, compared with that in adjuvant-only control mice, against all 3 venoms. The antibodies were most reactive against WD rattlesnake venom, with significantly less reactivity against venoms of the 2 other rattlesnake species.

Analysis of the data for the present study indicated that administration of CAT vaccine conferred an increase in survival rate and survival time in vaccinated versus control mice challenge-exposed with WD rattlesnake venom. Mean survival time was greater in vaccinated than in control mice, and survival rate improved significantly ($P = 0.01$; z test for proportions). Unexpectedly, results for log-rank analysis of

survival curves did not reveal significant differences. This result was particularly surprising because challenge exposure with NP rattlesnake venom had a significant effect, as determined by use of log-rank analysis, despite the fact there were only half as many survivors as for challenge exposure with WD rattlesnake venom. Notably, minimum survival time was greater for control versus vaccinated mice for both WD and NP rattlesnake venom (Table 1). This was also evident on the Kaplan-Meier survival curve for WD rattlesnake venom as an initial increase in death of vaccinated versus adjuvant-only control mice at early time points (< 300 minutes after venom injection; Figure 2). The early deaths may have sufficiently altered early time points of the curve of vaccinated mice after injection of WD rattlesnake venom such that statistical modeling resulted in a curve for vaccinated mice that was indiscernible from the curve for the control mice, despite the clear difference at later time points ($P = 0.004$ for log-rank analysis after 300 minutes). We propose that the early deaths could have been attributable to 1 factor or a combination of factors, such as genetic predisposition to venom sensitivity, injection near or into a vascular bed that hastened systemic exposure to venom, or an antibody-mediated early death phenomenon that has been observed in a laboratory setting when testing vaccines against viruses and bacterial toxins.[32–39]

Use of the vaccine may afford limited cross-protection against NP rattlesnake venom; however, the data are not entirely conclusive. Mean survival rate of vaccinated mice significantly (P = 0.01; log-rank analysis of survival curves) exceeded that of adjuvant-only control mice, which suggested a protective effect. However, results of the z test for proportions of survival time did not reveal significant ($P = 0.07$) differences. However, it is plausible that testing a larger population of mice may have allowed us to detect a more subtle effect by use of the z test of proportions.

The vaccine did not provide significant protection against SP rattlesnake venom, although the mice with the greatest survival time were in the vaccinated group. The CAT vaccine may have been less effective against SP rattlesnake venom because of the divergent molecular composition of that venom. For example, 1 population of SP rattlesnakes can produce Mojave toxin, a unique and powerful neurotoxin, which to date has not been found in WD or NP rattlesnake venoms.[15,40]

In addition to survival analysis, antibody titers were measured in a number of mice to verify an antibody response against the CAT vaccine (Figure 3). Compared with control mice, vaccinated mice had a variably robust antibody response, and initial titers suggested that the antibodies were more specific for WD rattlesnake venom than for the NP or SP rattlesnake venoms. On the basis of this observation, sera from 8 randomly selected vaccinated mice were evaluated for antibody specificity against each of the 3 venoms evaluated in the study (Figure 4). Linear regression analysis revealed significantly increased OD against WD rattlesnake venom, as compared with results against SP or NP rattlesnake venoms. The analysis indicated that antibodies generated by mice were most specific against the venom of manufacture (ie, WD rattlesnake venom), compared with specificity against the other 2 genetically distinct venoms. It should be emphasized that antibody titers were measured only to verify that mice generated an antibody response against the vaccine and to evaluate the specificity of that antibody response. The magnitude of the murine antibody response and how it may relate to survival of vaccinated dogs and horses (or the ability of clinicians to provide a prognosis for survival of vaccinated animals) in real-life situations were beyond the scope of the present study.

The present study had several potential confounders. First, on the basis of a previous manufacturer-designed study,[a] mice in the present study were injected with a vaccine dose of 0.2 mL, which could be from 50- to 1,500-fold as high (by volume) as manufacturer-recommended doses for dogs and horses.[6,7] Potentially, this could have resulted in a more robust antibody response and more enhanced protective benefit than typically would be afforded to companion animals. On the other hand, it should be mentioned that mice were challenge-exposed with an extremely high (twice the LD_{50}) dose of venom administered via the IP route commonly used in venom studies on mice. In most naturally occurring scenarios, companion animals receive SC or IM injection of venom, which results in slower and less immediately severe systemic effects[41] than were seen in the mice of the study reported here. In light of this, findings for the present study should be considered with the caveat that, in theory, the vaccine may improve survival rate and survival time, but these improvements remain to be definitively verified in practice settings for the specific species and situations of interest. Finally, it should be mentioned that we evaluated survival rate and survival time but did not directly assess morbidity. In actual envenomations, local effects such as severe necrosis, hemorrhage, and inflammation can cause substantial morbidity, which potentially can lead to severe incapacitation and death.[42–45] It remains to be determined whether vaccination has substantial effects to prevent or reduce important local sequelae after snake envenomation. Despite these drawbacks, there are a number of reasons investigators should use the described method of envenomation of mice, including that it is a well-accepted technique for venom analysis and antivenin evaluation, adheres to the concept of replacement in research (ie, use of mice instead of dogs or horses), and has been used in experiments conducted by the manufacturer to obtain USDA licensing for the CAT vaccine.

Data from the rattlesnake envenomation of mice reported here indicated that administration of the CAT vaccine resulted in a significant increase in survival

rate and survival time after injection of WD rattlesnake venom, equivocal results after injection of NP rattlesnake venom (possibly requiring a greater number of animals to confirm a difference), and no significant improvement in survival variables after injection of SP rattlesnake venom. Analysis of antibody titers confirmed a measurable antibody response in vaccinated versus adjuvant-only control mice and confirmed that specificity of the antibody response was significantly greater against the venom of manufacture. Overall, results of the present study suggested that vaccination with the CAT vaccine may provide limited cross-protection against NP rattlesnake venom but no significant cross-protection against SP rattlesnake venom. Future studies should include more in-depth analysis of antibody titers, testing of alternative vaccination strategies involving other venoms, and investigation into early deaths seen in some of the vaccinated mice. Such studies will be useful in validating results of the present study and providing increased insight into the real-world effectiveness of a rattlesnake venom vaccine.

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Footnotes

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d. Lot No. CAT 1412, Kentucky Reptile Zoo, Slade, Ky.
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NOTICE OF FINDINGS

Northern Spotted Owl

(*Strix occidentalis caurina*)

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), at its meeting in Folsom, California on August 25, 2016, made a finding pursuant to Fish and Game Code section 2075.5, that the petitioned action to add the northern spotted owl (*Strix occidentalis caurina*) to the list of threatened species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) is warranted. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i).)

NOTICE IS ALSO GIVEN that, at its February 8, 2017 meeting in Rohnert Park, California, the Commission adopted the following findings outlining the reasons for its determination.

I. Background and Procedural History

On September 7, 2012, the Commission received the "Petition to List the Northern Spotted Owl as 'Threatened' or 'Endangered' Under the California Endangered Species Act" (September 4, 2012; hereafter, the Petition), as submitted by the Environmental Protection Information Center (Petitioner). Commission staff transmitted the Petition to the California Department of Fish and Wildlife (Department) pursuant to Fish and Game Code section 2073 on September 10, 2012, and the Commission published formal notice of receipt of the Petition on October 5, 2012 (Cal. Reg. Notice Register 2012, No. 40-Z, p. 1490).

The Department requested a 30-day extension on November 19, 2012, and the Commission approved the extension on December 12, 2012. After evaluating the Petition and other relevant information the Department possessed or received, the Department determined that based on the information in the Petition, there was sufficient scientific information to indicate that the petitioned action may be warranted, and recommended the Commission accept the Petition in an evaluation dated February 6, 2013. At its meeting on March 6, 2013, the Commission formally received the Department's petition evaluation. At its meeting on April 17, 2013 the Commission considered the petition evaluation as well as an errata and corrections document filed by the Department on April 15, 2013, and postponed further deliberations concerning the petition to receive further information on questions raised during the April meeting. At its August 7, 2013 meeting, the Commission received further comments, deliberated, and voted to accept the Petition and initiate a review of the species' status in California, finding that it contained sufficient information to indicate the petitioned action may be warranted. Upon publication of the Commission's notice of determination as required by

Fish and Game Code Section 2074.2, subdivisions (e)(2) and (f), the northern spotted owl was designated a candidate species on December 11, 2013 (Cal. Reg. Notice Register 2013, No. 52-Z, pp. 2085-2092).

Following the Commission's designation of the northern spotted owl as a candidate species, the Department notified affected and interested parties and solicited data and comments on the petitioned action pursuant to Fish and Game Code section 2074.4. (see also Cal. Code Regs., tit. 14, § 670.1(f)(2).) Subsequently, the Department commenced its review of the status of the species. On February 10, 2016 the Department Director delivered a status review to the Commission pursuant to Fish and Game Code section 2074.6, including a recommendation that, based upon the best scientific information available to the Department, the petitioned action is warranted.

Final consideration of the petition, with receipt of the Department's status review report and public comment, was scheduled for the Commission's April 14, 2016 meeting in Santa Rosa, California, but the Commission continued the matter to its June meeting to allow written comments from the public, to be submitted to the Department no later than May 2, 2016. Notice of final consideration of the petition was published on May 27, 2016 for the Commission's meeting on June 23, 2016 in Bakersfield, California (Cal. Reg. Notice Register 2016, No. 22-Z, p. 907) and again on August 12, 2016 for the Commission's meeting on August 25, 2016 in Folsom, California (Cal. Reg. Notice Register 2016, No. 33-Z, p. 1464). On August 25, 2016, at its meeting in Folsom, California, the Commission received additional public and Department testimony, and voted that designating northern spotted owl as a threatened species under CESA is warranted.

Species Description

The northern spotted owl is a medium-sized dark brown owl, with a barred tail, round, elliptical, or irregular white spots on head, neck, back, and underparts, yellowish green bill, and dark brown, almost black eyes surrounded by prominent facial disks (Gutiérrez et al. 1995). Overall, its length is approximately 46 to 48 centimeters (18 to 19 inches) (Forsman et al. 1996). Males and females are dimorphic in size, with males averaging about 13 percent smaller than females (USFWS 2011). Males weigh between 430 and 690 grams (0.95 to 1.52 pounds), and females weigh between 490 and 885 grams (1.1 to 1.95 pounds) (Gutiérrez et al. 1995, P. Loschl and E. Forsman pers. comm. 2006 in USFWS 2011).

Federal Status

The United States Fish and Wildlife Service listed northern spotted owl as a threatened species under the Endangered Species Act in 1990. In 1994, the Northwest Forest Plan

provided protections for the northern spotted owl and other species inhabiting late-successional forests in Washington, Oregon, and California. The northern spotted owl's first critical habitat designation occurred in 1992 and was revised in 2008. A new final rule designating critical habitat was published in December of 2012. The USFWS first issued a recovery plan for the northern spotted owl in 2008 and revised it in 2011.

II. Statutory and Legal Framework

The Commission, as established by the California Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, § 2070.) The CESA listing process for northern spotted owl began in the present case with the Petitioners' submittal of the Petition to the Commission on September 7, 2012. Pursuant to Fish and Game Code Section 2073, on September 10, 2012 the Commission transmitted the petition to the Department for review pursuant to Fish and Game Code Section 2073.5. The regulatory and legal process that ensued is described in some detail in the preceding section above, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including:

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114-116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541-1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600; and
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111-1116.

The "is warranted" determination at issue here for northern spotted owl stems from Commission obligations established by Fish and Game Code section 2075.5. Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether the petitioned action is warranted or is not warranted. Here, with respect to the northern spotted owl, the Commission made the finding under section 2075.5(e)(2) that the petitioned action is warranted.

The Commission was guided in making these determinations by statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as "a native species or subspecies of a bird, mammal,

fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease." (Fish & G. Code, § 2062.) Similarly, the Fish and Game Code defines a threatened species under CESA as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter." (*Id*., § 2067.)

The Commission also considered Title 14, section 670.1, subdivision (i)(1)(A), of the California Code of Regulations in making its determination regarding northern spotted owl. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the species' continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;

2. Overexploitation;

3. Predation;

4. Competition;

5. Disease; or

6. Other natural occurrences or human-related activities.

Fish and Game Code section 2070 provides similar guidance. This section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA. (Fish & G. Code, § 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Nevertheless, "'[l]aws providing for the conservation of natural resources' such as the CESA 'are of great remedial and public importance and thus should be construed liberally." (*California Forestry Association v. California Fish and Game Commission*, supra, 156 Cal. App.4th at pp. 1545-1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish & G. Code, §§ 2051, 2052.)

Finally in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any

interested party. (See, e.g., Id., §§ 2071, 2074.4, 2078; Cal. Code Regs., tit. 14, § 670.1, subd. (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish & G. Code, §§ 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; Cal. Code Regs., tit. 14, § 670.1, subds. (c), (e), (g), (i); see also Gov. Code, § 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a review of the candidate species' status culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish & G. Code, §§ 2073.4, 2073.5, 2074.4, 2074.6; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (f), (h).)

III. Factual and Scientific Bases for the Commission's Final Determination

The factual and scientific bases for the Commission's determination that designating the northern spotted owl as a threatened species under CESA is warranted are set forth in detail in the Commission's record of proceedings including the Petition, the Department's Petition Evaluation Report, the Department's status review, the Department's supplemental report to respond to public comments, written and oral comments received from members of the public, the regulated community, tribal entities, the scientific community and other evidence included in the Commission's record of proceedings.

The Commission determines that the continued existence of the northern spotted owl in the State of California is in serious danger or threatened by one or a combination of the following factors as required by the California Code of Regulations Title 14, section 670.1, subdivision (i)(1)(A):

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

The Commission also determines that the information in the Commission's record constitutes the best scientific information available and establishes that designating the northern spotted owl as a threatened species under CESA is warranted. Similarly, the Commission determines that the northern spotted owl, while not presently threatened

with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by CESA.

The items highlighted here and detailed in the following section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for the northern spotted owl. Similarly, the issues addressed in these findings represent some, but not all of the evidence, issues, and considerations affecting the Commission's final determination. Other issues aired before and considered by the Commission are addressed in detail in the record before the Commission, which record is incorporated herein by reference.

Background

The Commission bases its "is warranted" finding for the northern spotted owl most fundamentally on the current population trend influenced by a combination of threat factors, including competition from barred owls and present or threatened modification or loss of its habitat which pose a risk to the continued existence of the species in California.

Threats

Barred Owls

Historically, barred owls were residents of the eastern United States and southern Canada, east of the Great Plains and south of the boreal forest, and also in disjunct regions of south-central Mexico (Mazur and James 2000). The recent range expansion into the western United States has resulted in the barred owl range completely overlapping with that of the northern spotted owl. Barred owls were first detected in California in 1976 (B. Marcot in Livezey 2009a) with the first breeding record in 1991 (T. Hacking in Dark et al. 1998). The rate of detections in California accelerated during the mid-1990s (Dark et al. 1998), and today 1,970 barred owl records exist in the Department's species database throughout the entire range of the northern spotted owl, and even further south within the California spotted owl range in the Sierra Nevada.

There is a high degree of similarity in barred owl and northern spotted owl habitat and prey base preferences. Both species have a preference for old forests with closed canopy and a high degree of structural complexity for nesting and roosting activities (Hamer et al. 2007, Singleton et al. 2010, Weins et al. 2014, Singleton 2015, Weisel 2015). northern spotted owl diet in California consists primarily of small mammals (mainly dusky-footed woodrats in California), though other prey (e.g. birds, bats) is also taken (Forsman et al. 1984, 2001, 2004, Zabel et al. 1995, Ward et al. 1998, Franklin et al. 2000, Hamer et al. 2001). The barred owl diet consists of a wide array of prey, including small mammals ranging from rabbits to bats, small to medium sized birds,

amphibians, reptiles, fish, and invertebrates; however, mammals make up a majority of prey items (Hamer et al. 2001, Mazur and James 2000, Mazur et al. 2000). The broader range of prey selected by barred owls contributes to the smaller home ranges in comparison to northern spotted owls, which may result in higher densities of barred owls within the spotted owl range (Livezey et al. 2008).

Barred owls will negatively impact northern spotted owls at several levels. Barred owls are aggressive toward spotted owls (Van Lanen et al. 2011), and have attacked spotted owls on occasion (Leskiw and Gutiérrez 1998, Courtney et al. 2004). Spotted owls will reduce their calls or not call at all if barred owls are in the vicinity (Cozier et al. 2006, Kroll et al. 2010, Dugger et al. 2011, Diller 2014, Sovern at al. 2014), making them more difficult to detect. Barred owls will displace northern spotted owls from their territories, forcing them out of their long-held territory (Olson et al. 2004, Kroll et al. 2010, Dugger et al. 2011, Diller 2014, Sovern et al. 2014, GDRC 2015, Weisel 2015, Dugger et al. 2016). Northern spotted owl activity centers will shift away from areas where barred owls are present even if they do not entirely abandon their territory (Kelly 2001, Gremel 2005, Diller 2014, Weins et al. 2014).

Competition between the two species has dramatically impacted northern spotted owl site occupancy in California. A recent analysis (Dugger et al. 2016) determined territory occupancy rates declined in all 11 demographic study areas across the entire northern spotted owl range, with a strong positive relationship between the presence of barred owls and territory extinction rates (Dugger et al. 2016). The primary cause of northern spotted owl population declines are competition with barred owl, largely as a result of a strong negative effect of barred owl on northern spotted owl apparent survival rates and a positive effect of barred owl on northern spotted owl territory extinction rates.

When analyzing northern spotted owl data through 2013, Dugger et al. (2016) indicated the primary cause of declines across the range are strong negative effect of barred owl on apparent survival rates and a positive effect of barred owl on territory extinction rates. Apparent survival and the rate population change rates declined on all 3 demographic study areas in California, with the exception of the Green Diamond Resource treatment area (i.e., the area where barred owls were removed). The Green Diamond Resource treatment area survival rate was 0.857 (SE=0.009) before removal, and 0.870 (SE=0.021) after removal (the highest across the entire range; Dugger et al. 2016). The rate of population change at the Green Diamond Resource treatment area was positive (λ=1.030, SE=0.040) after barred owls were removed (Dugger et al. 2016). When barred owls were removed from historical northern spotted owl territories on the Green Diamond Resource Company land, northern spotted owls were detected relatively soon afterward, and sometimes were the same spotted owls that held the territory previously (Diller 2014), suggesting these owls were displaced from their territory but remained in the vicinity to quickly reoccupy.

The literature is clear that barred owls are having a severe negative impact on northern spotted owl at a range-wide level (Dugger et al. 2016), including reduced survival and occupancy, reduced detection rates, increased territory extinction rates, displacement, and predation. Ecological similarities between barred owl and northern spotted owl gives little evidence that nesting, roosting, or foraging habitat or food resources can be adequately partitioned to prevent competition; therefore, coexistence of both species is uncertain into the future, even with habitat management actions (Gutiérrez et al. 2007, Dugger et al. 2011, Wiens et al. 2014, Singleton 2015, Weisel 2015, Dugger et al. 2016). Barred owl removal experiments seem to be successful at positively impacting northern spotted owl demographics and are feasible at a local-scale (Diller et al. 2014), but broader long-term use of removal as a management tool needs further consideration (USFWS 2013). Protecting high-quality habitat (e.g., older structurally complex forests) on the landscape may provide some amount of refugia for spotted owls from competitive interactions with barred owls, and may allow managers and others time to further evaluate the feasibility of barred owl control measures (USFWS 2011, USFWS 2013).

Given the quick southerly expansion of barred owls into northern spotted owl habitat and the documented negative impacts of barred owl on spotted owl demographic rates, there is urgency on deciding a course of action to take regarding barred owl removal or other management actions. Without management actions, the northern spotted owl faces an uncertain future and declines will presumably continue to be severe and steep into the near future, much like has been documented in more northerly portions of the range in Washington and Oregon where barred owl have been established longer. Solutions that promote the coexistence of the northern spotted owl and the barred owl are needed.

Present or Threatened Modification or Destruction of Habitat

Although the rate of nesting and roosting habitat loss has declined since the northern spotted owl was listed under the federal endangered species act in 1990, assessments performed range-wide since the implementation of the Northwest Forest Plan (NWFP) show that habitat loss on federal and private lands is ongoing. Wildfire has been the leading cause of habitat loss on federal land, with the fire-prone California Klamath Province experiencing the largest losses due to wildfire (10.7%; 199,800 acres since 1993). Since the development of a reserve system under the NWFP, timber harvest on federal land has declined, with only 1.3% of nesting and roosting habitat lost to harvest in the last two decades (Davis et al. 2015). Conversely, timber harvest has been the primary cause of habitat loss on nonfederal lands since 1993 (Davis et al. 2015). Northern spotted owl densities in California forests have not plummeted to the extent they have for the species in Oregon and Washington in large part to protective regulations governing timber harvest on nonfederal lands in California (i.e., Forest

Practice Rules). In addition, there has been some amount of forest habitat recruitment since implementation of the Forest Practice Rules and NWFP, though the level and extent of succession is unknown (DFW, 2016 Status Review). Regardless of these protections, losses of nesting and roosting habitat due to timber harvest in California have continued. From 1994-2007, 5.8% of nesting and roosting habitat on nonfederal lands in California was removed by timber harvest (Davis et al. 2011). Regionally, the California Klamath and Cascades provinces have experienced net losses of nesting and roosting habitat since 1994 (Davis et al. 2011). However, due to habitat recruitment in the California Coast Province where habitat development through forest succession can occur relatively quickly (Thome et al. 1999, Diller et al. 2010), estimates for net change of nesting and roosting habitat in this province are positive (Davis et al. 2011).

At the scale of individual owl territories, the amount and spatial configuration of different habitat types are strongly linked to northern spotted owl site occupancy and demographic rates, and rates are generally positively associated with a greater amount of older forest, and in the case of the coastal redwoods, young-growth forests where key structural elements (snags, large decadent trees and hardwoods) are retained (see the Habitat Effects on Demographics section; Dugger et al. 2016). The amount of older forest in northern spotted owl territories is positively associated with occupancy rates (Dugger et al. 2011, Yackulic et al. 2012, Dugger et al. 2016), survival (Franklin et al. 2000, Olson et al. 2004, Dugger et al. 2005, Diller et al. 2010), and in some cases with fecundity (Dugger et al. 2005, Diller et al. 2010, Dugger et al. 2016). Although study design has varied across the major research studies in California and southern Oregon, some consistent patterns have arisen. In order to support productive spotted owl territories, a minimum amount of older forest must be retained in the core area. The definition of ‘older forest’ evaluated in studies has varied, but consistently has included late-seral forests with large trees and high canopy cover. Territories with the highest habitat fitness potential contain at least about 50% older forest in the core area, intermixed with other forest and nonforest cover types (Franklin et al. 2000, Dugger et al. 2005, Diller et al. 2010). Large amounts of nonhabitat (defined as nonforest or sapling cover types) in a northern spotted owl home range leads to declines in demographic rates. Results indicate that in order to support a northern spotted owl territory with high habitat fitness potential, no more than about 50% of a home range should consist of nonhabitat (Olson et al. 2004, Dugger et al. 2005). Spotted owl demographic rates also benefit from a mosaic of older forest interspersed with younger forests or other vegetation types. Work done by Franklin and Gutierrez (2012) suggests that some amount of fragmentation or habitat heterogeneity may be beneficial for dispersing owls, depending on the matrix of habitat types, by providing opportunities in more open habitat or along edges, while at the same time providing protection from predators in older forest components. (DFW, 2016 Status Review).

Habitat retention requirements and definitions in the Forest Practice Rules were developed in the early 1990s and were established to protect a combination of nesting, roosting, and foraging habitat in the area immediately surrounding the activity center (500 and 1,000 foot radii), the core use area (0.7 mile radius), and the broader home range (1.3 mile radius). After implementation and further analysis, the USFWS found that the cumulative effects of repeated harvest entries within many northern spotted owl home ranges in the northern interior region had reduced habitat quality to a degree that caused reduced occupancy rates and frequent site abandonment, and concluded that existing habitat guidelines in the Forest Practice Rules are not sufficient for avoiding take (USFWS 2009). Due to these concerns and based on the growing body of literature linking habitat characteristics to owl fitness, the USFWS provided revised guidance for avoiding take of northern spotted owl, including changes to definitions of nesting, roosting, and foraging habitat, and to the amount of each habitat type to be retained (USFWS 2008b, 2009). The current Forest Practice Rules allow for the use of northern spotted owl habitat descriptions provided by the USFWS and the habitat protection measures recommended by the USFWS (DFW Eval. of Supplemental Information 2016).

Depending on how the Forest Practice Rules and the USFWS 2008 Guidance are implemented, management could result in a reduction in habitat quality around northern spotted owl sites and could lead to declines in survival, productivity, and overall fitness (DFW Eval. of Supplemental Information 2016). However, implementation of the Forest Practice Rules has generally resulted in the protection of northern spotted owl habitat at known owl territories throughout the range in California and has not resulted in any known take of individual northern spotted owls. Despite these protections, timber harvest may be a threat to northern spotted owl habitat in some cases due to inconsistent implementation and interpretation. Conversely, timber harvest may play a role in enhancing owl habitat when applied at appropriate scales and with retention of sufficient nesting and roosting habitat (DFW, 2016 Status Review; DFW Eval. of Supplemental Information 2016).

Wildfire and Salvage Logging

Wildfire and other natural disturbances have been the leading cause of habitat loss on federal land in the Northwest Forest Plan area and the leading cause of nesting and roosting habitat loss in California from 1993-2012. The majority of the nesting and roosting habitat lost from the California portion of the Northwest Forest Plan area has been attributed to wildfire, and most of that loss has occurred in the Klamath Province (DFW, 2016 Status Review).

The response of spotted owls to fire has been mixed. Occupancy by California spotted owls across a wide area in the Sierra Nevada has been observed to be similar in burned

and unburned areas, at least in burn areas that experienced mixed-severity burns (DFW, 2016 Status Review). For high severity burn areas, there is some evidence of declines in occupancy (DFW, 2016 Status Review). Conversely, occupancy rates for northern spotted owls in southern Oregon declined following both mixed-severity and high severity fire events (DFW, 2016 Status Review). These occupancy declines resulted from both high territory extinction rates in burned areas and low colonization rates (DFW, 2016 Status Review). Northern spotted owls displaced by fire or occupying burned areas have also been shown to experience declines in survival rates (DFW, 2016 Status Review). Food limitation in burned areas may have been a contributing factor in these declines. Northern spotted owls in southern Oregon were also shown to avoid large areas of high severity burn or areas experiencing extensive salvage logging post-fire (DFW, 2016 Status Review).

Several variables complicate the interpretation of these studies, including variation in fire severity, fire size, fire history and pre-fire forest composition, post-fire salvage logging, and the timing and duration of research post-fire. Additionally, the key studies of northern spotted owl response to wildfires in southern Oregon were unable to separate the effects of severe burns from salvage logging, but observational studies and occupancy modeling conducted to date suggest that post-fire landscapes that are salvage logged experience declines in spotted owl occupancy (DFW, 2016 Status Review). The presence of snags has been suggested as an important component of prey habitat and as perch sites for foraging spotted owls (DFW, 2016 Status Review). Conditions that lead to increased prey availability, including increased shrub and herbaceous cover and number of snags, may be impacted by salvage logging (DFW, 2016 Status Review). The available information suggests that fires that burn at mixed severities or at small scales such that they create habitat heterogeneity without removing important nesting and roosting habitat components at the territory scale may benefit owls (DFW, 2016 Status Review). However, uncharacteristically severe fires that burn at large scales are likely to have negative effects by eliminating required nesting and roosting habitat or reducing prey populations in northern spotted owl territories (DFW, 2016 Status Review).

In recent decades, fires have become more frequent and average fire size has increased (DFW, 2016 Status Review). In some cases, fires have also burned at uncharacteristically high severities, especially during dry and hot conditions that support fire (DFW, 2016 Status Review). Because climate change will likely increase the likelihood of conditions that support more frequent, large, and severe fires which are destructive to northern spotted owl habitat, habitat loss due to wildfires will likely continue to present a risk to owls in the future (DFW, 2016 Status Review).

Climate Change Impacts to Forest Composition and Structure

Most climate projection models indicate elevational and latitudinal shifts in forest habitats in the coming century (DFW, 2016 Status Review). In climate projection scenarios specific to California, the most notable response to increased temperatures was a shift from conifer-dominated forests (e.g., Douglas fir-white fir) to mixed conifer-hardwood forests (e.g., Douglas fir-tan oak) in the northern half of the state. The models show an expansion of conifer forests into the northeast portion of the state (e.g., Modoc Plateau), and an increase in dominance of oak forest at the expense of pine forest, a general decrease in large trees and basal area, shifts of redwood forests inland into Douglas-fir-tan oak forests, and advancement of conifer-dominated forests (e.g., redwood and closed-cone pine forests) along the north-central coast (DFW, 2016 Status Review).

Climate change variables will likely increase the severity and frequency of wildfires within the northern spotted owl range, which would convert older, complex forests to young uniform stands of less suitable habitat (DFW, 2016 Status Review).

Although climate projection models have uncertainties built-in, it is apparent that forests within California will likely experience some level of elevational and latitudinal shifts, changes in species composition, and alterations in fire regimes (DFW, 2016 Status Review). The northern spotted owl relies heavily on specific forest structure components and tree species composition, and on associated prey habitat and abundance (DFW, 2016 Status Review). Implications of forest shifts and fire regime changes on owl habitat and demographic rates remains uncertain, and more research is needed to elucidate whether these patterns will lead to negative impacts to northern spotted owls.

Sudden Oak Death

Sudden oak death is an emerging plant disease caused by a non-native, fungus-like pathogen particularly impacting hardwoods (Davidson et al. 2003, Garbelotto et al. 2003, Goheen et al. 2006). The disease is expanding its distribution through a substantial portion of the northern spotted owl range in California (California Oak Mortality Task Force 2015). Its impact to northern spotted owl habitat includes large scale die-off of tanoaks and other affected hardwood species (e.g., live oak, California bay laurel), reduction of hardwood canopy closure, simplified canopy structure, and reduced primary prey species (i.e., woodrat) abundance (Rizzo and Garbelotto 2003, McPherson et al. 2006, Goheen et al. 2006, Tietje et al. 2006, Cobb et al. 2010, 2012).

The impact of sudden oak death on oak-tanoak forests within northern spotted owl habitat will not likely subside in the future (Brown and Allen-Diaz 2006, Meentemeyer et al. 2010, 2011), with high risk areas noted in coastal forests of Santa Barbara County north through Humboldt County (Koch and Smith 2012). Ultimately, spread of sudden

oak death will likely result in reduced nesting, roosting and foraging opportunities for northern spotted owls in most cases.

Marijuana Cultivation

Illegal and legal marijuana cultivation sites in remote forests on public and private land throughout California has been steadily increasing. Within the range of the northern spotted owl, Shasta, Tehama, Humboldt, Mendocino, and Trinity counties comprise the areas known for the most marijuana cultivation in California due to the remote and rugged nature of the land (making illegal cultivation difficult to detect), and habitat conditions favorable for growing marijuana (e.g., wetter climate, rich soils) (Gabriel et al. 2013, Thompson et al. 2013, National Drug Intelligence Center 2007, Bauer et al. 2015). Given the difficulties in detecting illegal marijuana cultivation sites and the lack of reporting for all legal cultivation sites, actual distribution and density of marijuana cultivation is likely larger and higher than current data suggests.

Activities associated with cultivation (e.g., removal of large trees, degradation of riparian habitat, use of rodenticides) may negatively impact northern spotted owl habitat, and in turn, owl fitness (e.g., survival, fecundity), although there is little data assessing this impact. Areas with higher prevalence of marijuana cultivation sites may also contain high numbers of northern spotted owl activity centers (National Drug Intelligence Center 2007). The level of impact likely depends on several factors, including the density of cultivation sites in proximity to owl activity centers and how much owl habitat is affected and to what extent.

IV. Final Determination by the Commission

The Commission has weighed and evaluated the information for and against designating the northern spotted owl as a threatened species under CESA. This information includes scientific and other general evidence in the Petition; the Department's Petition Evaluation Report; the Department's status review; the Department's supplemental report to respond to public comments, the Department's related recommendations; written and oral comments received from members of the public, the regulated community, various public agencies, and the scientific community; and other evidence included in the Commission's record of proceedings.

Based upon the evidence in the record the Commission has determined that the best scientific information available indicates that the continued existence of the northern spotted owl is in serious danger or threatened by predation, competition, present or threatened modifications or destruction of the species' habitat, , or other natural occurrences or human-related activities, where such factors are considered individually or in combination. (See generally Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A); Fish & G. Code, §§ 2062, 2067.) The Commission determines that there is sufficient

scientific information to indicate that designating the northern spotted owl as a threatened species under CESA is warranted at this time and that with adoption and publication of these findings the northern spotted owl for purposes of its legal status under CESA and further proceedings under the California Administrative Procedure Act, shall be listed as threatened.

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FGC - 670.1 (3/94)

A PETITION TO THE STATE OF CALIFORNIA FISH AND GAME COMMISSION

For action pursuant to Section 670.1, Title 14, California Code of Regulations (CCR) and Sections 2072 and 2073 of the Fish and Game Code relating to listing and delisting endangered and threatened species of plants and animals.

I. SPECIES BEING PETITIONED:

Common Name: Foothill yellow-legged frog

Scientific Name: (*Rana boylii*)

II. RECOMMENDED ACTION:

(Check appropriate categories)

a. List **X** b. Change Status □

As endangered

As threatened **X**

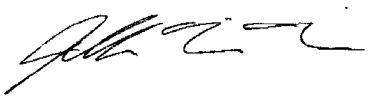
c. Or Delist □

III. AUTHOR OF PETITION:

Name:	Jeff Miller
Address:	1212 Broadway, Suite 800 Oakland, CA 94612
Phone Number:	(510) 499-9185

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.

Signature:



Date: December 14, 2016

BEFORE THE FISH AND GAME COMMISSION

Petition to List the Foothill Yellow-Legged Frog (*Rana boylii*) As Threatened Under the California Endangered Species Act



Photo by Todd Steiner (used with permission)

Submitted To: California Fish and Game Commission
1416 Ninth Street
Box 944209
Sacramento, CA 94244-2090
FGC@fgc.ca.gov

Submitted By: Center for Biological Diversity

Date: December 14, 2016

EXECUTIVE SUMMARY

The Center for Biological Diversity petitions the California Fish and Game Commission to list the foothill yellow-legged frog (*Rana boylii*) as a threatened species under the California Endangered Species Act.

Adult foothill yellow-legged frogs are moderately-sized (1.5 to 3 inches) with a distinctive lemon-yellow color under their legs. They inhabit partially shaded, rocky perennial streams and rivers at low to moderate elevations in Pacific Coast drainages as well as the lower western slopes of the Sierra Nevada mountains. The foothill yellow-legged frog life cycle is synchronized with the seasonal timing of streamflow conditions. Adult frogs move throughout stream networks from winter refugia to mating habitat where eggs are laid in spring and tadpoles rear in summer. For breeding they require streams with riffles containing cobble-sized or larger rocks as substrate to be used as egg laying sites. Non-breeding habitat is characterized by perennial water where they can forage through the summer and fall months.

In California, foothill yellow-legged frogs were once found from the Oregon border to at least as far south as the Upper San Gabriel River, Los Angeles County; the species also possibly occurred historically as far south as Orange County, southwestern San Bernardino County and San Diego County. Different regions of California may contain distinct populations or subspecies of foothill yellow-legged frogs. Foothill yellow-legged frogs have now disappeared from more than half of their historically occupied locations throughout California and Oregon, resulting in a range contraction in northern and southern California.

The survival of the foothill yellow-legged frog in California is threatened by a combination of factors, including habitat alteration and destruction from: dams, water development and diversions; logging; marijuana cultivation; mining; roads and urbanization; recreation; and off-road vehicles. Frogs are also threatened by impacts from invasive species, disease, climate change, and pollution.

The foothill yellow-legged frog is now extirpated from all of southern California south of San Luis Obispo County and is nearly extirpated from the south coast region. The species is extirpated or near extirpation in many areas of the central coast and the San Francisco Bay Area, with declines in many drainages in these regions. Significant populations remain in the Diablo Range and throughout Sonoma County. There have been documented declines of frog populations in the upper Sacramento River basin although some significant and many small populations remain in the upper Sacramento River basin.

The largest foothill yellow-legged frog populations in California are in the north coast range, with healthy populations scattered throughout the region. The strongholds for the species are in the Smith River, Red Cap Creek tributary of the Klamath River, South Fork Trinity River, South Fork Eel River; Redwood Creek, coastal tributaries in Mendocino County, and Russian River tributaries. However, only 6 sites in northern California have large populations exceeding 100 breeding females per kilometer of river, with an additional 9 sites having more than 50 breeding females per km. There have been documented declines in the northern coastal California region, with frogs lost from 39 of 165 historical sites (24%) in the north coast.

Foothill yellow-legged frogs are nearly extirpated from the southern portion of the Sierra Nevada. They have disappeared from Yosemite, Sequoia and Kings Canyon National Parks, and are near extirpation in Sequoia and Sierra National Forests, with few remaining populations and limited distribution. Although populations persist in many river basins in the northern and central Sierras, including the American, Clavey, Cosumnes, Feather, Merced, Mokelumne, Stanislaus, Tuolumne, and Yuba rivers, many former populations have been lost and the majority of recent observations in Sierran national forests are of small and scattered populations, with limited evidence of successful reproduction. At least half of the known historical locations have been lost in every northern and central Sierra county except Plumas County.

The overall population trend for the foothill yellow-legged frog in California is distressing. The species had disappeared from 45 percent of its historic range in California by 1991, and frog numbers at many of the formerly large frog populations have crashed in recent years. While the number of populations is important, population size is also critical; as of 2005 only 30 of the 213 sites in California with foothill yellow-legged frogs (14%) had populations estimated to be 20 or more adult frogs.

Existing federal and state management and regulatory mechanisms - such as occurrence on federally protected lands, consideration under the National Environmental Policy Act or Clean Water Act or California Environmental Quality Act, or coverage under federal Habitat Conservation Plans and state Natural Community Conservation Plans - have proved inadequate to prevent the decline of foothill yellow-legged frogs.

Recommended management actions for foothill yellow legged frogs will vary depending on the type of river system where a given extant population remains, either with flows regulated by dams or in free-flowing systems that may be subject to other forms of human perturbation (such as illegal diversion of flows in summer for *Cannabis* cultivation or excessive sedimentation and hillslope erosion due to road building and other types of land use in the upland portions of the watersheds). In rivers with dams, avoiding aseasonal flow fluctuation which could cause the stranding and scouring of egg masses and tadpoles should be avoided. Maintaining thermal regimes conducive to larval survival and rapid development will also be important. Recovery actions for the foothill yellow-legged frog should include management of non-native bullfrogs which are predators as adults, competitors as tadpoles and reservoir hosts for parasites and disease organisms that have been shown to have negative effects on foothill yellow legged frogs. Management of non-native fish and crayfish which are predators of frogs, tadpoles, and egg masses will also be important elements of recovery. Reintroduction into stream systems with appropriate habitat should also be considered.

NOTICE OF PETITION

Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
Contact: Jeff Miller
Phone: (510) 499-9185
E-mail: jmiller@biologicaldiversity.org

Petitioner Center for Biological Diversity formally requests that the California Fish and Game Commission list the Foothill yellow-legged frog (*Rana boylii*) as a threatened species under the California Endangered Species Act ("CESA"), Fish and Game Code §§ 2050 et seq. This petition sets in motion a specific administrative process as defined by Fish and Game Code §§ 2070-2079, placing mandatory response requirements on the Commission and very specific time constraints upon those responses.

Petitioner Center for Biological Diversity is a national nonprofit organization with more than 1.1 million members and online activists dedicated to the protection of endangered species and wild places, through science, policy, education, citizen activism and environmental law.

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NATURAL HISTORY AND STATUS OF FOOTHILL YELLOW-LEGGED FROG

A. NATURAL HISTORY

Description

Adult foothill yellow-legged frogs are moderate-sized (37 to 82 mm snout-urostyle length) ranid frogs with indistinct dorsolateral folds, fully webbed feet, slightly expanded toe tips, and rather thick, rough pebbly skin (Stebbins 1951, 2003; Zweifel 1955). Dorsal color is highly variable and is usually light and dark mottled gray, olive, or brown, but variable amounts of brick red are often present, and a pale triangle is often located between the eyes and the snout (Zweifel 1955; Nussbaum et al. 1983; Jones et al. 2005). The undersurfaces of the posterior abdomen and ventral surfaces of the rear legs are varying shades of yellow, which fades to white anteriorly on the belly (Stebbins 1951; Zweifel 1955). Females attain larger sizes than males (Jennings and Hayes 1994). Mature males have a dark swollen bump or nuptial pad on the dorso-medial surface of each thumb that becomes darker, slightly larger, and rougher to the touch during the breeding season (Hayes et al. 2016). Males also have proportionally larger forearm muscles and narrower waists than females (Hayes et al. 2016).

Juvenile foothill yellow-legged frogs look similar to adults except for their smaller size (14 to 36 mm snout-urostyle length), more contrasting dorsal coloration, and lack of significant yellow on their undersurfaces (Stebbins 1951; Zweifel 1955; Nussbaum et al. 1983; Jones et al. 2005). Undersurfaces of the youngest juveniles are cream or flesh colored and the yellow color makes its first appearance on the calves and thighs, expanding anteriorly and posteriorly as juveniles grow in size (Hayes et al. 2016).

Newly hatched tadpoles are dark brown to black and typically measure 7 to 8 mm in total length (Storer 1925; Zweifel 1955). As tadpoles grow, their coloration turns an olive color with coarse brown mottling dorsally. The ventral surface of the body is silvery and nearly opaque, and the coiled intestine is barely visible. The body is more flattened, and the tail fin, tallest at its mid-portion, has a relatively broad musculature (Zweifel 1955). When viewed from above, the eyes of foothill yellow-legged frog tadpoles are dorsally positioned so they are located within the outline of the head in bird's eye view (Hayes et al. 2016). Tadpoles have a large, downward-oriented, almost suction-like mouth with several rows of denticles or labial teeth, with the number of rows increasing with development (Hayes et al. 2016).

Egg masses contain from about 100 to more than 3,000 eggs, depending on the size of the female and geographic variation among populations (Kupferberg et al. 2009b). Upon deposition, the mass is compact and the jelly is highly transparent and has a hyaline blue tint. Within 6 hours, the egg mass absorbs water, loses the bluish tint, expands to a long-axis diameter of 45 to 90 mm, and resembles a cluster of grapes (Hayes et al. 2016). Each ovum is dark brown to black in appearance and surrounded by three jelly envelopes. Individual eggs range from 1.0 to 2.3 mm in diameter, and the outermost of the three jelly envelopes ranges from 3.9 to more than 6 mm in diameter (Storer 1925; Zweifel 1955).

Taxonomy

Rana boylii was named after Dr. Charles Elisha Boyle, a California "49er" that collected the type specimens in 1850 (Jennings 1987). The foothill yellow-legged frog was first described as a species by Baird (1854). A half-century of taxonomic uncertainty followed with several name changes (Zweifel 1968). Since 1955, the foothill yellow-legged frog has been recognized as a distinct species in the family Ranidae (Zweifel 1955; Collins 1990). The "boylii" group of western ranids seems to have diverged from other ranids about 8 million years ago (Macey et al. 2001). Based on morphological analyses, *R. boylii* was thought to be most closely related to *R. muscosa*, the mountain yellow-legged frog (Zweifel 1955). However, a recent phylogenetic analysis allied it most closely to *R. pretiosa*, the Oregon spotted frog (Macey et al. 2001).

Several studies have detected intraspecific genetic variation (Case 1978a,b; Lind 2005; Dever 2007). Recent mitochondrial DNA analysis by Lind (2005) and Lind et al. (2011) identified significant genetic partitioning between coastal and Sierra Nevada foothill yellow-legged frog populations, two distinct more northerly groupings, and significant differentiation of a single sample in the southern Sierra Nevada from samples in the central and northern Sierra (a pattern congruent with that of other herpetofauna species widespread across the Sierra, e.g., Macey et al. 2001). Conclusions about evolutionary relationships did not involve formal taxonomic description for any of these groups in either of these studies, but Lind (2005) and Lind et al. (2011) noted that some populations may ultimately be regarded as deserving formal taxonomic recognition.

Range in California and Documented Range Contraction

The overall range of the foothill yellow-legged frog historically included lower elevation streams draining the Pacific slope, from the upper reaches of the Willamette River system, Oregon, south to northwestern Baja California (NatureServe 2011; Hayes et al. 2016). In California, foothill yellow-legged frogs were found from the Oregon border to at least as far south as the Upper San Gabriel River, Los Angeles County; the species also possibly occurred historically as far south as Orange County, southwestern San Bernardino County and San Diego County.

The species has now disappeared from more than half of its historically occupied locations (Lind 2005) throughout its range in California and Oregon, resulting in a range contraction at the northern and southern ends of the range. The decline is especially severe in the northern portion of the range and in southern California (see Sweet 1983; Jennings and Hayes 1994; Hayes and Jennings 1988; Jennings 1995). Maps produced by Lind (2005), Olson and Davis (2009), U.S. Forest Service (2011), Hayes et al. (2016), and Thomson et al. (2016) illustrate the range contraction (Figures 1 through 4).

Howard et al. (2015) compiled the California Freshwater Species Database from nearly 500 sources (TNC 2015), the first comprehensive geospatial database of California's freshwater species standardized into single format, providing a single source for geodata covering the plants and animals that rely on California's freshwater resources to survive. A description of the methods used by Howard et al. (2015) to compile the data is available in a recent study published in PLoS ONE. Mapping the *R. boylii* occurrence data from the California Freshwater Species Database would also illustrate the overall range contraction of the species.

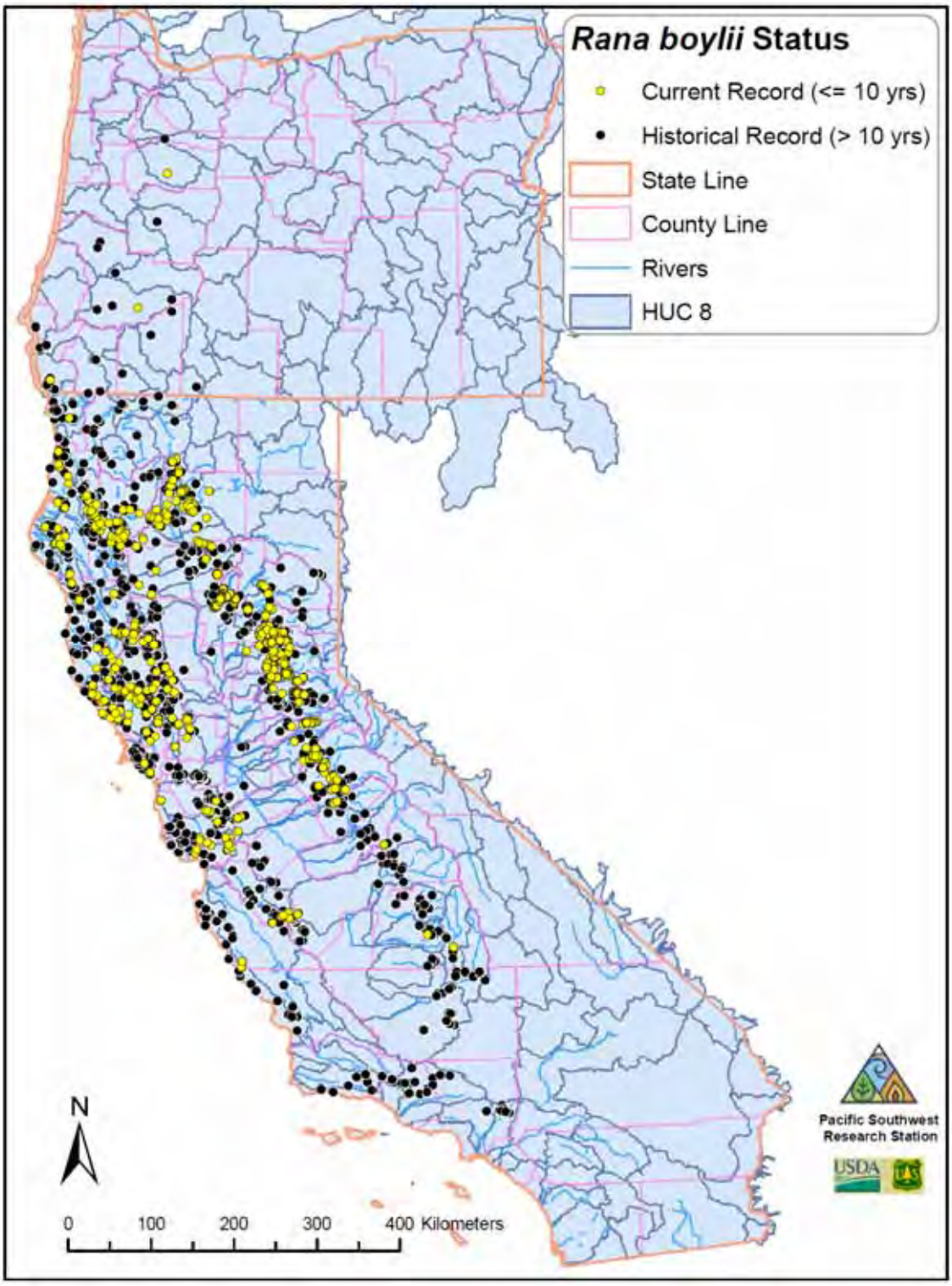


Figure 1. Range contraction map from USFS (2011) comparing historic (> 10 yrs) and recent (< 10 years) locality records. The map was developed using over 6,000 locality records from museum collections, research projects, technical reports, and government databases.

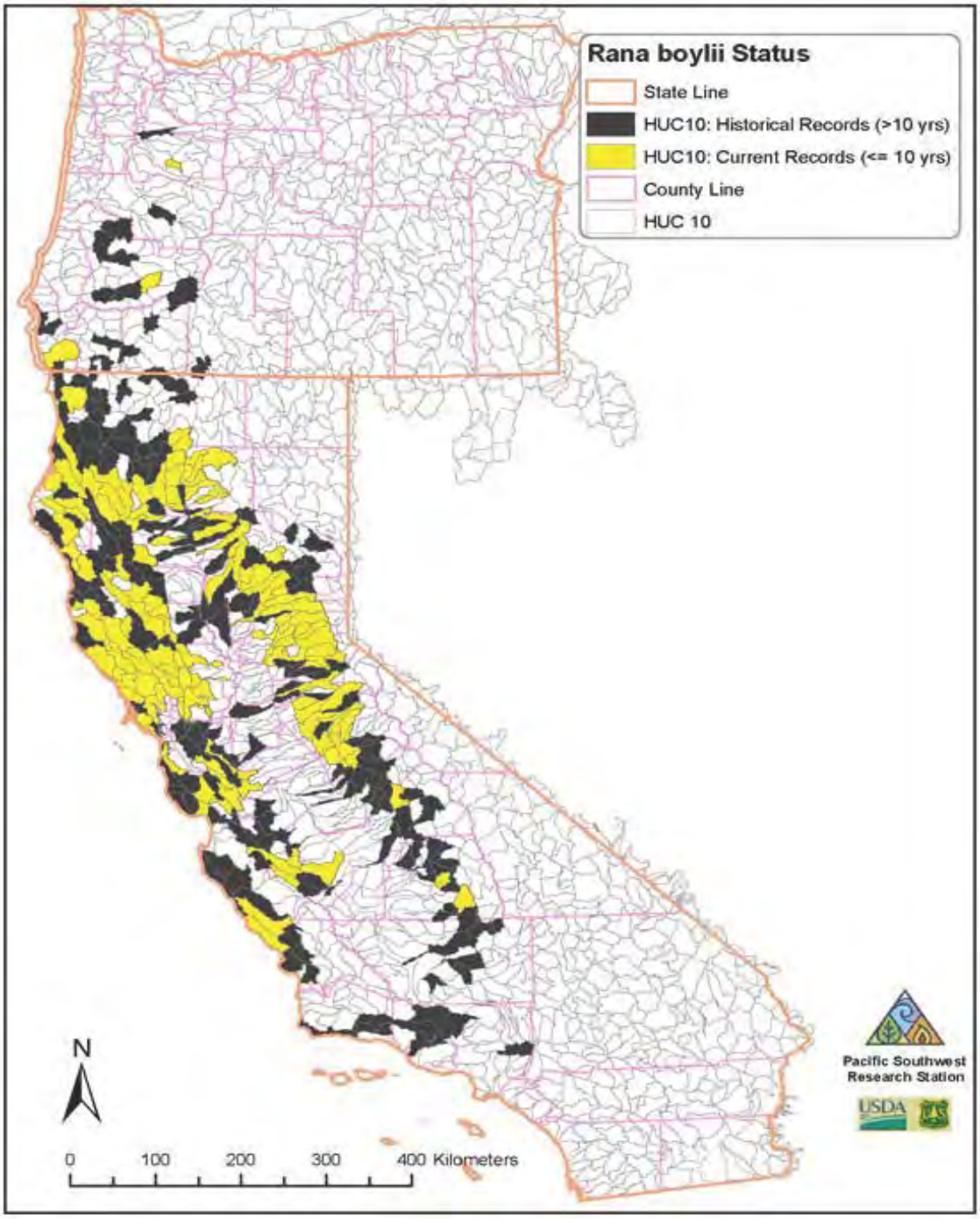


Figure 2. Range contraction map from USFS (2011) comparing historic (> 10 yrs) and recent (< 10 years) presence by watershed. The map was developed using over 6,000 locality records from museum collections, research projects, technical reports, and government databases.

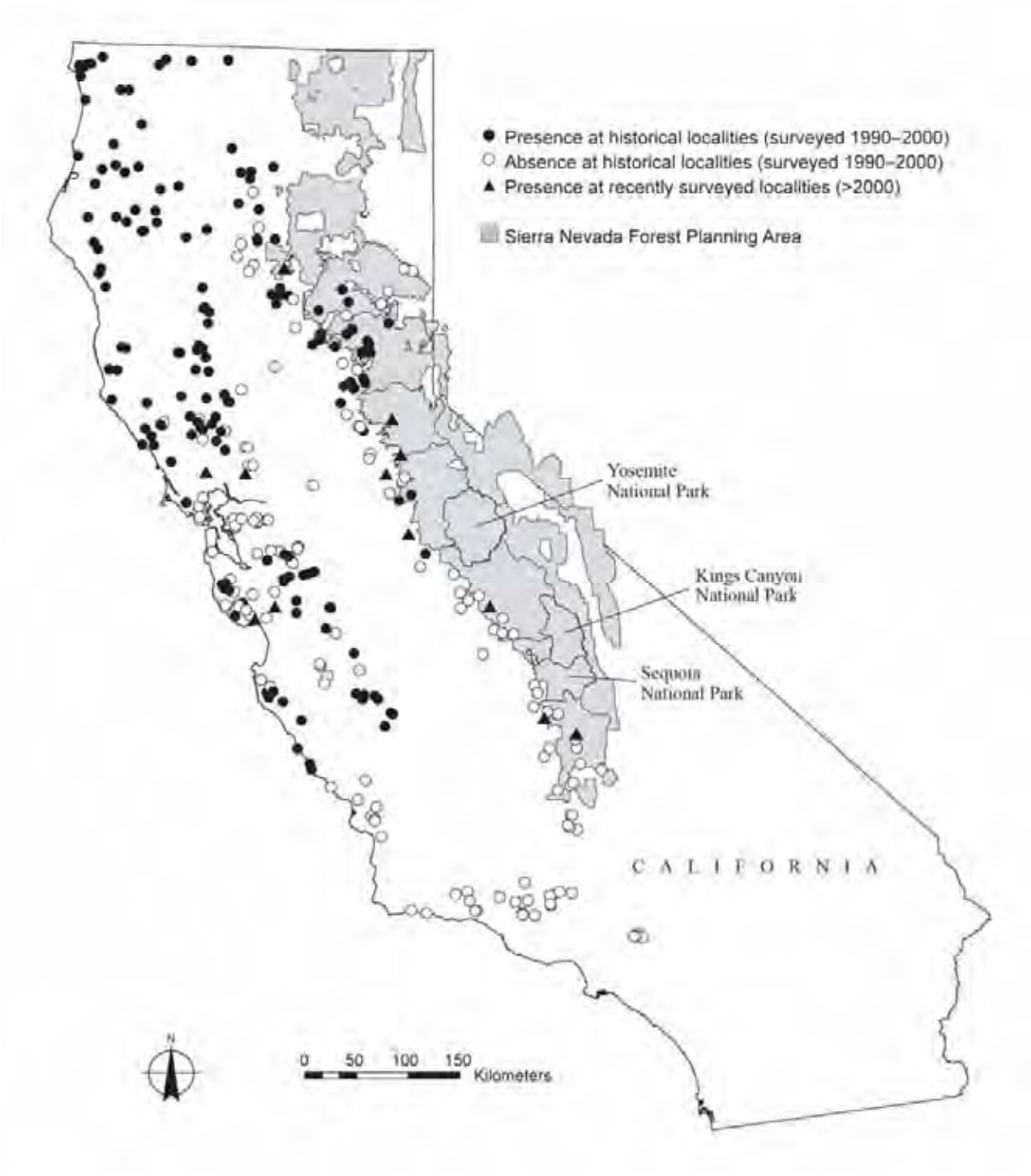


Figure 3. Distribution and status map by Hayes et al. (2016) of the foothill yellow-legged frog (*Rana boylii*) in California, based on an update of Lind (2005). Lind (2005) assessed status prior to year 2000. The Hayes et al. (2016) map overlays new sightings from post-2000 localities on that previous analysis.

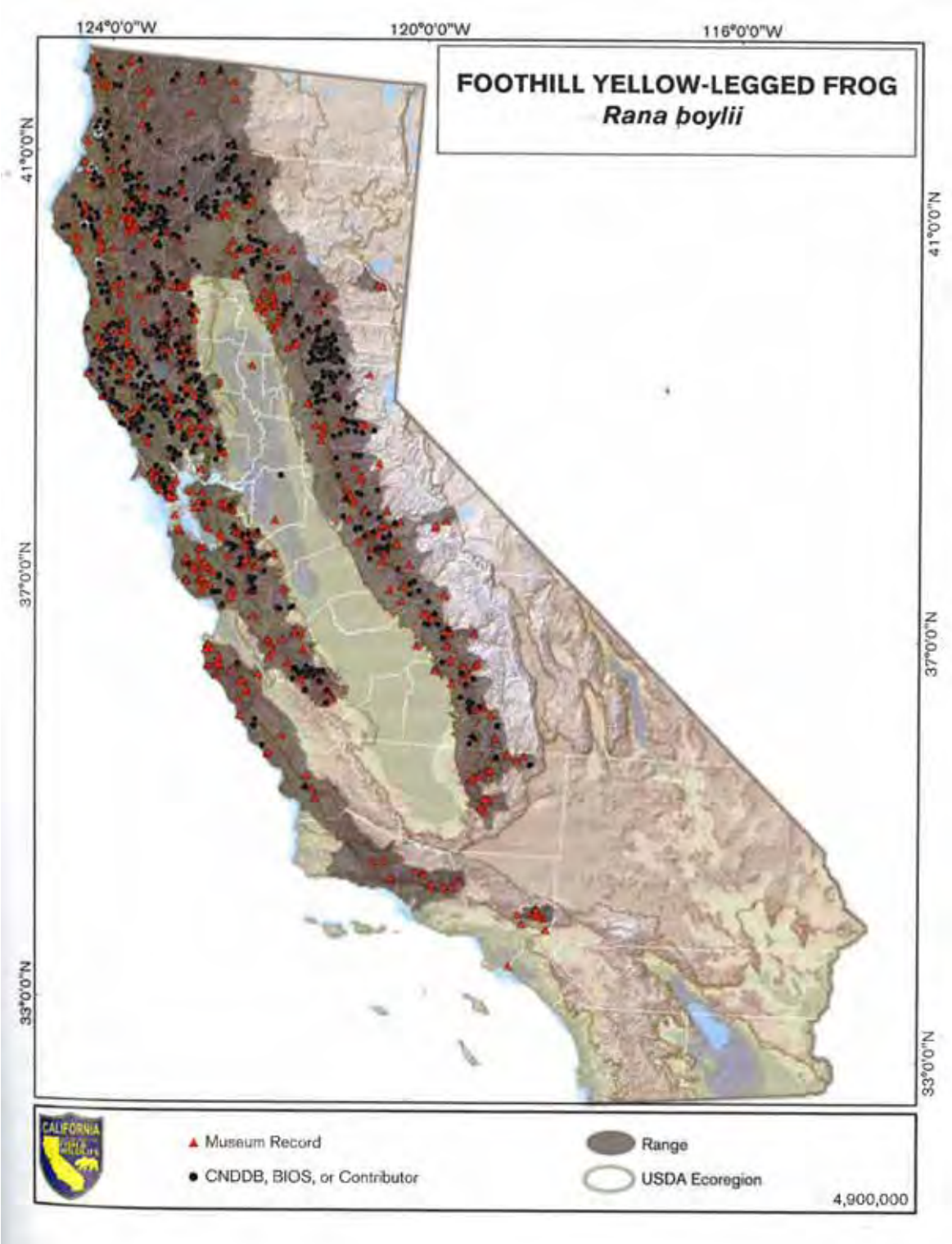


Figure 4. Distribution map by Thomson et al. (2016) of museum records and CNDDB/BIOS records of the foothill yellow-legged frog in California

Habitat Requirements

Foothill yellow-legged frogs inhabit partially shaded, rocky perennial streams and rivers at low to moderate elevations, across a range of vegetation types including chaparral, oak woodland, mixed coniferous forest, riparian sycamore and cottonwood forest, and wet meadows (Nussbaum et al. 1983; Stebbins 1985; Hayes and Jennings 1988). Foothill yellow-legged frogs are primarily stream dwelling. Stebbins (1985) describes foothill yellow-legged frogs as stream or river frogs found mostly near water with rocky substrate, often found in or near riffles, and on open, sunny banks. Other authors have expanded this description, and offer variations (e.g. Storer 1925; Fitch 1938; Zweifel 1955; Hayes and Jennings 1988; Kupferberg 1996a; Lind et al. 1996; Van Wagner 1996). Jennings and Hayes (1994a) noted that suitable streams have riffles containing cobble-sized (7.5 cm diameter) or larger rocks as substrate. Habitat suitable for egg laying where flow velocities are less than those found in riffles varies among regions and size of river (Bondi et al. 2013). Within a single watershed, these frogs can occupy a wide range of stream sizes (from 1st to 7th stream order, Bury and Sisk 1997), but occupied streams are generally small to mid-sized with some shallow, flowing water (Hayes and Jennings 1988). Fuller and Lind (1992) observed subadults on partly shaded (20%) pebble/cobble river bars near riffles and pools. Less typically, occupied streams lack a rocky, cobble substrate (Fitch 1938). Other types of riparian habitats include isolated pools and vegetated backwaters (Hayes and Jennings 1988, Ashton et al. 1998). Habitat requirements vary seasonally and with life stage, but this species is absent, or occurs at low density even in suitable physical habitat if introduced aquatic predators (e.g. bullfrogs, bass) are present (Hayes and Jennings 1986,1988; Kupferberg 1997a).

Life History

The foothill yellow-legged frog life cycle is synchronized with the seasonal timing of streamflow conditions. Radiotelemetry studies show that adult frogs move throughout dendritic networks of streams from winter refugia, such as small tributary streams, where they can avoid mortality due to flooding (Bourque 2008; Gonsolin 2010) to mating habitat in wider and more sunlit mainstem channels where eggs are laid in spring and tadpoles graze on algae in summer (Wheeler and Welsh 2008). Non-breeding habitat is characterized by perennial water where they can forage through the summer and fall months. Springs, seeps, or other moist habitats such as woody debris and clumps of sedges occurring at high-water lines may serve as refugia during periods of high stream flow in winter (Van Wagner 1996; Rombough 2006).

Breeding is triggered by warming water temperatures, decreasing streamflows, and increasing daylength during the transition between the wet and dry season. Breeding sites are generally (but not always) located in low-gradient stream reaches at depositional features such as lateral point bars and pool tail-outs (Kupferberg 1996a; Wheeler and Welsh 2008). Breeding may commence as early as March in warm coastal locations and as late as July in snowmelt dominated rivers (Storer 1925; Zweifel 1955; Ashton et al. 1998; AmphibiaWeb 2012; Wheeler et al. 2014).

Like most ranid frogs, males probably defend areas around themselves during breeding season (Martof 1953; Emlen 1968). Foothill yellow-legged frog vocalizations are seldom heard. The voice is a gutteral, grating sound on one pitch or with rising inflection, a

single croak lasting ½ to ¾ of a second. Four or five croaks may be given in rapid series followed by a rattling sound, the entire sequence lasting about 2.5 seconds (Stebbins 1985). While much of the mate calling occurs underwater (MacTague and Northern 1993), males also call from above water. Above water calls are faint and are not generally heard over distances greater than 50 meters (Ashton et al. 1998). Examples of both above water, and underwater calls are documented and described on Frog and Toad Calls of the Pacific Coast (Davidson 1995).

Females often oviposit eggs in shallow water toward the margin of streams, but in some large rivers they oviposit at depths greater than 1 m and distances up to 20 meters from the water's edge (Mokelumne River, unpublished data from Garcia and Associates for PG&E). Clutches of eggs are often attached to the flow-protected lee sides of rocky substrates within a narrow range of flow velocities (Kupferberg 1996a; Bondi et al. 2013). Tadpoles disperse from egg laying sites but similarly require protection from swift currents, especially when they approach metamorphosis and are poor swimmers (Kupferberg et al. 2011). Cobble and pebble are the preferred substrate for egg mass attachment, but egg masses have been found attached to aquatic vegetation, woody debris, gravel and bedrock (Fuller and Lind 1992; Ashton et al. 1998, Bondi et al. 2013). Females lay a distinct cluster of eggs, with average clutch sizes ranging from 100 to 1,100 eggs (Storer 1925; Wright and Wright 1949) but can reach more than 3,000 eggs (Kupferberg et al. 2009c). Larger and more fecund females tend to breed first and small females oviposit clutches with fewer eggs as the breeding season progresses (Kupferberg et al. 2009c, Gonsolin 2010).

Eggs hatch in 5 to 30 days, or more (Zweifel 1955). In the mainstem Trinity River, eggs hatch in 27 to 36 days (Ashton et al. 1998). The slower development is probably due to colder temperatures from dam released water (Wheeler et al. 2015; Railsback et al. 2016). At the time of hatching, the embryos are at a Gosner stage of 20 to 22 (Ashton et al. 1998). In the absence of disturbance, the tadpoles will remain associated with the egg mass for several days after hatching then disperse to local interstices of the gravel bed, often moving downstream in areas of moderate flow (Ashton et al. 1998). Larval growth rate and survival depend on water temperature and interactions between temperature and quality of algal food resources (Catenazzi and Kupferberg 2013; Furey et al. 2015; Railsback et al. 2016). Tadpoles actively thermoregulate (Brattstrom 1962) and prefer warm temperatures at or above approximately 20C (Kupferberg et al. 2013). Larval growth rate and survival to metamorphosis are inversely proportional to flow velocity conditions (Kupferberg et al. 2011), *i.e.* growth is slower at higher velocities. Metamorphosis generally occurs in three to four months. Male foothill yellow-legged frogs can reach sexual maturity at age 1 to 2 years, at a length of about 40 mm (Zweifel 1955; Gonsolin 2010), whereas females mature at two or three years of age depending on latitude and elevation of the population (Kupferberg et al. 2009c; Gonsolin 2010), with Central Coast populations maturing at earlier ages. Some individuals may reproduce as early as 6 months after metamorphosis (Jennings 1988).

Rana boylii tadpoles feed on periphyton scraped from rocks or plants. They seem to grow fastest feeding on epiphytic diatoms growing on filamentous algae such as *Cladophora* sp., and have been observed to preferentially graze on this algal type (Jennings and Hayes 1994; Ashton et al. 1998; Kupferberg 1997b). Tadpoles have been observed actively congregating on dead tadpoles and dead, open bivalves (Ashton et al. 1998). Metamorphosed frogs feed primarily on terrestrial invertebrates, but also eat

some aquatic invertebrates (Fitch 1936; Zeiner et al. 1988; Hothem et al. 2009). Adult diet includes flies, moths, mosquitoes, hornets, ants, beetles, grasshoppers, water striders, and snails (Fitch 1936; Nussbaum 1983; Csuti et al. 2001). Van Wagner (1996) provided a thorough literature review and a detailed diet analysis of post-metamorphic *R. boylii*. Analysis of 63 post-metamorphic *R. boylii* found terrestrial arthropods to be the primary (~90%) prey items year round, comprised of 87.5% insects and 12.6% arachnids (Van Wagner 1996). Foothill yellow-legged frogs capture their prey by waiting along stream edges and pouncing (Airola 1980).

The foothill yellow-legged frog is primarily diurnal and may be active year-round in locations where winter temperatures permit, with peak activity in April and May (Airola 1980).

Home ranges and dispersal patterns of the foothill yellow-legged frog are poorly understood (Jennings and Hayes 1994), but a handful of mark-recapture and telemetry studies exist. Frogs have been found 50 m (Nussbaum et al. 1983; Csuti et al. 2001) to 70-80 m (C. Rombough, pers. comm., as cited in Olson and Davis 2009) from water. Metamorphs have been found in pitfall traps at greater distances upslope from the water's edge (Twitty 1967). Along streams, Van Wagner (1996) reported seasonal movements of about 450 m for this species in California, and an 800 m movement distance is known from Oregon (C. Rombough, pers. comm., as cited in Olson and Davis 2009). A telemetry study by Bourque (2008) in Tehama County, California documented movement distances to and from breeding sites of 0.65 km and as far as 7.04 km for male and female foothill yellow-legged frogs, respectively, with median travel distances of 65.7 and 70.7 meters/day. Frogs used watercourses as movement corridors and rarely moved > 12 m from the stream channel. In Coyote Creek (Santa Clara Co., CA) radio-telemetry revealed that 60% of radio-tagged frogs were found underwater and under substrate and would not have been detected without the use of a transmitter (Gonsolin 2010). Gonsolin (2010) also reported that movements were restricted seasonally to the period between Feb and May for adults as they migrated to and from breeding sites. Adult females moved an average of 744 m, adult males moved 485 m, and juveniles moved 305 m.

During breeding season and summer, foothill yellow-legged frogs are rarely encountered far from permanent water. Adults congregate around breeding pools in spring, with month varying by latitude and elevation of the river. In late summer adults were found to be scarce along the main stem of the Trinity River, indicating that they may be dispersing into the vegetation, moving up tributaries, or reducing diurnal activity (Ashton et al. 1998). Recently metamorphosed frogs show a strong tendency to migrate upstream (Twitty 1967). This may be an evolutionary mechanism to repatriate individuals washed downstream from suitable habitat during the larval stage. During the winter, frogs have been observed in abandoned rodent burrows and under logs as far as 100 m from streams (Zeiner et al. 1988; Welsh 1994).

Movements of marked animals were not noted to occur November through March in Oregon (C. Rombough, pers. comm., as cited in Olson and Davis 2009). Radio telemetry tracking of post-breeding adult females in California documented dispersal distances from 0 to 7,043 m (R. Bourque, pers. comm., as cited in Olson and Davis 2009) where, over the course of 60 days, one female traveled upstream along the main channel of a perennial stream, then up intermittent and dry tributary channels, then over a ridge eventually working her way downstream to perennial waters in an adjacent watershed

(R. Bourque, pers. comm., as cited in Olson and Davis 2009). Other ranids have capabilities of dispersing kilometers overland; however, according to Nussbaum et al. (1983) this species is likely restricted to movements along streams or stream-riparian corridors. Their likely restriction to riparian corridors needs further study because of the low detectability of frogs in uplands. Dever's (2007) genetic study suggested that a distance of 10 km may effectively isolate frog populations along a river system (i.e., frogs this distance apart on a river are not part of a single interbreeding population). In river systems altered by human activities however, when populations are separated by dams, reservoirs, and reaches where flows artificially fluctuate daily, genetic isolation becomes apparent at much shorter distances of separation (Peek 2010, 2012).

Ashton et al. (1997) summarizes additional information on the natural history of the foothill yellow-legged frog. A more recent but less detailed account is provided by Morey (2007).

Natural Mortality

A number of native vertebrates (e.g. birds and snakes) and aquatic invertebrates (e.g. dragonfly nymphs) feed on foothill yellow-legged frogs, their tadpoles and eggs (Fitch 1936, 1941; Everdon 1948; Zweifel 1955; Milne and Milne 1980; Nussbaum et al. 1983; Jennings and Hayes 1994; Lind and Welsh 1994; Duellman and Trueb 1986; Jennings 1988; Moyle and Brown 1997; Ashton et al. 1998; Fellers 2005; Olson and Davis 2009). Among the documented predators of foothill yellow-legged frogs at various life stages are signal crayfish (*Pacifasticus leniusculus*) (Rombough and Hayes 2005); aquatic insects including caddisfly larvae (Limnephilidae), waterstriders (Gerridae), and veliid bugs (Veliidae) (Kupferberg 1996a; Rombough and Hayes 2005c); California tiger salamander (*Ambystoma californiense*) larva (Fidenci 2006) and the rough-skinned newt (*Taricha granulosa*, Everdon 1948); garter snakes, predominantly the aquatic garter snake (*Thamnophis atratus*) and the Sierran garter snake (*T. couchii*) (Fitch 1936, 1940, 1941; Stebbins 1951; Zweifel 1955; Nussbaum et al. 1983; Jennings and Hayes 1994; Lind and Welsh 1994); North American river otters *(Lutra canadensis*) (Hayes et al. 2016); mallard ducks (*Anas platyrhynchos*) (Rombough et al. 2005b). Foothill yellow-legged frogs are vulnerable to predation by fishes, both native and non-native including bass (*Micropterus* sp.) and Sacramento pikeminnow (*Ptychocheilus grandis*) (Brown and Moyle 1997; Corum 2003; Ashton and Nakamoto 2007; Paoletti et al. 2011). Other fish species are suspected to be predators (Hayes and Jennings 1988; Rombough and Hayes 2005c).

CHANGES IN DISTRIBUTION AND ABUNDANCE

The occurrence data discussed below are derived from an exhaustive search of museum specimen collection records, published literature on the species, environmental review documents, agency survey data, and all observation records in the California Natural Diversity Database as of December 9, 2016 (CNDDB 2016). The information is organized geographically by region, then by county (as well as by National Forest for Sierra Nevada populations), then by watershed. All known historical and recent distribution and abundance data is given or summarized, as well as a summary of the recent status for each county. Many of the "small" populations discussed below are observations of single or scattered individuals, or small numbers of frogs with no

evidence of recruitment success. Information on locations, dates and numbers of frogs can be found in the footnotes for each section.

Determining the size of *R. boylii* populations for the purposes of making comparisons among locations, detecting trends, and assessing long term viability is a problematic task. Because of their cryptic coloration and their behavior, simple counts from visual encounter surveys may not accurately reflect the abundance of frogs comprising a breeding population of *R. boylii*. Outside of the breeding season, frogs can be dispersed across a range of channel sizes throughout a dendritic stream network (Welsh et al. 2005). Telemetry studies have shown that 60% of radio-tagged foothill yellow-legged frogs were found underwater and under substrate and would not have been detected without the use of a radio-transmitter (Gonsolin 2010). Clutches of eggs on the other hand, are comparatively visible and tractable to count (Figure 5).



Figure 5. Photo showing cryptic nature of *Rana boylii* in the stream channel relative to an egg mass. The arrow points to a male near the bank with its head out of the water.

Since each female *R. boylii* lays one discrete clutch of eggs, it has become standard practice to use egg mass counts, standardized by the length of the river reach searched, as a proxy for population density in lieu of more labor and time-intensive methods such as mark-recapture studies. A compilation of breeding season censuses of *R. boylii*

(Kupferberg et al. 2009c), indicated that the average abundance in free-flowing rivers is approximately 32 breeding females per river kilometer while genetic evidence demonstrates that there is significant isolation by distance between individuals occurring more than 10 km away from each other (Dever 2007). Thus Kupferberg et al. (2009c) chose 320 females in a 10 km reach to represent a typical *R. boylii* population and to use this starting number as a reference for comparison in a matrix projection model of population viability. When starting population size was set at 2 females per km (the low end of extant populations in regulated rivers), the model predicted a 13 fold increase in risk of extinction over a thirty year period in the absence of other anthropogenic stressors. When small starting population sizes were combined with hydrologic stressors such as ill-timed pulsed flows which cause eggmass and tadpole mortality, risk of extinction increased 20 to 45 times above the reference model. In contrast, when starting population size was set at 107 females per river km (an observed density on the SF Eel River), risk of extinction decreased 5 fold to less than a 1% chance of occurring. Given these modeling scenarios, we evaluate the number of frogs observed in the locality accounts listed below as follows. Populations with 100's of breeding adults are considered robust while populations with densities in the single digits are considered to be at high risk of local extinction.

Southern California

The foothill yellow-legged frog once occurred south of its current range, with documented historical localities in Santa Barbara, Ventura and Los Angeles counties. Based on museum specimens, the species possibly occurred as far south as Orange, southwestern San Bernardino and San Diego counties. However, foothill yellow-legged frogs are now extirpated from all of southern California south of San Luis Obispo County.

The foothill yellow-legged frog was formerly widespread and fairly common in the southern California coastal mountains, but has not been seen in or south of the Transverse Ranges since 1977 despite repeated searches (Sweet 1983; Jennings and Hayes 1994; Adams in prep.), and has completely disappeared from southern California south of Santa Barbara (Jennings 1995). High water conditions from 500-year frequency floods that occurred over much of southern California in 1969 are thought to have been one factor in the extirpation of the species from the region (Sweet 1983).

There has been some confusion regarding the species identification of historical collections of yellow-legged frogs in southern California and potential mislabeling of southern California mountain yellow-legged frogs (*Rana muscosa*) as foothill yellow-legged frogs (*R. boylii*). Historical locations of the mountain yellow-legged frog in southern California were from creeks and drainages in the San Gabriel, Big Bear, and San Jacinto Mountains of Los Angeles, San Bernardino, and Riverside Counties, as well as from an isolated population on Palomar Mountain in San Diego County (USFWS 2002). Mountain yellow-legged frogs in southern California historically inhabited a wide elevation range of localities, from 370 m (1,220 feet) to 2,290 m (7,560 feet) (USFWS 2002). The elevational range of the foothill yellow-legged frog (*R. boylii*) is from sea level to 1,830 m (6,000 feet) (Stebbins 1985; Stebbins and McGinnis 2012). *Rana boylii* and *R. muscosa* rarely co-occurred but did so at a couple of sites in the San Gabriel Mountains (Schoenherr 1976).

San Diego County

Although San Diego County is considered outside of the known historical range for *R. boylii*, there are historical collection records of yellow-legged frogs from a few scattered locations in San Diego County from 1928 to 1963, which deserve examination. There is some debate as to whether collection specimens from San Diego County labeled *R. boylii* were mislabeled (California Herps 2015).

The U.C. Museum of Vertebrate Zoology (UCMVZ 2001) had a collection specimen originally labeled *R. boylii* from 1951 in Doane Valley, Palomar Mt. State Park, at an elevation around 6,000 feet. An isolated population of the mountain yellow-legged frog (*R. muscosa*) was known to occur historically at Palomar Mountain (Vredenburg et al. 2007), and this specimen is now apparently correctly identified as *R. muscosa* (California Herps 2015; UCMVZ 2015).

The University of Kansas Museum of Natural History (UKMNH 2001) has a collection specimen from 1928 labeled *R. boylii* from Boulder Park in Jacumba (elevation 3,000 feet or 910 m), in the southeastern part of San Diego County near the U.S./Mexico border; but this specimen is thought to be misidentified (California Herps 2015). The University of Kansas Museum of Natural History also has 3 collection specimens labeled *R. boylii* from September 1928 from an unidentified location in San Diego County; however since the location cannot be determined, it is possible these were also misidentified mountain yellow-legged frogs (UKMNH 2001). Genetic and morphological analysis of these 4 UKMNH specimens would be useful.

The California Academy of Sciences has a specimen from 1963 labeled *R. boylii* which was collected from Caroll Canyon, just north of San Diego (CAS 2001); this would have been in the Penasquitos Creek watershed, near sea level and well below the known historical elevational range for *R. muscosa*.

Recent status: There are no recent foothill yellow-legged frog records from San Diego County. If the species did occur in San Diego County historically, it certainly has been extirpated.

Orange County

Although Orange County is considered outside of the known historical range for *R. boylii*, Bryant and Remington (1990) reported that foothill yellow-legged frogs were found in the 1940s (apparently as late as 1942) in the upper Newport Bay area. This would have been in the San Diego Creek/Bonita Creek watershed, near sea level and well below the known historical elevational range for *R. muscosa*.

Recent status: There are no known foothill yellow-legged frog records from Orange County. If the species did occur in Orange County historically, it certainly has been extirpated.

San Bernardino County

Although San Bernardino County is considered outside of the known historical range for *R. boylii*, there are historical collection records of yellow-legged frogs from the Santa Ana River drainage, in southwestern San Bernardino County, which deserve

examination.

Santa Ana River

The U.C. Museum of Vertebrate Zoology had specimen collection records of yellow-legged frogs originally labeled *R. boylii* (UCMVZ 2001) that were collected from the Santa Ana River drainage in San Bernardino County from 1905 to 1923; however, these specimens have more recently been identified as mountain yellow-legged frog (*R. muscosa*) (UCMVZ 2015). The University of Michigan Museum of Zoology (UMMZ 2001) has 12 frogs labeled *R. boylii* that were collected 2 miles from Santa Ana Canyon on a single day in August 1940. Santa Ana Canyon (or Santa Ana Narrows) is the water gap where the Santa Ana River passes between the Santa Ana Mountains and the Chino Hills, near the intersection of Orange, Riverside, and San Bernardino Counties, at less than 700 feet elevation. If these frogs were indeed taken in San Bernardino County, 2 miles from the Canyon, this would be the vicinity of Chino Hills State Park, in the lower Santa Ana River, below the known elevational range for *R. muscosa*.

Recent status: There are no recent records of foothill yellow-legged frogs from San Bernardino County. If the species did occur in San Bernardino County historically, it certainly has been extirpated.

Los Angeles County

There are historical collection records of foothill yellow-legged frogs from 1903 to 1977 in Los Angeles County, throughout the southern foothills of the San Gabriel Mountains in the San Gabriel River drainage, in Little Rock Creek in the northern San Gabriel Mountains, in a few scattered localities in the floodplain of what is now urbanized Los Angeles, and in extreme northwestern Los Angeles County in Piru Creek and Castaic Creek, tributaries to the Santa Clara River.

The mountain yellow-legged frog (*R. muscosa*) was known to occur historically in the San Gabriel Mountains of Los Angeles County (Vredenburg et al. 2007). Museum specimens collected from the San Gabriel Mountains are currently being evaluated by the USGS and the Los Angeles County Museum herpetological curator, as to whether they were actually *R. boylii* or *R. muscosa*.

San Gabriel River/Tujunga Creek

There are historical collection records labeled *R. boylii* from 1908-1952 in the San Gabriel Mountains, in streams draining into urbanized Los Angeles (CAS 2001; UMMZ 2001; UCMVZ 2015).[1] The West Fork, North Fork and East Fork of the San Gabriel River are all above San Gabriel Reservoir, which is at 1,145 ft (349 m). The U.C.

[1] In the San Gabriel River drainage – an unidentified location in the San Gabriel Mountains in 1915, the East Fork in 1935, unidentified location on the San Gabriel River in 1940, San Gabriel River above the junction of the North and West Forks in 1940, Crystal Lake Park (up a tributary to the North Fork) in 1946, the West Fork in 1950 (30 frogs from N of Camp Rincon on a single day in June) and 1951, the junction of the North and West Forks in 1951, the North Fork in 1951, and unidentified location on the San Gabriel River in 1951; from the Santa Anita Wash drainage - Big Santa Anita Canyon near Sierra Madre in 1908, Little Santa Anita Canyon in 1909, near Mt. Wilson in 1913, Little Santa Anita Canyon in 1918, and 8 frogs from near Mt. Wilson in October 1944; from the Tujunga Creek drainage - Mill Creek, near Big Tujunga Creek in 1952 (CAS 2001; UMMZ 2001; UCMVZ 2015).

Museum of Vertebrate Zoology currently list 59 *R. boylii* specimens collected from the San Gabriel Mountains in Los Angeles County from 1944 through 1951 (UCMVZ 2015). All museum specimens collected from the San Gabriel Mountains should be evaluated as to whether they were actually *R. boylii* or *R. muscosa*. Dunn et al. (1988) presumed *R. boylii* persisted in the San Gabriel Mountains, but there were no recent documented occurrences.

Los Angeles Floodplain

There are historical collection records labeled *R. boylii* from 1907-1930 in the greater Los Angeles floodplain, at low elevation (HMCZ 2001; CAS 2001; Cornell University 2002).[2] The U.C. Museum of Vertebrate Zoology had a yellow-legged frog specimen originally labeled *as R. boylii*, collected from Arroyo Seco Canyon near Pasadena in 1903 (UCMVZ 2001); this specimen is now labeled as *R. muscosa* (UCMVZ 2015). However, this locale is at low elevation within the floodplain of urban Los Angeles, and well below the known elevational range for *R. muscosa* in southern California; for which the lowest known occurrence is above 1,220 feet (USFWS 2002).

Santa Clara River

There are historical collection records labeled *R. boylii* and reports of observations from 1967-1977 in Piru Creek in the Santa Clara River drainage (Jennings and Hayes 1994; Stephenson and Calcarone 1999; LSUMNS 2001).[3] The last reliable observation of *R. boylii* in this region was from Piru Creek in 1977 (Jennings and Hayes 1994).

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at any of 3 historical locations in Los Angeles County. There are no records of foothill yellow-legged frogs from Los Angeles County since 1977. The species is extirpated from Los Angeles County.

Ventura County

Santa Clara River

There are historical collection records of foothill yellow-legged frogs from 1914 to 1970 in Ventura County, all within the Santa Clara River drainage and its tributaries, including Piru Creek, Hopper Canyon, Sespe Creek, and Santa Paula Creek (Jennings and Hayes 1994; Stephenson and Calcarone 1999; UMMZ 2001; CAS 2001; CNDDB 2016; UCMVZ 2015).[4] The species was apparently relatively common in Hopper Creek

[2] Claremont in 1907; the city of Los Angeles in 1911; La Crescenta in 1915; and Monrovia in 1930 (HMCZ 2001; CAS 2001; Cornell University 2002).

[3] Specimens were taken from Elizabeth Lake Canyon (Stephenson and Calcarone 1999), Piru Creek south-southeast of Caswell in 1967 (LSUMNS 2001) and upstream from Piru Gorge (now flooded under Piru Lake) in 1970 (Jennings and Hayes 1994). The last reliable observation of the species in this region was 1-2 km south of Frenchman's Flat along Piru Creek in July 1977 (Jennings and Hayes 1994).

[4] Collections records include: 1 frog from Sespe Canyon, at the head of Sespe Creek on the Ventura/S Barbara border in 1914 (CAS #39253); 1 frog (CAS #10223) from Sespe Gorge in 1948; 1 frog (CAS #10229) in 1949 and 1 larva (CAS #11549) in 1950 from the junction of Lion Canyon and Sespe Creek; an unknown location along Sespe Creek in 1940; 5 frogs and 1 larva (CAS #10224-10228, 11550) from Piru Creek in 1949; 11 adults and juveniles (MVZ #33664-33673; 54519) from Hopper Creek in 1940; 2 juveniles

(possibly named after the species), where 11 adult/juvenile frogs were collected on a single day in May 1940, and in Piru Creek, where 5 frogs and larva were collected in May 1949 (CAS 2001; UCMVZ 2015). The last known specimens in Ventura County were collected from Piru Creek, 10 miles N of the Temescal Ranger Station, in 1970 (Jennings and Hayes 1994).

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at any of 11 historical locations in Ventura County. There no reports of foothill yellow-legged frogs from Ventura County since 1970 (Jennings and Hayes 1994). The species is extirpated from Ventura County.

Santa Barbara County

Santa Ynez River

There are historical collections from 1933-1966 in the upper Santa Ynez River drainage and tributaries including Big Canyon Creek, Indian Creek, Juncal Creek, and Santa Cruz Creek (Jennings and Hayes 1994; Stephenson and Calcarone 1999; SDNHM 2001; UMMZ 2001; CAS 2001; CNDDB 2016; UCMVZ 2015).[5] All of the historical collections were of small numbers of frogs or individual frogs.

There are no recent records from the Santa Ynez River drainage.

Small coastal streams

There are historical collections records from Gaviota Creek in 1922 and Refugio Creek in 1974, small coastal streams along the southern coast of Santa Barbara County, tributary to the ocean (SBMNH 2001; UMMZ 2001; CNDDB 2016).[6]

There are no recent records from southern coastal Santa Barbara County.

Recent status: Jennings and Hayes (1994) were unable to locate any foothill yellow-legged frogs during resurvey efforts from 1988-1991 at any of 7 historical locations in Santa Barbara County. There are no foothill yellow-legged frog records from Santa Barbara County since 1974 in the California Natural Diversity Database (CNDDB 2016), the last record of foothill yellow-legged frog from Santa Barbara. The species is extirpated from Santa Barbara County.

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and 1 adult (CAS #50470-50472) from Sespe Creek 3 miles N of Fillmore in 1921; 1 frog (MVZ #42611) from Santa Paula Canyon, near East Fork in 1946 and 4 frogs (ASUHERPS #4431-4434) from the same location in 1962; Santa Paula Creek in 1942; and 6.4 miles NE of Ventura in 1940 (UMMZ 2001; CAS 2001; CNDDB 2016; UCMVZ 2015).

[5] Historical collection records include: single frogs collected from the Santa Ynez River at Juncal Campground in 1961 (CAS #181275) and Big Canyon Creek at Juncal Road in 1966 (CAS #181276); Indian Creek at the base of Mono Dam in 1940; 1 frog (MVZ #35222) from Indian Canyon, 2 miles southeast of Bluff Camp in 1940; 2 adults, 2 juveniles and 2 frogs of unknown age (CAS #181269-181274) from Santa Cruz Creek near Santa Cruz Guard Station in 1960; and 1 frog (SDNHM #20776) from Bear Canyon on the north slope of Santa Ynez Mountain SE of Lake Cachuma in 1933 (SDNHM 2001; UMMZ 2001; CAS 2001; CNDDB 2016; UCMVZ 2015).

[6] Three yellow-legged frogs were taken from Gaviota Creek in 1922 (UMMZ 2001); and 1 frog (SBMNH #HE 243) was collected from Refugio Creek in 1974 (SBMNH 2001; CNDDB 2016).

South Coast

The South Coast includes coastal drainages south and west of the Santa Lucia Range in Monterey County, south to San Luis Obispo County. The foothill yellow-legged frog is now nearly extirpated from Monterey and San Luis Obispo counties and the south coast region.

San Luis Obispo County

Cuyama River

There is a foothill yellow-legged frog collection record from the Alamo Creek tributary of the Cuyama River in 1940. The Cuyama River joins the Santa Maria River in southern San Luis Obispo County.

Arroyo Grande Creek

There are historical collection records from 1943-1963 in Arroyo Grande Creek (SBMNH 2001; CNDDB 2016; UCMVZ 2015).[7]

San Luis Obispo Creek

There are historical collection records from 1939 and 1953 in San Luis Obispo Creek (UCMVZ 2015).[8]

The species was presumed to occur in Poly Canyon in the Brizziolari Creek watershed, a tributary of Stenner Creek and San Luis Obispo Creek, on land owned by Cal Poly University (Cal Poly 2001), but there were no documented records.

Northern coastal streams

There are historical collection records from northern coastal San Luis Obispo County streams: San Carpoforo Creek in 1940 and Santa Rosa Creek in 1948 (CAS 2001; CNDDB 2016).[9]

The species persisted in several coastal drainages in very northern San Luis Obispo County in the 1990s (Jennings and Hayes 1994; Stephenson and Calcarone 1999). As discussed above, small numbers of frogs were located in San Carpoforo Creek in northern San Luis Obispo/southern Monterey Counties in 1999 (LPNF 2001), and a single adult frog (deposited at UCSB) was captured from Little Pico Creek (near Highway 1, just ESE of San Simeon) in April 1999 (CNDDB 2016).

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[7] A single frog from Arroyo Grande Creek in 1943; 1 frog (MVZ #58422) from Lopez Canyon in Arroyo Grande Creek, 6 miles E of San Luis Obispo, in 1953; and 5 frogs (SBMNH #HE 136-140) from Lopez Canyon in 1963 (SBMNH 2001; CNDDB 2016; UCMVZ 2015).

[8] There are collection records of single frogs from Reservoir Canyon, in San Luis Obispo Creek, 2 miles E of San Luis Obispo, in 1939 (MVZ 31615) and 1953 (MVZ 59660) (UCMVZ 2015).

[9] Six frogs (CAS #159503-159508, and larvae) were collected from Santa Rosa Creek near Cambria in September 1948; and single frogs in 1940 from the lagoon of San Carpoforo Creek**,** and 2 miles from Santa Ana Canyon (CAS 2001; CNDDB 2016).

Recent status: Jennings and Hayes (1994) were able to relocate the species during resurvey efforts from 1988-1991 at only 3 of 11 historical locations (27%) in San Luis Obispo County. There have been no documented foothill yellow-legged frog observations in San Luis Obispo County since 1999. The foothill yellow-legged frog is now nearly extirpated from San Luis Obispo County.

Monterey County

Malpaso Creek

Two frogs were collected from Malpaso Creek, north of Garrapata State Park, in 1915 (CAS 2001).

Bixby Creek

There is a historical collection record of 1 frog from the Turner Creek tributary near Devils Peak in 1939 (UCMVZ 2015).

Little Sur River

There are historical collection records from 1933-1948 in the Little Sur River (CAS 2001; UCMVZ 2015).[10]

Big Sur River

There are historical collection records from 1929-1946 in the Big Sur River (CAS 2001; UCMVZ 2015).[11]

Foothill yellow-legged frogs still occurred in the 1990s in the Big Sur River (Jennings and Hayes 1994; Stephenson and Calcarone 1999).

Big Creek

Frogs were not located during surveys in the 1970s of the Landels-Hill Big Creek Reserve, in the Big Creek coastal drainage (Carothers et al. 1980).

Willow Creek

A collection was made at the mouth of Willow Creek in 1948 (CAS 2001).

Foothill yellow-legged frogs still occurred in the 1990s in Willow Creek (Jennings and Hayes 1994; Stephenson and Calcarone 1999).

[10] Two frogs from Pine Creek (at the Little Sur River) in 1933; 1 frog from Skinner Creek near Devils Peak in 1939; and 1 frog from the mouth of the Little Sur River in 1948 (CAS 2001; UCMVZ 2015).

[11] Collected at Idyllwild Park from 1929 to 1930; 6.5 miles above the mouth in 1937; and Big Sur State Park in 1946 (CAS 2001; UCMVZ 2015).

Dutra Creek/San Carpoforo Creek

Small numbers of frogs were documented from 1995-1999 in Dutra Creek and San Carpoforo Creek, within Monterey County (CNDDB 2016).[12] However, Kupferberg and Adams searched several reaches of San Carpoforo Creek on public lands (USFS lands in the upper watershed and BLM lands in the lower watershed), and the Dutra Creek tributary (where A. Lind had previously collected samples) in July 2014, and did not locate any foothill yellow-legged frogs (S. Kupferberg, pers. comm., 2015).

Recent status: Unknown, but likely near extirpation. Foothill yellow-legged frogs still occurred in the 1990s in several coastal drainages in Monterey County but there are no foothill yellow-legged frog records from coastal drainages in Monterey County south and west of the Santa Lucia Range since 1999.

Central Coast

The species appears to be extirpated from western San Joaquin County and may be near extirpation in western Merced, Santa Cruz and San Mateo counties. The species has declined in many of the drainages in western Stanislaus, western Fresno and Monterey counties. There appear to be significant populations of foothill yellow-legged frogs remaining in the Diablo Range in San Benito County.

Monterey County

Salinas River

There are historical collection records from 1919-1955 in the Salinas River drainage, including Arroyo Seco, Nacimiento Creek, Reliz Canyon, Salinas River and Santa Lucia Creek (Zweifel 1955; CAS 2001; UCMVZ 2015).[13]

Small populations were observed in the 1990s along the Monterey/San Benito County line in Lewis Creek, tributary to San Lorenzo Creek, a northern tributary to the Salinas River, and in the Nacimiento River at Fort Hunter Liggett (CAS 2001; CNDDB 2016).[14]

[12] Two adult frogs were observed July 24, 1995 along Dutra Creek, 1 adult and 30 larvae were seen at this same spot on July 25, 1995 (Fellers site S-734B); a single adult was observed along San Carpoforo Creek about 0.4 mile NE of the Dutra Creek confluence on July 25, 1995; and an unknown number of tadpoles were observed and 5 tadpoles were collected (deposited in UCSB collection) on August 20 and 26, 1999 from the Dutra Creek tributary (CNDDB 2016). The Los Padres National Forest noted that foothill yellow-legged frogs were located in San Carpoforo Creek in northern San Luis Obispo/southern Monterey Counties in 1999 (LPNF 2001).

[13] Frogs were collected in the Salinas River drainage from Lopez Canyon (Zweifel 1955). Frogs were collected in the Arroyo Seco tributary drainage from: Abbotts Ranch in 1919; Reliz Canyon, W of Greenfields, in 1938; W of Tassajara Springs in the Tassajara Creek tributary in 1940; and Camp Calatro, in the Santa Lucia Creek tributary, in 1951 (CAS 2001; UCMVZ 2015). There are also historical collection records from the upper Salinas River drainage within San Luis Obispo County: 1 frog (CAS #43336) from Santa Margarita in 1917; and 6 frogs from the Nacimiento Creek tributary in 1909 (CAS 2001).

[14] In the Lewis Creek tributary, 1 subadult frog was collected (CAS #195440) in February 1994 from Priest Valley just W of the Fresno County line; 3 adults and 7 juveniles were observed in August 2001 7 miles SW of Hernandez Reservoir; and 7 juveniles were observed on April 1, 2002 1.25 miles SE of the Yaqui Creek confluence (CAS 2001; CNDDB 2016). These populations were subject to livestock grazing. There is one CNDDB record from the 1990s from the Nacimiento River tributary of the Salinas River drainage: 10 adults, 10 metamorphs, and an unspecified number of tadpoles observed in August 1999 in Los Burros Creek, upstream from the confluence with Little Burros Creek, at Fort Hunter Liggett (CNDDB 2016).

Carmel River

There are historical collections records before 1900-1975 in the Carmel River drainage (CAS 2001; FMNH 2001; UCMVZ 2015).[15] The species was apparently once relatively common in San Clemente Creek, where 11 frogs were collected on a single day in August 1939 (UCMVZ 2015).

Foothill yellow-legged frogs reportedly persist at the Hastings Reserve in the Finch Creek tributary (UCNRS 2015), but there are no known documented sightings.

Santa Lucia Range

There are historical collection records from the Santa Lucia Range in 1902, from Santa Lucia Peak and Cone Peak (UCMVZ 2015).

Recent status: Jennings and Hayes (1994) were able to relocate the species during resurvey efforts from 1988-1991 at only 5 of 12 (42%) historical locations in Monterey County. The species has clearly declined in the Carmel River drainage. There were small populations documented in Salinas River tributaries in the late 1990s and early 2000s. There are no foothill yellow-legged frog records from Monterey County in the California Natural Diversity Database since 2002 (CNDDB 2016).

San Benito County

There are numerous historical collection records for foothill yellow-legged frogs from Pinnacles National Monument in Chalone Creek and other northern tributaries to the Salinas River; from the headwaters and upper reaches of the San Benito River drainage, which flows NW to the Pajaro River; and from Panoche Creek, which flows E into the San Joaquin Valley.

Salinas River/Pinnacles NM

There are historical collection records from Pinnacles National Monument from 1918-1938 (Banta and Morafka 1967; SDNHM 2001; CAS 2001; UCMVZ 2015).[16] Foothill yellow-legged frogs were apparently common historically in Pinnacles, with large numbers of specimens taken from collection sites on a single day: 14 frogs from Clear Creek in May 1960; and 11 frogs from Pinnacles in July 1938 (CAS 2001; SDNHM 2001; UCMVZ 2015). *Rana boylii* was still “abundant” in Pinnacles National Monument in 1953 (Banta and Morafka 1967) and “quite common” along streams and waterways

[15] Collection localities include: Pacific Grove before 1900; Pine Valley, at the head of the Carmel River in 1902; the Carmel River about 5 miles from the mouth in 1904; San Jose Creek near Carmel in 1907; the San Clemente Creek tributary in 1939; and Carmel Valley above P.I. County Ranch, unknown date (CAS 2001; FMNH 2001; UCMVZ 2015). A tributary to Tularcitos Creek in the Carmel River Valley named Rana Creek, likely had ranid frogs in it, based on the name. Single frogs were collected from Big Creek (MVZ 134089) in 1974 and Blomquist Pond (MVZ 134090) in 1975, tributaries to Cachuga Creek (an upper tributary of the Carmel River) in the Hastings Natural History State Reserve.

[16] Seven frogs taken from 7 miles SW of the Cook Post Office in July 1918; one frog in August 1918; 3 frogs from Vancouver, Pinnacles in August 1918; 11 frogs taken on a single day in July 1938; and historical specimens in the Stanford University collection taken from along Chalone Creek (Banta and Morafka 1967; SDNHM 2001; CAS 2001; UCMVZ 2015).

throughout the Monument in the late 1950s (Wauer 1958). The species was present in the mid 1960s (De Foe 1963; Morafka 1965), but was not observed during sampling by Banta and Morafka (1967). By the mid 1980s *R. boylii* was considered "rare" in the Monument, found only in the vicinity of flowing streams such as Chalone Creek (Fellers 1986).

Intensive amphibian surveys by Ely (1993, 1994) during 1992-1994 covered stream reaches with suitable *R. boylii* habitat within Pinnacles National Monument, including Chalone Creek and tributaries such as West Fork Chalone Creek, Bear Creek, and Frog Canyon Creek. *Rana boylii* could not be found, even at historical locations such as Pinnacles Caves. Ely (1993, 1994) documented extensive damage to riparian vegetation, stream structure, and shorelines within the Monument by feral pigs, cited likely predation of frog larvae and eggs by introduced mosquito fish (*Gambusia affinis*) and Sacramento perch (*Archoplites interruptus*) in Chalone and Bear Creeks, and presumed that Bear Gulch Reservoir may have eliminated occupied *R. boylii* habitat in Bear Creek. *Rana boylii* is now considered extirpated from Pinnacles National Monument (Fesnock and Johnson 2002; NPS 2015).

San Benito River

There are historical collection records from 1936-1986 in the San Benito River drainage, including Clear Creek, Laguna Creek, San Benito River and Tres Pinos Creek (CAS 2001; UCMVZ 2015).[17]

"Large" populations of *R. boylii* were observed on Bureau of Land Management land in the upper San Benito River watershed during surveys in 1992 (Ely 1992). The species was found in "moderate to good numbers" in every creek system surveyed upstream from Hernandez Reservoir; in several sections of the San Benito River and in tributaries such as Clear, Pacheco, San Carlos, Sawmill, and White Creeks (Ely 1992, 1993; CNDDB 2016). Pacheco Creek had an "excellent" population, with tadpoles found in "exceptional" numbers in July 1992 (Ely 1992). *Rana boylii* were also found in the San Benito River downstream of Hernandez Reservoir to Long Canyon and a very large population with "very impressive numbers" (112 frogs seen in one visit) was noted in the Laguna Creek tributary to the reservoir. This high density of frogs was found in a gorge inaccessible to livestock. Ely (1992) thought that Laguna and Arroyo Leona Creeks had perhaps the greatest population densities of the species remaining in the entire south coast range. Ely (1992) noted impacts to frog habitat and threats to the species on these BLM lands and nearby private lands from heavy off-road vehicle use, excessive cattle grazing, and impacts from past mining. Ely (1992) noted that water releases from Hernandez Reservoir in the summer appear to have adversely impacted frog reproduction in the San Benito River downstream of the dam, and presumed the river

[17] Eight frogs collected from 1 mile SE of the summit of San Benito Mt. in 1936 and 4 frogs and tadpoles in 1944; 15 frogs from 1 mile S of the summit of Santa Rita Peak in 1936; 3 frogs from Horsethief Canyon, 3.5 miles SSE of Hernandez; single frogs from Laguna Ranch, 4 miles S of Hernandez, and San Benito River, 2 miles ESE of Hernandez, in 1936; 14 frogs from Clear Creek, 15 miles SW of New Idria and 2 miles SE of Hernandez, in 1960; 1 frog from Laguna Creek at Coalinga Road in 1986; 1 frog from San Benito Road, 7.5 miles S of Bitterwater Road in 1948; 6 frogs from San Benito River, 9 miles N of Pinnacles in 1951; 6 frogs from Tres Pinos Creek, 15 miles ESE of Paicines in 1953; 3 frogs from San Benito River, 10 miles SSE of Paicines in 1953; and 6 frogs from near the San Benito River Bridge on Hwy. 25 in 1968 (CAS 2001; UCMVZ 2015).

section probably supported much larger numbers of the species before the reservoir was built.

Foothill yellow-legged frogs remained locally abundant through 2009 in some of the streams in the Clear Creek Management Area administered by the U.S. Bureau of Land Management, including San Carlos Creek, Clear Creek, and Sawmill Creek (USBLM 2009, 2013). During 13 surveys from 1996 to 2008 along Clear Creek, about 0.7 miles upstream from the San Benito River confluence, Fellers observed an annual average of 17 adults, 143 juveniles and 131 egg masses (CNDDB 2016). Fellers documented modest numbers of adults and juveniles in San Carlos Creek in 1993, 1996-2000, and in 2009 (CNDDB 2016).

Panoche Creek

Twenty-one frogs were collected from Panoche Creek (2 miles SE of Panoche) in July 1936 (CAS 2001; UCMVZ 2015).

Small to moderate populations were documented in the early 1990s in the Silver Creek drainage, which flows into Panoche Creek: in the tributaries Larious Creek, Sampson Creek, San Carlos Creek and White Creek (CAS 2001; CNDDB 2016). There are no reports of *R. boylii* from upper Panoche Creek tributaries in the last two decades.

Recent status: Fellers (1994) reported healthy, reproducing populations in the Diablo Range in San Benito County. Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 3 of 11 historical locations (27%) in San Benito County. The species is extirpated from Pinnacles and the Salinas River drainage in San Benito County. Significant populations were documented in the early 1990s in the San Benito River and tributaries above Hernandez Reservoir, particularly in Clear Creek, Laguna Creek and Pacheco Creek; and also in the Silver Creek drainage. The species remained locally abundant through 2009 in San Benito River tributary streams in the BLM's Clear Creek Management Area.

Santa Cruz County

San Lorenzo River

There are historical collection records from 1891-1967 in the San Lorenzo River drainage and tributaries Boulder Creek and Bear Creek, in the Santa Cruz Mountains (Slevin 1928; LSUMNS 2001; CAS 2001; UCMVZ 2015).[18]

The species was "virtually extinct" in the Santa Cruz Mountains by the 1990s, with significant impacts from logging (R. Seymour and M. Westphal, pers. comm., 1996). There are no known recent occurrences at Henry Cowell State Park, but there have not been extensive surveys for the species (G. Gray, CA State Parks, pers. comm., 2001).

[18] Collection localities include: Glenwood in 1891; Boulder Creek in 1892, before 1928, and 1939; near Zayante in the early 1930s; 1 mile N of the town of Boulder Creek in 1941; 3 miles NE of Boulder Creek in 1953; Cave Gulch in 1959; Bear Creek 3 miles NE of Boulder Creek in 1966; and Bear Creek, 4.4 miles E of Boulder Creek in 1967 (Slevin 1928; LSUMNS 2001; CAS 2001; UCMVZ 2015).

Pajaro River, Watsonville Slough

There are historical collection records from 1928 in Corralitos Creek, tributary to the Pajaro River, and 1970 in Harkins Slough, tributary of Watsonville Slough (UMMZ 2001; HMCZ 2001; UCMVZ 2015).[19]

Aptos Creek

Small numbers of frogs were reported from the Aptos Creek watershed within the Forest of Nisene Marks in 1998 (CNDDB 2016).[20]

Soquel Creek

Small to moderate populations were reported from 1992-2008 in the Soquel Creek drainage (CNDDB 2016).[21] There are no known recent occurrences in Big Basin Redwoods State Park, but there have not been extensive surveys for the species (G. Gray, CA State Parks, pers. comm., 2001).

Waddell Creek

There are historical collection records from 1892-1953 in Waddell Creek (UCMVZ 2015).[22]

There are no known recent observations from Waddell Creek.

Recent status: Jennings and Hayes (1994) were able to relocate the species during resurvey efforts from 1988-1991 at 3 of 4 historical locations (75%) in Santa Cruz County. The species appears to be extirpated from much of Santa Cruz County, including the San Lorenzo River drainage, Pajaro River and Waddell Creek. Small to moderate populations appeared to persist in the Soquel Creek drainage through 2008.

<u>San Mateo County</u>

Pescadero Creek

There are historical collection records from 1937-1960 in the Pescadero Creek drainage (CAS 2001; UCMVZ 2015).[23]

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[19] One frog collected from 3 miles N of Corralitos, in Corralitos Creek, tributary to the Pajaro River, in 1928; and 1 frog (MVZ 164868) collected by S. Sweet from Harkins Slough (tributary of Watsonville Slough) on October 23, 1970 (UMMZ 2001; HMCZ 2001; UCMVZ 2015).

[20] Three juveniles observed in Aptos Creek 0.6 mile downstream of Five Finger Falls and 1 individual in Bridge Creek, 0.5 mile upstream of the Aptos Creek confluence, in November 1998 (CNDDB 2016).

[21] Surveys of about 9 river miles of Soquel Creek upstream from Soquel and of about 1.25 miles of tributary Hinckley Creek upstream from the Soquel Creek confluence documented 1 adult in 1992; 2 adults in 1993; 20+ juveniles on 10/24/94; 2 adults, 25 juveniles and 11 egg masses on 4/27/96; 1 adult and 1 egg mass on 4 /24/97; 3 adults on 10/24/97; about 20-30 adults and juveniles on 10/25/97; less than 50 frogs in October 1999; less than 50 frogs in October 2001; an unknown number of adults and juveniles in September 2002; "dozens" of frogs September-October 2003; and 3 juveniles in October 2008 (CNDDB 2016).

[22] Ten frogs collected from Waddell Creek in 1892; 3 frogs taken 2 to 5 miles from Ocean Beach in 1938; 5 frogs in 1941; and 2 frogs taken 2 miles from the mouth in 1953 (UCMVZ 2015).

[23] Ten frogs collected from 1 mile NE of Loma Mar in 1937; 4 frogs from the upper reaches of the tributary

Other than a single record from 1999 in Pescadero Creek County Park[24], there are no known recent observations from Pescadero Creek.

San Gregorio Creek

Historical collection records include 1 frog from La Honda in 1929 and 3 frogs from SW of La Honda in 1951 (CAS 2001; UCMVZ 2015).

There are no known recent observations from San Gregorio Creek.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 4 of 9 historical locations (44%) in San Mateo County. There are no CNDDB records from San Mateo County since 1999 (CNDDB 2016). The species is likely close to extirpation in San Mateo County.

Western Fresno County

Los Gatos Creek

There are historical collection records from 1938-1963 in Los Gatos Creek, which flows eastward to the San Joaquin Valley, and tributary Warthan Creek (Ely 1992; CAS 2001; UMMZ 2001; UCMVZ 2015).[25]

No frogs were located in Warthan Creek during early 1990s surveys by Ely (1992). Small numbers of frogs were documented from 1992-1993 in Los Gatos Creek, the White Creek tributary on BLM land, and Warthan Creek (CAS 2001; CNDDB 2016).[26] Threats to these frogs included legacy impacts from past heavy mining. There are no known observations in the Los Gatos Creek drainage since 1993.

Cantua Creek

During surveys of the east slope of the Diablo Range in the early 1990s, foothill yellow-legged frogs were found “in abundance” (more than 27 frogs) in Cantua Creek, with a “very large population” estimated at more than 88 frogs observed in the tributary Arroyo Leona Creek, in the Ciervo Hills on Bureau of Land Management and private lands (Ely 1992). A large population was documented consistently from 1992-1994 in Cantua

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Oil Creek in 1937; 3 frogs from Portola State Park in 1951, 1 frog in 1958, 1 frog in 1959, and 2 frogs in 1960; and 2 frogs taken from 8 miles E of Pescadero in 1960 (CAS 2001; UCMVZ 2015).

[24] A single adult frog was observed in Pescadero Creek, between Jones Gulch and Harwood Creek in Pescadero Creek County Park, in September 1999 (CNDDB 2016).

[25] Single frogs from Los Gatos Creek, 10 miles N of Coalinga in 1938; 7.9 miles SE of the mouth of Bear Canyon in 1941; 2 miles W of Coalinga in 1941; and 6 frogs collected from Los Gatos Creek, 8 miles NW of Coalinga in 1963 (CAS 2001; UMMZ 2001; UCMVZ 2015). There were a few historical records from Warthan Creek, a tributary of Los Gatos Creek near Coalinga (Ely 1992).

[26] In the White Creek tributary, 4 miles SSE of Santa Rita Peak, 7-10 tadpoles were observed on 6/28/92, 4 adults and 2 juveniles on 3/6/93, with one adult (CAS #190766) collected, and 4 adults and larvae on 6/29/93; a single adult frog (CAS #193924) was collected from Los Gatos Creek in the Alcalde Hills in October 1993 (CAS 2001; CNDDB 2016). A single adult frog (CAS #193923) was collected from Warthan Creek in October 1993, 1.2 road miles E of Parkfield Road (CAS 2001; CNDDB 2016).

Creek (CAS 2001; CNDDB 2016).[27] In the 2000s, there was only one report of a small population of frogs at one locality in Cantua Creek (CNDDB 2016).[28]

Recent status: Fellers (1994) reported healthy, reproducing populations in western Fresno County. Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at any of 6 historical locations in western Fresno County. Small populations were documented in Los Gatos Creek and large numbers in Cantua Creek during surveys from 1992-1993, but there has been only report since 1993 and no evidence of resurveys.

Western Merced County

Los Banos Creek

There are historical collection records from 1911 and 1943 in Los Banos Creek (which flows west into the San Joaquin Valley) and tributary Romero Creek (UCMVZ 2015).[29] There were small populations documented from 1985-1988 in Los Banos Creek and North Fork Los Banos (CNDDB 2016).[30]

There are no known recent observations from Los Banos Creek.

Recent status: There are no CNDDB records from western Merced County since 1988 and the status of the species in this county is unknown.

Western Stanislaus County

Del Puerto Creek

There are historical collection records from 1954-1987 in Del Puerto Creek, which flows east into the San Joaquin Valley (CAS 2001; UCMVZ 2015).[31]

Small to moderate populations were documented in Del Puerto Creek from 1993-1999

[27] Sample observations from this drainage by Ely, Christman, and Fellers submitted to the California Natural Diversity Database and collected by the California Academy of Sciences in the early 1990s included: 115+ frogs observed on 1/25/92; 6 adults and 2 juveniles on 4/26/92; 102 frogs, juveniles and 2 egg masses/tadpoles on 4/27/92; 3 adults and "impressive" numbers of tadpoles on 6/14/92; 20 adults and 15 egg masses, with 200-300 eggs/mass on 4/15/93; 20 adults, 2 juveniles and 15 egg masses on 4/25/93; 7 adults and one egg mass on 4/26/93; and 12 adults, 47 juveniles, 3,183 larvae and 5 egg masses in April 1994 (CAS 2001; CNDDB 2016).

[28] In May 2003 one location in the Cantua Creek drainage had 10 adults, 5 juveniles and 42 larvae (CNDDB 2016).

[29] Single frogs collected at Sweeney's Ranch, 22 miles S of Los Banos, in 1911; and in Romero Creek in 1943 (UCMVZ 2015).

[30] A single adult on the North Fork Los Banos Creek, 3 miles SW of San Luis Reservoir on 8/2/85; 10 adults at the Los Banos Detention Dam on the S end of Los Banos Reservoir on 8/19/85; 2 adults in North Fork Los Banos Creek, 2 miles SSW of San Luis Reservoir on 9/20/85; several frog observations along a 1-mile section of creek approximately 7 miles ESE of San Luis Reservoir on 9/30/85; and a single adult observed in Los Banos Creek ¾ mile SSE of San Luis Reservoir on 3/21/88 (CNDDB 2016).

[31] Single frogs were collected from Del Puerto Canyon, west of Patterson, in 1954, 1984 and 1986 and 7 frogs were collected in 1987 (CAS 2001; UCMVZ 2015).

(CAS 2001; CNDDB 2016; UCMVZ 2015).[32] Very small populations were documented in Del Puerto Creek from 2000-2008 (CNDDB 2016).[33]

Orestimba Creek

Small numbers of foothill yellow-legged were documented in 2004 and 2005 within Henry Coe State Park, along Robison Creek near its confluence with Orestimba Creek (CNDDB 2016; HWCSP 2015).[34]

Recent status: Fellers (1994) reported "healthy" reproducing populations in western Stanislaus County. There appeared to be small populations remaining in Del Puerto Creek through 2008 and Orestimba Creek through 2005.

Western San Joaquin County

Corral Hollow Creek

There are historical collection records from 1911-1971 lower Corral Hollow Creek in San Joaquin County (CMNH 2001; CNDDB 2016; UCMVZ 2015).[35] Lower Corral Hollow Creek apparently had a large population historically, with 17 adult specimens collected on a single day in March 1911 (UCMVZ 2015). The last known sightings in lower Corral Hollow Creek within San Joaquin County were in 1971, and the remnant population in upper Corral Hollow Creek in Alameda County may be near extirpation as well (Jones & Stokes 2000).

Mokelumne River/San Joaquin River

Livezey (1963) reported an isolated population of *R. boylii* on the floor of the Central Valley in San Joaquin County, approximately midway between the known distribution of the species in the coast ranges to the west and the Sierra foothills to east. Livezey collected 4 specimens (now at the California State University Sacramento) on July 30, 1958 from the Mokelumne River drainage 8 km N of Lodi. However, it has been theorized that these frogs were perhaps strays from the Sierran foothills or that waif

[32] A single frog was collected from the Adobe Creek tributary at the confluence with Del Puerto Creek in June 1994 (CAS 2001; UCMVZ 2015). Fellers observed 2 adults and 800 eggs on 4/9/93 in Del Puerto Creek at Adobe Creek and returned to collect 1 adult (CAS #196026) on 6/19/94; Fellers observed 14 larvae on 5/21/96 along lower North Fork Del Puerto Creek; multiple sightings about 1 mile S of the confluence with the North Fork, with 35 adults observed on 10/19/93, 6 adults and 2 metamorphs on 7/13/98 and 9/21/98, and 3 adults, 7 metamorphs and many larvae on 7/23/99. Along Del Puerto Creek about 0.6 miles W of Arkansas Canyon, Fellers observed 9 larvae on 6/2/98, 34 adults and 11 subadults on 5/25/99 08 (CNDDB 2016).

[33] Fellers observed 2 subadults on 6/23/00 along Del Puerto Creek, just W of Slick Rock Canyon confluence; Fellers observed 1 adult and 1 larvae on 5/28/03 in Del Puerto Creek near Frank Raines Regional Park (this is near an off-road vehicle park); along Del Puerto Creek about 0.6 miles W of Arkansas Canyon, Fellers observed 1 adult, 1 subadult and 25 larvae on 7/23/00; and 49 larvae on 5/28/08 (CNDDB 2016).

[34] Within the NE portion of Henry W. Coe State Park, 3 juveniles and 2 egg masses were observed in Robinson Creek on 3/20/04; and in South Fork Orestimba Creek, 1 adult and 2 juveniles were observed on 3/21/04 and 1 adult was observed on 5/15/05 (CNDDB 2016).

[35] Foothill yellow-legged frogs were collected from lower Corral Hollow Creek in San Joaquin County, near Tracy, in 1911, 1943, 1967 and 1970 (CMNH 2001; UCMVZ 2015). The last known sightings in Corral Hollow Creek were in 1971, with 1 frog (MVZ 99240) collected on 4/24/71, 23 tadpoles (MVZ 98194) collected on 5/15/71 and 7 tadpoles (MVZ 98191) collected on 5/29/71 (CNDDB 2016).

dispersal occurred in this case (Lind et al. 1996). The species was also found in a pond near the San Joaquin River, 18 miles W of Manteca, in 1960 (UCMVZ 2015).

Recent status: There are no recent reports from the CNDDB or other sources of foothill yellow-legged frogs in western San Joaquin County. The species is likely completely extirpated from lower Corral Hollow Creek and western San Joaquin County.

Bay Area

The species is extirpated from western San Francisco County; and may be near extirpation in Contra Costa and San Mateo counties. The species has declined in many of the drainages in Napa, Marin, and Alameda counties; in Alameda County the largest populations have crashed recently. There appear to be significant populations of foothill yellow-legged frogs remaining in the Diablo Range in Santa Clara County and throughout Sonoma County.

San Francisco County

The California Academy of Sciences has a single collection record of *R. boylii* from before 1938 from an unknown location in San Francisco (CAS 2001).

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at the sole historical location in San Francisco County. There are no CNDDB records and the foothill yellow-legged frog is extirpated from San Francisco County.

San Mateo County

SF Bay Tributaries

Two frogs were collected from the San Mateo Creek drainage (San Andreas Lake) before 1915; and 6 frogs were taken from Redwood City (likely Redwood Creek or Atherton Creek) in 1899 (Slevin 1928; CAS 2001; USNM 2001).

There are no known recent observations from San Francisco Bay tributaries in San Mateo County.

Santa Clara County

Historically, foothill yellow-legged frogs were probably present in virtually all of the larger perennial streams in Santa Clara County with the exceptions of the lower portions of Coyote Creek and the Guadalupe River (H.T. Harvey and Associates 1999).

Pajaro River

There are historical collection records in southern Santa Clara County from 1898-1965 in the Llagas Creek, Murphy Creek and Uvas Creek tributaries to the upper Pajaro River drainage (CAS 2001; UMMZ 2001; UCMVZ 2015).[36]

[36] Single frogs collected from: Uvas Creek in 1909; Murphy Creek, tributary to Uvas Creek N of Mt. Madonna, in 1898; a tributary to Uvas Creek at Hecker Pass, 8 miles W of Gilroy in 1952; Llagas Creek in

Small populations were reported from 1998-2007 in Llagas Creek within Santa Clara County (CNDDB 2016).[37]

Mount Hamilton/Alameda Creek headwaters

There are historical collection records from 1900-1986 in headwater tributaries of the Alameda Creek drainage around Mt. Hamilton, including the upper reaches of Arroyo Mocho and Arroyo Valle, and Isabel and Smith Creeks and their tributaries above Calaveras Reservoir (UMMZ 2001; CAS 2001; Cornell 2002; UCMVZ 2015).[38]

Small populations were documented from 1988-2004 in Mount Hamilton tributaries and the Alameda Creek headwaters, including upper Alameda Creek, Arroyo Hondo, Bonita Creek, Colorado Creek, Indian Creek, Smith Creek and Sulphur Creek (CNDDB 2016).[39] A small population of foothill yellow-legged frogs was observed "several times" from 1997-2011 in Arroyo Hondo on the Blue Oak Ranch Reserve (CNDDB 2016).[40]

Coyote Creek

There are historical collection records from 1904-1975 in the Coyote Creek drainage and tributaries Fisher Creek and Upper Penetencia Creek (Slevin 1928; CDFG 1975; CAS 2001; UMMZ 2001; UCMVZ 2015).[41] Foothill yellow-legged frogs were historically found

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1922 and 1965; and Llagas Creek just above the head of Chesbro Reservoir in 1986 (UMMZ 2001; CAS 2001; UCMVZ 2015).

[37] In Llagas Creek, 2 adult frogs were reported 2 miles S of Calero Reservoir on 7/13/98, and 1 adult was observed here on 3/24/07; just above Chesbro Reservoir, 2 adults were observed on 3/22/03 and single adults were seen on 3/23/03, 3/30/03 and 4/11/03 (CNDDB 2016).

[38] Historical collection localities include: unknown location on Mt. Hamilton in 1900; 12 frogs from 25.4 miles SE of Livermore (likely in the headwaters of Arroyo Mocho) in 1952; 2 frogs from Arroyo Mocho, 8.5 miles N of San Antone in 1971; 2 juvenile/adult frogs from Blackbird Valley (tributary of upper Arroyo Valle) in 1986; 3 frogs from San Antonio Creek (tributary to upper Arroyo Valle), 10 miles from Mt. Hamilton, in 1939; 6 frogs from 2 miles N of the road from Lick Observatory (likely Smith Creek or Isabel Creek) in 1948; Isabel Creek near Mt. Hamilton in 1921; Smith Creek at Mt. Hamilton Road, unknown date; and Smith Creek Ranger Station, Mt. Hamilton Road, in 1950 (UMMZ 2001; CAS 2001; Cornell 2002; UCMVZ 2015).

[39] The species was observed in May 1990 in Upper Alameda Creek in Ohlone Regional Park, just within Santa Clara County (CNDDB 2016). Numerous observations were made of all life stages of foothill yellow-legged frogs during surveys from March through July from 1988-91, in Smith Creek, Sulphur Creek and Indian Creek on the SW slopes of Mt. Hamilton within J.D. Grant County Park; more frogs were found upstream from Smith Creek at the confluence with Indian Creek, as well as the first 1/3 to 1/2 mile of Sulphur Creek in 1991; however in 1993 only 1 adult frog was found in this area, in Sulphur Creek (CNDDB 2016). Single frogs were collected from Sulphur Creek, 2.5 miles upstream from the Smith Creek confluence in October 1992, and 0.2 miles upstream in May 1993 (CAS 2001). In Colorado Creek (tributary of upper Arroyo Valle), from Mines Road upstream into Blackbird Valley, Ely observed 1 adult on 4/20/93, and 17 adults and a "good number" of tadpoles upstream on 6/12/93; single adult frogs were collected from Colorado Creek by Ely on 11/3/92 (CAS #190556) and on 5/24/98 (CAS 205752) (CAS 2001; CNDDB 2016). A single frog (CAS #195454) was collected from Indian Creek on 3/13/94 (CNDDB 2016). The SFPUC reported 2 or more adults in Arroyo Hondo, just above Calaveras Reservoir, on 4/20/94 (CNDDB 2016). 2 adult frogs were observed on 3/22/03 during a walking survey of a 1 mile section of Bonita Creek, a tributary of Isabel Creek (CNDDB 2016).

[40] Arroyo Hondo on the Blue Oak Ranch Reserve (about 1.5 miles SSW of the Mt. Day Summit), with photos and a survey form indicating that 10 adults and 1 egg mass had been detected (CNDDB 2016).

[41] Historical collection localities include: Coyote Creek from before 1928; 6.54 road miles northeast of Gilroy (likely Coyote Creek near Anderson Lake) in 1953; 15 frogs from Coyote Creek in San Jose in 1922; Berryessa, tributary to Upper Penetencia Creek in 1904; Penetencia Creek, Alum Rock Park, in 1959; and

within Henry Coe State Park in the mainstem of Coyote Creek as well as the Middle Fork, and East Forks of Coyote Creek (Christman and Long unknown date).

Small to moderate populations were documented from 1986-2004 throughout the Coyote Creek drainage including mainstem Coyote Creek from Poverty Flat downstream to Gilroy Hot Springs, Middle Fork Coyote Creek, Little Coyote Creek, Water Gulch Creek, Grizzly Gulch Creek, and Soda Springs Canyon (PRA 1997; CAS 2001; CNDDB 2016). Gonsolin (2010) documented breeding populations of foothill yellow-legged frog from 2004-2006 in upper Coyote Creek (upstream of Coyote Reservoir, from the inundation zone to Gilroy Hot Springs) and its tributary Dexter Creek and an unnamed tributary below Sheep Ridge. 2016 surveys of a 6 mile segment of Coyote Creek, from China Hole (Middle Fork Confluence) downstream to the Coyote Gate entrance of Henry W. Coe State Park, documented 9 adults, 1,000+ tadpoles and 121 egg masses (CNDDB 2016). Foothill yellow-legged frogs currently persist within Henry Coe State Park in Coyote Creek and some of its tributaries, including Water Gulch, though their presence on the East Fork is minimal (HWCSP 2015). The park reports the species can be seen reliably along the Middle Fork of Coyote Creek, including Soda Springs Canyon, but is not found within the park in streams such as Pacheco Creek, Mississippi Creek, Coon Creek or Red Creek (HWCSP 2015).

Guadalupe River

Historical collection localities in the Guadalupe River drainage include from tributary Los Gatos Creek (at Los Gatos) in 1898 and Almaden Creek in 1950 (CAS 2001).

The Santa Clara Valley Water District reported small numbers of frogs in 2000 from two locations on Guadalupe Creek and tributary Rincon Creek (CNDDB 2016).[42]

Saratoga Creek

Foothill yellow-legged frogs were collected in the Saratoga Creek drainage from Saratoga on an unknown date before 1952; and from 2.6 miles WSW of Saratoga in 1953 (CAS 2001; UCMVZ 2015).

There are no known recent observations from Saratoga Creek.

Stevens Creek

Foothill yellow-legged frogs were collected in the Stevens Creek tributary in 1893 and 1939 (CAS 2001).

There are no known recent observations from Stevens Creek.

Upper Penetencia Creek and Fisher Creek in 1975 (Slevin 1928; CDFG 1975; UMMZ 2001; CAS 2001; UCMVZ 2015).

[42] Two adult frogs from Guadalupe Creek downstream from Guadalupe Reservoir on 8/28/00; and 1 individual frog from Rincon Creek, upstream of the Guadalupe Creek confluence on 8/24/00 and 8/29/00 (CNDDB 2016).

San Francisquito Creek

San Francisquito Creek forms the border between Santa Clara and San Mateo counties. Collections and records from this watershed are discussed here, as most records are from the Santa Clara side of the creek. There are historical collections from 1897-1940 in the San Francisquito Creek drainage (Slevin 1928; CAS 2001; FMNH 2001; USNM 2001).[43] Foothill yellow-legged frogs were reported to be "fairly common" in the San Francisquito drainage in the 1960s (Launer et al. 1999). Dyrkacz (1981) reported on an albinistic foothill yellow-legged frog collected from Portola Valley.

There are no known recent observations from San Francisquito Creek.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at 8 of 14 historical locations (57%) in Santa Clara County. H.T. Harvey and Associates (1999) conducted surveys in 1999 and concluded that the species had essentially disappeared from the farmed and urbanized lowland areas in Santa Clara County, as well as many of the perennial streams below major reservoirs. H.T. Harvey and Associates (1999) determined that the species is declining throughout Santa Clara County, but was still present in the Santa Cruz Mountains and fairly abundant in the foothill and mountain ranges of eastern Santa Clara County. Small populations were documented in the Llagas Creek tributary of the Pajaro River through 2007, and in headwater tributaries of the Alameda Creek drainage around Mt. Hamilton, such as Arroyo Hondo through 2011 and the Isabel Creek drainage through 2003; small to moderate populations remain throughout the Coyote Creek drainage, particularly upper Coyote Creek and Middle Fork Coyote Creek.

Alameda County

Alameda Creek

There are historical collection records from 1921-1969 in the Alameda Creek watershed, including mainstem Alameda Creek in Niles Canyon, upper Alameda Creek, and the Pleasanton and Livermore tributaries Arroyo Valle and Arroyo Mocho (CAS 2001; CMNH 2001; UMMZ 2001; UCMVZ 2015).[44]

The largest remaining *R. boylii* population in Alameda County, and likely in the entire Bay Area, has been in upper Alameda Creek within Sunol Regional Park, from the Little Yosemite area upstream through Camp Ohlone. The CNDDB has sightings from upper Alameda Creek from 1990, 1994, 1997, 1999, 2000 and 2001 in the reach from the Sunol Regional park staging area bridge upstream to the Calaveras Creek confluence, in and above Little Yosemite, and in the vicinity of the Alameda Diversion tunnel (CNDDB

[43] Collection records include: 1 frog from Palo Alto before 1900; single frogs from the vicinity of Stanford University in 1897 and 1907; 3 frogs from Woodside Road at Stone Circle (likely the Bear Creek tributary) in 1935; 6 frogs from Woodside Road on two occasions in 1938; and 1 frog from Corte Madera Creek (a tributary above Searsville Lake) in 1940 (Slevin 1928; CAS 2001; FMNH 2001; USNM 2001).

[44] Historical collection records of *Rana boylii* from Alameda Creek include between Sunol and Mission San Jose (Niles Canyon) in 1921, Niles Canyon in 1939, and Sunol Regional Park in 1967; numerous specimens were collected from the Arroyo Mocho tributary in 1937 (22 frogs), 1939 (7 frogs), 1942, 1944, 1952, 1953, 1966, 1971 (2 frogs - MVZ 95204 & 95205), 1972 (2 frogs - MVZ 125364-125365), 1973 (MVZ 136289) and 1975 (7 larvae - MVZ 136418-136424), as well as 2 frogs taken from Livermore in 1969; and there is a collection record from Arroyo del Valle in 1960 (UMMZ 2001; CAS 2001; CMNH 2001; UCMVZ 2015).

2016). During surveys from July through October 1996, 295 *R. boylii* were found at 4 locations along upper Alameda Creek within Sunol and Ohlone Regional Parks (EBRPD 1998). Extensive surveys from 1997 to 1999 by Bobzien and DiDonato (2007) located the species in the Alameda Creek watershed in upper Alameda Creek (in Ohlone Regional Wilderness and Sunol Regional Wilderness); but did not locate the species in numerous Alameda Creek tributaries, including: Indian Joe Creek, La Costa Creek, Indian Creek, Shafer Creek, San Antonio Creek, Welch Creek and Whitlock Creek (Ohlone and Sunol Regional Wilderness); Sinbad Creek (Pleasanton Ridge Regional Park); Arroyo Del Valle Creek (Del Valle Regional Park); Tassajara Creek (Morgan Territory Regional Preserve and Tassajara Creek Regional Park); Altamont Creek (Brushy Peak Regional Preserve); and Brushy Creek (Vasco Caves Regional Preserve). Bobzien and DiDonato (2007) noted a small population in a 2-mile reach of Alameda Creek in the vicinity of the Sunol Visitor Center. Bobzien and DiDonato (2007) documented a "robust" population from 2000-2006 in a 1 mile stream reach of upper Alameda Creek in Camp Ohlone, and foothill yellow-legged frogs were noted to be "abundant" in 2006 during fish surveys of the Upper Ohlone reach of Alameda Creek, upstream of the Alameda Diversion Dam (B. Sak, pers comm., 2006). However, this Camp Ohlone population has crashed since 2008 as a result of the drought; in 2015 there were only 4 clutches of eggs and no survival to metamorphosis, with all the breeding sites drying up as of early August (S. Kupferberg, pers. comm., 2015).

Foothill yellow-legged frogs in upper Alameda Creek have been particularly hard hit by the recent drought, disease and invasive species, with the "few frogs present above Little Yosemite within the Regional Park boundary and at Camp Ohlone" as of 2015, subject to predation by invasive bullfrogs and signal crayfish (Kupferberg 2015). Kupferberg and the East Bay Regional Park District documented an unprecedented chytrid fungus infection (*Batrachochytrium dendrobatidis*) in the *R. boylii* population in Little Yosemite, with confirmed mortality of frogs and Bd prevalence and loads on infected frogs an order of magnitude higher than levels leading to mortality and population decline in other well-studied amphibians (Kupferberg 2015). In the fall of 2013, foothill yellow-legged frogs in the Little Yosemite reach of Alameda Creek experienced an outbreak of Bd in which dead and dying juveniles were observed (Adams et al. in press). The SFPUC had planned to translocate frogs from this infected population to other areas of the watershed, presenting significant risk of spreading this infection to other currently uninfected *R. boylii* populations in the watershed (SFPD 2014; Kupferberg 2015). Those plans are now on hold and the project is being re-evaluated.

Small populations were documented along the Arroyo Mocho tributary SE of Livermore from 1997-2003 (CNDDB 2016).[45] "Numerous" *R. boylii* were observed in 2000 during stream surveys in the Arroyo Mocho tributary along Mines Road SE of Livermore (A. Gunther, pers. comm., 2000). The species was present in the 1990s in the Arroyo Valle watershed above Del Valle Reservoir (EBRPD 1998), but this stream has not been surveyed for more than 15 years.

[45] On Arroyo Mocho from the Hetch-Hetchy Pumping Station bridge access road to about 0.75 upstream (~7 miles SE of Livermore), 6 adults frogs and 2 juveniles were observed on 4/15/97, 2 male and 4 female frogs on 4/6/99, and 16 egg masses and 20 adults on 3/26/03 (CNDDB 2016).

Corral Hollow Creek

A foothill yellow-legged frog population was known historically from Corral Hollow Ecological Reserve (Schoenherr 1992) and prior to 1997 the species was "frequently" observed in Corral Hollow Creek within the Carnegie State Vehicle Recreation Area and downstream for several miles (Jones & Stokes 2000). A single juvenile *R. boylii* was found in April 1998 in upper Corral Hollow Creek (Jones & Stokes 2000; CNDDB 2016); and a single adult frog was observed on Corral Hollow Creek about one half mile WSW of Tesla, within Carnegie SVRA, on April 28, 2014 (CNDDB 2016). As discussed in the section above on San Joaquin County, foothill yellow-legged frogs were restricted to the upper half mile of Corral Hollow Creek in Alameda County by the late 1990s and near extirpation (Jones & Stokes 2000). This remnant population is jeopardized by plans to expand off-road vehicle activity and a vehicle stream crossing through the last known sighting area in the Carnegie SVRA (Jones & Stokes 2000; CNDDB 2016).

Western Alameda County

The species was collected from an unknown location in Oakland in 1891 and from Berkeley in Telegraph (Claremont) Canyon in 1912 (Slevin 1928; CAS 2001; UCMVZ 2015). There are no recent observations from western Alameda County.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 4 of 13 historical locations (31%) in Alameda County. Bobzien and DiDonato (2007) conducted extensive surveys from 1997 to 1999 during peak breeding season for foothill yellow-legged frogs, at 100 stream stations on 42 streams within East Bay Regional Park District lands throughout Alameda and Contra Costa Counties. Except for populations in several drainages within the Alameda Creek watershed, the species was extirpated or absent from all Alameda County streams surveyed. The largest remaining populations in Alameda County (and likely in the S.F. Bay Area) were in upper Alameda Creek. These populations have now crashed and are jeopardized by multiple factors including drought, Bd infection, recreation impacts, ill-timed dam flow releases that cause direct mortality of early life stages, invasive predators that flourish under dam-altered flow conditions, and future hypolimnetic dam releases that shift water temperatures outside the thermal niche of tadpoles.

Contra Costa County

San Leandro Creek

There are historical records from upper San Leandro Creek and Moraga Creek (USACE 2001; CAS 2001; UCMVZ 2015).[46]

There is a CNDDB report from February 1997 of 2 adult yellow-legged frogs in an intermittent tributary to Moraga Creek near the Gateway Valley; subsequent surveys of this area failed to detect any *R. boylii* (CNDDB 2016; J. Miller, pers. comm., 2015). The species was extirpated as early as the 1950s from all East Bay Municipal Utility District

[46] Collection records from upper San Leandro Creek include Redwood Peak in 1909 and the town of Canyon in 1947 (USACE 2001; CAS 2001; UCMVZ 2015). Yellow-legged frogs occurred historically in the Moraga Creek drainage near the Gateway Valley (USACE 2001).

watershed lands in the East Bay, which includes large portions of the upper San Leandro Creek watershed (EBMUD 1994).

San Pablo Creek

There are historical records from San Pablo Creek from 1917 to the 1950s (UCMVZ 2015).[47] *Rana boylii* was apparently once abundant in San Pablo Creek near Orinda, with 13 frogs collected on a single day in August 1922 (UCMVZ 2001); the creek was reportedly "full of yellow-legs" in the 1950s (G. Beeman, pers. comm., 2002).

The species was extirpated as early as the 1950s from all East Bay Municipal Utility District watershed lands in the East Bay, which includes large portions of the San Pablo Creek watershed (EBMUD 1994). Extensive surveys from 1997 to 1999 by Bobzien and DiDonato (2007) failed to locate the species in the San Pablo Creek watershed (Arroyo Del Hambre Creek and Bear Creek in Briones Regional Park).

Pinole Creek

The species was collected in Pinole Creek in 1939 (UCMVZ 2015).

The species was extirpated as early as the 1950s from all East Bay Municipal Utility District watershed lands in the East Bay, which includes large portions of the Pinole Creek watershed (EBMUD 1994). Extensive surveys from 1997 to 1999 by Bobzien and DiDonato (2007) failed to locate the species in the Pinole Creek watershed (Castro Creek in Sobrante Ridge Regional Preserve).

Walnut Creek

There are historical records from 1891-1953 in Walnut Creek and tributaries Mitchell Creek and Pine Creek (CAS 2001; UCMVZ 2015).[48]

Rana boylii was found in unknown numbers in 1996 during aquatic surveys in the Bolinger Creek drainage, within Las Trampas Regional Park (EBRPD 1998). Extensive surveys from 1997 to 1999 by Bobzien and DiDonato (2007) failed to locate the species in other streams in the Walnut Creek watershed (Bolinger Creek in Las Trampas Wilderness, Sycamore Creek in Sycamore Valley Regional Park and Pine Creek in Diablo Foothills Regional Park). Foothill yellow-legged frogs reportedly persisted in small numbers in the early 2000s in headwaters tributaries draining Mt. Diablo, such as Pine Creek and possibly Mitchell Creek (G. Beeman, pers. comm., 2002).

Marsh Creek

There are historical records from 1939-1976 in the Marsh Creek drainage (UCMVZ 2015; CNDDB 2016).[49] Harvey et al. (1992) noted that *R. boylii* was possibly found historically in small creeks near Pittsburgh and Brentwood.

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[47] Historical collection records include: San Pablo Canyon in 1917; and 13 frogs from near Orinda in 1922 (UCMVZ 2015). The species was collected from Orinda in the 1950s (G. Beeman, pers. comm., 2002).

[48] Historical collection localities from the include: Mt. Diablo in 1891 and 1931; 9 frogs from the W side of Mt. Diablo and Pine Canyon in July 1912; Mitchell Creek in 1912; a creek at Lafayette in 1922; and Pine Creek E of Walnut Creek in 1953 (CAS 2001; UCMVZ 2015).

Extensive surveys from 1997 to 1999 by Bobzien and DiDonato (2007) failed to locate the species in the Marsh Creek watershed (Marsh Creek and Round Valley Creek in Round Valley Regional Preserve, and Marsh Creek in Morgan Territory Regional Preserve and Clayton Ranch Regional Preserve), or in streams in Black Diamond Mines Regional Preserve draining into the Delta in eastern Contra Costa County near Pittsburgh and Antioch (Kirker Creek, Sand Creek, Markley Creek, Somersville Creek, West Antioch Creek and Homestead Creek). There are no recent documented occurrences of foothill yellow-legged frogs in the eastern Contra Costa Habitat Conservation Plan inventory area, covering major portions of eastern Contra Costa County (CCC 2006).

Recent status: Jennings and Hayes (1994) were able to relocate the species during resurvey efforts from 1988-1991 at only 3 of 9 historical locations (33%) in Contra Costa County. Jennings and Hayes (1994) believed that 8 of 11 known historical populations in Contra Costa County were extinct, with the 3 remaining records concentrated in the Mount Diablo region. Bobzien and DiDonato (2007) conducted extensive surveys for foothill yellow-legged frogs from 1997 to 1999 during peak breeding season, at 100 stream stations on 42 streams within East Bay Regional Park District lands throughout Alameda and Contra Costa Counties. *Rana boylii* was extirpated or absent from all streams surveyed in Contra Costa County (Bobzien and DiDonato 2007). The species is likely very nearly extirpated from Contra Costa County, with the possible exception of a few locations in headwater streams around Mount Diablo.

Solano County

Putah Creek drains to the Yolo Bypass in the Sacramento Valley. Alamo Creek and Ulatis Creek flow to Cache Slough in the San Francisco Bay Delta. Ledgewood Creek is tributary to Suisun Slough and Suisun Bay.

Putah Creek

Small to moderate populations of *R. boylii* were documented in tributaries to Lake Berryessa and Putah Creek in extreme northwestern Solano County: Cold Canyon Creek in 1999 and 2004, and in Wild Horse Creek in 2006 (Solano County Water Agency 2002; CNDDB 2016).[50]

Alamo Creek, Ulatis Creek

There are historical collection records from Vacaville; and 7 frogs from 3 miles W of Vacaville in July 1912 (Slevin 1928; UCMVZ 2015).

[49] Historical collection localities in the Marsh Creek drainage include: 7 frogs from 3 miles E of the Livermore turnoff in May 1939; 10 frogs from 7 miles SE of Clayton in 1939 and 1940; 7 frogs from 4 miles E of Mt. Diablo in August 1950; 7 frogs from 6.3 miles SSE of Clayton in 1951 and 6 frogs from this location in March 1953; and 2 frogs (MVZ 55556 & 55557) collected by Zweifel from Marsh Creek 7.4 miles SE of Clayton on March 25, 1976 (UCMVZ 2015; CNDDB 2016).

[50] In Cold Canyon Creek, more than 100 juvenile frogs were observed on 6/25/99 and 2 adults on 6/5/04; in Wild Horse Creek, about 1.2 miles upstream of the confluence with Cold Canyon Creek (in Stebbins Cold Canyon Reserve), more than 25 adult and subadult frogs were observed on 6/11/06 (CNDDB 2016).

The species was reported to occur in the Vaca Mountain/Pleasants Valley/English Hills Conservation Area (Solano County Water Agency 2002). The Solano County Water Agency (2002) reported no recent observations of foothill yellow-legged frogs in drainages northwest of Vacaville, but there were subsequent observations of small numbers of frogs in Alamo Creek in 2003 and 2004, and in Ulatis Creek in 2004 (CNDDB 2016).[51]

Sulphur Springs Creek

Foothill yellow-legged frogs are reported to have historically occurred in Sulphur Springs Creek, but were not found there during surveys in the mid-1990s (Solano County Water Agency 2002).

Ledgewood Creek

There is a 2002 report of 2 adult frogs from an unnamed tributary to Ledgewood Creek in the Rancho Solano area in northeastern Fairfield (Solano County Water Agency 2002; CNDDB 2016).

Recent status: The Solano County Water Agency contends the scarcity of recent *R. boylii* records in the county is due to lack of survey effort for this species, as there is suitable habitat on private land in the upper reaches of streams in western Solano County such as Green Valley Creek, Suisun Creek, Wild Horse Creek, Cook Canyon Creek, Laguna Creek, Alamo Creek and its perennial tributaries, and Ulatis Creek (Solano County Water Agency 2002). There were observations in the 2000s of small to moderate populations in tributaries of Putah Creek, and small numbers of frogs in Alamo Creek, Ulatis Creek and Ledgewood Creek.

Napa County

Putah Creek drains to the Yolo Bypass in the Sacramento Valley. The Napa River drains to the Carquinez Straits on San Pablo Bay.

Historical collections of *R. boylii* were made from 1906-1974 from throughout the Napa River drainage (Napa River and tributaries Conn Creek, Dry Creek, North Slough, Rector Creek, Redwood Creek and Sulphur Creek), and above Lake Berryessa Reservoir (Putah Creek and tributaries Butts Creek, Capell Creek, Eticura Creek, Pope Creek, St. Helena Creek and Swartz Creek) (USNM 2001; FMNH 2001; CAS 2001; CNDDB 2016; UCMVZ 2015). Large numbers of frogs were collected historically at some locations in Napa, for example, 38 frogs collected from Calistoga in 1915; 15 frogs from Conn Creek in March 1941; and 14 frogs from Sulphur Creek (where numerous collections were made) in May 1969 (UCMVZ 2015). E. Gerstung reported foothill yellow-legged frogs were “numerous” in April 1956 in Spanish Valley, SW of Lake Berryessa (CNDDB 2016).

Foothill yellow-legged frogs were documented in very small numbers in the 1990s in only

[51] In Alamo Creek, 6 larvae and 2 metamorphs in Gates Canyon (3 miles NW of Vacaville) on 8/7/03; and 2 adults 1.1 miles W of the junction of Lagoon Valley Road and Pleasants Valley Road on 6/5/04 (CNDDB 2016). In Ulatis Creek, 13 adults and 10 tadpoles were observed along Mix Canyon Road (1.5 miles W of Lagoon Valley Road) on 5/30/04 (CNDDB 2016).

a few locations in four Putah Creek tributaries (Butts Creek, Eticura Creek, Toll Canyon Creek and Zim Zim Creek) above Lake Berryessa (CNDDB 2016). Foothill yellow-legged frogs were documented in small numbers in the 2000s in a few locations in the Napa River drainage (Bear Creek, Heath Creek, Sage Creek and at the Old La Joya Quicksilver Mine) and Putah Creek tributaries (Capell Creek, Eticura Creek and James Creek) above Lake Berryessa (CNDDB 2016).

Surveys were done in 2007 for the proposed Walt Ranch development and small numbers of foothill yellow-legged frogs were found in Capell Creek (5 adults and 3 juveniles) and Milliken Creek (6 adults), but these surveys do not appear to have been recorded in the CNDDB (Napa County 2016). Foothill yellow-legged frog populations in Milliken Creek in the Milliken Reservoir watershed and the upper Capell Creek drainage are threatened by the recently approved development of vineyards and associated infrastructure at Walt Ranch, including roads with numerous planned stream crossings (Napa County 2016).

Recent status: The species has clearly declined in Napa County and is less widely distributed in the Napa River and Putah Creek drainages, with no known significant populations remaining.

Sonoma County

Historical collections of *R. boylii* were made from 1911-1974 from tributaries throughout the Russian River drainage (Ash Creek, Austin Creek, Dry Creek, Dutch Bill Creek, Pole Mountain Creek and Warm Springs Creek), in the Gualala River drainage (Gualala River, North Fork Gualala River, Pepperwood Creek, South Fork Gualala River and Wolf Creek), and in Salmon Creek (Freestone) and Adobe Creek in Petaluma (CAS 2001, CMNH 2001, FMNH 2001; LSUMNS 2001; UMMZ 2001; UCMVZ 2015). Large numbers of frogs were collected historically at some locations in Sonoma, for example 24 frogs collected from Austin Creek on October 12 and 13, 1940 (UCMVZ 2015).

In the 1990s, Harvey et al. (1992) reported the species as still “common” in the Sonoma Mountains east of Petaluma (Petaluma River and Sonoma Creek drainages) with sightings of “large numbers” indicating that populations were stable. Foothill yellow-legged frogs were documented in the 1990s throughout the Russian River drainage (Russian River and tributaries Burns Creek, Crocker Creek, Franz Creek, Maacama Creek, Sausal Creek and Squaw Creek), throughout the Austin Creek sub-drainage (Austin Creek and tributaries Big Austin Creek, Black Rock Creek, Blue Jay Creek, Conshea Creek, Devil Creek, East Austin Creek, Gilliam Creek, Gray Creek, Lawhead Creek, Little Sulphur Creek, Pole Mountain Creek, Sulphur Creek and Ward Creek), and in the Mark West Creek sub-drainage (Mark West Creek and tributaries Porter Creek and Weeks Creek) (CNDDB 2016). All observations were of small populations, with notable locales being Big Austin Creek, Crocker Creek, Little Sulphur Creek and Squaw Creek.[52] Foothill yellow-legged frogs were also documented in small numbers in the 1990s in: tributaries to the Gualala River (Wheatfield Fork and unnamed tributary); Sonoma Creek; Santa Rosa Creek in April and May of 1991 (MacTague and Northern

[52] In Big Austin Creek (1 adult and 79 juveniles captured during creek restoration construction on 10/19/98 and 10/21/98); Crocker Creek (5 adults and thousands of tadpoles on 6/9/97); Little Sulphur Creek (8 adults and thousands of tadpoles on 6/9/97); and Squaw Creek (20 adults on 8/25/98) (CNDDB 2016).

1993); Copeland Creek, a Laguna de Santa Rosa tributary (13 adults on 8/29/96); and Adobe Creek ("lots of frogs" on 6/10/97) (CNDDB 2016).

In the 2000s, small populations were documented throughout the Russian River drainage (Russian River and tributaries Cherry Creek, Crocker Creek, Gird Creek, Green Valley Creek, Ingalls Creek, Maacama Creek, McDonnell Creek, Miller Creek, Porter Creek, Sausal Creek and Skunk Creek), throughout the Austin Creek sub-drainage (Austin Creek and tributaries Big Austin Creek, Big Sulphur Creek, Blue Jay Creek, Kidd Creek, Schoolhouse Creek, Trestle Creek and Ward Creek), and in the Mark West Creek sub-drainage (Mark West Creek and tributary Humbug Creek) (CNDDB 2016). All observations were of small numbers of frogs, with the exceptions of a moderate population in Cherry Creek (20+ individuals on 11/5/02) and a moderately large population in Gird Creek (about 50 adults and sub-adults on 10/17/00); other notable locales were Miller Creek, Porter Creek and Ward Creek) (CNDDB 2016).[53] Foothill yellow-legged frogs were documented in small numbers in the 2000s in the South Fork Gualala River drainage, in tributaries Blue Slide Creek, Buckeye Creek (only 8 frogs documented on 5/7/08, but noted that frogs still existed in "quite large numbers"), Fuller Creek, House Creek and Patchett Creek (CNDDB 2016). Foothill yellow-legged frogs were also documented in small numbers in the 2000s in Adobe Creek, Sonoma Creek tributaries Carriger Creek and Stuart Creek, tributaries of the Laguna de Santa Rosa (Crane Creek and Copeland Creek), and in a few small coastal drainages (Fort Ross Creek, Kolmer Gulch, East Branch Russian Gulch and Russian Gulch); with a moderate population in 2008 in Sonoma Creek (21 adults and more than 100 tadpoles on 8/7/08) (CNDDB 2016).

The Sonoma County Water Agency (2008) compiled documented occurrences and completed habitat assessments for foothill yellow-legged frogs at 189 sites (102 unique streams) within Sonoma County, noting occurrence data for the Laguna de Santa Rosa, Petaluma River, Sonoma Creek and Russian River watersheds, as well as other scattered occurrences. SCWA (2008) concluded the species is likely distributed throughout the county in natural foothill and mountain streams with moderate gradient and permanent or semi-permanent water. SCWA (2015) reported 71 documented occurrences of foothill yellow-legged frog throughout Sonoma County.

Recent status: *R. boylii* is still widely distributed throughout Sonoma County in many Russian River tributaries (particularly Austin Creek and Mark West Creek), the South Fork Gualala River drainage, watersheds of the Laguna de Santa Rosa, Petaluma River, Sonoma Creek, Adobe Creek, and a few coastal streams, mostly in small populations. The most significant remaining Sonoma locales are a moderately large population documented in Gird Creek in 2000 and moderate populations in Sonoma Creek in 2008 and Russian River tributary Cherry Creek in 2002.

Marin County

Rana boylii was found historically throughout Marin County, including the Lagunitas Creek drainage (Lake Lagunitas, Alpine Lake, Lagunitas Creek, San Geronimo Creek, Devil's Gulch Creek, Nicasio Creek, Arroyo Nicasio, Arroyo Sausal, Halleck Creek, Olema Creek, Big Carson Creek, Little Carson Creek), tributaries on Mount Tamalpais

[53] In Miller Creek and an unnamed tributary (about 15 adults, about 300 subadults and "many" tadpoles on 8/4/00); Porter Creek (100+ juveniles on 7/30/03); and Ward Creek (10 adults on 4/27/05).

(Cataract Creek, Rock Spring, Phoenix Gulch), Redwood Creek, tributaries to Bolinas Lagoon (Pine Gulch Creek, Pike County Gulch) and Tomales Bay (Walker Creek, Salmon Creek, Millerton Gulch), and several creeks in eastern Marin County draining to San Francisco Bay (San Anselmo Creek, Arroyo Corte Madera, Arroyo San Jose, Fairfax Creek, Big Rock Creek, Dairy Creek, Mill Creek) (USNM 2001; CMNH 2001; TMM 2001; UMMZ; LSUMNS 2001; CAS 2001; Garcia and Associates 2010b; UCMVZ 2015). There are 84 historic collection specimens from Marin County in the U.C. Museum of Vertebrate Zoology (UCMVZ 2015). Garcia and Associates (2010b) identified a total of 60 foothill yellow-legged frog localities within Marin County, based on queries to the CNDDB, museum specimen records from HerpNet, and personal communications with biologists. Fifty-one of these localities were based upon museum specimen records collected from 1891-1972, 7 localities were based upon CNDDB records of foothill yellow-legged frog observations from 1956-2008, and two localities were obtained via personal communications from biologists.

Rana boylii was historically quite abundant in Marin County, as evidenced by large specimen collections of frogs: 15 frogs from Lagunitas Creek in May 1904, 19 frogs in April 1911, 57 frogs in April 1928 and 15 frogs in 1931; 38 frogs from Mt. Tamalpais in August 1928; 8 frogs from Muir Woods (Redwood Creek) in September 1913 and 10 frogs in May 1922; 18 frogs from Pike County Gulch in March 1963; and 12 frogs from Millerton Gulch in May 1944 (UKMNH 2001; USNM 2001; CMNH 2001; CAS 2001; UCMVZ 2015).

Focused survey efforts in the 1990s failed to find any foothill yellow-legged frogs in Redwood Creek, or around Muir Woods (Ely 1993; Fong 1997). A foothill yellow-legged frog population in Cataract Creek that was considered to be abundant in the early 2000s (CDFG 2003) appears now to be extirpated (Garcia and Associates 2010b). *Rana boylii* has now been extirpated from Lagunitas Creek below Peters Dam, East Fork Lagunitas Creek, Cataract Creek and the entire Mount Tamalpais watershed above Lake Alpine and Lake Lagunitas and from west slope drainages of Mount Tamalpais.

Small populations of foothill yellow-legged frog may persist in the Tomales Bay tributaries Walker Creek and Salmon Creek; other populations may exist in Marin County, however the current population status of many historically occupied sites remains poorly understood and repeat surveys of these sites are needed (Garcia and Associates 2010b).

Only two known foothill yellow-legged frog populations remain of a once more widespread distribution within the Mount Tamalpais watershed, in Little Carson Creek and Big Carson Creek, both tributaries to Kent Lake (Garcia and Associates 2010b). Fellers documented 69 adults, 71 subadults, 1,828 larvae and 1,925 egg masses in Big Carson Creek, from 1996-2008 cumulatively (CNDDB 2016). The Little Carson Creek population appears to be large and stable: in 2014 Garcia and Associates reported observing 96 adult males, 3 gravid females, 7 spent females and 15 egg masses at Little Carson Falls (MMWD 2014), consistent with numbers in recent years.

Recent status: The species has been extirpated from most former localities and watersheds in Marin County. The Little Carson Creek and Big Carson Creek tributaries to Kent Lake contain the only known significant populations in Marin County in recent years. Small populations may persist in the Tomales Bay tributaries Walker Creek and Salmon Creek.

Upper Sacramento River

There have been documented declines in the upper Sacramento River basin, but small populations were documented in the 1990s and 2000s in Shasta County in more than three dozen tributaries in the Sacramento River drainage, with significant populations in the Sacramento River (near Dog Creek and Campbell Creek) and in Willow Creek and its tributaries. Small numbers of frogs persist in eastern Tehama County in the Battle Creek, Paynes Creek, Antelope Creek, Little Antelope Creek, Mill Creek, and Deer Creek drainages.

Yolo County

Cache Creek drains to the Sacramento River. Putah Creek drains to the Yolo Bypass in the Sacramento Valley.

The paucity of recorded occurrences of foothill yellow-legged frogs at lower elevations suggests that the foothill yellow-legged frogs may never have been common throughout much of Yolo County (Yolo County 2013).

Cache Creek

Small populations were documented from 1997-2000 at a handful of locations in the Cache Creek drainage in extreme northwestern Yolo County, including Cache Creek and tributaries Bear Creek, Davis Creek and Fiske Creek (CAS 2001; Yolo County 2013; CNDDB 2016).[54]

Putah Creek

Slevin (1928) and Harvey et al. (1992) noted a historical collection record from Putah Creek, 4 miles W of Winters.

Recent status: Unknown. The species may never have been common throughout much of Yolo County. Small populations were documented in Yolo County in the Cache Creek drainage through 2000.

Colusa County

Sand Creek drains to the lower Sacramento Valley. Stony Creek is a tributary of the Sacramento River. Cache Creek drains to the Sacramento River.

[54] Three adults in Davis Creek upstream from Rayhouse Road on 4/21/97; 3 adults 0.5 mile downstream from Davis Creek Reservoir on 4/21/97; 1 frog above Davis Creek Reservoir in May 1997; 2 adults and 1 juvenile in Bear Creek on 6/10/97; 1 juvenile from the oxbow adjacent to Cache Creek and Bear Creek confluence on 6/20/97; 2 adults near the confluence of Cache Creek and Bear Creek (WNW of Rumsey) on 6/24/97 and 7/8/97; 2 adults and 1 juvenile in a stock pond on Blue Ridge (1.5 miles E of Fern Spring, between Lake Berryessa and Capay Valley) during surveys from May-June 1999; and 4 adults, 13 subadults and 250 larvae along Fiske Creek (Fellers site ID# P-466; about 0.35 mile S of Cache Creek confluence), on 8/5/00 (CAS 2001; Yolo County 2013; CNDDB 2016).

Sand Creek

There is a historical collection record of 1 frog from Sand Creek (5 miles W of Arbuckle), in the southeastern portion of the county, on March 8, 1942 (UCMVZ 2015).

Stony Creek

There are historical collections from 1933-1974 in the Stony Creek drainage, including Colusa Creek, Little Stony Creek, Mill Creek, South Fork Stony Creek and Stony Creek (CAS 2001; CNDDB 2016; UCMVZ 2015).[55] Foothill yellow-legged frogs were apparently relatively common historically in the Stony Creek drainage, with 9 frogs collected from Stony Creek over two days in 1933, and 22 frogs collected from Mill Creek on a single day in 1973 (UCMVZ 2015).

Small populations were documented throughout the Stony Creek drainage from 1989-2000, including Little Stony Creek, Little Sullivan Creek, Mill Creek, North Fork Stony Creek, South Fork Stony Creek, Stony Creek and Sullivan Creek (CAS 2001; CNDDB 2016; UCMVZ 2015).[56] Fellers (1996) observed *R. boylii* throughout the Stony Creek drainage within the Mendocino National Forest, including the tributaries Little Stony Creek, Mill Creek, and Sullivan Creek. Fellers (1996) found significant numbers of adult frogs at locations in Little Stony Creek (13 frogs) and Mill Creek (10 frogs), with notably good reproduction in Mill Creek (2,566 tadpoles). Repeat follow-up surveys by Fellers through 2008 revealed continuing significant populations in Mill Creek and Little Stony Creek (CNDDB 2016).[57]

[55] Collections in the Little Stony Creek tributary drainage: 1 frog from 6 miles S of Stonyford on October 10, 1963; 1 frog from Colusa Creek in 1973; and Fellers collected 22 frogs from Mill Creek (at Fouts Springs Campground) on 5/5/73, 1 frog on 5/6/73, and 2 frogs on 8/3/74 (CAS 2001; CNDDB 2016; UCMVZ 2015). Collections in the South Fork Stony Creek drainage: 2 frogs from 1 mile S of Redbridge in November 1960 (CAS 2001). Collections in Stony Creek: 9 frogs from 3 miles W of Stonyford on October 1-2, 1933; and 1 frog from 5 miles W of Stonyford on February 10, 1968 (CAS 2001; UCMVZ 2015).

[56] Two frogs from a South Fork Stony Creek tributary at Davis Flat in April 1989; 1 adult frog from an unnamed tributary to South Fork Stony Creek (in the vicinity of Davis Flat) on 3/9/91; 1 frog from North Fork Campground on 2/24/97; 3 adults from Mill Creek (below Brim Road bridge) on 4/11/97; single frogs from 3 locations in South Fork Stony Creek on 9/16/99; 1 frog from Stony Creek (NE of Candy Bucket Spring) on 9/17/99; 1 frog from Mill Creek (upstream of Mill Creek Campground) in August 2000; 1 frog from an unnamed creek between Wolf Glade and Diversion Dam Campground, in August 2000; 1 frog from Little Stony Creek (upstream of Trout Creek) on 8/15/00; 1 frog from Little Stony Creek (between Sullivan Creek and Trout Creek) on 8/15/00; 1 frog from Sullivan Creek (upstream of Little Stony Creek confluence) on 8/16/00; 1 frog from Little Stony Creek on 8/17/00; and 1 frog from Little Sullivan Creek on 8/17/00 (CAS 2001; CNDDB 2016; UCMVZ 2015).

[57] At Mill Creek at Fouts Springs Campground (Fellers sites Y-809A and Y-809B) a cumulative total of 99 adults, 160 subadults, 4,858 larvae and 6,532 egg masses during surveys from 1995-97, 1999-2004, and 2006-08; at South Fork Stony Creek confluence, (Fellers site Y-809B), a cumulative total of 55 adults, 96 subadults, 10,544 larvae and 36,251 egg masses during surveys from 1995-1996, 1999-2004 and 2006-2007; and in Little Stony Creek (at Digger Pine Campground, Fellers site Y-828), a cumulative total of 102 adults, 264 subadults, 8,451 larvae and 5,775 egg masses during surveys from 1995-2004 and 2006-2008 (CNDDB 2016).

Cache Creek

Small populations were documented in the Cache Creek tributaries Bear Creek and Sulphur Creek from 1997-1998 (CNDDB 2016).[58] Fellers observed small numbers of frogs in Bear Creek from 1998-2004 (CNDDB 2016).[59]

Recent status: Significant populations remained in Colusa County in the Stony Creek drainage in Little Stony Creek and Mill Creek through 2008, with older observations of small numbers of frogs in Stony Creek and tributaries South Fork Stony Creek, North Fork Stony Creek and Sullivan Creek through 2000. The species was present in the Cache Creek tributaries Bear Creek, Sulphur Creek and Letts Creek in the 1990s and early 2000s, but there are no reported observations since 2004.

Glenn County

Stony Creek is a tributary of the Sacramento River. Black Butte River is a tributary of the Middle Fork Eel River.

Stony Creek

There are historical collections from 1912-1971 in Glenn County in Stony Creek and tributaries Grindstone Creek and North Fork Stony Creek (Slevin 1928; CAS 2001; CNDDB 2016; UCMVZ 2015).[60]

There were a handful of observations from 1995-2000 of small numbers of frogs in the Stony Creek drainage, including Black Diamond Creek, North Fork Stony Creek, Salt Creek and Stony Creek (CAS 2001; CNDDB 2016).[61]

Black Butte River

A single juvenile (CAS #209128) was collected from the Black Butte River drainage, in eastern Glenn County (downstream of "The Basin" and W of Bear Wallow Ridge), on 6/24/99 (CAS 2001; CNDDB 2016).

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[58] Three frogs from Bear Creek downstream of the confluence with Sulphur Creek 4/11/97-4/25/97; 1 frog from Bear Creek (near Wilbur Springs Road bridge) on 4/25/97; 2 adults and 1 juvenile from Sulphur Creek (above Wilbur Springs) on 4/25/97 and 6/2/97; 1 frog from Bear Creek at Thompson Canyon on 6/10/97, with 2 additional adults observed; 5 adults from East Fork Sulphur Creek on 3/26/98; 5 adults from West Fork Sulphur Creek on 3/26/98 and 4/6/98; and 3 adults from Bear Creek on 5/5/98, with 3 additional adults observed (CNDDB 2016).

[59] Three adults in Thompson Canyon (at Bear Creek confluence) on 3/20/98; 3 larvae in Bear Creek (Fellers site P-465) on 8/5/00; 2 adults in Letts Creek (Fellers site P-471) on 8/7/00; and 1 adult at confluence of Bear Creek and Sulphur Creek (vicinity of Wilbur Springs) on 3/20/04 (CNDDB 2016).

[60] Five frogs from Winslow (5 miles W of Fruto) on June 18 and June 20, 1912; from Fruto before 1928; 1 frog in Grindstone Creek (4.5 miles S of Millsap) on March 21, 1954; 1 frog in North Fork Stony Creek (1 mile N of Redbridge), in November 1960; and 1 frog (MVZ 125357) from a Grindstone Creek tributary (along Hull Road N of Elk Creek) on March 29, 1971 (Slevin 1928; CAS 2001; CNDDB 2016; UCMVZ 2015).

[61] One adult, 4 subadults and 2 egg masses along Salt Creek at Rattlesnake Creek (Fellers site ID#Y-813) on 5/10/95; 1 adult (CAS #202599) collected on 2/24/97 and 1 adult (CAS #202583) collected on 3/29/97 in an unnamed tributary to Stony Creek, on the Brittan Ranch; 2 small adults captured and 200-300 tadpoles observed in an unnamed tributary to Salt Creek, just E (downstream) from Sanhedrin Road, 4 miles NW of the town of Elk Creek, on 4/10/97; 3+ tadpoles observed in Black Diamond Creek, just W of the Dry Creek Confluence, on 6/5/99; and 1 collection specimen from North Fork Stony Creek on 7/24/00 (CAS 2001; CNDDB 2016).

Recent status: Unknown. Small populations were documented in Glenn County in the Stony Creek drainage through 2000, and an observation in Black Butte River in 1999.

Tehama County

Battle Creek

A single foothill yellow-legged frog was collected from Battle Creek on March 31, 1932 (UCMVZ 2015).

In the 2000s, small numbers of frogs were documented in the Battle Creek drainage, in tributaries South Fork Battle Creek, Soap Creek and Ripley Creek (CNDDB 2016).[62]

Paynes Creek

Grinnell et al. (1930) collected small numbers of foothill yellow-legged frogs along Paynes Creek in 1924 (UCMVZ 2015).[63] In April 1928, Grinnell et al. (1930) observed "several" foothill yellow-legged frogs in the Paynes Creek drainage (9 miles NE of Red Bluff), and several more adults and several egg masses later in the month at another nearby location. A single frog was collected from Meadow Ranch (3 miles W of Paines Creek Post Office) on February 15, 1931 (UCMVZ 2015).

In the 1990s, small numbers of frogs were documented in the Paynes Creek drainage (CNDDB 2016).[64]

Red Bank Creek

Bourque (2008) was able to find enough foothill yellow-legged frogs in the Red Bank Creek watershed during telemetry surveys from 2004-2005 to opportunistically capture 79 adult frogs.

Antelope Creek

Rana boylii was known to occur historically in the Antelope Creek watershed, below the elevation of approximately 3,200 feet (LNF and PNF 1999).

Small numbers of foothill yellow-legged frogs were found in Antelope Creek and in the Indian Creek tributary from 2001-2003 (Hayes et al. 2013). Fellers documented small populations from 1997-2003 along Antelope Creek at North Fork Antelope Creek, and at

[62] One adult, 2 juveniles and 40-50 tadpoles in South Fork Battle Creek, just downstream from the PG&E South Powerhouse, S of Manton, on 6/15/00; 1 adult and 1 juvenile in Soap Creek, downstream of the diversion dam, on 6/16/00; 1 juvenile upstream of the dam on South Fork Battle Creek, on 6/26/00; 1 adult, 2 juveniles and 3 egg masses in South Fork Battle Creek, at the Manton Road crossing, on 4/25/05; and 2 adults and 16 juveniles in Ripley Creek and an associated tributary, on 4/25/05 (CNDDB 2016).

[63] Four frogs from Dale's Ranch in May 1924; 2 frogs from "Paines Creek" on May 12, 1924; 4 frogs from Elliott's Ranch, (5 miles W of Payne's Creek Post Office), on June 5, 1924; and 3 frogs from Lyman's, in the Plum Creek tributary, on June 8 and June 14, 1924 (UCMVZ 2015).

[64] Three adults in Paynes Creek, approximately 200 feet N of Highway 36, on 4/1/93; and 1 adult observed by Fellers (site ID# L-177) at Plum Creek and an unnamed tributary confluence (about 2 miles N of Finley Butte), on 6/22/95 (CNDDB 2016).

the Antelope Creek and Indian Creek confluence (CNDDB 2016).[65] At least 10 adults and 1 egg mass were observed in Antelope Creek near Facht Place Campground on 5/25/16 (CNDDB 2016).

Little Antelope Creek

Fellers documented small populations in 1995 in Little Antelope Creek and tributary Cottonwood Creek (CNDDB 2016).[66]

Dye Creek

Fourteen *R. boylii* were collected from Dye Creek in the Gray Davis Dye Creek Preserve (6.0 miles E and 3.5 miles N of Gerber) on April 1, 1970 (CNDDB 2016; UCMVZ 2015).

A single frog was collected from the North Fork Dye Creek in September 1996 (CAS 2001).

Mill Creek

Slevin (1928) noted that *R. boylii* had been collected from Mill Creek, near Tehama. Grinnell et al. (1930) took specimens from Mill Creek at 260 feet (2 miles NE of Tehama), from June 8-13, 1912 (UCMVZ 2015). The species was known to occur historically in the Mill Creek watershed below the elevation of approximately 3,200 feet (LNF and PNF 1999).

Fellers found 3 larvae along Mill Creek (site L-050F; just W of Black Rock, about 3 miles NW of Flatiron Mountain), on 8/15/94 (CNDDB 2016). Small numbers of frogs were found in Mill Creek from 2001-2003 (Hayes et al. 2013).

Deer Creek

The species was known to occur historically in the Deer Creek watershed below the elevation of approximately 3,200 feet (LNF and PNF 1999).

Fellers documented small populations from 1994-2006 in the Deer Creek drainage (CNDDB 2016).[67]

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[65] One adult on 6/12/97 and 8 subadults on 6/18/97 at Antelope Creek at North Fork Antelope Creek (Fellers sites L-539 and L-543); and at the Antelope Creek and Indian Creek confluence (Fellers sites L-515A, L-515D, L-535), 2 adults and 38 subadults on 9/16/96; 1 adult and 51 subadults on 9/19/96; 3 adults, 19 subadults and 40 larvae on 6/10/97; 6 subadults on 6/11/97; 1 adult (CAS 226962) collected on 5/28/03; and 1 adult and 1 larva collected on 5/29/03 (CNDDB 2016).

[66] Thirty larvae along Little Antelope Creek (Fellers site L-180; about 1.75 miles NE of Dewitt Peak, 1.8 miles SE of Dead Cow Flat), on 6/26/95; and 5 subadults along Cottonwood Creek (Fellers site L-179; about 1.3 air miles E of Shaw Creek Confluence, 1.4 miles NE of Dead Cow Flat), on 6/26/95 (CNDDB 2016).

[67] One adult along Deer Creek near Highway 32 (site L-052B) on 7/7/94; 1 adult along Deer Creek, about 0.9 air miles ESE of Dead Horse Creek confluence (site L-052C), on 7/10/94; 2 adults along an unnamed tributary of Deer Creek (site L-058: 0.7 mile E of Little Pine Creek, 0.6 mile N of Pinnacle Peak), on 7/11/94; 1 adult along Deer Creek at Little Pine Creek (site L-061) on 7/11/94; 3 adults, 2 subadults and 90 larvae along Deer Creek at Little Pine Creek (site L-052D) on 7/12/94; 1 subadult and 5 larvae about 0.3 mile ENE of Deer Creek and a tributary confluence on 8/12/94; 6 adults in Deer Creek (site L-052B) on 8/12/94; 2 adults observed on 8/12/94 and 1 larva and 1 adult collected on 5/29/03 along Beaver Creek, at the crossing

Thomes Creek

Fellers (1996) observed *R. boylii* in the Thomes Creek drainage within the Mendocino National Forest, including two locations in Thomes Creek and in the Bennett Creek tributary. Bennett Creek was "notably good" area for reproduction, with 8 adults, 2,200 tadpoles, and 15 egg masses observed. There are collection records of single frogs from Thomes Creek and from the Willow Creek tributary, in August 2000 (CAS 2001).

Sacramento River

There are historical collections from 1924-1926 at the Sacramento River near Red Bluff and Tehama (UMMZ 2001; UCMVZ 2015).[68]

Foothill yellow-legged frogs are now extirpated from the Sacramento River area in Tehama County (Hayes et al. 2013).

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 3 of 7 historical locations (43%) in eastern Tehama County. No foothill yellow-legged frogs were found during amphibian surveys from 1990-1998 of potentially suitable habitat on Lassen National Forest lands in eastern Tehama County (LNF and PNF 1999). Hayes et al. (2013) noted scattered collection records and sightings since 1980 in Lassen National Forest under surveys through the Federal Energy Regulatory Commission relicensing process. Small populations were documented in the 1990s and 2000s in Tehama County in the Battle Creek, Paynes Creek, Antelope Creek, Little Antelope Creek, Mill Creek, and Deer Creek drainages. The potentially large population in Red Bank Creek warrants further investigation.

Shasta County

Historical specimen collections were made from 1898-1981 throughout Shasta County in the upper Sacramento River drainage and in tributaries Ash Creek, Bars Creek, Cottonwood Creek, Dinner Gulch, Little Cow Creek, Low Pass Creek, McCloud River, Nosoni Creek, Pit River, Redding Creek, Salt Creek, Soda Creek, Squaw Creek and Stillwater Creek (CAS 2001; FMNH 2001; UMMZ 2001; USNM 2001; UCMVZ 2015).[69]

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of USFS Road 28N29 (site L-063); 1 gravid female collected from Deer Creek, 0.1 mile downstream from the Beaver Creek confluence, on 5/30/03; 1 adult collected from an unnamed tributary to Deer Creek (2.8 miles S of the USFS Road 28N29/Deer Creek junction), on 5/31/03; and 1 adult in a tributary 800' downstream from USFS Road 28N29 bridge crossing on 6/17/06 (CNDDB 2016).

[68] Three frogs from 5 miles N of Tehama in the Sacramento River, on May 14, 1924 (UCMVZ 2015); 2 frogs from 8 miles N of Red Bluff and 2 frogs from 8 miles NE of Red Bluff, on April 5, 1928 (UCMVZ 2015); 1 frog from Bloody Island, along the Sacramento River, on May 28, 1926 (UCMVZ 2015); and 3 frogs from the Sacramento River below Red Bluff in August 1926 (UMMZ 2001).

[69] One frog from Baird (lower McCloud River, now flooded by Shasta Lake) in January 1884; 1 frog from the Sacramento River at Sims in July 1898; 3 frogs from McCloud River in June 1904; 2 frogs from Sweetbriar Camp in August 1907; 3 frogs from Redding in October 1911; 5 frogs from Middle Fork Cottonwood Creek (Divide 12 miles N of North Yolla Bolly Mt.) on May 12, 1926; 4 frogs from a tributary to the Sacramento River in August 1926; 1 frog from Redding Creek on August 16, 1941; 1 frog from a Sacramento River tributary 8 miles NW of Redding on November 13, 1945; 1 frog from Squaw Creek on October 14, 1950; 3 frogs from Bars Creek on October 15, 1950; 6 frogs from Low Pass Creek in 1950 and 1951; 3 frogs from Dinner Gulch in 1950 and 1951; 2 frogs from Ash Creek and Squaw Creek on August 11, 1951; 2 frogs from Salt Creek on June 20, 1952; 1 frog from the Pit River drainage, 8 miles NNW of Round Mountain, in April 1953; 4 frogs from Little Cow Creek (1 mile NE of Ingot) on May 3, 1953; 1 frog from Stillwater Creek (4

In the 1990s, small populations were reported in a dozen tributaries in the Sacramento River drainage, including Brandy Creek, Castle Creek, Cold Spring Gulch, Crystal Creek, Middle Fork Cottonwood Creek, Nosoni Creek, Prospect Creek, Sacramento River (near the delta of Dog Creek and Campbell Creek), Salt Creek, Squaw Creek and Sunday Gulch (CNDDB 2016). Small populations were observed during May-September 1994 aquatic amphibian surveys of upper Sacramento River tributaries after the Cantera Bridge chemical spill, in Boulder Creek, Campbell Creek, Castle Creek, Little Slate Creek, Mears Creek, Middle Fork Castle Creek, Mosquito Creek, North Fork Salt Creek, North Fork Slate Creek, Sacramento River (S of McCardle Gulch at Sims), Shotgun Creek, Slate Creek and Whitlow Creek (Miller et al. 1994; CNDDB 2016).

In the 2000s, small populations were reported in three dozen tributaries in the Sacramento River drainage: Backbone Creek, Baldwin Creek, Barney Gulch, Bear Gulch, Beegum Creek, Boulder Creek, Brandy Creek, Chain Gang Gulch, Cline Gulch, Clover Creek, Cornish Creek, Dry Creek, Duncan Creek, East Fork Clear Creek, East Fork Duncan Creek, Flat Creek, Flume Creek, Grizzly Creek, Hooten Gulch, Horse Creek, Madison Canyon, McCloud River, Mears Creek, Motion Creek, Nawtawaket Creek, Old Cow Creek, Ripgut Creek, Sacramento River (at Soda Creek), Salt Creek, Sawpit Gulch, Shotgun Creek, Soda Creek, South Cow Creek, Squaw Creek, Sugarpine Canyon, Susanville Canyon, Whiskey Creek and Willow Creek (CNDDB 2016).[70] There were known *R. boylii* populations in the Pit River and its tributary Deep Creek (in the PG&E Pit 4 reach) and the species was expected to occur in the Pit 3 reach, between Lake Britton and Pit 4 Dam (FERC 2001).

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 3 of 14 historical locations (21%) in Shasta County. However, small populations were documented in more than three dozen tributaries to the Sacramento River in the 2000s, particularly in the vicinity of Dog Creek and Campbell Creek, and in Willow Creek and its tributaries Crystal Creek, Clear Creek and Mill Creek.

Northern Coastal California

The largest foothill yellow-legged frog populations in California are in the north coast range, with healthy populations scattered throughout the region. The strongholds for the

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miles WSW of Bella Vista) on May 3, 1953; 1 frog from Low Pass Creek (15.3 miles E of Redding) in June 1953; 1 frog from Squaw Creek on August 3, 1963; 1 frog from Squaw Creek on September 2, 1966; 1 frog from Squaw Creek on May 18, 1968; 1 frog from Soda Creek (2.4 miles NE of Castle Crag Siding) on November 14, 1969; 7 frogs from Nosoni Creek at Gilman Road (tributary to McCloud arm of Shasta Lake) in September 1970; 1 frog from a tributary to McCloud arm of Shasta Lake (Gilman Road) in March 1977; and 1 frog from Pit River at Deep Creek on June 20, 1981 (CAS 2001; FMNH 2001; UMMZ 2001; USNM 2001; UCMVZ 2015).

[70] Significant (but small) populations were in Boulder Creek (5 adults and 25 metamorphs on 9/27/04 and 11 adults, 27 juveniles and 1 larva during 3 visits on 6/26, 8/31 and 10/5/05); Dead Horse Creek (15 adults, 5 juveniles and 15 tadpoles on 8/1/02); McCloud River near Tuna Creek crossing (frogs on 6/4/07; 5 frogs on 7/31/07; and 11 frogs on 9/11/07); and South Cow Creek (14+ frogs on 9/2/03) (CNDDB 2016). somewhat larger populations were observed in the Sacramento River in the vicinity of the delta of Dog Creek and Campbell Creek (~50 subadults on 10/13/02 and 20-30 juveniles on 9/26/06); and in Willow Creek and tributaries Crystal Creek, Clear Creek and Mill Creek (10 adults and ~50 larvae on 5/1 and 5/5/03; 23 adults and 207 metamorphs in 9/04; 19 adults, 107 juveniles and 156 tadpoles on 6/2, 6/15, 6/28, 8/30, 8/31 and 10/4/05) (CNDDB 2016).

species are in the Smith River; Red Cap Creek tributary of the Klamath; South Fork Trinity River; North, Middle and South Forks of the Eel River; Redwood Creek; coastal tributaries in Mendocino County; and Russian River tributaries. However, only 6 sites in northern California have large populations (estimated populations exceeding 100 adult frogs), with an additional 9 sites having moderately large (> 50 adult frogs) (Lannoo 2005). There have been documented declines in the northern coastal California region. Jennings and Hayes (1994) found that the species had been lost from 39 of 165 historical sites (24%) in the north coast of California. For the population with the longest term monitoring record on the University of California's Angelo Reserve, the population has been in decline over the last ten years (Peek and Kupferberg 2016).

Lake County

There are historical collection records and recent documentation of *R. boylii* populations within Lake County from the Eel River, Cache Creek and Putah Creek drainages, as well as tributaries to Clear Lake. The single *R. boylii* specimen from Lake County analyzed by Lind et al. (2011) was from northern Lake County in a tributary of the Eel River, in the North Coast hydrologic region. Other drainages in Lake County (Cache Creek, Putah Creek) in the Sacramento hydrologic region may have affinity with the Upper Sacramento River population, but are discussed here.

Eel River

Small numbers of frogs were collected in the 1970s and 1980s from the Bear Creek, Rice Creek and Welch Creek tributaries of the Eel River (CNDDB 2016; UCMVZ 2015).[71]

Small numbers of frogs were observed and collected in the 1990s in Eel River tributaries above and below Lake Pillsbury, including Bear Creek, Corbin Creek, Parramore Creek, Rice Fork and Soda Creek (CNDDB 2016; UCMVZ 2015).[72] Fellers (1996) observed "relatively high numbers" of *R. boylii* in the Rice Fork of the Eel River (8-10 adults, 15 subadults and over 500 tadpoles).

Small populations of frogs were observed and collected in the 2000s in many Eel River tributaries above and below Lake Pillsbury, including Alder Creek, Asbill Creek, Benmore Creek, Copper Butte Creek, Corbin Creek, Dashiell Creek, Eel River, Horse Creek, Rice Fork, Skeleton Creek and Soda Creek; moderate populations (25-49 adults) were documented in 2004 in Berry Creek, Hummingbird Creek and Thistle Glade Creek; and a moderately large population (50-99 adults) in 2004 in Rattlesnake Creek (CNDDB

[71] Two frogs from Bear Creek Station on May 13, 1972; 4 frogs from Bear Creek Station on October 15, 1972; 2 frogs from Erickson Ridge, on Towhead Flat, on October 15, 1972; 1 frog from Upper Lake/Lake Pillsbury Road on April 21, 1973; and 9 frogs from the junction of Rice Creek and Bear Creek on August 19, 1986 (CNDDB 2016; UCMVZ 2015).

[72] One subadult and 3 egg masses observed in Corbin Creek (Fellers site Y-829) on 6/6/95; 11 adults, 1 subadult, 512 larvae and 1 egg mass observed in the Rice Fork (Fellers site Y-836) on 6/20/95; 3 adults collected from the Rice Fork on 7/6/95; 1 subadult collected from "The Slides" on 5/11/96; 1 subadult collected from Soda Creek on 5/11/96; 4 adults, 20 subadults and 55 larvae observed in Rice Fork (Fellers site Y-836) on 6/9/96; 1 juvenile collected from Parramore Creek on 9/14/99; and 1 adult collected from Bear Creek on 9/14/99 (CNDDB 2016; UCMVZ 2015).

2016).[73] In Soda Creek (Fellers site Y-806), Fellers noted a total of 72 adults, 117 subadults, 21,109 larvae and 18,603 egg masses observed over 13 years from 1995-2008 (surveyed every year except 2007) (CNDDB 2016).

Clear Lake tributaries

There are historical collection records from 1939-1967 in the Kelsey Creek and Adobe Creek drainages tributary to Clear Lake (UCMVZ 2015).[74] "Moderately abundant" numbers of frogs were observed in the McDowell Creek tributary in April 1956 (CNDDB 2016).

Small numbers of frogs were observed and collected from 1997-2000 in the Clear Lake tributaries Adobe Creek, East Fork Middle Creek, Highland Creek, Kelsey Creek, Middle Creek and Panther Creek (a tributary of Scotts Creek) (CNDDB 2016).[75] There are no known more recent observations from any tributaries of Clear Lake.

Cache Creek

There are historical collection records from 1937-1972 in the Cache Creek drainage, including North Fork Cache Creek, Seigler Canyon Creek, tributaries to Indian Valley Reservoir and Kilpepper Creek (CNDDB 2016; UCMVZ 2015).[76] "Moderately abundant" numbers of frogs were observed in the Seigler Canyon Creek tributary in Lower Lake in April 1956 (CNDDB 2016).

Observations and collections of small numbers of frogs were made in the 1990s in the North Fork Cache Creek drainage, including tributaries David Creek, Grizzly Creek, Harley Gulch, Spanish Creek and Wolf Creek (CNDDB 2016).[77]

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[73] Two adults and 17 egg masses in Rice Fork (Fellers site Y-836) on 4/9/00; 1 adult in Asbill Creek on 4/7/01; 7 frogs in Skeleton Creek on 6/15/04 and 19 frogs on 6/16/04; 1 frog in Copper Butte Creek on 6/17/04; 25 frogs in Berry Creek at Eel River on 6/17/04; 33 frogs in Hummingbird Creek on 6/18/04; 27 frogs in Thistle Glade Creek on 6/19/04; 5 frogs in the Eel River (Trout Creek to Corbin Creek) on 7/29/04, 1 frog on 7/30/04 and 14 frogs on 7/31/04; 18 frogs in Corbin Creek on 7/31/04; 29 frogs in the Eel River and Horse Creek on 7/30/04; 54 frogs in Rattlesnake Creek on 8/1/04; 7 frogs in Alder Creek at Eel River on 6/22/05; 12 frogs in Dashiell Creek at Eel River on 6/26/05; 13 frogs in Benmore Creek on 6/27/05; and 6 frogs in Soda Creek (Fellers site Y-806) on 6/27/05 (CNDDB 2016).

[74] One frog from Hwy. 29 (2.6 miles S of Kelseyville) on March 22, 1939; 1 frog from Forest Lake Resort on July 29, 1945; 3 frogs from 3 miles N and 1 mile W of Cobb Mt. on April 16, 1955; 1 frog from 3 miles N and 1 mile W of Cobb Mt. on April 14, 1956; and 4 frogs from the Highland Creek tributary on May 6, 1967 (UCMVZ 2015).

[75] One larva collected from Middle Creek (just below Rancheria Road) on 7/8/97; 5 adults, sub-adults and larvae collected from Middle Creek (Fellers site Y-805) on 5/14/97; 4 adults collected from Highland Creek on 7/11/97; 1 juvenile collected from East Fork Middle Creek on 5/25/99; 1 adult collected from Middle Creek (Fellers site Y-805) on 5/26/99; 1 frog observed in Kelsey Creek during May-June 1999; 1 frog observed in the Mayacamas Mountains in the upper Adobe Creek drainage during May-June 1999; 1 juvenile collected from East Fork Middle Creek on 9/13/99; and 20 adults, 14 subadults and 125 larvae observed along Panther Creek (Fellers site P-460) on 8/2/00 (CNDDB 2016).

[76] One frog from 3.5 miles E of Bartlett Springs on August 13, 1937; 2 frogs from State Hwy. 20 (1.5 miles W of Bridge 14-12) on September 22, 1962; 2 frogs from Complexion Spring (a tributary to Indian Valley Reservoir) on October 14, 1972; 7 frogs from Kilpepper Creek (5.2 miles W of Barkersville) on October 14, 1972; and 2 frogs from North Fork Cache Creek near the confluence with Bartlett Creek on October 14, 1972 (CNDDB 2016; UCMVZ 2015).

[77] One egg mass was observed along Spanish Creek (Fellers site Y-801) on 4/25/95; 5 adults and 92 larvae were observed along North Fork Cache Creek near Bartlett Creek (Fellers site Y-850) on 7/10/95; 1 adult was collected from Harley Gulch on 3/27/97; 3 adults were collected from Harley Gulch on 4/25/97; 7 adults

Fellers documented small populations in the early 2000s in Wolf Creek and Grizzly Creek (CNDDB 2016).[78] "Good" *R. boylii* populations were observed in the early 2000s in the remote, upper sections of the North Fork Cache Creek (J. Olmstead, pers. comm., 2002). Hothem (2007) and Hothem et al. (2009) documented that *R. boylii* was present in Harley Gulch.

Putah Creek

There are historical collection records from 1919-1974 in the Putah Creek, including tributaries Butts Creek, Dry Creek and Hunting Creek (CAS 2001; CNDDB 2016; UCMVZ 2015).[79] Foothill yellow-legged frogs were reported in "sparse numbers" in Coyote Creek along state route 53 in April 1956 (CNDDB 2016).

Observations were made in the 1990s and 2000s of small populations in the Putah Creek tributaries Big Canyon Creek, Coyote Creek, Harbin Creek and Hunting Creek (CNDDB 2016).[80] The species was reported to be present in April 2001 in "low numbers" along Putah Creek near the confluence with Coyote Creek, and to occur in Coyote Creek (Lake County 2008). Foothill yellow-legged frogs were reported to be "common" within the University of California McLaughlin Reserve, in the Hunting Creek and Knoxville Creek tributaries to Putah Creek above Lake Berryessa (UC 2009).

Recent status: In the North Coast hydrologic region, small populations were documented in the 2000s in many Eel River tributaries, with significant populations in Berry Creek, Hummingbird Creek, Soda Creek and Thistle Glade Creek, and a moderately large population in Rattlesnake Creek. Small populations were found from 1997-2000 in a half dozen Clear Lake tributaries. In the Sacramento River hydrologic region, small populations were documented in the 1990s and early 2000s in the North Fork Cache Creek drainage and in Putah Creek tributaries.

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and several larvae were observed in Grizzly Creek (Fellers site Y-808) on 5/1/97; 3 adults were collected from Spanish Creek on 5/12/97; 15 adults and several tadpoles were observed in Grizzly Creek on 5/13/97; 1 juvenile, 1 subadult and 1 larva were collected from Quartz Canyon and Wolf Creek to Salt Lick Canyon (Fellers site P-461) on 5/14/97; 1 adult was collected from Harley Gulch on 3/11/98; 1 adult was collected from Harley Gulch on 3/16/98; 2 adults were observed in Grizzly Creek (Fellers site P-463) on 4/1/98; 3 adults were observed in David Creek on 8/4/98; 1 adult was observed in David Creek on 8/12/98; and 1 subadult and 1 juvenile were collected from Wolf Creek (Fellers site P-461) on 5/24/99 and 5/25/99 (CNDDB 2016).

[78] Seven adults, 53 subadults and 350 larvae in Wolf Creek (Fellers site P-461) on 8/3/00; and 2 adults, 9 subadults and 3 larvae observed in Grizzly Creek upstream from the Cache Creek confluence (Fellers site P-463) on 8/4/00 (CNDDB 2016).

[79] One frog from Castle Rock Springs in April 1919; 4 frogs from Hunting Creek (Hildebrand Ranch, Morgan Valley) on January 15, 1941; 1 frog from Dry Creek near Lower Lake on July 30, 1943; 1 frog from Hunting Creek on September 23, 1962; and 12 frogs from Butts Creek on September 29, 1974; and 1 frog from Middletown on an unknown date (CAS 2001; CNDDB 2016; UCMVZ 2015).

[80] One adult collected from Big Canyon Creek on 6/21/94; 3 adults and hundreds of tadpoles observed in Harbin Creek and an unnamed tributary on 5/31/99; 1 adult and 27 metamorphs in Harbin Creek and an unnamed tributary on 9/12/99; 4 adults, 5 subadults and 6 larvae along Hunting Creek (Fellers site P-470) on 8/6/00; 1 adult in Harbin Creek on 8/20/06; and 2 tadpoles in Coyote Creek NE of Middletown on 8/24/07 (CNDDB 2016).

Mendocino County

Eel River

There are historical collection records from 1911-1985 throughout the Eel River drainage in Mendocino County, including the Eel River, Elkhorn Creek, Fox Creek, Garcia Creek, Kenny Creek, Long Valley Creek, McKinley Creek, Middle Fork Eel River, North Fork Eel River, Outlet Creek, South Fork Eel River and Tenmile Creek (CAS 2001; CMNH 2001; LSUMNS 2001; SDNHM 2001; UMMZ 2001; USNM 2001; CNDDB 2016; UCMVZ 2015). Relative abundance was indicated by collections of large numbers of frogs; for example 20 frogs taken from the Middle Fork Eel River (3 miles S of Covelo) in 1913 (UCMVZ 2015); and 38 frogs (33 collected in a single day) from the South Fork Eel River (just NW of Leggett) in 1978 (CMNH 2001).

Small populations were documented in the 1990s throughout the Eel River drainage in Mendocino County, including Bar Creek, Beaver Creek, Black Butte River, Buck Rock Creek, Burns Creek, Middle Fork Eel River, North Fork Eel River, Poor Man's Creek, Pothole Creek, Salmon Creek, Soda Creek, South Fork Bear Creek, South Fork Eel River, Trout Creek, Walters Creek, Whitney Creek and Williams Creek (Feller 1996; USDA and USDI 1996; CAS 2001; USNM 2001; CNDDB 2016). Significant populations were documented along the South Fork Eel River (and Fox and McKinley Creeks) from 1992-1994 (1,292 egg masses cumulatively); the Middle Fork Eel River (near the Middle Fork-North Fork confluence) in 1993 (100 adults and 858 tadpoles observed during a 5-day survey); and in Burns Creek in 1998 (63 adults and hundreds of tadpoles during observations from May-Sept) (CNDDB 2016). The species was reported to be regularly observed in the 1990s by State Department of Forestry personnel in the South Fork Eel River, East Branch North Fork Eel River, Standley Creek and Wildcat Creek (D. Matson, pers. comm., 2001).

Small numbers of frogs were documented in the 2000s at a few locations along the South Fork Eel River and Trout Creek (CNDDB 2016; UCMVZ 2015), with a very large population documented from 2002-2008 in the South Fork Eel River at Fox and McKinley Creeks (CNDDB 2016)[81] - this is part of the population whose long term trends (1992-2011) are reported in Kupferberg et al. (2012).

Usal Creek

There was a historical collection specimen from Usal Creek in June 1897 (USNM 2001).

Tenmile River

There are historical collection records from the Tenmile River drainage in 1899 and 1909 (USNM 2001; UCMVZ 2015).[82]

[81] At the South Fork Eel River and Fox and McKinley Creeks, there were 29 known breeding sites along S. Kupferberg's study reach; 125 larvae were collected on 7/28/02-7/29/02; the population was approximately 600 frogs (ages not given) in 2006; 332 juveniles and 38 tadpoles were sampled in 2006; and 159 juveniles and 252 tadpoles were sampled in 2008 (CNDDB 2016). At several sites along Trout Creek, at the Eel River, 10 frogs were observed on 6/21/05; a single adult was observed on 6/25/16. (CNDDB 2016).

[82] A single frog was collected from Cahto (just W of Laytonville) in May 1889 (USNM 2001); and 13 frogs from Sherwoods in August 1909 (UCMVZ 2015).

The species was reported to be regularly observed in the Ten Mile River in the 1990s by State Department of Forestry personnel (D. Matson, pers. comm., 2001).

Noyo River

There are historical collection records from the Noyo River in 1927 and tributary Sixteen Gulch from 1984-1985 (CNDDB 2016; UCMVZ 2015).[83]

The species was reported to be regularly observed in the Noyo River drainage in the 1990s by State Department of Forestry personnel (D. Matson, pers. comm., 2001). Foothill yellow-legged frogs were observed during the mid-1990s in the South Fork of the Noyo River, including the tributaries North Fork of the South Fork Noyo River, Parlin Creek and Brandon Gulch (DFFP 2001). A small population was documented in the 1990s in the tributary Willits Creek (CNDDB 2016).

Big River

There are historical collection records from 1902-1982 in the Big River drainage, including Big River, James Creek and North Fork Big River (CAS 2001; UMMZ 2001; UCMVZ 2015).[84]

The species was reported to be regularly observed in the Big River drainage in the 1990s by State Department of Forestry personnel (D. Matson, pers. comm., 2001). The species was observed during the mid-1990s in the North Fork of the Big River, including the tributaries Two Log Creek, Chamberlain Creek, and James Creek (DFFP 2001; CNDDB 2016). Foothill yellow-legged frogs were observed in the North Fork Big River in 1996 and 1997 and in Big River near Mendocino Woodlands and near James Creek in 1999 (DFFP 2001). A small population was documented in the South Fork Big River in the 2000s (CNDDB 2016).

Navarro River

There are historical collection records from 1906-1975 throughout the Navarro River drainage, including Christine Creek, India Creek and Navarro River (CAS 2001; FMNH 2001; UCMVZ 2015).[85]

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[83] Six frogs were collected from Eagle's Nest, Noyo River, on July 20, 1927 (UCMVZ 2015); and 1 frog from Sixteen Gulch 1984-85 (CNDDB 2016).

[84] Three frogs from Big River in 1902 (UCMVZ 2015); 1 frog from 7 miles SW of Willits in November 1940 (CAS 2001); 1 frog from the North Fork Big River (at junction with Big River) on April 23, 1950 (UCMVZ 2015); frogs from James Creek on March 7, 1965 (UCMVZ 2015); 5 frogs from James Creek (14 miles W of Willits) in June 1967 (UMMZ 2001); and 2 frogs from the North Fork Big River on August 28, 1982 (UCMVZ 2015).

[85] One frog from India Creek W of Ukiah in August 1906 (CAS 2001); 1 frog from Navarro River near Dimmick Pond in May 1931 (CAS 2001); 1 frog from Christine Creek (6 miles NW of Philo) in May 1936 (FMNH 2001); 2 frogs from Boonville-Albion Road (0.5 mile W of Navarro) in March 1939 (CAS 2001); 1 frog from Mailliard Ranch (4 miles W of Yorkville) in December 1940 (CAS 2001); 1 frog from Boonville in August 1946 (CAS 2001); 2 frogs from Dimmick Grove State Park in 1950 (UCMVZ 2015); 3 frogs from 7 miles SE of Boonville in 1950 (UCMVZ 2015); 1 frog from 0.6 mile W of Navarro in 1955 (UCMVZ 2015); 1 frog from Navarro Creek W of Navarro in 1959 (UCMVZ 2015); 3 frogs along Hwy. 128 in Dimmick State Park on March 6, 1965 (UCMVZ 2015); larvae from Fishrock Bridge (7 miles SE of Boonville) in July 1975 (USNM 2001); and 2 frogs from the Navarro River in September 1975 (UCMVZ 2015).

The species was reported to be regularly observed in the 1990s in the Indian Creek tributary of the Navarro River by State Department of Forestry personnel (D. Matson, pers. comm., 2001). Small populations were also documented in the 1990s in Flynn Creek and the North Branch of the North Fork Navarro River (CNDDB 2016). Small populations were documented in the 2000s in Anderson Creek (CNDDB 2016).

Garcia River

There are historical collection records from 1931-1971 in the Garcia River drainage (CAS 2001; UCMVZ 2015).[86]

The species was reported to be regularly observed in the Garcia River drainage in the 1990s by State Department of Forestry personnel (D. Matson, pers. comm., 2001). Small populations were documented in the 1990s in Garcia River and tributary Mill Creek (CNDDB 2016).

Gualala River

There are historical collection records from the Gualala River in Mendocino County in 1913 and 1974 (CNDDB 2016; UCMVZ 2015).[87]

The species was reported to be regularly observed in the 1990s in the Gualala River drainage by State Department of Forestry personnel (D. Matson, pers. comm., 2001). Small populations were documented in the 2000s in the North Fork Gualala River and a tributary (CNDDB 2016).

Small coastal rivers

Historical collection records in small coastal rivers include: 4 frogs from 2 miles S of Westport on May 9, 1959 (UCMVZ 2015); 1 frog from 5.1 miles S of Fort Bragg on Hwy. 1 in May 1971 (UCMVZ 2015); 1 frog from Jug Handle Creek on May 29, 1971 (CNDDB 2016); 7 frogs from the Albion River in 1897 (CAS 2001); and 3 frogs from Elk in July 1946 (LSUMNS 2001).

The species was reported to be regularly observed in the 1990s in Wages Creek, DeHaven Creek, Usal Creek and the Albion River by State Department of Forestry personnel (D. Matson, pers. comm., 2001).

Russian River

There are historical collection records from 1893-1981 in the Russian River drainage in Mendocino County, including Forsythe Creek, Orr Creek, Pieta Creek, Reeves Canyon, Robinson Creek and Russian River (CAS 2001; FMNH 2001; USNM 2001; UCMVZ

[86] A single frog from the middle part of the Garcia River in October 1931 (CAS 2001); 1 frog from Ornbaun Springs near Yorkville in March 1939 (CAS 2001); 3 frogs from the Garcia River (10 miles SW of Point Arena) in December 1941 (CAS 2001); and 1 frog from Manchester Beach State Park in 1971 (UCMVZ 2015).

[87] Seven frogs from Gualala in 1913 (UCMVZ 2015); and 1 frog from the Gualala River in 1974 (CNDDB 2016).

2015).[88] The species was reported to be "moderately abundant" in Pieta Creek in March-April 1956 (CNDDB 2016).

Small populations were documented in the 1990s in Dry Creek, Edwards Creek, Jakes Creek, Pieta Creek and Salt Springs Creek (CNDDB 2016). Small populations were documented in the 2000s in Dry Creek, Howell Creek, Parsons Creek and the Russian River; and a moderate population was documented in Hensley Creek in 2006 (CNDDB 2016).

Recent status: Fellers (1996) found excellent habitat and foothill yellow-legged frogs present at 21 of 36 sites (58%) surveyed within the Mendocino National Forest in 1995.[89] The species was widespread in the 1990s and early 2000s throughout Mendocino County, in the Eel River, Tenmile River, Noyo River, Big River, Navarro River, Garcia River, Gualala River and Russian River drainages. Significant populations were found in the South Fork Eel River through 2008 and the Hensley Creek tributary of the Russian River in 2006.

Humboldt County

Klamath River

Historical collection records from the Klamath River in Humboldt County include Tectah Creek in 1947 (CAS 2001), and the Klamath River at Aikens Creek in 1976 (UCMVZ 2015).

Small populations were documented in 1990 along the Klamath River in Hoopa Valley and in tributary Tectah Creek (CNDDB 2016). Unknown numbers of foothill yellow-legged frogs were documented in 1994 in timber harvest areas along the Klamath River and tributary Middle Fork Roach Creek (CNDDB 2016). There were more than 2,000 observations of foothill yellow-legged frogs during 1994-1995 fisheries surveys within the Red Cap Creek watershed, a tributary to the Klamath River south of Orleans; foothill yellow-legged frog was the most frequently seen vertebrate from Schnable Diggings to the confluence of Red Cap Creek with the Klamath River, with the majority of observations near the mouth of Red Cap Creek (Mollier and Norman 1994; Cyr and Norman 1995; USDA 1995a, 1999b). The species was also encountered at 3 of 30 non-mainstem associated sites in 30-minute time-constrained searches in the Red Cap Creek watershed.

[88] Nineteen specimens (6 adults, 13 juveniles) were collected from Ukiah on a single day in October 1893 (USNM 2001); 2 frogs from Reeves Canyon (near Lake Leonard, 10 miles NW of Ukiah) in 1922 (UCMVZ 2015); 5 frogs from Forsythe Creek on June 4, 1939 (UCMVZ 2015); 1 frog from along Low Gap Road (about 3 miles W of Ukiah) in March 1951 (CAS 2001); 1 frog from Robinson Creek (5.5 miles SSW of Ukiah) on May 20, 1952 (UCMVZ 2015); 1 frog from 9.4 miles SSE of Willits in 1952 (UCMVZ 2015); 1 frog from Orr Creek (5 miles W of Ukiah) in March 1953 (FMNH 2001); 1 frog plus larvae from Forsythe Creek (Reeves Canyon) in August 1956 (CAS 2001); 2 frogs from near Hwy. 128 (3 miles WNW of McDonald) on March 19, 1965 (UCMVZ 2015); 1 juvenile from Robinson Creek in April 1979; and 1 juvenile from Robinson Creek in April 1981 (CAS 2001).

[89] This was a high proportion of sites occupied, given that most of the sites where frogs were not found were outside the geographical or elevational range of the species, and surveys were conducted during high water runoff, making surveying difficult and increasing the likelihood of frogs being overlooked.

Trinity River

There are historical collection records from 1941-1977 in the Trinity River drainage (tributary to the Klamath River), including Boise Creek, Brannan Creek, Trinity River and Willow Creek (CAS 2001; UCMVZ 2015).[90] Small numbers of frogs were observed during 1984-1985 sampling by Welsh and Lind in the tributaries Ammon Creek, Coon Creek and Fourmile Creek (CNDDB 2016).

In the 1990s there were "numerous" sightings of foothill yellow legged frog within the tributary Horse Linto Creek and its drainages, but no sightings in the tributaries Mill Creek or Tish Tang Creek (USDA 2000). A foothill yellow-legged frog population was studied in the lower South Fork Trinity River from 1991-1993 by Redwood Sciences Lab (USDA 1999a). Fellers documented small populations from 1994-1995 at two sites in Horse Linto Creek (CNDDB 2016). The Six Rivers National Forest detected *R. boylii* during a 1994 stream inventory in a 1,000 m section of Grouse Creek, tributary to South Fork Trinity River (USDA 1995d). A large population was documented in the South Fork Trinity River from 1992-2007 (CNDDB 2016).[91]

Small populations were documented in 2000 in the South Fork Trinity River tributaries Grapevine Creek, Grouse Creek, Madden Creek and Sims Creek (CNDDB 2016). Welsh et al. (2010) documented relatively high numbers of foothill yellow–legged frogs from 2000–2003 in western and northern headwater tributaries of the South Fork Trinity River. A significant population was documented in Madden Creek through 2007 (CNDDB 2016).[92]

Redwood Creek

There are historical collection records from Redwood Creek in 1942 and 1955 (UMMZ 2001; UCMVZ 2015). The species was apparently abundant, as evidenced by collection of 28 specimens from Redwood Creek over three days in September 1942 (UCMVZ 2015). Adult frogs were observed in 1974 in the tributaries Cloquet Creek and Lostman Creek, within Redwood National and State Parks (RNSP 2001). Anderson (1988) found frogs believed to be *R. boylii* during intensive sampling of twelve streams in the Redwood Creek basin in 1981; frogs were found in 14 of 112 tributaries surveyed, including Captain Creek, Copper Creek, Fern Prairie Creek, Joplin Creek, Lacks Creek, Lake Prairie Creek, Miller Creek, Panther Creek, Roaring Gulch Creek, Santa Fe Creek, Simon Creek, Sweathouse Creek and Tossup Creek.

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[90] One frog from a small stream along Hwy. 96 in the Hoopa Reservation in July 1941 (CAS 2001); 1 frog near Boise Public Camp (1.76 miles W of Willow Creek) in 1945 (UCMVZ 2015); 1 frog from 3 miles S of Willow Creek in March 1947 (CAS 2001); single frogs from Boise Creek (about 2 miles W of Willow Creek) in February 1947 and in April 1948 (UCMVZ 2015); 2 frogs from 3 miles N of Willow Creek August 1949 (UCMVZ 2015); 1 frog from Willow Creek in August 1949 (UCMVZ 2015); 1 frog from Brannan Creek (2 miles W of Willow Creek) in September 1949 (UCMVZ 2015); 1 frog from Hwy. 96 (4.9 road miles S of Weitchpec) in March 1971 (UCMVZ 2015); and 1 juvenile from Boise Creek Camp off Hwy. 299 in March 1977 (CAS 2001).

[91] In the South Fork Trinity River (between Surprise Creek and Madden Creek; Fellers site R-118); 175 frogs of unknown gender found 7/92; 102 frogs of unknown gender found 9/92; unknown number of frogs found in 1993 by Welsh and Lind; 6 adults and 1 juvenile observed by Fellers on 5/30/00; during Fellers surveys over 13 survey days from 1994-2000 and 2002-200, 106 adults, 944 subadults, 28,764 larvae and 11,329 egg masses observed cumulatively (CNDDB 2016).

[92] Fellers (site R-121) observed a cumulative total of 146 adults and 80 subadults in Madden Creek over 12 years: 1994-2000, 2002-2004 and 2006-2007 (CNDDB 2105).

The amphibian populations within Redwood National and State Parks were thought to be in relatively good shape in the 1990s (G. Fellers, pers. comm., as cited in RNSP 2001), with adult *R. boylii* observed in numerous tributaries throughout the Redwood Creek drainage. Fellers documented small to moderate populations from 1993-1997 at several dozen sites along Redwood Creek and tributaries Boyes Creek, Bridge Creek, Copper Creek, Forty-four Creek and Tom McDonald Creek (CNDDB 2016). In 1992, "numerous" frogs were documented in Redwood Creek between Slide Creek and Bridge Creek (RNSP 2001). The species was observed at various locations along Redwood Creek on at least 41 occasions from 1993 to 1997 (RNSP 1997, 2001). From 1993 to 2000, small numbers of frogs were also observed in many of the tributaries to Redwood Creek, including Bridge, Brown, Cloquet, Cole, Copper, Coyote, Devils, Elam, Emerald, Forty-four, Hayes, McArthur, Rodgers, Tom McDonald, and Tossup Creeks (RNSP 2001). On a single day in November 1998, Parks biologists located 64 yellow-legged frogs along Redwood Creek, from the Bridge Creek confluence to the Tom McDonald Creek confluence (RNSP 2001).

A Parks survey on a single day in September 2000 along Redwood Creek from Forty-four Creek confluence to Bond Creek confluence located 89 yellow-legged frogs (2001). Small populations were documented from 2004-2005 in the tributaries Bridge Creek, Garrett Creek, May Creek and Pilchuck Creek (CNDDB 2016).

The California Department of Fish and Wildlife conducted single-pass egg mass surveys in lower Redwood Creek during breeding season for foothill yellow-legged frog in 2011 and 2012. In 2011 CDFW surveyed 5.4 km of Redwood Creek above tidal influence, and detected 19 egg masses/km; in 2012 CDFW surveyed 14.2 km of Redwood Creek above tidal influence, and detected 13 egg masses/km (M. Van Hattem, pers. comm., 2016).

Mad River

There are historical collection records from 1897-1985 within the Mad River drainage, including the Mad River, Maple Creek and North Fork Mad River (CAS 2001; UCMVZ 2015).[93] The species was apparently abundant, as evidenced by collection of 17 frogs from Maple Creek in 1942 (UCMVZ 2015).

Foothill yellow-legged frogs were known to occur in the 1990s along the Mad River and the lower portions of major tributaries to the Mad River (USDA 1999b). Small populations were documented from 1990-1991 along the Mad River and tributaries Black Dog Creek and Maple Creek; with "many" juveniles and adults reported in 1990 in the Mad River (5 miles SE of Korbel) and an unnamed tributary (6 miles SE of Korbel) (CAS 2001; CNDDB 2016). Most of these populations were threatened by active and planned timber sales.

[93] Two frogs from the Mad River in July 1897 (CAS 2001); 6 frogs from Cobbs in July 1936 (UCMVZ 2015); 17 frogs from Maple Creek (1 mile W of junction with Mad River) in September 1942 (UCMVZ 2015); 1 frog from 12 miles S of Korbel in August 1949 (UCMVZ 2015); 7 frogs from the North Fork Mad River (7.5 miles ENE of Blue Lake) in July 1955 (UMMZ 2001); and 1 frog from the junction of Butler Valley Road and Maple Creek Road in January 1985 (UCMVZ 2015).

A small population was documented in the Mad River (near Blue Slide Creek) in 2004 (CNDDB 2016).

The California Department of Fish and Wildlife conducted single-pass egg mass surveys in the lower Mad River during breeding season for foothill yellow-legged frog in 2011, 2012, 2015 and 2016. In 2011 CDFW surveyed 13.5 km of the Mad River below the Mad River Hatchery, and detected 59 egg masses/km; in 2012 CDFW surveyed 14.7 km in the same reach and detected 13 egg masses/km (M. Van Hattem, pers. comm., 2016). The 2015 and 2016 survey results were comparable (M. Van Hattem, pers. comm., 2016).

Eel River

There are numerous historical collection records from 1910-1989 throughout the Eel River drainage in Humboldt County, including Ascaphus Creek, Bear Creek, Cuddeback Creek, Devil's Elbow Creek, Eel River, Fish Creek, Fort Steward Creek, Redwood Creek and South Fork Eel River (Green 1986; CAS 2001; CMNH 2001; FMNH 2001; UMMZ 2001; USNM 2001; UCMVZ 2015).[94]

Small numbers of frogs were observed from 1994-1995 in the Eel River (at Bear Creek, Bull Creek, and W of Shively) and in the tributaries Bull Creek, Canoe Creek and Twin Creek (CNDDB 2016), many within proposed timber harvest plan areas. The Six Rivers National Forest conducted riparian amphibian surveys in 1995 on many tributaries within the Eel River watershed; the foothill yellow-legged frog appeared to be widely-distributed in the North Fork Eel River watershed, and "present" in the Main Eel (USDA and USDI 1996). The species was not found in the Eel River Delta, the South Fork Eel River or the Middle Fork Eel River during the 1995 surveys (USDA and USDI 1996). A significant population (50-80 metamorphosed juveniles) was documented in the South Fork Eel River (between Gould Grove and Gould Bar) on 10/7/99 (CNDDB 2016).

Small populations were documented in from 2000-2007 in Albee Creek, Bull Creek, Carson Creek, Chadd Creek, Cuneo Creek, Mill Creek, North Creek and the South Fork Eel River (at Gould Bar, and at Bull Creek) (CNDDB 2016).

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[94] One frog from Cuddeback Creek in September 1910 (UCMVZ 2015); 11 frogs from Carlotta in May 1911 (CAS 2001); 7 frogs from Alton in May 1911 (CAS 2001); 2 frogs from Elinor in May 1911 (CAS 2001); 1 frog from Carlotta in July 1923 (UCMVZ 2015); 1 frog from Scotia before 1933 (USNM 2001); 6 frogs from the South Fork Eel River (3 miles S of Garberville) in October 1933 (FMNH 2001); 18 frogs from South Fork Eel River (3 miles S of Garberville) in October 1933 (18) (UCMVZ 2015); 18 frogs from 1 mile NW of Pepperwood in July 1935 (CAS 2001); 3 frogs from Fish Creek (2 miles S of Miranda) in 1936 (FMNH 2001); 1 frog from 1 mile E of Alton in March 1938 (UCMVZ 2015); 1 frog from Fort Steward Creek in June 1938 (CAS 2001); 1 frog from Charles B. Alexander Grove (Fish Creek) in March 1939 (CAS 2001); 1 frog from 10 miles S of Hartsook in November 1940 (CAS 2001); 3 frogs from Ascaphus Creek (0.5 mile N of Holmes) in November 1941 (CAS 2001); 1 frog from 4 miles N of Garberville in November 1941 (CAS 2001); 4 frogs from 2 miles S of Miranda in August 1950 (UMMZ 2001); 1 frog from 2.6 miles N of the south entrance to Richardson's Grove in March 1951 (UCMVZ 2015); single frogs from 6 miles NW of Dyerville in February 1952 and in March 1952 (UCMVZ 2015); 2 frogs from 11.1 miles SSE of Dyerville in March 1952 (UCMVZ 2015); 1 frog from 2 miles S of Miranda in 1955 (CMNH 2001); 4 frogs from 1 mile S of Pepperwood in June 1955 (UMMZ 2001); 3 frogs from Devil's Elbow Creek (4.8 miles E of Weott) in July 1961 (UCMVZ 2015); a larval specimen from the Bear Creek drainage (1.5 miles S of Pepperwood) in August 1975 (FMNH 2001); 7 frogs from the Eel River at Myer's Flat in October 1982 (UCMVZ 2015); 6 postmetamorphs from Myer's Flat (Green 1986); and larvae specimens collected from Redwood Creek (2 miles W of Garberville) in June 1989 (USNM 2001).

The California Department of Fish and Wildlife conducted single-pass egg mass surveys in 2012 in the Eel River mainstem, the South Fork Eel River and in tributary Bull Creek, during breeding season for foothill yellow-legged frog. In the Eel River mainstem CDFW surveyed 11 km and found only 1 egg mass (0.09 egg masses/km); in the South Fork Eel River CDFW surveyed 4.65 km and detected 191 egg masses/km; in the tributary Bull Creek CDFW surveyed 3.5 km and detected 101 egg masses/km (M. Van Hattem, pers. comm., 2016).

Van Duzen River

There are historical collection records from 1930-1967 in the Van Duzen River tributary of the Eel River (CAS 2001; SDNHM 2001; UCMVZ 2015).[95]

An unknown number of frogs were found in 1992 and 1993 in a timber harvest area near the mouth of the Van Duzen River (CNDDB 2016). Fellers documented a small population in the Van Duzen River near Grizzly Creek in 1995 (CNDDB 2016). Foothill yellow-legged frogs were present during 1995 surveys in the Van Duzen River (USDA and USDI 1996). The species was documented in the Yager Creek tributary during surveys for timber harvest plans on private lands (USDA and USDI 1998).

A small population was documented in 2007 in the tributary Flannigan Creek (CNDDB 2016).

The California Department of Fish and Wildlife conducted a single-pass egg mass survey in the Van Duzen River during breeding season for foothill yellow-legged frog in 2011. In 2011 CDFW surveyed 2.7 km of the Van Duzen River above the Highway 101 bridge, and detected only 9 egg masses/km (M. Van Hattem, pers. comm., 2016).

Jacoby Creek

A single foothill yellow-legged frog was found in Jacoby Creek in 2007 (CNDDB 2016).

Mattole River

There are a handful of historical collection records from 1894-1959 in the Mattole River drainage (UCMVZ 2015).[96]

Foothill yellow-legged frogs were reported to be regularly observed in the 1990s in the Mattole River by State Department of Forestry personnel (D. Matson, pers. comm., 2001). Significant populations were documented in 1992 within timber harvest areas in the tributaries Mill Creek and Conklin Creek (CNDDB 2016).[97] Welsh and Hodgson (1997) sampled 15 tributaries of the Mattole River watershed in 1995 and 1996 and

[95] Three frogs from the Van Duzen River (SE of Strong's Station) in November 1930 (UCMVZ 2015); 4 frogs from 1 mile E of Carlotta in September 1942 (UCMVZ 2015); 1 frog from the Van Duzen River (30 miles E of Alton) in September 1960 (CAS 2001); 1 frog from the Van Duzen River in May 1961 (CAS 2001); and 4 frogs from the Van Duzen River (3 miles east of Carlotta) in December 1967 (SDNHM 2001).

[96] Four frogs from the Mattole River in June 1894 and June 1898 (UCMVZ 2015); single frogs from 10 road miles S and 13 road miles S of Honeydew in May 1956 (UCMVZ 2015); and 1 frog from Petrolia in August 1959 (UCMVZ 2015).

[97] In Mill Creek (2 miles SSW of Petrolia), 36 frogs found from April-May 1992; in Conklin Creek (N of Burgess Ridge), 15 frogs trapped from April-May 1992 (CNDDB 2016).

observed 119 adults and 347 larvae. The species was common throughout the Mattole River watershed in 1998 (Welsh and Hodgson 2011).

Recent status: The species was well-distributed in the 1990s throughout Humboldt County watersheds, including the Klamath River, Trinity River, Redwood Creek, Mad River, Eel River, Van Duzen River and Mattole River drainages; with notable populations in the Red Cap Creek tributary of the Klamath, the Horse Linto Creek tributary of the Trinity, Redwood Creek and numerous tributaries, both the North Fork and South Fork of the Eel River, and the Mattole watershed. There is a paucity of surveys or records from the 2000s in many of these watersheds.

Trinity County

Trinity River

Large numbers of *R. boylii* were collected from 1932 to 1973 from the Trinity River and many of its tributaries within Trinity County, including Bell Creek, Brown's Creek, Canyon Creek, Coffee Creek, Eagle Creek, East Fork of the North Fork Trinity River, East Fork Trinity River, East Fork Weaver Creek, Little Bidden Creek, Little Browns Creek, Mumbo Creek, New River, Panther Creek, Reddings Creek, Rush Creek, Stuart Fork Trinity River and Stetson Creek; as well as the South Fork Trinity River and its tributaries Carr Creek, Corral Creek, East Fork of the South Fork Trinity River, Hayfork Creek, Kerlin Creek, Monroe Creek, Philpot Creek, Rattlesnake Creek, Salt Creek and Wilson Creek (Slevin 1928; Bury 1969; USDA 1999b; CAS 2001; CMNH 2001; LSUMNS 2001; UMMZ 2001; CNDDB 2016; UCMVZ 2015). The large numbers of frogs collected indicated high densities at many locations; collections of 5 to 10 adult and juvenile frogs at single locations were common (Bury 1969); and very large numbers of frogs were collected from the South Fork Trinity River in 1932; and in 1973 and 1974 from the South Fork tributaries Hayfork Creek, Philpot Creek and Salt Creek (UCMVZ 2015).

In the 1990s, Wilson et al. (1991) found foothill yellow-legged frogs in the lower reaches of the mainstem Trinity River, above the confluence with the North Fork of the Trinity River. The foothill yellow-legged frog was documented to occur in the 1990s in small clumped populations along the mainstem Trinity River (between Lewiston Dam and the North Fork Trinity River) and tributaries Bell Creek, Davis Creek and Ripple Creek (USDA 1999c; CNDDB 2016); a significant population was found on the mainstem east of Hawkins Bar in 1994 (CNDDB 2016).[98] Small populations were documented in the 1990s in the South Fork Trinity River and tributaries Big Creek, Bridge Gulch, East Fork of the South Fork, Hayfork Creek and Prospect Creek (USDA 1999c; CNDDB 2016). Small populations were documented in the 1990s in the North Fork Trinity tributary Rattlesnake Creek (CNDDB 2016). Foothill yellow-legged frogs were rare in Trinity River mainstem in the 12 river miles below Lewiston Dam because suitable breeding areas had been reduced 95% compared to pre-dam conditions, with most frogs clustered in the limited areas of suitable habitat (Ashton et al. 1998; USFWS et al. 1999).

In the 2000s, small populations were documented at several locales along the mainstem Trinity River and tributaries Little Bidden Creek and West Weaver Creek (CNDDB 2016). Small populations were documented in the 2000s in the North Fork Trinity River

[98] Along the mainstem Trinity River, E of Hawkins Bar (Fellers site R-120B), 13 adults and 976 subadults were observed on 9/15/94; just 5 egg masses were observed here on 6/5/95 (CNDDB 2016).

tributaries East Twin Creek, Rattlesnake Creek, Underwood Creek and West Twin Creek CNDDB 2016). Small populations were documented in the 2000s in the South Fork Trinity River and numerous tributaries, including Barker Creek, Big Creek, Bridge Gulch, Butter Creek, Carrier Gulch, Chanchelulla Creek, Cold Springs Creek, Ditch Gulch, Eltapom Creek, Grapevine Creek, Hayfork Creek, Hells Half Acre Creek, Jim's Creek, Monroe Creek, Olsen Creek, Orchard Gulch, Philpot Creek, Potato Creek, Salt Creek, Shiell Gulch Twenty-Two Creek and Walker Creek (CNDDB 2016). A significant population was documented in the South Fork Trinity River (between Surprise Creek and Madden Creek) through 2007 (CNDDB 2016).[99]

Salmon River

There is a historical collection record from 1971 in Swift Creek, in the South Fork Salmon River drainage, in Trinity County (UCMVZ 2015).

Mad River

There are historical collection records from 1932-1942 in the Mad River and tributary Olson's Creek, in Trinity County (UCMVZ 2015). Very large numbers of frogs were collected in 1932 in the Mad River (UCMVZ 2015).

Eel River

There is a historical collection record from 1913 in the North Fork of the Middle Eel River, in Trinity County (UCMVZ 2015).

Wicktor and Craven (1996) surveyed 13 streams in the North Fork of the Eel River watershed in 1995, sampling for herpetofauna in 118 reaches, 55 of which were surveyed to protocol (USDA 1995b) and 63 of which had incidental sightings. Incidental sightings were also made in the main stem of the North Fork Eel River and in Tub Creek. *Rana boylii* were found in 9 of these streams, including the North Fork Eel River, West Fork, Tub Creek, Bluff Creek, Bradburn Creek, Cottonwood Creek, Cox Creek, Kettenpom Creek and Salt Creek; 64 adult frogs were located, with the mainstem (10 adults, 262 sub-adults and 1 tadpole), West Fork (14 adults and 76 sub-adults), and Salt Creek (15 adults, 1 sub-adult, 23 tadpoles and 1 larvae) reaches containing significant populations. Fellers (1996) observed *R. boylii* at six locations in the Middle Fork Eel River drainage, including the North Fork of the Middle Fork Eel, Rattlesnake Creek, and Balm of Gilead Creek tributaries, within the Mendocino National Forest; the North Fork of the Middle Fork Eel was a notably good area for reproduction, with 286 tadpoles observed (Fellers 1996; CNDDB 2016).

Cottonwood Creek

There is a historical collection record from 1946 in Harrison Gulch, an upper tributary to the Middle Fork of Cottonwood Creek, which drains east to the Sacramento Valley (UCMVZ 2015).

[99] In the South Fork Trinity River (between Surprise Creek and Madden Creek; Fellers site R-118), Fellers observed a cumulative total of 106 adults, 944 subadults, 28,764 larvae and 11,329 egg masses over 13 survey days from 1994-2000 and 2002-2007 (CNDDB 2016).

Recent status: The species was common in the 1990s in the North Fork Eel River and Middle Fork Eel River drainages; the status in the 2000s is unknown. Despite declines in the Trinity River mainstem below Lewiston Dam, foothill yellow-legged frogs continued to be widespread throughout the Trinity River basin through the 2000s, particularly in the South Fork Trinity River and numerous of its tributaries.

Siskiyou County

Klamath River

There are historical collection records from 1935-1972 in the Klamath River drainage in Siskiyou County, including Beaver Creek, Clear Creek, Dillon Creek, Ditch Creek, Grant Creek, Grider Creek, Klamath River, Little Bogus Creek, Little Shasta River, O'Farrell Gulch, Salmon River, Seiad Creek and Swillup Creek (CAS 2001; LSUMNS 2001; UMMZ 2001; CNDDB 2016; UCMVZ 2015).[100]

Foothill yellow-legged frogs were reported to be "fairly common" in the 1990s along the banks of the Klamath River, including the vicinity of the mouth of Rogers Creek, north of Somes Bar (KNF 1999).

Sacramento River

There are historical collection records from 1953 in the Sacramento River near the Mt. Shasta Fish Hatchery in Siskiyou County (UMMZ 2001; UCMVZ 2015).[101]

A small number of frogs were reported from 1994-2003 in tributaries to the Sacramento River in Siskiyou County, including Big Spring Creek, Little Castle Creek, Ney Springs Creek, North Fork Sacramento River and South Fork Sacramento River (CNDDB 2016).[102]

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[100] Two frogs from Little Shasta River (10 miles E of Montague) on May 21-22, 1935 (UCMVZ 2015); 5 frogs from Clear Creek (3 miles W of Klamath River) on June 23-25, 1935 (UCMVZ 2015); 1 frog from Klamath River (1.5 miles S of Clear Creek) on June 27, 1935 (UCMVZ 2015); 2 frogs from Little Bogus Creek (4 miles NE of Ager) on November 4, 1951 (UCMVZ 2015); 1 frog from the Salmon River (4.5 miles NW of Forks of Salmon) in July 1955 (UMMZ 2001); 1 frog from Swillup Campground in October 1959 (CAS 2001); 4 frogs from the Salmon River (at junction near Klamath River) on September 1, 1961 (UCMVZ 2015); 1 frog from Ditch Creek at Cottonwood Creek (1 mile north of Hornbrook) in June 1963 (LSUMNS 2001); 1 frog from Dillon Creek (on Highway 98 between Willow Creek and Happy Camp) in August 1968 (UMMZ 2001); 2 frogs from Beaver Creek (about 0.25 mile E of Klamath River) on November 15, 1969 (UCMVZ 2015); 1 frog from Klamath River (2.5 miles N of Ti Bar, Hwy. 96) on November 16, 1969 (UCMVZ 2015); 1 egg mass from Beaver Creek (USFS Camp, N of Hwy. 96) on April 26, 1970 (UCMVZ 2015); 2 larvae from Grider Road (2.9 miles E of Grider Creek) on April 15, 1970 (UCMVZ 2015); 1 frog from Seiad Creek Road (5.7 road miles N of Seiad Valley) on March 23, 1971 (UCMVZ 2015); 1 frog from Hwy. 5 at Hilt on March 23, 1971 (UCMVZ 2015); 3 frogs from Salmon River (Hwy. 93, 3.9 miles SE of Somes Bar Bridge) on March 24, 1971 (UCMVZ 2015); 1 frog from Hwy. 93 and Grant Creek (about 8.1 miles NW of Forks of Salmon) on March 24, 1971 (UCMVZ 2015); 1 frog from junction of O'Farrell Gulch and Hwy. 93 (4.5 road miles SE of Forks of Salmon) on March 24, 1971 (UCMVZ 2015); and 1 frog from 1 mile SE of Hilt (off Hwy. 5) on March 19, 1972 (UCMVZ 2015).

[101] Thirteen frogs collected from 2 miles S of the Mt. Shasta Fish Hatchery in May 1953 (UMMZ 2001); and 1 frog from 2 miles S of Mt. Shasta Fish Hatchery on June 7, 1953 (UCMVZ 2015).

[102] During a 1994 stream survey for the Cantara Spill Recovery and Restoration Program, 2 adults observed in Ney Springs Creek (SE of Lake Siskiyou) and 1 adult observed in Little Castle Creek (SW of Dunsmuir). One adult observed at the confluence of the North and South Forks of the Sacramento River on 6/12/96; 3 adults along the South Fork Sacramento River (0.9 mile SW of confluence of South and North Forks of Sacramento River) on 7/29/96; 1 adult just S of Little Castle Creek (at Railroad Park pond, 2 miles SSW of

Recent status: Unknown. Other than reports of small numbers of frogs from 1994-2003 in tributaries to the Sacramento River, there are no known recent data for Siskiyou County.

Del Norte County

Rogue River

There is a historical collection record from the East Fork Illinois River, in Del Norte County just south of the Oregon State Line, in 1935 (UCMVZ 2015).[103]

Welsh and Lind found a single frog in Bybee Gulch, a tributary of the East Fork Illinois River in Del Norte County just south of the Oregon State Line, during sampling in 1984-1985 (CNDDB 2016).[104]

Smith River

There are historical collection records from 1940-1986 in the Smith River drainage, including Mill Creek, Patrick's Creek, Smith River and South Fork Smith River (CAS 2001; CMNH 2001; FMNH 2001; RNSP 2001; SDMNH 2001; UMMZ 2001; UTA 2001; UCMVZ 2015).[105]

The foothill yellow-legged frog was considered common in the 1990s across the Six Rivers National Forest (which encompasses portions of Del Norte, Humboldt, Trinity, and Siskiyou counties); the species was found in most tributaries to the Smith River and was "very abundant" in the Middle Fork Smith River (USDA 1999b, 1995c). However, the Six Rivers National Forest sampled 10 creeks in the Smith River basin from 1990-1992 and *R. boylii* was located in only 3 tributaries; Muzzleloader Creek and Hurdygurdy

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Dunsmuir) on 5/23/01; 2 adults along South Fork Sacramento River (1.5 miles W of Lake Siskiyou) on 6/9/01 and 1 adult in August 2001; 1 adult along the South Fork Sacramento River (about 1.7 miles W of Lake Siskiyou) in August 2001; 1 frog in Big Spring Creek (near Mount Shasta State Fish Hatchery) on 9/4/01; and 1 adult along the South Fork Sacramento River (about 1.7 miles W of Lake Siskiyou) on 5/30/03 (CNDDB 2016).

[103] Three frogs were collected from the East Fork Illinois River, 0.25 mile south of the Oregon State Line, on July 15, 1935 (UCMVZ 2015).

[104] One frog found by Welsh and Lind in Bybee Gulch (4 Miles N of Chicago Peak) during time-constrained sampling of a 1 mile reach during in 1984-85 (CNDDB 2016).

[105] One frog from 8 miles NE of Crescent City (Smith River) in November 1940 (CAS 2001); 3 frogs from Mill Creek Park (Mill Creek) in February 1942 (CAS 2001); 1 frog from a small stream near Siskiyou Mountain Camp along Hwy. 199 (Smith River drainage) in September 1949 (FMNH 2001); 18 frogs from the Smith River (8 miles NE of Crescent City) in August 1950 (UMMZ 2001); 2 frogs from 2.25 miles N and 6.5 miles E of Crescent City on February 5, 1952 (UCMVZ 2015); 2 frogs from Mill Creek, 5 miles ENE of Crescent City, on July 22, 1952 (UCMVZ 2015); 3 frogs from Jedediah Smith State Park along the Smith River, in September 1953 (FMNH 2001); 2 frogs from the Smith River on an unknown date before 1955 (CAS 2001); 5 frogs from Patrick's Creek along the Smith River in 1955 (CMNH 2001); 2 juveniles and 2 juvenile/adult frogs from 12 miles NE of Crescent City, 2 miles W of Gasquet school, in June 1956 (CAS 2001); 1 frog from Jedediah Smith State Park in November 1961 (UCMVZ 2015); 3 frogs from the Smith River (2 miles W of Gasquet) in August 1975 (FMNH 2001); 2 frogs from the South Fork Smith River (South Fork Road milepost 3.05 and milepost 9.35, 3.6 road miles NW of Steven Memorial Bridge) on January 9, 1985 (UCMVZ 2015); 2 frogs from Panther Flat Campground in the Six Rivers National Forest (Smith River) in July 1985 (UTA 2001); and 2 frogs from Hiouchi and 2 frogs from Patrick in August 1986 (SDNHM 2001). A single frog was observed in Mill Creek at the confluence with the Smith River, within Redwood National and State Parks, in 1973 (RNSP 2001).

Creek West in the South Fork tributary, and Patrick Creek in the Middle Fork tributary (USDA 1995c, 1999b).

Small populations were documented from 1991-1995 in the Smith River drainage, including Hurdygurdy Creek, Hutsinpillar Creek, Mill Creek, Muzzleloader Creek and Patrick Creek, as well as along the Smith River at Cedar Creek, Clarks Creek and near Hiouchi Bridge (CAS 2001; RNSP 2001; CNDDB 2016).[106] Fellers had continued observations of unspecified numbers of *R. boylii* in Hurdygurdy Creek during surveys from 1986-1993 and 2002-2007 (CNDDB 2016).

Wheeler et al. (2006) documented a heavily used *R. boylii* breeding site in the lower 2 km of Hurdygurdy Creek from 2002-2005; with 129 male and 34 female frogs observed from 2002-2005 and 36 oviposition sites in 2003 and nine oviposition sites in 2004.

Klamath River

There were observations in 1990 of three frogs at two localities near Omagaar Creek, a tributary of the lower Klamath River in Del Norte County (CNDDB 2016).[107]

Recent status: Unknown. The species was abundant in the Middle Fork Smith River an there were observations of small populations throughout the Smith River drainage in the 1990s; other than the apparently significant population documented in Hurdygurdy Creek from 2002-2005, there are no known recent data.

Southern Sierra Nevada

The southern Sierra Nevada includes drainages of the Sierra foothills in Mariposa, Madera, Fresno, Tulare and Kern counties. There are no known *R. boylii* records from Kings County or eastern Merced County, which are considered to be outside the historic range for this species (Jennings 1996).

There has been confusion over identification of a few yellow-legged frog specimens collected from the southern Sierra Nevada. While the foothill yellow-legged frog (*R. boylii*) inhabits low to moderate elevation streams, from sea level to 1,830 m (6,000 feet)

[106] In Hurdygurdy Creek and Hurdygurdy Creek tributaries near Horse Flat, 1 adult female was collected on 4/24/91 (CAS 2001), and 1 frog was observed in May or June 1991 near Horse Flat; in Muzzleloader Creek (W of Ship Mountain), 1 frog was found during surveys from 7/29/91-8/7/91, and 1 male and 3 females were found during surveys from 7/14/92-7/23/92; in Patrick Creek, 2 frogs were found between 8/19/91 and 9/9/91; in the Smith River and Hutsinpillar Creek (North Bank Road and Highway 101) "several" frogs were found in 1994; in Mill Creek at the Smith River (Fellers site R-102B; Stout Grove, Jedediah Smith Redwoods State Park), Fellers observed 13 adults, 2 subadults and 35 larvae on 8/3/94, and observed 1 adult and 1 subadult on 5/31/95; along the Smith River at Cedar Creek (Fellers site R-109A; between Stout Grove and Hiouchi), Fellers observed 1 adult, 1 subadult and 100 larvae on 8/4/94; at three sites in Clarks Creek and along the Smith River (about 1.8 miles NE of the NE edge of Crescent City), Fellers observed 1 adult and 7 subadults on 7/5/94 at site R-110, 1 adult and 3 subadults on 7/5/94 at site R-111, 7 adults, 15 subadults and 4 larvae on 7/5/94, and 7 subadults on 5/31/95 at site R-109B; and along the Smith River (Fellers site R-109C; about 0.25 mile SW of Hiouchi Bridge and 0.5 mile N of Jedediah Smith Campground), 9 adults, 3 subadults and 2 larvae were observed on 8/26/94 (CNDDB 2016). Two *Rana boylii* were observed along a creek tributary to the Smith River, within Redwood National and State Parks (RNSP 2001).

[107] One frog observed about 1.5 air miles S of Omagaar Creek at Klamath River (about 3.3 miles WNW of Blue Creek Campground); and 2 frogs observed in Hoopa Valley (about 1.5 miles SSE of Klamath River at Omagaar Creek, about 2.7 miles NW of Blue Creek Campground), on an unspecified date in 1990 (CNDDB 2016).

in California (Stebbins 1985; Stebbins and McGinnis 2012), the mountain yellow-legged frog (*Rana muscosa*) occurs in the southern Sierra at elevations mostly above 1,820 meters (6,000 feet), with the lowest documented occurrence of this species in the Sierra foothills at 1,044 m (3,425 feet) (Jennings and Hayes 1994; USFS 2000). Historically, the ranges of *R. muscosa* and *R. boylii* abutted each other at mid-elevations in the southern Sierra Nevada, and the two species were sometimes found in close proximity to each other in the same drainages (Zweifel 1955). Though the two species can appear morphologically similar, genetic analysis can differentiate between the species (e.g. Lind et al. 2011; Poorten et al. 2013).

Between 1911 and 1920, Grinnell and Storer (1924) surveyed terrestrial vertebrates at 41 sites along a transect that stretched from the western foothills of the Sierra Nevada through Yosemite National Park. Grinnell and Storer (1924) found foothill yellow-legged frogs at 7 sites throughout the western foothill portion of their transect. Grinnell and Storer (1924) described the foothill yellow-legged frog as widespread and "fairly common" along Smith Creek, occurring in "moderate numbers" along Blacks Creek, and observed "several" along Piney Creek (Storer field notes, 1915, 1916, as cited in Drost and Fellers 1994).

Moyle (1973) found *R. boylii* at only 30 of 95 sites (32%) sampled in the southern and central Sierra Nevada foothills (from the Yosemite area south) in 1970, and believed the species was declining at that time. Intensive surveys by David Graber in the 1980s of 15 different stream reaches throughout the southern Sierra Nevada foothills did not locate any surviving populations of *R. boylii* (D. Graber, Sequoia National Park, pers. comm., as cited in Drost and Fellers 1994, 1996).

Surveys of the southern Sierra foothills in 1993 by Fellers (1994) found only one subadult foothill yellow-legged frog south of Calaveras County, in spite of surveying 310 sites within the frog's known range. Drost and Fellers (1994) re-surveyed 38 of 40 Grinnell and Storer collecting sites in the Yosemite section, and were unable to locate foothill yellow-legged frogs at any of the historical sites, despite careful searches. Drost and Fellers (1994, 1996) also searched 10 additional sites at other streams that offered suitable habitat within the elevational range where Grinnell and Storer found the species, without finding foothill yellow-legged frogs, even though these sites included a number of areas where *R. boylii* had been recorded in the past, including sites within Yosemite National Park and in tributaries of the Merced River below El Portal. Drost and Fellers (1996) concluded that *R. boylii* had been essentially extirpated from the southern Sierra Nevada. Additional surveys in the 1990s found no foothill yellow-legged frogs in Yosemite National Park, while searching suitable habitat in Yosemite Valley, Foresta, Wawona, and El Portal (Fellers and Freel 1995; Fellers 1997).

Moritz (2007) conducted a resurvey from 2003 through 2005 of amphibians at 7 sites within Yosemite National Park that were originally surveyed from 1911-1920 by Grinnell; the Moritz surveys also detected no foothill yellow-legged frogs.

Hayes et al. (2013) summarized the evidence that *R. boylii* is extirpated from Yosemite, Sequoia and Kings Canyon National Parks, and near extirpation in Sequoia and Sierra National Forests, with few remaining populations and limited distribution. The species is now nearly extirpated from the southern portion of its Sierra range. The few known remaining localities in the southern Sierra Nevada are small populations in Mariposa County (Merced River through 2009 and tributaries above Lake McClure: Bull Creek

through 2007 and Sherlock Creek through 2009) and eastern Fresno County (a tributary of the San Joaquin River, Jose Creek, through 2007); and two moderate populations in Tulare County (in tributaries of the North Fork Kern River and upper Kern River).

Southern Sierra National Forests and National Parks

Hayes et al. (2013) comprehensively reviewed the foothill yellow-legged frog's historical (prior to 1980) and recent (1980 to 2001) status across the two National Forests (Sierra and Sequoia) and three National Parks (Yosemite, Sequoia and Kings Canyon) that overlap with the southern Sierra Nevada *R. boylii* population. Although historical records imply that *R. boylii* populations were robust in this region until the 1960s and 1970s, Hayes et al. (2013) found fewer than 10 recent records from the Cosumnes River south, indicating the species is near extirpation in the southern portion of its Sierra range. A summary of the findings of Hayes et al. (2013), evaluated by National Forest and National Park:

Sequoia National Forest

Hayes et al. (2013) noted historical records from 1891-1970 in Sequoia National Forest and adjacent private lands, primarily in the Kern, Kings and Tule river systems, including from Angel Creek, Caliente Creek, Canebrake Creek, Cedar Creek, Clear Creek, Cottonwood Creek, Cowflat Creek, Deer Creek, Fay Creek, Kern River, Kings River, Middle Fork Tule River, North Fork Kern River, North Fork of the Middle Fork Tule River, Pechacho Creek, Salmon Creek, South Fork Kern River, Tehachapi Creek, Tejon Creek and White River. By the end of the 1970s, 17 foothill yellow-legged frog localities had been documented from the Sequoia National Forest, and 23 additional foothill yellow-legged frog localities were documented from drainages downstream or outside of Sequoia National Forest lands. An indication of declines was evident by the late 1970s.

Hayes et al. (2013) noted that no collections and very few sightings of foothill yellow-legged frogs exist for the Sequoia National Forest and vicinity from 1980 to the present. Lind et al. (2003b) indicated that none of 6 historical localities resurveyed on the Sequoia National Forest had foothill yellow-legged frogs. The two most recently occupied localities in the Sequoia National Forest consisted of tributaries of the North Fork Kern River, Ash and Jywood Creeks, which were surveyed multiple times from 1998-2003. Foothill yellow-legged frogs now have likely been extirpated from Ash Creek. Hayes et al. (2013) noted that foothill yellow-legged frogs in the Sequoia National Forest appear to be very few and limited in distribution, and may be near extirpation in the region.

Sierra National Forest

Hayes et al. (2013) noted historical records from 1916-1970 in Sierra National Forest and adjacent private lands in the Merced, San Joaquin and Kings river systems, including from Big Creek, Feliciana Creek, Kings River, Merced River, Middle Fork Kings River, Mill Creek and North Fork Kings River. By the end of the 1970s, 6 foothill yellow-legged frog localities had been documented from the Sierra National Forest, and 14 additional foothill yellow-legged frog localities were documented from drainages downstream or outside of Sierra National Forest lands. Indication of declines was evident by the late 1970s.

Hayes et al. (2013) noted that no collections and very few sightings of foothill yellow-legged frogs exist for the Sierra National Forest and vicinity from 1980 to the present. Lind et al. (2003b) indicated that none of the 6 historical localities on the Sierra National Forest had foothill yellow-legged frogs. The only drainage recently confirmed to have foothill yellow-legged frogs in the Sierra National Forest is Jose Creek, a tributary of the San Joaquin River that is isolated by the presence of upper Redinger Lake at its mouth. Hayes et al. (2013) noted that foothill yellow-legged frogs in the Sierra National Forest appear to be rare and limited in distribution, and may be near extirpation in the region.

Sequoia and Kings Canyon National Park

Hayes et al. (2013) noted 3 historical records of foothill yellow-legged frogs from Sequoia National Park from the 1930s, from the North Fork of the Kaweah River and Alder Creek. There were no existing historical records from Kings Canyon National Park.

Hayes et al. (2013) noted that there have been no collections or sightings of foothill yellow-legged frogs from Sequoia National Park from 1980 to present. The foothill yellow-legged frog has not been recorded in or near Sequoia or Kings Canyon National Parks for more than 30 years despite substantial searching, and is considered locally extinct (SKCNP 2001).

Yosemite National Park

Hayes et al. (2013) noted few historical records exist for foothill yellow-legged frogs in Yosemite National Park, and that Grinnell and Storer's (1924) transect was outside National Park boundaries and did not document the species within Yosemite National Park. Hayes et al. (2013) noted 1 historical record within Yosemite National Park, in 1948 along the Merced River (see the Mariposa County section below for additional historical records).

Hayes et al. (2013) noted that systematic surveys of the amphibian fauna of Yosemite National Park (Drost and Fellers 1994, 1996) and surveys conducted by National Park personnel through 2006 have also failed to find the species within Yosemite National Park. Hayes et al. (2013) concluded that foothill yellow-legged frogs are likely to be extirpated from Yosemite National Park.

Kern County

Kern River

There are historical collection records from 1891-1954 in the Kern River drainage, including the Kern River, South Fork Kern River and tributaries Canebrake Creek, Cowflat Creek and Fay Creek (UMMZ 2001; LSUMNS 2001; CAS 2001; USNM 2001; CNDDB 2016; UCMVZ 2015).[108]

[108] Historical collection records include: 2 frogs (USNM #18951 and 18952) from Kern River at Old Kernville in June 1891 (now inundated by Isabella Lake); 1 adult (USNM #18950) collected from Canebrake Creek at Walker Pass Campground (elevation 5,000 feet) on July 4, 1891; 5 frogs from the Kern River 12 miles below Bodfish in June 1911; 30 frogs from the Kern River near Bodfish in June 1911; Fay Creek, 6 miles N of Weldon, in July 1911; 1 frog from Miracle Hot Springs on the Kern River in November 1938; 1 frog from Kern River at Kernville in April 1940; 1 frog from Kern Canyon E of Bakersfield in August 1940; 4 frogs and 32 tadpoles from 4-5 miles S of Glennville in August 1940; 2 frogs from 5 miles E of Onyx along South Fork

There are no known observations from the Kern River drainage in Kern County since 1954.

Tehachapi Creek

There are historical collection records from 1947-1963 in Tehachapi Creek (UCMVZ 2015).[109]

There are no known observations from Tehachapi Creek since 1963.

Caliente Creek

There are historical collection records from 1952-1967 in Caliente Creek (UCMVZ 2015).[110]

There are no known observations from Caliente Creek since 1967.

Tejon Creek

There is a historical collection record of 8 frogs from the Tejon Creek drainage in 1875.

There are no known observations from Tejon Creek.

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at any of 15 historical locations in Kern County. There are no recent records from Kern County. The foothill yellow-legged frog is extirpated from Kern County.

Tulare County

Kern River

There are historical records from 1891 and 1953 in the Kern River (USNM 2001; UCMVZ 2015).[111]

Kern River in August 1940; 2 frogs from 2 miles E of Onyx, in August 1949; 5 frogs from Cowflat Creek, Kern River Canyon, in April 1952; 1 frog from Miracle Hot Springs in April 1952; and 8 frogs from Canebrake Creek, and 1 frog from 9 miles ENE of Onyx in February 1954 (UMMZ 2001; LSUMNS 2001; CAS 2001; USNM 2001; CNDDB 2016; UCMVZ 2015).

[109] Historical collection records include: 2 frogs from Tehachapi Creek in May 1947; 2 frogs from Tehachapi Creek, 6 miles NW of Tehachapi, in May 1952; 1 frog from Keene, along Tehachapi Creek, in June 1963; and 1 frog from the Keene Fire sub-station along Hwy. 58 in March 1970 (UCMVZ 2015).

[110] Historical collection records include: 7 frogs from Caliente Creek 6 miles ESE of Caliente in May 1952; 5 frogs from Caliente Creek 8 miles E of Caliente in July 1952; 2 frogs from Caliente Creek 3 miles W of Paris-Loraine in June 1967; and 4 frogs from 4.5 miles W of Paris-Loraine in June 1967 (UCMVZ 2015).

[111] The U.S. National Museum of Natural History has 8 *Rana boylii* specimens collected from the upper Kern River, 25 miles above Kernville in July 1891 (USNM 2001). The U.C. Museum of Vertebrate Zoology has 7 *Rana boylii* specimens collected from Salmon Creek, in the Kern River Canyon, 2.5 miles SE of Fairview (elevation ~3200' feet) in April 1953 (UCMVZ 2015).

Fellers documented one moderate and one small population from 1998 through 2008 along the Rincon Trail in the Sequoia National Forest, in unnamed tributaries of the upper Kern River (CNDDB 2016).[112]

Kaweah River

There are historical records from 1907-1970 in the Kaweah River drainage, including Alder Creek Reservoir, Cottonwood Creek, East Fork Kaweah River, Kaweah River, Little Deer Creek, North Fork Kaweah River and South Fork Kaweah River (Moyle 1972, 1973; CAS 2001; HMCZ 2001; CNDDB 2016; UCMVZ 2015).[113]

There are no known observations in the Kaweah River drainage since 1970. Sequoia and Kings Canyon National Park noted that the species had not been recorded in or near Sequoia National Park for more than 30 years despite substantial searching, and was considered locally extinct (SKCNP 2001).

Deer Creek/White River

There are historical collection records from 1940 and 1970 in Deer Creek and tributary Tyler Creek, in Moore Creek, in Yokohl Creek and in the White River (Moyle 1972, 1973; UMMZ 2001; CNDDB 2016).[114]

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[112] The first population (Fellers site ID #s S-849 & S-849B) is about 3.6 miles W of Sherman Peak and about 4.5 miles ENE of Ida Lake, where Fellers observed 3 adults on 9/12/98; 11 adults on 6/4/99; 3 adults on 6/6/00; 1 adult on 5/31/03; 1 adult and 1 subadult on 6/28/05; 1 adult and 1 subadult on 6/29/05; 3 adults and 5 subadults on 5/15/06; 35 adults and 2 subadults on 5/25/07; and 6 adults and 12 subadults on 5/31/08 (CNDDB 2016). The second population (Fellers site ID #s S-840) is about 2.7 miles SSE of Durwood Camp and about 4.7 miles ENE of Ida Lake, where Fellers observed 2 adults and 3 subadults on 8/20/98; 4 adults on 6/6/99; 1 adult, 1 subadult and 5,000 larvae on 6/6/00; 4 adults, 1 subadult and 30 larvae on 7/5/01; 5 adults and 2 subadults on 6/1/02; 24 adults and 22 subadults on 5/31/03; 6 adults and 2 subadults on 6/28/05; 3 adults and 1 larvae on 5/25/07; and 1 subadult on 5/31/08 (CNDDB 2016).

[113] Cornell University has a specimen collected from Giant Forest from 1907 (CU 2002). The California Academy of Sciences has specimens collected from the Kaweah River, Potwisha Camp, and Sequoia National Park in August 1941 (CAS 2001). The Harvard Museum of Comparative Zoology has 8 specimens collected from Giant Forest in Sequoia National Park (Little Deer Creek tributary to the Marble Fork Kaweah River) in August 1960 (HMCZ 2001). The U.C. Museum of Vertebrate Zoology has historical collection specimens from the Kaweah River drainage: 6 frogs from the North Fork Kaweah River (elevation ~2,000 feet) in July and August 1935; 1 frog from Alder Creek Reservoir (elevation ~1,700 feet) in August 1935; 1 frog from Cottonwood Creek 0.5 mile SE of Aukland (elevation ~1,300 feet) in June 1938; 1 frog from 6 miles NE of Three Rivers on March 29, 1952; and 2 frogs from 8.5 miles NW of Woodlake (elevation below 2,000 feet) in April 1952 (UCMVZ 2015). The U.C. Museum of Vertebrate Zoology also has frog specimens labeled as *Rana boylii* that were collected from elevations over 7,500 feet: 31 frogs from Quaking Aspen Meadow in July and August 1934; and 3 frogs from Long Meadow 3 miles NNE of Giant Forest in June 1955 (UCMVZ 2015); however, these specimens are likely mislabeled, since *Rana boylii* is not know to occur above 6,000 feet (Stebbins 1985; Stebbins and McGinnis 2012). Moyle documented foothill yellow-legged frogs from the Kaweah drainage during surveys from July 27 to September 4, 1970, including: South Fork Kaweah River; East Fork Kaweah River, approximately 8 miles ENE of Lake Kaweah; and North Fork Kaweah River, 2 miles W of Sequoia National Park (Moyle 1972, 1973; CNDDB 2016).

[114] The University of Michigan Museum of Zoology has *Rana boylii* specimens collected in August 1940: 4 adults and 7 tadpoles from Deer Creek 4 miles below the highway to Cal Hot Springs; and 7 adults and 44 tadpoles from the White River 20 miles SE of Porterville (UMMZ 2001). Moyle documented foothill yellow-legged frogs from the Deer Creek/White Creek drainages during surveys from July 27 to September 4, 1970, including: Deer Creek; Tyler Creek (tributary to Deer Creek); and Deer Creek approximately 1.5 miles W of California Hot Springs (Moyle 1972, 1973; CNDDB 2016). Moyle also documented *Rana boylii* in several small streams in the low foothills of Tulare County, including: Moore Creek (W of Auckland); Yokohl Creek (E of Exeter); and White River in southern Tulare County (Moyle 1972, 1973; CNDDB 2016).

There are no known observations in any of these drainage since 1970.

Tule River

There are historical records from 1952-1970 throughout the Tule River drainage including Middle Fork Tule River; North Fork Tule River, North Fork of Middle Fork Tule River, Rancheria Creek and Tule River (Moyle 1972, 1973; CNDDB 2016; UCMVZ 2015).[115]

There are no known observations in the Tule River drainage since 1970, other than a report of a single frog along the North Fork Tule River in 2004 (CNDDB 2016).[116]

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at any of 17 historical locations in Tulare County. The only documentation of foothill yellow-legged frogs in Tulare County since 1970 are two small and moderate populations in tributaries of the upper Kern River, and a report of a single frog in 2004 on the North Fork Tule River. The foothill yellow-legged frog is nearly extirpated from Tulare County.

Fresno County

Kings River

There are historical collection records from 1910-1970 in the Kings River drainage, including Big Creek, Kings River, Middle Fork Kings River, North Fork Kings River, Rush Creek, Sycamore Creek, Watts Creek, Watts Lake and White Deer Creek (Wright and Wright 1949; Moyle 1972, 1973; CAS 2001; CNDDB 2016; UCMVZ 2015).[117]

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[115] The U.C. Museum of Vertebrate Zoology has *Rana boylii* specimens collected from the Tule River drainage in April 1952: 5 frogs from 5 miles ENE of Springville on the road to Camp Wishon (elevation ~4,000 feet); 7 frogs from 8.7 road miles ENE of Springville on the road to Camp Wishon; 1 frog from Camp Wishon; and 1 frog from 3.8 miles E of Springville (elevation ~3,500 feet) (UCMVZ 2015). The UCMVZ also has 1 frog collected from along Hwy. 190, 5.8 mi NE of Springville (elevation ~3,200 feet) in December 1970 (UCMVZ 2015). Moyle documented foothill yellow-legged frogs from throughout the Tule River drainage during surveys from July 27 to September 4, 1970, including: Rancheria Creek, tributary to Bear Creek, approximately 6 miles NNE of Springville; Middle Fork Tule River; North Fork Tule River; North Fork Tule River just N of Milo; and North Fork of Middle Fork Tule River about 0.2-1.5 miles WSW of Camp Wishon Forest Service Station (Moyle 1972, 1973; CNDDB 2016).

[116] G. Adest reported a single adult *Rana boylii* on August 29, 2004 along the North Fork Tule River, about 2 miles NE of Springville; this was on private land, with the population threatened by bullfrogs and unregulated water withdrawals (CNDDB 2016).

[117] The California Academy of Sciences has specimens collected from the Kings River Canyon in July 1910 (CAS 2001). The U.C. Museum of Vertebrate Zoology has specimens collected from the Kings River drainage: 14 frogs from the Sycamore Creek tributary at Dunlap in September and October 1916; 2 frogs from the Kings River at Minkler in October 1916; and 1 frog from the North Fork Kings River below Balch Camp in December 1970 (UCMVZ 2015). Wright and Wright (1949) recorded capturing *Rana boylii* in 1942 along Sycamore Creek, an intermittent stream of the lower foothills, in an area now submerged by Pine Flat Reservoir. Moyle (1972, 1973) reported the stream above the reservoir containing only bullfrogs (*Rana catesbeiana*), with a few *Rana boylii* found far up a small tributary. Moyle documented foothill yellow-legged frogs from tributaries to Pine Flat Reservoir during surveys from July 27 to September 4, 1970, including Big Creek, Rush Creek, White Deer Creek, Watts Lake and Watts Creek (Moyle 1972, 1973; CNDDB 2016). The California Academy of Sciences has specimens collected from the Middle Fork Kings River in September 1953: 1 frog from 5 miles upstream of the junction with North Fork in September 1953 and 3 frogs from Mill Flat Campground (CAS 2001).

There are no known observations in the Kings River drainage since 1970. Sequoia and Kings Canyon National Park noted that the species had not been recorded in or near Kings Canyon National Park for more than 30 years despite substantial searching, and was considered locally extinct (SKCNP 2001).

San Joaquin River

There are historical collection records from 1945-1953 in the Big Creek and Dry Creek tributaries of the San Joaquin River and in Huntington Lake (TMM 2001; UCMVZ 2015).[118]

Fellers located small populations of foothill yellow-legged frogs from 1994-2007 in Jose Creek, a tributary of the San Joaquin which feeds Redinger Lake (CNDDB 2016).[119] Surveys by PG&E (2000) were unable to locate the species on the San Joaquin River or in Millerton Lake or Kerckhoff Lake.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 4 of 9 historical locations (44%) in eastern Fresno County. There are no recent sightings from the Kings River basin and the only known locality in eastern Fresno County with *R. boylii* is the Jose Creek tributary of the San Joaquin River.

Madera County

San Joaquin River

There are historical records from 1951-1970 in the Willow Creek and South Fork Willow Creek tributaries of the San Joaquin River and in Little Finegold Lake (Moyle 1972, 1973; PG&E 2000; CNDDB 2016; UCMVZ 2015).[120]

Tietje and Vreeland (1997) failed to find *R. boylii* from 1987-1990 at the San Joaquin Experimental Range, in the Cottonwood Creek tributary to the San Joaquin River, using timed searches and pitfall traps. PG&E (2000) noted no recent records of the species in Willow Creek below Bass Lake; abundant predatory fish and bullfrogs in Willow Creek

[118] The U.C. Museum of Vertebrate Zoology has collection specimens from the San Joaquin drainage: 4 frogs from 1.3 miles N of Big Creek along Hwy. 168 in July 1953; and 6 frogs from 1 mile W of Tollhouse, on the Dry Creek tributary, in September 1953 (UCMVZ 2015). The Texas Memorial Museum has a *Rana boylii* specimen collected in July 1945 from Huntington Lake, in the upper San Joaquin River drainage (TMM 2001).

[119] In the Sierra National Forest, from just downstream of Italian Bar Road upstream to Jose Basin Road: at the Mill Creek and Jose Creek confluence (Fellers site ID S-715), 9 adults, 3 juveniles and 2 egg masses were observed in 2002; and 5 adults, 37 subadults, 554 larvae and 150 egg masses were observed during visits in 1997, 1998, and from 2004-2007 (CNDDB 2016). At Jose Creek and Million Dollar Road crossing (Fellers site ID S-464a and S-464b), 54 adults, 585 subadults and 441 egg masses observed during visits from 1994-1996, 1998, 2000, and 2003-2007 (CNDDB 2016).

[120] The U.C. Museum of Vertebrate Zoology has 9 foothill yellow-legged frog specimens collected from the Willow Creek tributary at O'Neals from 1951-1953 (UCMVZ 2015). Moyle documented foothill yellow-legged frogs in the South Fork Willow Creek and at Little Finegold Lake during surveys from July 27 to September 4, 1970 (Moyle 1972, 1973; CNDDB 2016). The foothill yellow-legged frog still occurred in Willow Creek below Bass Lake in the 1970s (PG&E 2000).

and reduced flows below Bass Lake were suspected to be factors in the frog's disappearance.

Fresno River

There are historical records from 1938-1970 in the Fresno River tributaries Carter Creek, Coarsegold Creek and Miami Creek (Madera County 2007; UCMVZ 2015).[121]

The species could not be founding Miami Creek or Carter Creek during focused surveys in 1989 and 2003 (Madera County 2007). There were reports of small numbers of *R. boylii* in China Creek in 1991 and Bass Lake in 1994; subsequent surveys and visits were unable to locate the species (PG&E 2000; CNDDB 2016).[122]

Chowchilla River

Moyle documented foothill yellow-legged frogs in the Chowchilla River during surveys from July 27 to September 4, 1970 (Moyle 1972, 1973; CNDDB 2016). There are no known recent records from the Chowchilla River.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 3 of 6 historical locations (50%) in Madera County. There are no records of *R. boylii* from Madera County since 1994. The species may be extirpated from Madera County.

Mariposa County

Merced River

There are numerous historical collection records from 1899-1980 throughout the Merced River drainage, within and to the west of Yosemite National Park, including Bear Creek, Big Creek, Blacks Creek, Corbet Creek, Feliciana Creek, Mariposa Creek, Merced River, Piney Creek, Pleasant Valley, Rancheria Creek, Sherlock Creek, Smith Creek, South Fork Merced River and Sweetwater Creek (Grinnell and Storer 1924; Martin 1940; Richards 1958; Moyle 1972, 1973; Drost and Fellers 1994; FMNH 2001; HMCZ 2001; UMMZ 2001; USNM 2001; CNDDB 2016; UCMVZ 2015).[123]

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[121] The U.C. Museum of Vertebrate Zoology has 1 foothill yellow-legged frog specimen collected from Coarsegold Creek at Coarsegold in September 1938 (UCMVZ 2015). The foothill yellow-legged frog was observed in Miami and Carter creeks, tributaries of the upper Fresno River NW of Oakhurst, in the late 1960s and early 1970 (Madera County 2007).

[122] The CNDDB has a record of 5 adult *Rana boylii* observed on August 25, 1994 on the N shore of Bass Lake, 0.25 miles NW of "The Pines" Village. These frogs were noted to be threatened by predation from non-native bullfrogs (CNDDB 2016). There is also a CNDDB record of a single adult frog observed in May 1991 in China Creek, 3 miles SW of Bass Lake; subsequent visits revealed only bullfrogs (CNDDB 2016). Pacific Gas and Electric surveys (PG&E 2000) were unable to locate the foothill yellow-legged frog in Bass Lake, noting that the species was last recorded there in 1994. PG&E (2000) noted that a high level of recreation in the lake was suspected to be a factor in the frog's disappearance.

[123] The U.S. National Museum of Natural History has 7 *Rana boylii* specimens collected from Mariposa (presumably along Mariposa Creek) in October 1899 (USNM 2001). Grinnell and Storer (1924) found foothill yellow-legged frogs from 1911 to 1920 along Piney Creek and Pleasant Valley (now flooded by Lake McClure), E to Sweetwater Creek (near Feliciana Mountain) and to Smith Creek, E of Coulterville (Grinnell and Storer 1924; Drost and Fellers 1994). Grinnell and Storer (1924) observed tadpoles in Blacks Creek near Coulterville in May 1919, collected 6 adult frogs plus an adult female of breeding age (UCMVZ #5687-

Extensive resurveys of the Grinnell and Storer (1924) Yosemite transect (Drost and Fellers 1994, 1996), as well as searches of suitable *R. boylii* habitat in the Yosemite area (Yosemite Valley, Foresta, Wawona, and El Portal) (Fellers and Freel 1995; Fellers 1997; Moritz 2007) were unable to locate any foothill yellow-legged frogs. Moritz (2007) surveyed 32 localities in the Hetch-Hetchy Area (between Ranger Station and O'Shaughnessy Dam along Hetch Hetchy Road), 16 localities in the Foresta Area, (between Hodgon Meadows Campground and Foresta Road along Big Oak Flat Road), 13 localities in Yosemite Valley (between Arch Rock entrance station and Happy Isles Nature Center), 11 localities in Lyell Canyon (between Tuolumne Meadows and Mount Lyell), 25 localities in Glen Aulin (between McGee Lake and California Falls, including Tenaya Lake, Olmsted Point, and Siesta Lake), 15 localities along Bridalveil Creek (between Glacier Point and Chinquapin), and 16 localities in the Wawona Area (between Mariposa Grove and Rail Creek along Wawona Road), without detecting the species.

Fellers located small populations in the 1990s in the Bull Creek tributary of the North Fork Merced River, with a single larva seen in Bull Creek in 2007 (CNDDB 2016).[124] Small populations were documented from 1998-2009 in Sherlock Creek (CNDDB 2016), but during a NPS and BLM survey of Sherlock Creek in spring of 2015, the creek was over-run with bullfrogs, and only 1 *R. boylii* was found by a crew of 6 searchers looking from the confluence with the Merced River for at least a few miles upstream (S.

5692) from Smith Creek E of Coulterville in June 1915, and an adult female near Feliciana Mountain in November 1915. The Harvard Museum of Comparative Zoology has a *Rana boylii* specimen collected from 6 miles E of the W entrance to Yosemite National Park in August 1922 (HMCZ 2001). A 1924 Lyell Canyon expedition found the species in tributaries to the Merced River below El Portal (specimens are in CAS holdings) (Drost and Fellers 1994). The Field Museum of Natural History has a specimen collected from Yosemite, between Glacier Point and the Ranger Station, in May 1936 (FMNH 2001). The University of Michigan Museum of Zoology has foothill yellow-legged frog specimens collected from throughout the Merced River drainage in the 1930s to 1950s: a single frog from Briceburg in July 1938; 3 adults and 12 tadpoles taken from 14 miles S of Mariposa in August 1940; 1 tadpole from the bridge below Coulterville in August 1940; 1 frog from the Merced River 0.5 mile below Cascade Creek, in Yosemite National Park, in July 1948; and 4 frogs from Bower Cave, 6.5 miles S of Buck Meadows, in August 1950 (UMMZ 2001). Foothill yellow-legged frogs were documented at Wawona on the South Fork Merced River (Martin 1940) and at Fern Springs in Yosemite Valley (Richards 1958). The U.C. Museum of Vertebrate Zoology historical collection specimens include: 2 frogs from Pleasant Valley on May 17 and May 24, 1915; 1 frog from 3 miles NE of Coulterville on June 3, 1915; 6 frogs from Smith Creek, 6 miles E of Coulterville on June 5, 1915; 1 frog from 1 mile W of Coulterville on May 11, 1919; 10 frogs from Rancheria Creek, 2.8 miles SW of Briceburg on May 29, 1952; 2 frogs from 4.4 miles NE of Briceburg on July 11, 1952; 1 frog from 0.7 miles NE of Briceburg on November 16, 1952; 2 frogs from Big Creek at Fish Camp on April 19, 1953; 6 frogs from Merced River, 1.9 miles E of Indian Lodge, on April 19, 1953; 2 frogs from Feliciana Creek, 2 miles NE of Briceburg, on April 19, 1953; 1 frog from Rancheria Creek, 2.8 miles SW of Briceburg, on May 29, 1953; 1 frog from Bower Cave on March 8, 1953; 1 frog from 1.8 miles S of Briceburg on February 26, 1954; 1 frog from Bear Creek, 2 miles S of Briceburg, on April 7, 1954; 1 frog from Briceburg on April 26, 1955; 1 frog from the Bear Creek drainage, 0.8 miles SE of Briceburg, on March 1, 1957; 2 frogs from Bower Cave on May 30, 1959; and 2 frogs collected from 2.5 miles N of Midpines on an unknown date (UCMVZ 2015). Moyle documented foothill yellow-legged frogs in Corbet Creek (SE of Lake McClure), Sweetwater Creek, and Bear Creek (near Briceburg) during surveys from July 27 to September 4, 1970 (Moyle 1972, 1973; CNDDB 2016). The U.C. Museum of Vertebrate Zoology has 2 tadpole specimens (MVZ #175103) collected July 8, 1980 from Sherlock Creek, E of Bear Valley (UCMVZ 2015).

[124] In Bull Creek at Road 02S02 (1 mile N of Little Grizzly Mountain, 4 miles N of Merced River Mile 101), Fellers observed 1 tadpole and 1 adult in June 1993. Along Bull Creek about 0.7 miles N of Kinsley Guard Station and about 3.6 miles NW of Jenkins Hill (Fellers site ID #Y-347D), Fellers observed 1 subadult frog on 10/12/93 and 1 subadult frog on 9/30/94. Along Bull Creek at the confluence with an unnamed tributary, about 0.5 miles SW of Anderson Flat and about 1.5 miles N of Little Grizzly Mountain (Fellers site ID #Y-347A), Fellers observed 1 subadult on 9/30/94, 1 larva on 6/17/96, 17 larva on 6/8/97, 1 adult and 1 subadult on 6/29/98, and 1 larva on 8/6/07.

Kupferberg, pers. comm., 2016). There was a report in 2008 of "many" foothill yellow-legged frogs along the Merced River downstream from McCabe Flat (CNDDB 2016).[125]

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 1 of 5 historical locations (20%) in Mariposa County. Extensive surveys during the 1990s and 2000s (Drost and Fellers 1994, 1996; Fellers and Freel 1995; Jennings 1996; Fellers 1997; Moritz 2007) failed to locate any foothill yellow-legged frogs. The remaining populations appear to be small ones in the Merced River (and tributaries Bull Creek and Sherlock Creek) above Lake McClure. The species is nearly extirpated from Mariposa County.

Central/Northern Sierra Nevada

The Northern/Central Sierra includes drainages of the Sierra foothills in Plumas, Butte, Yuba, Sierra, Nevada, Placer, El Dorado, Amador, Calaveras and Tuolumne counties. Sutter County is discussed here: a single historical record of *R. boylii* from Sutter Buttes (a small isolated range of eroded volcanic lava domes in the Central Valley), in northwestern Sutter County east of the Sacramento River, was likely a small disjunct population which is now extirpated.

There has been confusion over identification of some yellow-legged frog populations in the northern Sierra Nevada. While the foothill yellow-legged frog (*R. boylii*) inhabits low to moderate elevation streams from sea level to 1,830 m (6,000 feet) in California (Stebbins 1985; Stebbins and McGinnis 2012), the Sierra Nevada yellow-legged frog (*Rana sierrae*) occurs at elevations mostly above 1,820 meters (6,000 feet), with the lowest documented occurrence of this species in the Sierra foothills at 1,044 m (3,425 feet) (Jennings and Hayes 1994; USFS 2000). Historically, the ranges of *R. sierrae* and *R. boylii* abutted each other at mid-elevations in the western and northern Sierra Nevada, and the two species were sometimes found in close proximity to each other in the same drainages (Zweifel 1955). Though the two species can appear morphologically similar, genetic analysis can differentiate between the species (e.g. Lind et al. 2011; Poorten et al. 2013).

Hayes et al. (2013) reviewed the status of *R. boylii* on national forests in the northern and central Sierra Nevada (Lassen, Plumas, Tahoe, El Dorado and Stanislaus National Forests), and documented declines and apparent loss of many historic populations in the northern and central Sierra National Forests. Although *R. boylii* populations persist in many river basins, including the American, Clavey, Cosumnes, Feather, Merced, Mokelumne, Stanislaus, Tuolumne, and Yuba Rivers, the majority of the recent observations in these national forests are of small and scattered populations, with limited evidence of successful reproduction.

There have been severe declines in the central Sierra foothills (Moyle 1973; Drost and Fellers 1996) and populations in the northern Sierra may be in decline as well (Lannoo 2005). As discussed below by county, at least half of known historical locations have

[125] In Sherlock Creek from the confluence with the Merced River to about 1 mile upstream of Lyons Gulch (SW of Telegraph Hill): 1 adult on 3/22/98; 7 frogs on 9/20/05; dead and live frogs and tadpoles in lower Sherlock Creek and at mouth of Merced River on 8/28/08; and 3 adults and 7 juveniles on 8/28/09 (CNDDB 2016). The CNDDB has a recent report of "many" *Rana boylii* observed in September 2008 along the Merced River downstream from McCabe Flat, about 1.5 miles NE of Telegraph Hill and 1.8 miles SE of Quartz Mountain (CNDDB 2016).

been lost in every northern and central Sierra county except Plumas County, and most of the recently documented populations in the northern and central Sierra are small and scattered. Significant populations remain in El Dorado County (Rubicon River), Placer County (North Fork American River and North Fork of the Middle Fork American River), Nevada County (Middle Yuba River, South Yuba River and Bear River), and Plumas County (North Fork Feather River, Middle Fork Feather River, Oroleve Creek, South Fork Feather River, Spanish Creek, and Canyon Creek tributaries Slate Creek and Onion Creek).

Central and Northern Sierra National Forests

Hayes et al. (2013) comprehensively reviewed the foothill yellow-legged frog's historical (prior to 1980) and recent (1980 to 2001) status across the five National Forests (Stanislaus, El Dorado, Tahoe, Plumas, and Lassen) in the northern and central Sierra Nevada, which overlap extensively with the range of the northern Sierra Nevada *R. boylii* population. Hayes et al. (2013) evaluated records from museum databases and more recent visual survey efforts. A summary of the findings of Hayes et al. (2013), by National Forest:

Stanislaus National Forest

Hayes et al. (2013) noted that a number of historical foothill yellow-legged frog records exist for the Stanislaus National Forest from the Middle and South Forks of the Tuolumne River, and the North Fork of the Merced River. In the Tuolumne River basin, collections were made from 1948 to 1974 in the South Fork Tuolumne River and Middle Fork Tuolumne River. In the North Fork Merced River basin, collections were made from Smith Creek in 1915 and the North Fork Merced River in the 1950s, and one record exists from Sherlock Creek in the 1980s. Numerous historical collection records from 1899 to 1953 exist for five major hydrographic basins that extend onto Stanislaus National Forest lands, downstream of the current National Forest boundary: the Mokelumne River (Licking Creek); Calaveras River (Big Trees Creek); Stanislaus River (Angels Creek and Moran Creek), Tuolumne River (Mocassin Creek, Turnback Creek and Woods Creek); and the Merced River (Blacks Creek, Cuneo Creek, Maxell Creek, Merced River and Piney Creek).

Hayes et al. (2013) noted that scattered sightings of foothill yellow-legged frogs exist for the Stanislaus National Forest and vicinity since 1980, but the earliest systematic surveys date from 1993. Recent records exist for the Calaveras, Clavey, Merced, Stanislaus, and Tuolumne River basins. Two historical sites have recent foothill yellow-legged frog sightings, and surveys since 1993 have identified 19 previously unidentified sites. In the Calaveras River drainage, a single frog was reported sighted from San Antonio Creek (Lind et al. 2003) but resurvey efforts 2033-2005 failed to locate the species: some possibility exists that foothill yellow-legged frogs have been extirpated from the Calaveras River. In the Clavey River drainage, foothill yellow-legged frogs were recorded reproducing from 1995-2002 and 2009-2010 in Bull Meadow Creek, Clavey River mainstem, and a Hull Creek tributary, but with low numbers of post-metamorphs. Kupferberg et al. (2013) documented breeding at 4 or 5 sites on the Clavey River. In the Merced River drainage, small numbers of were frogs recorded from 1995-2003 in Bull Creek, a tributary of the North Fork of the Merced River, with low numbers of post-metamorphs. In the Stanislaus River drainage, foothill yellow-legged frogs were found at 12 localities between 1993 and 2002, with evidence of reproduction in Rose Creek and

the mainstem Middle Fork Stanislaus River, and sightings in Coyote Creek and Skull Creek; overall, numbers of adults and juveniles were low, and indication of recruitment success was limited to 3 sites. In the Tuolumne River drainage, small numbers of foothill yellow-legged frogs were reported from 4 localities between 1993 and 2012, with evidence of reproduction in the North Fork Tuolumne River mainstem and Hunter Creek, and sightings in the mainstem Tuolumne River; indication of recruitment success was limited to 1 site (Hayes et al. 2013).

El Dorado National Forest

Hayes et al. (2013) noted historical records for the foothill yellow-legged frog on the Eldorado National Forest from 1916 and 1935 along the South Fork of the American River. Additional historical records exist downstream of the current National Forest boundary in two major hydrographic basins, the American (including Middle and South Forks) and Cosumnes Rivers. Collection records on the American River from 1850 to 1961 include from Dry Creek, North Fork of the American River, South Fork of the American River, Weber Creek and a tributary of Slate Creek; from the Cosumnes River basin include Squaw Hollow Creek and Martinez Creek in 1942. Hayes et al. (2013) noted no foothill yellow frog records from the 1970s from either the Eldorado National Forest or lands lower in elevation than Eldorado National Forest lands.

Systematic frog surveys in the Eldorado National Forest and region were not conducted until the 1990s. Foothill yellow-legged frogs were detected in the early 1990s (Martin 1992) in the Eldorado National Forest in South Fork American River tributaries Camp and Snow Creeks, as well as Bark Shanty Creek (this is at elevation 6,270 feet, so possibly could represent *R. sierrae*). A single frog was seen on Sopiago Creek, a third-order tributary of the Cosumnes River, but subsequent significant survey efforts found no other foothill yellow-legged frogs on this creek. Recent amphibian surveys for FERC relicensing have documented foothill yellow-legged frog populations in four major hydrographic basins: the Middle Fork of the American River and its tributaries, including the Rubicon River and Otter Creek; the South Fork American River and its tributaries, including Silver Creek and Soldier Creek; the Cosumnes River system, especially Camp Creek and its tributaries; and the North Fork Mokelumne and its tributaries, especially Camp, Green, and East Panther Creeks.

Tahoe National Forest

Hayes et al. (2013) noted scattered historical records from 1899-1969 of foothill yellow legged frogs for the Tahoe National Forest within the Yuba River drainage, and from drainages below National Forest lands including Deer Creek, Dry Creek, Middle Fork American River, Middle Fork Yuba River, Middle Yuba River, New York Creek, North Fork American River, North Fork Yuba River, South Honcut Creek, South Poorman Creek, South Yuba River, Washington Creek, Willow Creek and Yuba River.

Systematic surveys on the Tahoe National Forest were not initiated until the late 1990s (Koo and Vindum 1999). Very small numbers of foothill yellow-legged frogs were recorded at a number of localities on the North, Middle, and South Yuba Rivers, and the North and Middle Forks of the American River, including several localities for which historical records were lacking. Very small numbers of *R. boylii* were recorded at 10 localities in the North Yuba River system (Devil's Creek, Fiddle Creek, Humbug Creek, Kanaka Creek, North Yuba River and Woodruff Creek); a single frog was recorded from

the Middle Yuba River system (Grizzly Creek); 2 frogs were recorded in the South Yuba River; 1 frog was recorded in the North Fork American River system (North Shirttail Creek); and 2 localities were recorded on the Middle Fork American River system (single frogs in Skunk Canyon Creek and in North Fork of the Middle Fork of the American River). Hayes et al. (2013) had not incorporated *R. boylii* data from recent FERC surveys during in the South and Middle Forks of the Yuba River, the Bear River, the North Fork Middle Fork and the Middle Fork of the American River, and the Rubicon River (including tributary streams within these watersheds). The Nevada Irrigation District and PG&E conducted *R. boylii* surveys from 2008-2010 on the Middle Yuba and South Yuba – these data were not incorporated by Hayes et al. (2013).

Plumas National Forest

Hayes et al. (2013) noted many historical collections of foothill yellow-legged frog from 1924-1978 in the Plumas National Forest and other lands either in in-holdings or the westslope Sierra below the Plumas National Forest boundary. Historical records were primarily in the Feather River, Butte Creek and Chico Creek drainages, including Anderson Fork, Big Chico Creek, Butte Creek, Cherokee Creek, Dooley Creek, Feather River, Last Chance Creek, Little Butte Creek, Little North Fork of the Feather River, Middle Fork Feather River, Mud Creek, North Fork Feather River, Rock Creek, South Fork Feather River, Spanish Creek, Sulphur Creek and West Branch Feather River. By the end of the 1970s, foothill yellow-legged frogs had been recorded from 12 different localities on the Plumas National Forest, and 40 additional localities at elevations below Plumas National Forest lands. Foothill yellow-legged frogs seem to have disappeared from at least one valley floor at that time, but available data imply that species was still present over its Sierra range in this region.

Systematic surveys were initiated on the Plumas National Forest in the late 1990s (Koo and Vindum 1999); foothill yellow-legged frogs were recorded at only 45% of the sites where they were historically found. The species was recorded at 6 of 6 historical sites in the Canyon Creek drainage (including Onion and Slate Creeks); at 2 of 2 historical sites in the South Fork Feather River drainage (including Oroleve Creek); at only 2 of 4 sites in the Middle Fork of the Feather River; only 1 of 7 sites in the East Branch of the North Fork Feather River (Spanish Creek); and not located at 2 historical sites in Little Butte Creek; 1 historical site in Dry Creek; 1 historical site in the North Fork Yuba River; or 1 historical site in the West Branch Feather River. The Plumas National Forest has continued to conduct extensive amphibian surveys since the late 1990s, finding that all drainages in which foothill yellow-legged frogs were detected during 1990s CAS surveys still appear to have foothill yellow-legged frogs present, and detecting several locations in addition to the 24 historical sites. Extensive surveys and monitoring since 2001 of frog populations in reaches of the North Fork Feather River have documented an increasing *R. boylii* population on the Poe reach and a significant decline of the population on the Cresta reach. PG&E data and FERC data on *R. boylii* for hydropower relicensing activities had not yet been incorporated by Hayes et al. (2013).

Lassen National Forest

Hayes et al. (2013) noted only 3 historical records from 1938-1978 in Lassen National Forest, in tributaries of the North Fork Feather River and West Branch Feather River, and in Little Butte Creek. Resurveys from 1973-1978 revealed the species had been extirpated from the former site on Little Butte Creek. Several additional pre-1980 records

(from 1911-1970) exist downstream of the current National Forest boundary, in primary tributaries of the Sacramento River including Battle, Big Chico, Butte, Cow, Dye, Mill, Paynes, Rock and Stillwater Creeks, as well as the mainstem Sacramento River (Hayes et al. 2013). Resurveys from 1973-1976 in former collection localities on the Sacramento River could not find foothill yellow-legged frogs, making it possible that the species was extirpated on the mainstem Sacramento River by the mid-1970s.

Jennings documented dozens of foothill yellow-legged frogs in 1996 in Dye Creek and its tributaries. Hayes et al. (2013) noted scattered collection records and sighting since 1980 in Lassen National Forest under surveys through the Federal Energy Regulatory Commission (FERC) relicensing process. Small numbers of frogs were found in Antelope Creek, Indian Creek and Mill Creek from 2001-2003. Several records documented since 1980 also exist for drainages that extend onto Lassen National Forest, but the records of which are from elevations below National Forest lands.

Tuolumne County

Tuolumne River

There are historical collection records from 1932-1974 from the South Fork Tuolumne River, Middlefork Tuolumne River and tributaries of Don Pedro Reservoir, including Eleanor Creek, Hatch Creek, Turnback Creek and Woods Creek (Martin 1940; Richards 1958; Moyle 1972, 1973; USNM 2001; UCMVZ 2015; CNDDB 2016).[126]

Small populations were documented in the 1990s and early 2000s in several tributaries above Don Pedro Reservoir, including Big Jackass Creek, Hunter Creek and Moccasin Creek (CNDDB 2016).[127] Foothill yellow-legged frog habitat assessments were conducted in 2012 for FERC in the Tuolumne River upstream of areas regularly inundated by Don Pedro Reservoir, and the following tributaries: Big Creek, Blue Gulch, Deer Creek, Drainage #8, Fleming Creek, Hatch Creek, Kanaka Creek, Moccasin Creek, Poor Man's Gulch, Rogers Creek, Rough and Ready Creek, Six-Bit Gulch, Slate Creek, Smarts Gulch, Sullivan Creek, Tuolumne River, West Fork Big Creek, Willow Creek and Woods Creek (HDR 2013). Foothill yellow-legged frog surveys were performed at five of these streams from 6/18/12-6/21/12, focused on detecting frog larvae, adults and juveniles. No *R. boylii* were detected during surveys at any of the sites (HDR 2013).

[126] Six frogs from 2 miles NW of Jacksonville in August 1932 (USNM 2001); and 2 frogs from Berkeley-Tuolumne Camp on the South Fork Tuolumne River on June 12, 1948; 1 frog from Sawmill Flat on Woods Creek on May 14, 1949; 1 frog from Woods Creek on April 23, 1950; 1 frog from Turnback Creek on April 15, 1951; 1 frog from 4 mi W of Hardin Flat on the South Fork Tuolumne River on August 31, 1962; 10 frogs (UCMVZ# 136239-136248) from Monroe Middlefork Camp, Middlefork of the Tuolumne River on July 8 and 15, 1972; and 1 frog from Monroe Middlefork Camp, Middle Fork Tuolumne River on August 2, 1974 (UCMVZ 2015; CNDDB 2016). The species was reportedly once found at the base of Lake Eleanor Dam (elevation 4,657 feet) along Eleanor Creek, a tributary to Cherry Creek (Martin 1940; Richards 1958). Moyle documented foothill yellow-legged frogs in Hatch Lake (Hatch Creek tributary above Don Pedro) and Second Lake during surveys from July 27 to September 4, 1970 (Moyle 1972, 1973; CNDDB 2016).

[127] Three eggs and 2 tadpoles observed in Hunter Creek at Forest Service Road 01N03 crossing, 2 miles S of Murphy Ranch, in 1993; 4 adults seen near Bull Meadow at the Forest Service Road 01N69 crossing, about 0.9 miles ESE of Clavey River mile 9, in 1993; several large tadpoles undergoing metamorphosis observed S of Table Mountain about 1 mile S of Yosemite Junction on May 15, 1997; and 2 adults and 4 egg masses observed near the confluence of Big Jackass Creek and Moccasin Creek, S of Highway 49, 4 miles E of Don Pedro Reservoir, on May 4, 2001 (CNDDB 2016).

Stanislaus River

David Martin documented 1 adult *R. boylii* on a tributary of the South Fork Stanislaus River, between river mile 24 and 25 (about 3 miles W of Cold Springs) in 1993 (CNDDB 2016).

Small populations were documented consistently from 1993-2008 in Rose Creek, a tributary of the South Fork Stanislaus River (CNDDB 2016).[128]

There is a *R. boylii* population in the Sand Bar Dam reach of the Stanislaus River (S. Kupferberg, pers. comm., 2016).

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 2 of 6 historical locations (33%) in Tuolumne County. Other than small populations documented in the Rose Creek tributary of the South Fork Stanislaus River through 2008, and a few small populations in the Tuolumne River above Don Pedro Reservoir through 2001, there are no other known recent observations in Tuolumne County. See the discussion above regarding recent Stanislaus National Forest surveys.

Sutter County

There is a single historical record of *R. boylii* from Sutter Buttes (a small isolated range of eroded volcanic lava domes in the Central Valley), in northwestern Sutter County, east of the Sacramento River. This was likely a small disjunct population.

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at the single historical location in Sutter County. There are no CNDDB reports of *R. boylii* from Sutter County and the species is presumed to be extirpated from Sutter County.

Calaveras County

Stanislaus River

There are historical collection records from 1953 from the Stanislaus River drainage, including tributaries Angel's Creek and Moran Creek (UCMVZ 2015).[129]

There were small populations reported in the Coyote Creek tributary from 1993-2005 (CNDDB 2016).[130]

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[128] At Italian Bar Road Crossing, about 2 miles NE of American Camp Station (Feller ID# Y-441C): 1 adult on 7/1/93; 1 subadult on 5/10/94; 1 subadult and 1 larva on 6/25/96; 1 adult and 105 larvae on 7/3/97; 1 adult, 221 larvae and 200 egg masses on 6/30/98; 1 adult on 6/17/99; 200 larvae and 200 egg masses on 6/1/00; 2 larvae on 8/30/02; and 1 adult on 6/2/03 (CNDDB 2016). In Rose Creek at Forest Road 03N03 crossing (Fellers site ID# Y-441A&B): 1 adult on 7/1/93; 43 adults, 277 subadults, 117 larvae and 600 egg masses cumulatively during visits in 1994, 1996 and 2002-2008 (CNDDB 2016). In Rose Creek at Eagle Creek (Fellers site ID# Y-441C): 1 adult and 33 subadults on 9/20/05; 1 larva on 9/1/06; and 6 adults and 204 larvae on 7/24/07 (CNDDB 2016).

[129] Five frogs from Angel's Creek, 1.2 miles WSW of Murphys, on March 23, 1953; 2 frogs from Moran Creek, 1.5 miles E and 3 miles N of Avery, on May 10, 1953; and 2 frogs from near Hwy. 4 at the S boundary to Calaveras Big Trees State Park on March 10 and 23, 1953 (UCMVZ 2015).

Mokelumne River

There is one historical collection record of 3 frogs from Licking Creek, a tributary of the South Fork Mokelumne River, in October 1899 (USNM 2001).

Small populations were documented in Jesus Maria Creek (a Mokelumne River tributary above Pardee Reservoir) in 2002, and along the North Fork Mokelumne River during 2001 and 2009 FERC amphibian surveys (CNDDB 2016).[131]

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 2 of 9 historical locations (22%) in Calaveras County. Small populations were documented in the North Fork Mokelumne River drainage as of 2009, the Jesus Maria Creek tributary to the Mokelumne River in 2002, and the Coyote Creek tributary to the Stanislaus River as of 2005. See the discussion above regarding recent Stanislaus National Forest surveys.

Amador County

There are no known historical collection records of *R. boylii* from Amador County.

Mokelumne River

Small populations were documented during 2001 and 2009 FERC amphibian surveys in Amador County in the North Fork Mokelumne River and tributary Tiger Creek (CNDDB 2016).[132] Garcia and Associates may have more recent survey data for this reach of the Mokelumne River.

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[130] A single frog was collected from the Coyote Creek tributary to New Melones Reservoir, from Natural Bridge SW to past Krappeau Gulch, in September 1993 (CAS 2001). Fellers observed *Rana boylii* along Coyote Creek at Natural Bridge, about 0.7 mile W of Sugarloaf Mountain, and about 2.1 miles S of Vallecito (Fellers site ID# Y-425A & Y-425B): a total of 8 adults, 49 subadults, 244 larvae and 3 egg masses observed at Y425A during annual surveys from 1993-2001, 2003 and 2005; and 1 adult and 5 subadults observed on 10/19/93 at Y-425B (CNDDB 2016).

[131] Fellers observed 1 adult and 6 subadults in Jesus Maria Creek (a Mokelumne River tributary above Pardee Reservoir), about 0.64 mile W of the Spring Gulch Confluence (Fellers site ID# T-585), on August 12, 2002 (CNDDB 2016). In the North Fork Mokelumne River, 0.9 mile W of Devils Nose (PG&E FYLF Site 16 and 30): 7 adults, 28 juveniles and 13 tadpoles from 5/15/01-9/7/01; 1 egg mass on 7/6/09; 1 adult, 17 tadpoles and 10 juveniles on 9/8/09; and 2 adults and 14 juveniles on 10/6/09 (CNDDB 2016). North Fork Mokelumne River, from near river mile 114 to about 1.5 river miles upstream (about 5.5 miles S of Hams Station): unspecified number of tadpoles from 5/15/01-9/7/01; 2 adults on 7/8/09; 1 adult and 36 tadpoles on 9/10/09; and 2 adults and 25 juveniles on 10/8/09 (CNDDB 2016). North Fork Mokelumne River, about 0.4 mile upstream from the mouth of Tiger Creek, 4.6 miles ENE of Pioneer: 80 tadpoles and 5 adults on 7/9/09; 1 tadpole, 5 juveniles and 4 adults on 9/9/09; and 7 juveniles and 2 adults on 10/7/09 (CNDDB 2016). Bear River, about 20 m upstream from North Fork Mokelumne River, about 6.4 miles SE of Hams Station: 1 adult on 8/18/09 (CNDDB 2016).

[132] Along North Fork Mokelumne River, about 0.4 mile upstream from the mouth of Tiger Creek: 80 tadpoles and 5 adults on 7/9/09; 1 tadpole, 5 juveniles and 4 adults on 9/9/09; and 7 juveniles and 2 adults on 10/7/09. Along Tiger Creek, 1 adult seen about 0.4 mile NE of the confluence with North Fork Mokelumne River on 8/19/09; and 1 adult seen about 1.3 miles ENE of the mouth of Tiger Creek on 8/19/09 (CNDDB 2016).

Dry Creek

Small populations were observed during surveys in the early 2000s in Else Creek, an upper tributary of Dry Creek (CNDDB 2016).[133]

Recent status: Jennings and Hayes (1994) were unable to locate the species during resurvey efforts from 1988-1991 at any of 3 historical locations in Amador County. Small populations were documented in the North Fork Mokelumne River and tributary Tiger Creek as of 2009, and in an upper tributary of Dry Creek in the early 2000s.

El Dorado County

South Fork American River

There are historical collection records from 1916-1953 in El Dorado County in the South Fork American River drainage, including the Indian Creek and Webber Creek tributaries (Slevin 1928; UCMVZ 2015).[134]

Small populations were documented in 1992 and 1993 in the South Fork American River tributaries Bark Shanty Canyon Creek and Snow Creek, with a significant population in the Indian Creek tributary in 2003 (CNDDB 2016).[135]

Small populations were documented in 2002 and 2004 at various locations along the South Fork American River (CNDDB 2016).[136] DTA and Stillwater Sciences (2005) conducted foothill yellow-legged frog surveys from 2002-2004 in moderate to high quality habitat within the 8-mile Slab Creek Dam Reach (from the base of Slab Creek Reservoir Dam downstream to White Rock Powerhouse). The surveys, conducted at 5 South Fork American River sites (downstream of Iowa Canyon Creek, at the confluence with Rock Creek, one mile downstream of Rock Creek, upstream of White Rock Powerhouse, and

[133] At Indian Grinding Rock State Historic Park (1.1 miles NE of Pine Grove), 5 frogs in July 2000; 13 frogs in July 2001; and 1 adult on July 1, 2004 (CNDDB 2016).

[134] The U.C. Museum of Vertebrate Zoology has historical collection specimens from the South Fork American River drainage in El Dorado County: 3 frogs from Fyffe in July 1916; 4 frogs from the S Fork American River, 2.5 miles W of Kyburz, in May 1935; 9 frogs from 7 miles W and 1 mile S of Placerville (likely the Indian Creek tributary) in November 1938; 4 frogs from Webber Creek, 2.2 miles WSW of Placerville, in June 1952; and 1 frog from 4 miles NW of Coloma, in May 1953 (UCMVZ 2015).

[135] Three adults and 150 tadpoles in Bark Shanty Canyon Creek (2.5 km NNW of Fitch Rantz Bridge and 3.3 km SE of Owens Camp Field Station)on 7/6/92; and 1 adult in Snow Creek at Big Pebble Canyon Road crossing (about 1.2 miles S of Iron Mountain Road, 1.5 miles E of Matulich Spring) in 1993 (CNDDB 2016). A significant population (100 adults and juveniles, no distinction made) was seen in the Indian Creek tributary, 2 miles N of Lotus, on 10/27/03 (CNDDB 2016).

[136] Two frogs just downstream of Blackbird Campground on 6/26/02; 12 tadpoles and 4 adults about 1.8 air miles ESE of Silver Creek Crossing (about 1.9 miles NE of Pollock Pines) on 8/7/02; 3 adults, 4 juveniles and 5 of unknown age about 0.9 mile ESE of Silver Creek Crossing (about 1.6 miles N of Pollock Pines), on 8/8/02; 2 adults, 1 juvenile and 6 tadpoles at gaging station about 0.16 mile NE of Silver Creek Crossing (about 2.1 miles N of Pollock Pines), on 8/8/02; 4 juveniles about 1.1 miles E of El Dorado Power House (about 2.3 miles NNW of Pollock Pines), on 8/8/02; and 1 adult and 2 tadpoles about 1.7 miles NW of USFS Pacific Ranger Station (about 2.3 miles ENE of Pollock Pines), on 8/30/02 (CNDDB 2016). At El Dorado Power House (about 4.9 miles NE of Camino): 6 frogs on 6/27/02; 8 adults and 4 juveniles on 10/28/02; and 2 adults, 1 juvenile and 1 of unknown age on 10/30/02 (CNDDB 2016). In the vicinity of Maple Grove Campground (about 2.2 to 3.5 miles ENE of USFS Pacific Ranger Station): 1 adult on 5/29/02; 1 adult and 1 of unknown age on 8/14/02; 7 juveniles on 10/30/02; and from June-October 2004, 1 juvenile, 2 metamorphs, 2 tadpoles and 3 egg masses at 3 sites (CNDDB 2016).

at White Rock Powerhouse), and 2 tributary sites (the lower portion of Iowa Canyon Creek and the lower portion of Rock Creek), did not detect any *R. boylii*. In 2003, 1 adult foothill yellow-legged frog was incidentally observed on the South Fork American River approximately 0.5 miles upstream of White Rock Powerhouse.

Garcia and Associates (2010a) conducted foothill yellow-legged frog surveys for the El Dorado Irrigation District at 8 sites along the South Fork American River, on July 26 and 27, 2010. The survey included 3 sites upstream of Silver Creek, 1 site at the confluence with Soldier Creek, 1 site upstream of Ogilby Creek, and 3 sites near Maple Grove Campground. No *R. boylii* were detected at any of the sites. ECORP (2011) conducted foothill yellow-legged frog surveys in 2010 for the Sacramento Municipal Utility District along a 0.25 mile reach of the South Fork American River below Slab Creek Reservoir Dam and in 1,800 feet of lower Iowa Canyon Creek. No *R. boylii* were detected.

Middle Fork American River

2007 surveys by the Placer County Water Agency (PCWA) documented foothill yellow-legged frog breeding in the lower portions of the Rubicon River (below 3,350 feet) and Middle Fork American River (below 1,800 feet), four lower elevation tributaries (American Canyon Creek, Gas Canyon Creek, Todd Creek and Otter Creek), and comparison river reaches, Shirttail Creek and North Fork of the Middle Fork American River (PCWA 2008). *Rana boylii* were reported dispersed widely throughout the study area in varying densities depending on stream size, flow regulation, and water temperatures. Abundance was highest in the downstream reaches of the Rubicon River and in comparison reaches and tributaries. Abundance was low in the Middle Fork American River bypass reach upstream of Ralston Afterbay, and frogs were observed rarely in the Middle Fork American River peaking reach. No frogs were observed above approximately 1,800 ft in elevation on the Middle Fork American River, 3,350 ft elevation on the Rubicon River, and above 1,550 ft elevation on Long Canyon Creek (near the Long Canyon Creek confluence with the Rubicon River). Breeding was observed in the lower portions of the Rubicon River and Middle Fork American River bypass reaches, in four lower elevation tributaries (American Canyon Creek, Gas Canyon Creek, Todd Creek, and Otter Creek), and in the comparison river reaches. No egg masses were observed in the mainstem of the Middle Fork American River reach. Fall surveys generally reflected this distribution with the highest number of observed tadpoles and young-of-the-year in the Rubicon River, peaking reach tributaries, and at comparison sites.

The density of egg masses at breeding locations, as an index of population size, varied by river reach. The Rubicon River bypass reach had the highest density of egg masses (19 egg masses/km in the three lower sites) and the Middle Fork American River bypass reach had one of the lowest densities of egg masses (2 egg masses/km). The tributaries along the peaking reach (Todd Creek, Gas Canyon and Otter Creek) had moderate egg mass densities (average of 9 egg masses/km). Two of the unregulated comparison sites, Shirttail Creek and the upper site on the North Fork of the Middle Fork American River, had high egg mass densities similar to the lower Rubicon River of 17 egg masses/km and 14 egg masses/km, respectively. Two of the comparison survey sites, North Fork of the Middle Fork American River near the confluence with the Middle Fork American River and the mainstem of the North Fork American River near Shirttail Creek, had low egg mass densities (3 egg masses/km and 2 egg masses/km, respectively). (PCWA 2008)

Most of the PCWA survey results appear to have been submitted to the California Natural Diversity Database, with small numbers of foothill yellow-legged frogs reported from 2003 and 2007 surveys in the Middle Fork American River and the tributaries North Fork of the Middle Fork, Gas Canyon Creek and Otter Creek; one moderate and several small populations were reported in the Rubicon River and its tributaries Long Canyon Creek and Pilot Creek in 2007 (CNDDB 2016).[137]

Cosumnes River

There are historical collection records from 1942-1961 in the North Fork Cosumnes River drainage, including tributaries Martinez Creek and Squaw Hollow Creek (UMMZ 2001; UCMVZ 2015).[138]

Small populations were documented from 1992 to 1999 in the North Fork Cosumnes River and tributaries Camp Creek and Middle Fork Cosumnes River (CNDDB 2016).[139]

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 1 of 9 historical locations (11%) in El Dorado County. However, small populations were documented from 1992-2007 in El Dorado County at multiple locations in the Cosumnes River, South Fork American River and

[137] In the Middle Fork American River at Paradise Canyon, near Auburn State Recreation Area: 1 subadult on 11/2/03; 1 adult on 5/17/07; 1 adult on 6/5/07; and 5 adults on 8/23/07. In the Todd Creek tributary: 6 adults, 4 juveniles and 1 egg mass on 5/17/07; and 1 adult on 6/5/07. Along Gas Canyon Creek at Middle Fork American River (about 3.9 miles SE of Applegate): adults captured and released and 9 additional observed on 11/2/03; 9 adults, 4 juveniles and 4 egg masses on 5/17/07; 2 adults and 4 juveniles on 6/5/07; 7 adults on 8/22/07; and 1 adult on 8/23/07. At Poverty Bar along Middle Fork American River (about 2.3 miles ESE of Stony Hill, 6.7 miles ENE of Auburn): 7 adults, 2 juveniles and 22 young-of-year on 9/24/07. At Fords Bar along Otter Creek (about 2.4 miles W of Little Bald Mountain, 3.4 miles NNW of Georgetown): 2 egg masses on 5/23/07; 2 adults, 570 tadpoles and 1 egg mass on 6/6/07; and 2 adults, 86 young-of-year and 9 tadpoles on 8/31/07. At the junction of the Middle Fork American River and North Fork of Middle Fork American River (about 3.9 miles E of Foresthill); 2 egg masses on 5/23/07; 2 adults, 570 tadpoles and 1 egg mass on 6/8/07; and 2 adults, 86 young-of-year and 9 tadpoles on 8/31/07. (CNDDB 2016). Along the Rubicon River (about 0.9 mile SE of Middle Fork American River confluence): 11 adults and 18 egg masses on 5/22/07; 15 adults, 3 juveniles, 2,910 tadpoles and 7 egg masses on 6/7/07; and 18 adults, 18 juveniles, 101 young-of-year and 49 tadpoles on 8/21/07). In the Rubicon River and Long Canyon Creek tributary (about 0.33 air miles E of Squaw Flat): 16 adults, 6 juveniles and 18 egg masses on 5/25/07; 16 adults, 11 juveniles, 4,850 tadpoles and 1 egg mass on 6/12/07; and 47 adults, 22 juveniles, 233 young-of-year and 117 tadpoles on 8/24/07. In the Rubicon River and tributary Pilot Creek (about 6.5 miles NE of USFS Georgetown Ranger Station): 16 adults, 2 juveniles, 96 young-of-year and 4 tadpoles on 8/28/07. Along the Rubicon River about 1.5 miles NE of Stumpy Meadows Lake: 200 tadpoles and 24 egg masses on 5/30/07; and 3 adults, 1 juvenile and 4,500 tadpoles on 6/14/07; 3 adults, 67 young-of-year and 25 tadpoles on 8/27/07. Along the Rubicon River, about 0.55 mile SSW of Ellicott Bridge: 2 adults and 4 egg masses on 5/29/07; 400 tadpoles on 6/13/07; and 1 young-of-year on 8/28/07. (CNDDB 2016)

[138] An unknown number of tadpoles from the Martinez Creek tributary, 4 miles S of El Dorado, in October 1942; and 11 tadpoles from Squaw Hollow Creek (a tributary of Martinez Creek), near Placerville, in July 1942 (UMMZ 2001). The U.C. Museum of Vertebrate Zoology has a historical collection specimen of 1 frog from 2 miles S of El Dorado, on March 31, 1961 (UCMVZ 2015).

[139] One adult was observed in Camp Creek, 2.1 km S of Iron Mountain, on 6/17/92. In Camp Creek at old gaging site, 1.5 miles SSE of Jenkinson Lake: 1 frog observed and 2 other frogs heard jumping on 7/18/92; 6 tadpoles on 8/10/94; 4 adults and 2 subadults on 7/21/95; 4 adults and 2 large egg masses on 5/12/97; and 2 adults and 8 larvae on 8/25/99. In the North Fork Cosumnes River at the Sweeney Road Bridge Crossing, 2.5 miles SE of Pleasant Valley, an unknown number of tadpoles were observed on 8/11/94. In the Middle Fork Cosumnes River at the Mt. Aukum Road Bridge Crossing, 1.5 miles SSW of Somerset, 10+ tadpoles were observed on 8/23/94. (CNDDB 2016).

Middle Fork American River drainages. Significant populations were recorded in the Rubicon River and its tributaries Long Canyon Creek and Pilot Creek, through 2007. See the discussion above regarding recent El Dorado National Forest surveys.

Placer County

North Fork American River

There is a historical collection record of 6 frogs from 3.0 mi NW of Cool, on April 11, 1952 (UCMVZ 2015).

Recent data suggest that the species still persists in a dozen or so localities in the foothills in Placer County, particularly the undammed North Fork American River (Lehr 1998; PLSWG 2002). In the 1990s and 2000s, there were scattered observations of small populations of frogs in Placer County in the North Fork American River and tributaries (including Canyon Creek, Codfish Creek, North Fork of the North Fork, Shirttail Creek and Yankee Jim Creek); one significant population of frogs was documented along the North Fork American River mainstem in 2007 (CNDDB 2016).[140] Foothill yellow-legged frogs were reported to be "common" in the Shirttail Creek tributary during surveys on August 29 and 30, 2007 (CBI 2008).

Middle Fork American River

There were scatted observations of small populations in the 1990s and 2000s in the Middle Fork American River and tributaries (including North Fork of the Middle Fork,

[140] Along the North Fork American River, Mumford Bar Trail to 1 km E of Andrew Gray Creek, 10-20 adults and some juveniles were observed on 9/9/94 (CNDDB 2016). The California Academy of Sciences has a juvenile frog specimen (CAS #205873) collected from the Shirttail Creek tributary, upstream from Sugar Pine Reservoir, on 7/2/98 (CAS 2001; CNDDB 2016). A single adult was found along the Yankee Jim Creek tributary in Auburn State Recreation Area (2.75 air miles E of Weimar), on 4/20/00 (CNDDB 2016). Along the North Fork American River, just downstream from the Ponderosa Way Bridge (9 miles NE of Auburn), 5 adults and 8 subadults were observed on 5/26/07; and more than 10 adults and over 100 young-of-year on 10/4/07 (CNDDB 2016). Along the North Fork American River, about 0.4 mile upstream of Iowa Hill Road crossing (about 1.4 miles ENE of Colfax); 2 metamorphs were observed on 9/8/06; and 20 adults and 5 egg masses were observed nearby on 5/9/08. In an unnamed tributary to the North Fork American River, 1 mile NE of Colfax, 2 adults were observed on 8/9/07; along the North Fork American River, about 0.23 air miles N of Snakehead Point (about 3.6 miles SE of Dutch Flat), more than 10 adults and 100 young-of-year were observed incidentally on 8/31/07; at Codfish Falls, about 0.35 mile N of Codfish Creek and North Fork American River Crossing (about 1.9 miles E of Applegate), 4 adults were seen on 4/10/08; along an unnamed tributary just NE of the North Fork American River confluence (about 0.5 mile SSE of Dinner Tree and 2 miles ESE of Colfax), 2 gravid female adults and 1 unknown adult were observed on 4/26/08; on Moody Ridge, about 1.6 miles S of Alta and 2.1 miles SE of Dutch Flat, 2 adults and 13 juveniles were observed on 6/18/08; on a tributary about 0.3 miles W of the North Fork of the North Fork American River and Fulda Creek Crossing (about 1.7 miles SSE of Blue Canyon), single adult frogs were observed on 6/18/08 and 7/24/08; at Euchre Bar, where the North Fork of the North Fork American River and the North Fork American River branch (3 miles ESE of Alta), 13 adults, 12 juveniles, 310 larvae and 2 egg masses were observed on 6/17/08; along Canyon Creek and I-80 (about 0.8 mile ESE of Alta and 2.2 miles E of Dutch Flat), 1 juvenile was observed on 6/26/08, and 1 adult on 8/25/08. (CNDDB 2016). North Fork American River, between Shirttail Canyon and Bunch Canyon (about 1.1 miles ENE of Big John Hill and 4.5 miles SE of Colfax) in 2008: Site A had 115 adults, 5,334 non-adults and 16 egg masses during three visits on 5/18/07, 6/4/07 and 8/20/07; and 11 adults on 5/17/08. Site B had 48 adults, 713 non-adults and 3 egg masses during three visits on 5/18/7, 6/4/07 and 8/20/07. Site C had 17 adults, 52 non-adults and 0 egg masses during three visits on 5/18/07, 6/4/07 and 8/20/07 (CNDDB 2016).

Skunk Canyon Creek); moderate populations in Skunk Canyon Creek in 2002 and North Fork of the Middle Fork in 2007 (CNDDB 2016).[141]

Dry Creek

ECORP (2006) did not detect foothill yellow-legged frogs during 2006 surveys in 3 reaches of the Clover Valley Creek tributary.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 2 of 4 historical locations (50%) in Placer County. Small populations were documented in the 1990s and 2000s in the North Fork and Middle Fork American River drainages; with moderate populations along the North Fork American River mainstem and North Fork of the Middle Fork in 2007 and in Skunk Canyon Creek in 2002. See the discussion above regarding recent Tahoe National Forest surveys.

Nevada County

Yuba River

Mainstem Yuba

There is a historical collection specimen from the Deer Creek tributary drainage, in Olympic Park in Nevada City, from June 1903 (CAS 2001).

Middle Yuba

The species was reported (age/number not given) from the Kanaka Creek tributary in 1991 and Fellers documented *R. boylii* in small numbers from 1996-1997 at several sites along the Middle Yuba River and tributary Grizzly Creek (CNDDB 2016).[142]

PG&E documented foothill yellow-legged frogs in 2008 in the Middle Yuba River below Milton Diversion Dam: relatively high numbers of egg masses and tadpoles were seen in the reach below the diversion dam downstream to Wolf Creek; and the species was

[141] A single adult frog was collected (CAS 205859) from Skunk Canyon Creek, upstream from Mosquito Ridge Road, on 6/30/98; 26 adults were observed in this location on 7/18/02 (CAS 2001 CNDDB 2016). The California Academy of Sciences has 1 frog larva specimen (CAS #206178) collected from the North Fork of the Middle Fork American River on 7/8/98 (CAS 2001); 3 adults were observed at this location 7/18/02; 15 adults, 3 juveniles and 13 egg masses on 5/23/07; 12 adults and 2,275 tadpoles on 6/8/07; 22 tadpoles and 1 egg mass on 6/11/07; and 23 adults, 2 juveniles, 115 young-of-year and 53 tadpoles on 8/24/07 (CNDDB 2016). A single adult was observed on Ralston Ridge, about 1.3 miles E of the Middle Fork American River at Rubicon River (about 3.15 miles SE of Michigan Bluff), on 6/24/01 (CNDDB 2016). Fellers made numerous observations in 3 sites along the Middle Fork American River, upstream of the confluence with the Rubicon River (Fellers site ID: T-562): 3 adults, 1 subadult and 6 larvae on 7/17/02; 1 adult, 5 subadults and 1 juvenile on 8/29/02; 1 adult on 5/22/07; 1 adult and 2 egg masses on 6/7/07; 1 adult, 28 young-of-year, 2 tadpoles and 2 egg mass on 8/21/07; 1 juvenile on 6/12/07; and 1 adult on 8/29/07 (CNDDB 2016).

[142] In the Kanaka Creek tributary (4 miles NNW of North Bloomfield) on 7/18/91 (CNDDB 2016). Along Grizzly Creek (Fellers site ID# T-010), about 0.15 mile W of Grizzly Creek at Tyler Foote Road (1 adult and 4 subadults on 6/2/97); along Grizzly Creek (Fellers site ID# T-009), about 0.6 mile E of Grizzly Creek at Tyler Foote Road (2 subadults on 5/29/97); and in Barnhouse Ravine (Fellers site ID# P-347), about 0.9 air mile S of Barnhouse Ravine at Middle Yuba River (1 adult on 9/5/96) (CNDDB 2016).

observed upstream from Our House Reservoir to about river mile 30, between Wolf Creek and East Fork Creek (FERC 2013).[143]

South Yuba

There are historical collection records from 1967-1973 in the South Yuba River and tributaries Poor Man Creek and Washington Creek, along with a report of "many" frogs seen in Poor Man Creek in 1967 (CAS 2001; UCMVZ 2015).[144]

Yarnell (1999) noted the species in Shady Creek, a tributary to the South Yuba River. There were small populations documented from 1991-2008 in the South Yuba River and tributaries Diamond Creek, Logan Canyon, Poor Man Creek and Washington Creek (CAS 2001; CNDDB 2016).[145]

PG&E documented small numbers of foothill yellow-legged frogs in the South Yuba tributary Canyon Creek from 2008-2009 (FERC 2013).[146] Focused surveys by PG&E in 2008 also identified numerous small to moderate populations throughout the South Yuba River drainage, including in the Canyon Creek and Shady Creek tributaries (CNDDB 2016).[147]

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[143] Along the Middle Yuba River about 2.75 miles SE of Alleghany, including Buckeye Ravine, Wolf Creek and Mohawk Ravine (9 adults, 6 juveniles, 80 larvae and 23 egg masses on 6/19/08; 5 adults, 2 juveniles, 140 larvae on 7/8/08; 10 larvae on 8/5/08; and 10 adults, 151 juveniles and 138 larvae on 9/5/08); at the Middle Yuba River and Indian Creek Crossing, upstream of Our House Dam (1 adult and 1 juvenile on 6/9/08; 45 adults and 58 juveniles on 6/24/08; 12 adults and 15 juveniles on 7/14/08; 12 adults and 17 juveniles on 7/22/08; 20+ frogs and dead larvae and juveniles on 8/22/08; 20 adults and 114 juveniles on 8/27/08; and 27 adults and 324 juveniles on 9/3/08); at Chinese Bar and National Gulch Crossing (2 adults and 3 juveniles on 7/7/08; 2 adults and 1 juvenile on 7/16/08; and 4 adults on 9/4/08); and about 0.3 miles ENE of Middle Yuba River and National Gulch Crossing (1 adult on 7/16/08; and 2 adults and 2 larvae on 9/4/08) (CNDDB 2016).

[144] 1 frog from Poor Man Creek near the confluence with the South Yuba River, in September 1967 (CAS 2001); 13 frogs (MVZ 136314-136326) from South Yuba River at Washington and in Washington Creek on July 15, 1973 (UCMVZ 2015).

[145] In the South Yuba at Poorman Creek, 1 adult and 1 juvenile (CAS 203444, 203450) collected on 8/28/97; 2 adults seen on 7/5/99; and 4 adults, 24 juveniles, 11 larvae and 1 unknown seen in 2008 (CNDDB 2016). In South Yuba River at Washington and in Washington Creek, 2 adults seen on 6/13/97; 3 adults seen in Washington Creek, 1 mile S of Washington, on 5/23/91 and 1 frog in 8/97 (CNDDB 2016). One adult in an unnamed tributary to Diamond Creek on 6/3/91; 1 adult 3 miles W of Lake Spaulding on 6/5/91; 1 adult in a Diamond Creek tributary on 6/10/91; 1 adult near Zeibright Mine on 6/19/92; and 6 frogs in South Yuba River State Park on 9/6/06 (CNDDB 2016). Fellers documented 1 adult and 1 subadult along Logan Canyon (site ID# T-025) on 6/13/97; and 10 adults, 24 juveniles, 64 larvae, 1 egg mass and 1 unknown frog in the South Yuba River at Scotchman Creek (Site ID# T-024) in 2008 (CNDDB 2016).

[146] Below Towle Canal Diversion Dam frogs were found twice in 2008 and once in 2009 in the downstream portion of this reach; and frog egg masses were found in Canyon Creek about 9.3 miles downstream of Bowman-Spaulding Diversion Dam (FERC 2013).

[147] At the Humbug Creek Confluence (3 juveniles on 4/3/04; 3 adults, 3 juveniles and 6 egg masses on 6/2/08; 5 adults, 2 juveniles and 22 larvae on 6/23/08; 32 adults, 159 juveniles and 2 larvae on 9/16/08; and 117 juveniles on 9/16/08); South Yuba at Holbrook Flat (6 adults, 340 larvae and 1 egg mass on 6/14/08; and 25 juveniles and 2 larvae on 8/26/08); in the Canyon Creek tributary (15 adults observed cumulatively during visits on 6/4/08, 6/12/08, 6/19/08, 7/3/08, 7/10/08 and 8/5/08); at Purdon Creek Crossing (26 adults, 11 juveniles and 1 egg mass on 5/20/08; 15 adults, 3 juveniles, 2 larvae and 2 egg masses on 6/10/08; and 11 adults, 79 juveniles and 2 larvae on 9/12/08); along Canyon Creek (12 adults, 3 juveniles and 1 egg mass on 6/11/08; 1 adult on 7/28/08; 4 adults, 5 juveniles and 73 larvae on 8/12/08; and 2 adults and 13 juveniles on 9/18/08); at Spring Creek Crossing (41 adults, 8 juveniles and 310 larvae on 6/20/08; 32 adults, 4 juveniles and 29 larvae on 7/8/08; and 57 adults, 54 juveniles and 1 larva 9/9/08); about 0.3 mile E of South Yuba River and Diamond Creek Crossing (2 adults, 3 juveniles and 4 egg masses on 6/5/08); about

Bear River

The City of Grass Valley noted declining populations of foothill yellow-legged frog in several creeks in the Grass Valley area: the lower portion of Wolf Creek, Squirrel Creek and South Fork Wolf Creek (Grass Valley 2000).

PG&E documented all life-stages of foothill yellow-legged frogs in "moderate to high numbers" from 2002-2009 in the Bear River below Dutch Flat Afterbay Dam, and a population in the Steephollow Creek tributary (FERC 2013; CNDDB 2016).[148] The population at PG&E site 1A was very large (349 adults, 2,082 juveniles and 1,063 larvae in August 2008). Small populations were documented in the Greenhorn Creek tributary from 1997-2009 (CNDDB 2016).[149] There were additional observations from 2007-2008 of small populations along the Bear River (CNDDB 2016).[150]

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 2 of 5 historical locations (40%) in Nevada County. There were small populations documented in the 1990s and 2000s in the Middle Yuba, South Yuba and the Bear River drainages, with a large population in the Bear River and several moderate populations in the South Yuba and tributaries in 2008. See the discussion above regarding recent Tahoe National Forest surveys.

Sierra County

There are no known historical museum collection specimens from Sierra County.

North Yuba River

Small populations were documented in the North Fork Yuba River and a dozen tributaries (Cherokee Creek, Downie River, Fiddle Creek, Goodyears Creek, Grizzly Creek, Humbug Creek, Oregon Creek, Ramshorn Creek, Saint Catherine Creek, Slate

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1.1 miles W of South Yuba River and Fall Creek Crossing (1 adult on 6/5/08; and 7 adults, 12 juveniles and 5 larvae on 7/7/08); at Fall Creek Crossing (8 adults, 6 juveniles & 4 egg masses on 6/16/08); and along Shady Creek (39 adults and 19 larvae on 8/12/08) (CNDDB 2016).

[148] At PG&E site 1A (2 adults/500 juveniles on 10/31/02; 45 adults/36 juveniles/85 larvae/66 egg masses on 6/5/02; and 49 adults/1,885 juveniles/1 larva in 10/03); at PG&E site 1B (67 adults/83 juveniles/188 larvae/2 unknown in 6/08; 22 adults/288 juveniles/187 larvae/15 egg masses/321 unknown in 6/08; 349 adults/2,082 juveniles/1,063 larvae in 8/08; 250 larvae in 9/08; and 10 larvae in 8/09); at PG&E site 2 (6 adults on 11/1/02; 9 adults/2 juveniles on 6/4/02; 7 adults/5 juveniles/1 egg mass on 6/17/02; and 9 adults/5 juveniles on 10/303); and at PG&E site 3 (11 adults/10 juveniles/7 egg masses on 6/4/02; 13 adults/10 juveniles/7 larvae/23 egg masses on 6/16/02; and 9 adults/59 juveniles/19 larvae on 10/2/03). (CNDDB 2016)

[149] Three adults and 720 subadults seen along Greenhorn Creek (Fellers site ID# T-114, about 0.6 miles downstream from the South Fork Confluence) on 9/27/97, 2 adults (MRJ #1484, CAS #238587) collected on 8/13/99, and 80 larvae observed on 6/9/00; 4 adults observed in the Missouri Canyon Creek tributary (0.75 mile NW of Pleasant Peak) on 11/2/01; and 3 adults observed along Greenhorn Creek (0.5 mile SW of Arrowhead Mine and 1.5 miles E of Highway 174), on 8/11/09 (CNDDB 2016).

[150] Stump Canyon (2 adults on 5/22/08; 3 adults and 1 juvenile on 9/11/08; and 2 adults on 9/15/08); about 2.7 miles N of Hayford Hill and 4.1 miles NE of Chicago Park (12 larvae on 6/25/08); about 1.8 miles W of Colfax and 2.8 miles SSW of Chicago Park (2 juveniles on 6/15/08); about 2 miles SW of Colfax and 4.4 miles SSW of Chicago Park (1 juvenile and 1 unknown age on 6/9/08; 5 adults and 3 juveniles on 6/24/08; and 6 adults on 8/28/08); and at Dog Bar Bridge (2 juveniles on 9/28/07; 1 juvenile on 6/2/08; and 1 juvenile on 6/15/08)(CNDDB 2016).

Creek, Woodruff Creek and Willow Creek) in the late 1990s and early 2000s (CAS 2001; CNDDB 2016).[151]

Middle Yuba River

Small populations were documented from 1997-2008 in 3 tributaries of the Middle Yuba River: Grouse Creek, Kanaka Creek and Wolf Creek (CNDDB 2016).[152]

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 1 of 4 historical locations (25%) in Sierra County. Small populations were documented in the late 1990s and 2000s in the North Fork Yuba River and a dozen of its tributaries, as well as 3 tributaries of the Middle Yuba River. See the discussion above regarding recent Tahoe National Forest surveys.

Yuba County

Yuba River

There are historical collection records from 1899-1938 in the North Fork Yuba River and tributary Moonshine Creek (USNM 2001).[153]

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[151] In the North Fork Yuba River, from the mouth of Humbug Creek to Devils Canyon Creek, 1 adult (CAS #202875) was collected on 5/17/97; 3 adults and 1 juvenile (CAS #205943-205946) were collected on 7/14/98; and 1 adult (CAS #205953) was collected on 7/15/98 (CAS 2001; CNDDB 2016). In Cherokee Creek, 1 subadult (CAS #203371) was collected on 8/21/97 (CAS 2001; CNDDB 2016). In the Downie River along Sailor Ravine, Fellers (site ID# T-058) observed 1 adult on 7/22/97 (CNDDB 2016). In Fiddle Creek, 1 adult (CAS #203284) was collected at Fiddle Creek Ridge Trailhead on 7/21/97; and at Fiddle Creek Campground at North Yuba River near Highway 49, Fellers (site ID# T-050) observed 3 adults and 5 subadults on 7/7/97 (CAS 2001; CNDDB 2016). In Goodyears Creek (about 0.4 air mile NNE of North Yuba River confluence and 0.5 mile N of Goodyears Bar), Fellers (site ID# Y-821A) observed 3 subadults on 6/19/97 (CNDDB 2016). In Grizzly Creek, 1 adult (CAS #202921) was collected at Pike City Road on 5/20/97; and along an unnamed tributary of Grizzly Creek (about 0.5 mile E of Pike and 1.1 miles ESE of Alaska Peak), Fellers (site ID# T-014) observed 1 subadult on 6/10/97 (CNDDB 2016). In Humbug Creek, at the mouth at the North Fork Yuba River, frogs were collected in May 1997 and July 1998 (CAS 2001). Fellers (site ID# T-016C) observed 1 adult along Oregon Creek (about 0.4 mile NE of American Flat, and 1.2 miles NNW of Alleghany) on 6/8/99 (CNDDB 2016). In Ramshorn Creek (about 0.35 air mile NNW of North Yuba River Confluence and 0.35 mile NW of Ramshorn Campground), Fellers (site ID# Y-822) observed 3 adults on 5/24/95 (CNDDB 2016). In Saint Catherine Creek a frog was collected on 7/21/98 (CAS 2001). In Slate (Castle) Creek (0.7 km N of Slate Castle), 2 adults were observed on 9/2/92; and along a tributary to Slate Creek (about 0.8 mile W of Little Table Rock Reservoir), 1 adult and 2 metamorphs were observed in October 2000 (CNDDB 2016). In Willow Creek (In Oak Valley, about 0.4 mile W of North Yuba River and Indian Creek Crossing), 2 adults and 6 juveniles were observed on 8/21/08 (CNDDB 2016). In Woodruff Creek, approximately 2.0 miles S of Goodyear's Bar, 3 adults were observed on 8/25/92; in an unnamed tributary to Woodruff Creek along Mountain House Road, 1 juvenile (CAS #202880) was collected on 5/31/97 and 1 adult (CAS #202918) on 5/20/97; and 0.6 mile S of Goodyear's Bar, Fellers (site ID# T-031) observed 3 adults on 6/18/97 and 1 adult (CAS #203285) was collected on 7/21/97 (CNDDB 2016).

[152] In Grouse Creek, just N of Squirrel Creek, Fellers (site ID# T-034) observed 3 aubadults on 6/30/97; and in the Grouse Creek headwaters (along Forest Road 180-8), 1 adult was observed on 6/26/08 and 2 adults on 8/4/08 (CNDDB 2016). In Kanaka Creek, 5 miles N of North Bloomfield (Fellers site ID# T-092B), 1 adult (CAS #203363) was collected on 6/16/97; 24 adults and 1 subadult on 6/8/99; 7 adults on 6/16/00; and at a nearby site 2 adults and 5 juveniles on 5/14/08 (CNDDB 2016). Along Kanaka Creek (about 1.7 miles SW of Alleghany, and 2.7 miles SSW of Forest), Fellers (site ID# T-092) observed 1 subadult and 6 larvae on 8/26/97 (CNDDB 2016). Along an unnamed tributary to Kanaka Creek (at Pliocene Ridge), 3 adults were observed on 5/14/08; 2 adults on 5/21/08; 1 adult on 6/26/08; and 1 adult on 8/4/08 (CNDDB 2016). In Wolf Creek on 6/19/08, 2 adults were observed about 0.8 mile NNE of Wolf Creek and Middle Yuba River Crossing, and 1 adult and 1 juvenile about 1.1 miles NNE of Wolf Creek and Middle Yuba River Crossing (CNDDB 2016).

The species was known to occur in the 1990s in the lower Yuba River at lower elevations (PG&E 2000). Fellers documented small populations from 1996 to 2000 in the Oregon Creek, Willow Creek and Mosquito Creek tributaries to the North Fork Yuba River above New Bullards Bar Reservoir (CNDDB 2016).[154] There were collections and observations of single frogs in the Slate Creek tributary of the North Fork Yuba River in 1998 and 2006 (CAS 2001; CNDDB 2016).[155]

The Yuba County Water Agency initiated frog surveys as part of a FERC project on the Yuba River, New Bullards Bar Reservoir on the North Yuba River, Middle Yuba River and Oregon Creek in Yuba County (YCWA 2011). The Yuba County Water Agency (2011) cited 7 California Academy of Sciences historic records in Yuba County outside of the project area. Vindum and Koo (1999) cited historical Yuba County records for the drainages of the North, Middle, and South Yuba rivers above the YCWA project reaches. Foothill yellow-legged frog records within the project area were noted in the vicinity of Log Cabin Diversion Dam on Oregon Creek (adults and subadults), and upstream and downstream of Our House Diversion Dam on the Middle Yuba River (YCWA 2011). YCWA (2011) cited 16 Tahoe National Forest reports of *R. boylii* in the project area, mostly in Oregon Creek, North Yuba River, Kanaka Creek, Grizzly Creek, Woodruff Creek, Grizzly Gulch, and the Middle and South Yuba rivers. During stream habitat mapping in 2009, the YCWA incidentally observed *R. boylii* in Oregon Creek and in the Middle Yuba River downstream of Our House Diversion Dam (YCWA 2011).

Dry Creek

There are historical collection records from 1943-1952 in the Dry Creek drainage (CAS 2001: UCMVZ 2015).[156]

There are no known recent records from Dry Creek.

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at 2 of 3 historical locations (67%) in Yuba County. Small populations were documented in the 1990s and 2000s in the lower Yuba River, Middle Yuba River, South Yuba River, and the North Yuba River and its tributaries

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[153] Three frogs from Bullards Bar on the North Fork Yuba River in August 1899 (USNM 2001); and 2 frogs from the Moonshine Creek tributary of the Yuba River in September 1938 (USNM 2001).

[154] One adult and 3 subadults along Oregon Creek (Fellers site ID# P-345), about 0.5 mile NNE of Oregon Creek Campground (about 3.7 miles SSW of Camptonville), on 9/6/96; 3 adults along Oregon Creek (Fellers site ID# T-016) at Gaging Station (about 0.4 mile S of Camptonville and 0.7 mile NE of Log Cabin Dam), on 6/10/97; 1 adult at the confluence of Willow Creek and Horse Creek (Fellers site ID# T-017) at Pendola Road (about 0.8 mile WNW of Camptonville), on 6/11/97; 1 adult and 1 subadult along Mosquito Creek at Oregon Creek (Fellers site ID# T-035), near Hwy. 49 and Celestial Valley (about 2.8 miles SSW of Camptonville), on 6/24/97; and in Oregon Creek at Middle Yuba River (Fellers site ID#), Oregon Creek Campground (about 1.5 miles SW of Celestial Valley and 4.2 miles SSW of Camptonville), 7 adults observed on 6/7/99; and 10 adults and 18 subadults observed on 6/15/00 (CNDDB 2016).

[155] Collections were made from two locations above Slate Creek Reservoir in September 1998 (CAS 2001). An adult female was observed along a tributary to Slate Creek, just E of the confluence (about 0.8 mile WNW of Poverty Hill), in July 2006 (CNDDB 2016).

[156] Two adults, 2 juveniles and larva from between Brownsville and Challenge (3 miles W of Challenge), in September 1943 (CAS 2001); and 9 frogs from 2.6 miles ENE of Rackerby (possibly in the Dry Creek drainage) on March 2, 1952 (UCMVZ 2015).

(notably Slate Creek and Oregon Creek). See the discussion above regarding recent Tahoe National Forest surveys.

Butte County

Mud Creek/Rock Creek

There are historical collection records from 1945-1952 in Mud Creek and Rock Creek (UCMVZ 2015).[157]

Gallaway (1999) noted that foothill yellow-legged frogs had been observed in Mud Creek and Rock Creek. There are no more recent observations known.

Big Chico Creek

Twelve frogs were collected from Big Chico Creek, 8 miles NE of Chico, on October 21, 1945 (UCMVZ 2015).

Gallaway (1999) noted foothill yellow-legged frogs were common along Big Chico Creek within the Big Chico Creek Ecological Preserve, and had been observed along small tributaries. There are no more recent observations known.

Butte Creek

There are historical collection records from 1945-1953 in Butte Creek and Little Butte Creek (UCMVZ 2015).[158] Lassen and Plumas National Forests (LND and PNF 1999) noted Chico State University museum records of historical occurrences of *R. boylii* downstream of the forest boundary in Butte Creek.

Resurveys from 1973-1978 revealed the species had been extirpated from former the former site on Little Butte Creek (Hayes et al. 2013). Systematic surveys on the Plumas National Forest in the late 1990s (Koo and Vindum 1999) failed to locate the species at 2 historical sites in Little Butte Creek. *Rana boylii* was still present in Butte Creek and at Centerville in the 1990s (PG&E 2000). There are no recent observations known.

Dry Creek

There are historical collection records from 1937-1950 in Dry Creek (CAS 2001; UCMVZ 2015).[159]

[157] Single frogs collected from Richardson Springs along Mud Creek, on September 14, 1945 and April 1, 1952; and 3 frogs at Cohassett Pioneer Spring, in the Anderson Fork of Rock Creek, in April 1950 (UCMVZ 2015).

[158] Two frogs were collected from De Sabla on October 21, 1945; 1 frog at Centerville covered bridge on January 2, 1946; 3 frogs from Little Butte Creek, and at and near Magalia Dam and Reservoir, on March 23, 1946; 4 frogs from 1.6 miles W of De Sabla on March 1, 1952; 1 frog N of Butte Creek, 7 miles E of Chico, on April 22, 1952; and 1 frog from Magalia on May 2, 1953 (UCMVZ 2015).

[159] Three frogs were collected near Cherokee ("over the divide in the Sacramento River drainage" presumably in the Dry Creek tributary) in April 1937 (CAS 2001); 1 frog was collected from Cherokee on May 18, 1946; and 1 frog from Cole Canyon Falls, 3 miles S of Pentz, on April 20, 1950 (UCMVZ 2015).

Systematic surveys on the Plumas National Forest in the late 1990s (Koo and Vindum 1999) failed to locate the species at one historical site in Dry Creek. A single adult frog was caught and released in the West Branch Clear Creek tributary of Dry Creek on 10/26/15 (CNDDB 2016).

Cottonwood Creek

Slevin (1928) noted that foothill yellow-legged frogs were found historically in Chamber's Ravine N of Oroville (in the Little Cottonwood Creek drainage); this probably referred to 6 frogs collected from May 26-29, 1912 (UCMVZ 2015).

Rana boylii was reported to be present in the 1990s in Cottonwood Creek in Coal Canyon, W of Lake Oroville (PG&E 2000). There are no recent observations known.

Feather River

Main Feather River

Three frogs were collected from Bidwell Bar Park on March 9, 1941 (UCMVZ 2015).

West Branch Feather

In the West Branch Feather River drainage, 13 frogs were collected from Cherokee Creek in April 1937 (CAS 2001).

Rana boylii was reported to be present in the 1990s in the West Branch Feather River near Lime Saddle (PG&E 2000). Systematic surveys on the Plumas National Forest in the late 1990s (Koo and Vindum 1999) failed to locate the species at 1 historical site in the West Branch Feather River. There are no recent observations known.

Middle Fork Feather

There is a historical collection record of a single frog (MVZ 117615) from the Little North Fork of the Middle Fork Feather River, 2 miles upstream from the junction with the Middle Fork Feather River, on November 29, 1971 (CNDDB 2016; UCMVZ 2015).

Fellers documented small populations from 1996-1998 in the Middle Fork Feather River, South Branch Middle Fork Feather River and Fall River (CAS 2001; CNDDB 2016).[160]

South Fork Feather

There are collection records from 1998-1999 in the South Fork Feather River drainage (CAS 2001; CNDDB 2016).[161]

[160] Fellers observed 2 adults and 1 subadult along the Middle Fork Feather River at the Little North Fork of Middle Fork Feather River (near Milsap Bar and Gauging Station; Fellers site ID# U-033), on 6/25/96; 5 adults along the South Branch Middle Fork Feather River at Milsap Bar Campground (just NE of the confluence with the Middle Fork Feather River; Fellers site ID# U-032), on 6/25/96; and 1 adult along Fall River about 0.8 mile NNE of Feather Falls (about 1.2 air miles NE of Middle Fork Feather River confluence; Fellers site ID# U-036), on 7/2/96 (CNDDB 2016). There are collection records of: 1 subadult (CAS #205588) from E of Milsap Bar along Forest Road 22N62, on 6/2/98; and 1 subadult (CAS #205590) from along Forest Road 22N62, 0.8 mile NE of Milsap Bar, on 6/2/98 (CAS 2001; CNDDB 2016).

North Fork Feather

A single frog was collected from Yankee Hill on April 14, 1950 (UCMVZ 2015).

The species was reported during 1994 surveys in the Bear Ranch Creek and Flea Valley Creek tributaries to the North Fork Feather River; and a single frog was observed in a pool along an unnamed tributary to the North Fork Feather River (about 1.7 miles ESE of Jarbo Gap) on 7/27/98 (CNDDB 2016). One adult male and 1 adult female frog were observed in the North Fork Feather River in the vicinity of Bardees Bar (about 1.15 miles W of Hungary Hunt Peak and 1.75 miles WSW of Big Bar Mountain), in May 2008 (CNDDB 2016).

Honcut Creek

A single frog was collected from 3.1 miles NE of Bangor, in the South Honcut Creek drainage, on March 2, 1952 (UCMVZ 2015).

There are no recent observations known.

Recent status: As late as the 1980s, *R. boylii* was found in Butte County in "most drainages" east of the Central Valley floor at elevations as low as 250 feet (Hayes and Cliff 1982). Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 5 of 17 historical locations (29%) in Butte County. No foothill yellow-legged frogs were found within Butte County within during Lassen and Plumas National Forest surveys conducted from 1990-1998, despite surveys of areas of potentially suitable habitat within the elevational range of the species (LNF and PNF 1999). See the discussion above regarding recent Plumas and Lassen National Forest surveys.

Plumas County

Feather River

There are historical collection records from 1899-1952 in the Rice Creek tributary of the North Fork Feather River; the Rock Creek, Spanish Creek, Indian Creek and Last Chance Creek tributaries of the East Branch of the North Fork Feather River; and the Onion Valley Creek tributary of the Middle Fork Feather River (CAS 2001; UMMZ 2001; UCMVZ 2015).[162]

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[161] One adult male (CAS #206366) from Oroleve Creek along Forbestown Dam Road on 10/8/98; and 1 adult male (CAS #209716) from the South Fork Feather River at Forest Road 22N24, on 8/11/99 (CAS 2001; CNDDB 2016).

[162] Nine frogs from Quincy (possibly the Spanish Creek tributary of North Fork Feather River) in September 1899 (CAS 2001); 1 frog from Meadow Valley (likely Meadow Valley Creek) in June 1924 (CAS 2001); 1 frog from Feather River Meadows (the Rice Creek tributary to North Fork Feather River) on 21 July 21, 1938 (UCMVZ 2015); 6 frogs from 1.5 miles WSW of McKesick Peak (likely in the Last Chance Creek tributary of North Fork Feather River, above Lake Almanor) on July 15, 1941 (UCMVZ 2015); 3 frogs from 9 miles NNW of Beckwourth in 1942 (UMMZ 2001); 1 frog from Onion Valley Creek, near Middle Fork Feather River in July 1947 (CAS 2001); 1 frog from 8 miles SW of Quincy Meadows Valley in June 1951 (UMMZ 2001); 4 frogs from 5 miles SW of Quincy Rock Creek in July 1951 (UMMZ 2001); and 28 frogs from 5.5 miles W of McKessick Peak (Last Chance Creek drainage) on May 31, 1952 (UCMVZ 2015).

The California Academy of Sciences has a single specimen (CAS #206271) collected from Spanish Creek on 9/3/98 (CAS 2001; CNDDB 2016). This is likely the population referred to by PG&E (2000), in a drainage adjacent to the North Fork of the Upper Feather River in 1998. Plumas National Forest surveys of the best, accessible habitat from 1993-1998 located *R. boylii* in Fall River, Little North Fork Feather River, Middle Fork Feather River, and South Branch Middle Fork Feather River; with "numerous" sightings in the Middle Fork, Oroleve Creek and Spanish Creek; and an "abundant" population along the South Fork Feather River in 1995 (LNF and PNF 1999; Vindum and Koo 1999).

There was still an apparently significant foothill yellow-legged frog population in Spanish Creek in the 2000s, since a telemetry study done from June 2005 to 2008 used over 50 adult frogs from a site just N of the confluence of Spanish Creek and Bean Creek, with an unknown number of tadpoles and egg masses also observed at the site (CNDDB 2016). Questions about the affiliation of the Spanish Creek population with the Sierra Nevada yellow-legged frog (*R. sierrae*) or the foothill yellow-legged frog (*R. boylii*) remained after 1 of 4 samples collected from the Bean Creek tributary was identified as *R. sierrae*, with 3 samples identified as *R. boylii* (Lind et al. 2011). Poorten et al. (2013) did subsequent genetic analysis of 7 frogs from Spanish Creek and demonstrated that they were all *R. boylii*. There is only one other CNDDB record in Plumas County from the 2000s: 1 adult female observed along the South Fork Rock Creek in June 2005 (CNDDB 2016).

North Yuba River

Plumas National Forest surveys of the best, accessible habitat from 1993-1998 located *R. boylii* in Flea Creek, Onion Creek and Slate Creek; with "numerous" sightings in Slate Creek and Onion Creek (LNF and PNF 1999; Vindum and Koo 1999). There are recent CNDDB observations and collections of small numbers of frogs from Slate Creek and Onion Creek in the 1990s and in 2006 CNDDB 2016).[163]

Recent status: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 4 of 11 historical locations (36%) in Plumas County. Koo and Vindum (1999) found foothill yellow-legged frogs at only 45% of historical sites on the Plumas National Forest in the late 1990s. In the Feather River drainage, significant populations remain in North Fork Feather River, Middle Fork Feather River, Oroleve Creek, South Fork Feather River and Spanish Creek. In the Yuba River drainage, significant populations remain in Canyon Creek tributaries Slate Creek and Onion Creek. The species appears to be extirpated from most historic sites in the East Branch of the North Fork Feather River, Little Butte Creek, Dry Creek, North

[163] A single adult was observed along Onion Creek, just E of Diamond Springs Hill (about 0.8 mile NNE of Diamond Ravine confluence) on 6/6/96; 4 adults were observed along Slate Creek about 0.3 air miles SSW of American House Ravine confluence (about 1 mile NNW of Poverty Hill), on 6/19/96 (CNDDB 2016). The California Academy of Sciences has 6 specimens of adults and larva collected from 6 sites in Onion Creek, Slate Creek and the vicinity of Slate Creek Reservoir from July to October 1998 (CAS 2001; CNDDB 2016). In Slate Creek N of Forest Road 512 (3 miles SE of Little Grass Valley Reservoir), 1 adult female (CAS #209249) was collected on 7/23/99; and 1 adult and 4 juveniles were observed on 9/3/09 (CAS 2001; CNDDB 2016). Two subadults were observed along American House Ravine, a tributary of Slate Creek, about 0.4 mile NW of their confluence, in July 2006 (CNDDB 2016).

Fork Yuba River, and West Branch Feather River (Hayes et al. 2013). See the discussion above regarding recent Plumas and Lassen National Forest surveys.

Population Trends

The best measures of long term (i.e. > 50 yr) population trends for foothill yellow-legged frogs are re-survey efforts at known historical and former localities (e.g. Sweet 1983; Jennings and Hayes 1994; Drost and Fellers 1996; Borisenko and Hayes 1999; Lind 2005; Davis and Olson 2008; Olson and Davis 2009). Over shorter and more recent time scales, several researchers and utility companies have been collecting time series data from egg masses in several northern California rivers (see summary by Peek and Kupferberg 2016).

Across California in the last 25 years, breeding season censuses of *R. boylii* have been conducted by researchers, government agencies, and utility companies, in both regulated and unregulated systems. Because each female *R. boylii* lays one discrete clutch of eggs which is readily visible and countable, it has become standard practice to assess their abundance by taking a census of eggmasses. Peek and Kupferberg found information for 50 sites which met the following criteria: multiple visits over the course of the breeding season; experienced surveyors; search reach includes more than a single riffle-pool sequence(i.e. not isolated spot checks of breeding sites). With multiple visits, previously overlooked clutches are found upon return, and therefore detectability is high. Two-way Analysis of Variance was used to compare the natural log of mean breeding density (clutches$\cdot km^{-1}$), of coastal and montane populations in rivers with three levels of modification by dams: flow regulation by an upstream dam; no flow regulation but embedded in a regulated watershed (e.g. a free-flowing tributary of a regulated river, or upstream of a reservoir); or unaffected locally by flow regulation and habitat fragmentation). The sites used were not a random sample of extant populations and many sites were censused in only one or two years (n=29 sites). Some sites (n=11) were censused more than 10 years. Peek and Kupferberg calculated weighted means using the number of years sampled as a weighting factor. Comparison of weighted and unweighted means (Fig. 5), indicates that any bias inherent in compiling information collected for disparate purposes did not greatly affect the overall pattern. The metric used to indicate population size, clutch density, was significantly lower where streams and watersheds are modified flow regulation and fragmentation of the habitat by reservoirs and dam control of flow.

For populations with four or more consecutive years in the time series, Peek and Kupferberg (2016) found that there was significantly higher inter-annual variability in the regulated river populations. They concluded that when high variability is combined with sparse density, population trends may not be detectable prior to the point when populations fall below critical thresholds.

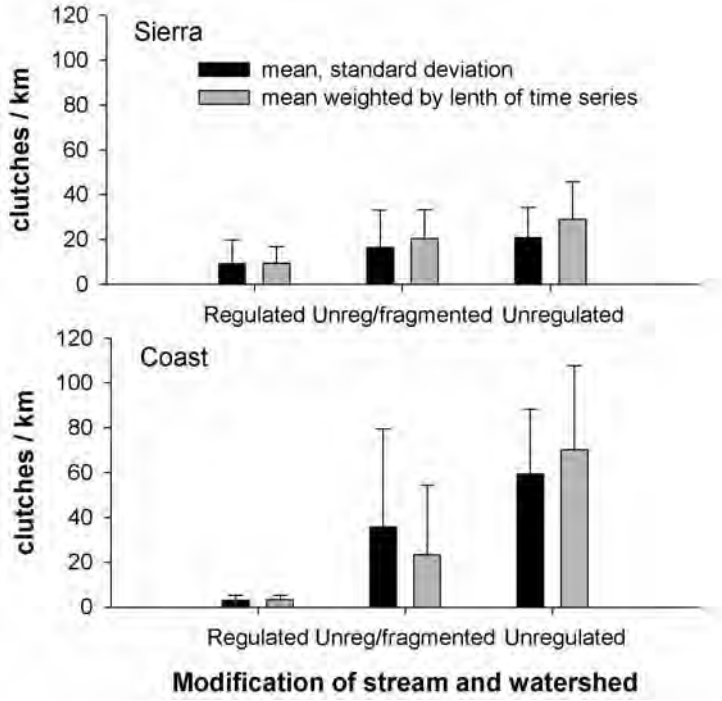


Figure 6. Significant effect of flow regime on breeding population abundance in 50 sampled populations. Two-way ANOVA: Reg vs. Unreg. vs. Unreg. in modified watershed $F_{2,44}$=10.9, p<0.001; Coastal vs. Sierran, $F_{1,44}$=2.6, p=0.1; Location x Flow regime $F_{2,44}$=1.1, p=0.33.

Rangewide

Lind (2005) assessed foothill yellow-legged frogs across their entire geographic range (excluding the lone record from Baja California), with a composite of data from the interval 1996-2000. Lind (2005) revealed that foothill yellow-legged frogs had disappeared from 51 percent of their historical localities throughout their range. This dramatic disappearance across the species' geographic range may even be underestimated (Hayes et al. 2013, 2016). Lind (2005) compiled unique localities in Oregon (n = 90) and California (n = 1,049), and using a stratified random selection process, chose a subset of 372 California sites and all the Oregon sites for status assessment. To evaluate persistence of frogs at historic sites, she eliminated sites from her sample that were detected after 1975, and used resurveys of sites conducted in the 1980s and 1990s to determine current status. Of the 394 historic sites remaining in her sample, she found frogs were absent from 201 (51%).

California

Jennings and Hayes (1994) comprehensively evaluated the status of *R. boylii* in California: they reviewed all available reports, surveys, and CDFG files and data, conducted field reconnaissance from 1988-1991, searched museum specimens and field notes of naturalists, and relied on their 25 years of field experience for historical locations. Jennings and Hayes (1994) found that the species had been extirpated from at least 225 of 425 known historical locations (53%) and had disappeared from 45 percent of its historic range in California by 1991. While the number of populations is important, population size is also critical (Lanoo 2005). Fellers (2005) found that only 30

of the 213 sites in California with foothill yellow-legged frogs (14%) had populations estimated to be 20 or more adult frogs.

Southern California

A large decline occurred in southern California (Sweet 1983; Jennings and Hayes 1994), with the species likely extirpated from the Tehachapi Mountains southward (Drost and Fellers 1996). Jennings and Hayes (1994) found that the species had been completely extirpated from 21 of 21 historical sites (100%) in the southern transverse ranges. Jennings and Hayes (1994) recommended endangered status for the species in southern California, but foothill yellow-legged frogs are now extirpated from all of southern California.

South Coast

The species is still present but nowhere abundant in coastal California from Monterey County southward to northwestern San Luis Obispo County. Jennings and Hayes (1994) recommended endangered status in central California south of the Salinas River, Monterey County. Jennings and Hayes (1994) found that the species had been extirpated from 81 of 118 historical sites (69%) in southern coastal California. The foothill yellow-legged frog is now nearly extirpated from the south coast region, with the exception of some recent sightings in the Salinas River drainage and some small coastal streams in San Luis Obispo and Monterey counties.

Central Coast/Bay Area

There have been dramatic declines in many parts of the greater San Francisco Bay Area, with the species still present but nowhere abundant. There appear to be significant populations of foothill yellow-legged frogs remaining in the Diablo Range through western Fresno, San Benito, western Stanislaus, Santa Clara and Alameda counties. The species appears to be extirpated from Monterey County north of the Salinas River and western San Joaquin County; and may be near extirpation in western Merced, Contra Costa, Santa Cruz and San Mateo counties.

Marin/Sonoma

The species has been extirpated from many former localities and watersheds in Marin County, with only one significant population remaining in Big Carson Creek. The species is still widely distributed throughout Sonoma County, including in many tributaries of the Russian River drainage, the South Fork Gualala River drainage, the watersheds of the Laguna de Santa Rosa, Petaluma River, Sonoma Creek and Adobe Creek, and in a few coastal streams. However, there are no reports in Sonoma County of populations with more than 50 adults.

North Coast

The largest foothill yellow-legged frog populations in California are in the north coast range, with healthy populations scattered throughout the region. The strongholds for the species are in the Smith River; Red Cap Creek tributary of the Klamath River; South Fork Trinity River; North, Middle and South Forks of the Eel River; Redwood Creek;

coastal tributaries in Mendocino County; and Russian River tributaries. However, only 6 sites in northern California have estimated populations exceeding 100 adult frogs, with an additional 9 sites having > 50 adult frogs (Lannoo 2005). There have been documented declines in this region. Jennings and Hayes (1994) found that the species had been lost from 39 of 165 historical sites (24%) in the north coast of California.

Upper Sacramento River

There have been documented declines in the upper Sacramento River basin: Jennings and Hayes (1994) were able to locate the species during resurvey efforts from 1988-1991 at only 3 of 14 historical locations (21%) in Shasta County and only 3 of 7 historical locations (43%) in eastern Tehama County. The species persists in small numbers in Shasta County in more than three dozen tributaries in the Sacramento River drainage, with larger populations in the Sacramento River (near Dog Creek and Campbell Creek) and in Willow Creek and tributaries. Small numbers of frogs persist in eastern Tehama County in the Battle Creek, Paynes Creek, Antelope Creek, Little Antelope Creek, Mill Creek, and Deer Creek drainages.

Sierra Nevada

The foothill yellow-legged frog was historically common across stream ecosystems of the lower west slope Sierra Nevada (roughly one-quarter of its historical geographic range), but the species now appears to be increasingly rare and near extirpation over at least two-thirds of its Sierra Nevada range (Hayes et al. 2013, 2016).

Historical data indicate that foothill yellow-legged frogs occurred in westside streams at low to moderate elevations all along the west slope of the Sierra Nevada (Storer 1925; Stebbins 1951, 2003; Zweifel 1955; Jennings and Hayes 1994). No quantitative abundance data exist for the Sierran slope prior to the introduction of exotic fishes and major hydrological changes. Storer (1925) suggested that the species was widespread on the Sierran slope, and Zweifel (1955) indicated that the species was at least moderately abundant at scattered locations over that region. Moyle (1973), whose data were collected after significant incursion by introduced fish fauna, indicated that the species was still moderately abundant in foothill streams in the 1970s. In the Sacramento Valley hydrographic basin, low elevation areas make up a large portion of the valley floor, where presumably suitable foothill yellow-legged frog breeding habitat once existed (Hayes et al. 2013, 2016). The species range once extended to the valley floor margin at least in the 1920s, 1930s, and 1940s (Storer 1925, Wright and Wright 1949). The scarcity of records undoubtedly underestimate the historical distribution of the species in this region, as all records are pre-1930, prior to the major hydrological changes and expansion of exotic aquatic predators that changed much of the lowland Central Valley in California to its present condition (Moyle 2002).

Surveys extending back to the 1990s indicated that foothill yellow-legged frogs have disappeared from most of the southern half of the Sierran slope, from approximately Madera County southward (Jennings and Hayes 1994; Jennings 1995, 1996). Throughout the entire Sierra Nevada, the species had been extirpated from 105 of 142 historical sites (74%) and had disappeared from at least 66% of its historical range by the early 1990s (Jennings and Hayes 1994; Jennings 1996).

These data generally agree with the more recent survey efforts of Lind (2005), indicating that foothill yellow-legged frog populations have become even more sparse over this portion of the Sierran slope. Further, evidence exists of considerable local extirpation from different drainage systems in the northern half of the Sierra Nevada, a pattern that becomes less widespread as one moves north (Lind 2005). Fellers (2005) found occupancy of foothill yellow-legged frog sites in the Sierra Nevada was about 12 percent, but historical occupancy of these sites is unknown. Lind (2005) used a randomized selection of 47 historically occupied sites from across the Sierra Nevada and found that 51% (n = 24) of the sites were currently unoccupied. The species' disappearance is more pronounced with decreasing latitude and the species is near extirpation over roughly the southern half of its Sierran range. The species appears to be moving slowly, but inexorably toward extirpation across its Sierran range in a northerly direction (M. Jennings, pers. comm., 2006, as cited in Hayes et al. 2013).

Southern Sierra Nevada

Moyle (1973) found *R. boylii* at only 30 of 95 sites (31%) sampled in the southern and central Sierra Nevada foothills (from the Yosemite area south) in 1970, and believed the species was declining at that time. The species was thought to be near extirpation from the southern Sierra Nevada by the 1990s due to the paucity of observations during focused surveys and resurveys (Fellers 1994; Jennings and Hayes 1994; Fellers and Freel 1995; Drost and Fellers 1996; Fellers 1997). Jennings and Hayes (1994) recommended threatened status in the west slope drainages of the Sierra Nevada. Jennings (as cited by Lannoo 2005) considered the situation for foothill yellow-legged frogs in the southern Sierra Nevada foothills bleak, with no populations that are likely to remain viable. *Rana boylii* is extirpated from Yosemite, Sequoia and Kings Canyon National Parks, and near extirpation in Sequoia and Sierra National Forests, with few extant populations and limited distribution (Hayes et al. 2013, 2016). The species is now nearly extirpated from the southern portion of its Sierra range. The few known populations remaining in the southern Sierra Nevada are in Mariposa County (Merced River and tributaries), eastern Fresno County (Jose Creek), and Tulare County (tributaries of the North Fork Kern River and upper Kern River).

Central/Northern Sierra Nevada

There have been documented declines and apparent loss of many historic populations in the northern and central Sierra National Forests (Hayes et al. 2013, 2016). Although *R. boylii* populations are still extant in many river basins, including the American, Clavey, Cosumnes, Feather, Merced, Mokelumne, Stanislaus, Tuolumne, and Yuba Rivers, the majority of the recent observations in these national forests are of small and scattered populations, with limited evidence of successful reproduction.

There have been severe declines in the central Sierra foothills (Moyle 1973; Drost and Fellers 1996) and populations in the northern Sierra may be in decline as well (Lannoo 2005). Jennings and Hayes (1994) recommended threatened status in the west slope drainages of the Sierra Nevada. At least half of known historical locations have been lost in every northern and central Sierra county (Tuolumne, Calaveras, Amador, El Dorado, Placer, Nevada, Sierra, Yuba, and Butte) except Plumas, and most extant populations are small and scattered. Significant populations remain in El Dorado County (Rubicon River), Placer County (North Fork American River and North Fork of the Middle Fork

American River), Nevada County (Middle Yuba River, South Yuba River and Bear River), and Plumas County (North Fork Feather River, Middle Fork Feather River, Oroleve Creek, South Fork Feather River, Spanish Creek, and Canyon Creek tributaries Slate Creek and Onion Creek).

FACTORS AFFECTING ABILITY TO SURVIVE AND REPRODUCE

The decline of foothill yellow-legged frogs across their range in California can be attributed to a combination of anthropogenic stressors. Primary threats include habitat loss, fragmentation, and degradation of in-stream conditions via water abstraction, flow diversion, and flow regulation.

Extirpation has occurred more frequently downstream of dams than in free-flowing systems and extirpation is positively correlated with the height of upstream dams (Lind 2005; Kupferberg et al. 2012). Dams and reservoir operations suppress winter peak discharges and thus allow woody riparian vegetation to encroach into the active channel. The roots stabilize the cobble and gravel bar features where frogs congregate in groups (called leks) to find mates and to lay eggs. In regulated rivers, vegetation encroachment often eliminates the suitability of these bars for breeding via shading and/or changing bar shape and bank slope. The diminution of winter flooding and conversion of ephemeral water bodies to permanent ones also promotes populations of non-native taxa such as bullfrogs, crayfish, and bass in managed river systems (Fuller et al. 2011). Bullfrogs and crayfish negatively affect amphibian populations in general (Kats and Ferrer 2003) and are implicated in declines of foothill yellow-legged frogs specifically (Moyle 1973; Hayes and Jennings 1986; Kupferberg 1997a). Ill-timed water releases through dams have the potential to create lethal velocities for early life stages and cold hypolimnetic releases shift water temperatures below the thermal tolerances for tadpoles (Catenazzi and Kupferberg 2013).

Generally, activities that disrupt the natural flow and sediment transport regime of rivers, including timing of flows, water depths, velocities, or water temperature can affect foothill yellow-legged frogs (Lind 2005; Yarnell et al. 2010; Kupferberg et al. 2012). Direct and indirect impacts associated with changes to instream flows include: desiccation or stranding of eggs or tadpoles due to rapid reductions in flow, delays in breeding and embryo or tadpole development due to cold water temperatures (Wheeler et al. 2014), declines in algal productivity and shifts in species composition of periphyton (Catenazzi and Kupferberg 2013; Furey et al. 2014), reduced resources for tadpoles, and reduced insect abundance and food-web repercussions. If sufficiently high, reservoir management releases and flow releases to benefit salmonids during the spring of otherwise dry years could dislodge egg masses and displace larvae downstream (Railsback et al. 2016).

In addition to the association of decline with the presence of large dams, demographic patterns of decline also indicate that extirpations are more frequent downwind of regions with extensive aerial spraying of pesticides (Davidson et al. 2002). Experiments show that tadpoles of foothill-yellow legged frogs are sensitive to low concentrations of organophosphate pesticides and their oxon derivatives (Sparling and Fellers 2007, 2009). NatureServe (2011) also notes other threats to the foothill yellow-legged frog from non-selective logging practices, and other habitat degradation and disturbance caused by excessive livestock grazing and in-stream suction dredge mining.

A detailed examination of the threats faced by foothill yellow-legged frogs is provided by Olson and Davis (2009).

Climate Change

Climate change is already causing a rise in temperatures across the United States and an increase in extreme weather events, such as droughts and floods (Parmesan et al. 2000; NSC 2003; CCSP 2008; Karl et al. 2009). Climate change predictions for terrestrial areas in the Northern Hemisphere indicate warmer air temperatures, more intense precipitation events, and increased summer continental drying (Field et al. 1999; Cayan et al. 2005; IPCC 2007). California is likely to see average annual temperatures rise by 1.5 - 4.5°C in the next century, with summer stream flow and soil moisture required for plant growth likely to decrease (Field et al. 1999; Cayan et al. 2008). Since 1895, annual average air temperatures in California have increased by about 1.5 degrees Fahrenheit, with minimum temperatures increasing at a rate almost twice as fast as the increase in maximum temperatures, and warming accelerated over the past three decades in most regions of the state (Kadir et al. 2013). Climate models predict more variable annual precipitation, and decreased spring and summer runoff as a result of lower annual snowpack (Smith and Tirpak 1989; USEPA 1997; Johnson et al. 1999). It is predicted that precipitation will come earlier in the spring in the form of rain rather than snow. Consequently, the hydrograph will shift to earlier snowmelt, lower snowpack, more winter rain, and higher winter storm runoff events (Maurer et al. 2007; Stewart 2009; Young et al. 2009). The low flow season will likely be longer, so water temperatures may be higher which may result in stress for species adapted to more moderate temperature regimes. Spring snowmelt from the Sierra Nevada has already declined over the past century, with changes in the timing and amount of precipitation in California and changes in the timing of Sierra runoff (Aguado et al 1992; Kadir et al. 2013). The portion of Sierra runoff that occurs between April and June has declined by about 9 percent (Kadir et al. 2013).

Climate change is particularly problematic for amphibian populations because they are ectothermic. As such, they are sensitive to changes in air and water temperature, precipitation, and the hydroperiod (length of time and seasonality of water presence); their body temperatures and activity cycles are dependent on the presence of optimal environmental conditions (Lind 2008). Case et al. (2015) evaluated relative sensitivity to climate change of species in Northwestern North America, using a combination of scientific literature and expert knowledge to assess the relative sensitivity to climate change of 195 plant and animal species in the northwestern North America. Amphibians and reptiles were, as a group, estimated to be the most sensitive to climate change.

Some amphibians have shown a trend towards earlier breeding, apparently in response to global warming (Beebee 1995, Blaustein et al. 2001, Gibbs and Breisch 2001). If such shifts in activities occur inconsistently with other ecological events (e.g., emergence of their insect prey), growth and survival rates could be affected. Species associated with ephemeral waters, such as shallow ponds and intermittent streams, may be particularly vulnerable to altered precipitation patterns (Dodd 1997, Lind 2008, McMenamina et al. 2008).

Changes in frequency, duration, and magnitude of droughts or severe winters resulting from climate variability may have considerable negative impacts on foothill yellow-legged frog populations. Population declines of foothill yellow-legged frogs have been attributed in part to extended drought (Jennings and Hayes 1994). Decreases in summer runoff may result in the loss of foraging and refuge habitat for adults and juveniles. As frogs congregate at shrinking pools in rivers as they dry, densities become locally concentrated and the probability of transmission of diseases and parasites increases. Changes in temperature may affect parasite prevalence (Kupferberg et al. 2009a) and pathogen virulence (Carey et al. 1999), making foothill yellow-legged frogs more susceptible to disease. Further, experimental increase in stream water temperature has been shown to decrease invertebrate density and biomass in invertebrates (Hogg and Williams 1996) and may have a negative impact on the foothill yellow-legged frog prey base.

Changes in climatic patterns, particularly those linked to precipitation, may have substantial impacts on foothill yellow-legged frogs. Low precipitation and increased variability in precipitation were both negatively related to frog presence (Lind 2005). Evidence also suggests that low precipitation may increase dam effects (Lind 2005). Climate change is predicted to reduce the habitat suitability for foothill yellow-legged frogs at lower latitudes and elevations. Current foothill yellow-legged frog distribution may be an indication that climate change has already influenced the species (Lind 2005). Although other factors may confound the influence of climate change on distribution patterns, short-term oscillations and drought severity have been greater at lower latitudes in California (Cook et al. 2004), where foothill yellow-legged frogs appear to be in dramatic decline.

Climate change appears to already be a contributing factor in the decline of the foothill yellow-legged frog (Fellers 2005, Olson and Davis 2009). Continued climate change is likely to cause further range contraction for the foothill yellow-legged frog, with loss of southernmost populations, as well as potential habitat shift upward in elevation as temperatures increase and precipitation becomes more variable.

Davidson et al. (2002) examined the spatial patterns of declining frogs in California and hypotheses of spatial patterns of climate change. For foothill yellow-legged frogs, they found a north-to-south gradient of increasing frog losses, consistent with climate change hypotheses (more losses at drier sites to the south). Lind (2005) considered climate change as a potential threat to foothill yellow-legged frog, due to precipitation being associated with frog presence.

Kupferberg et al. (2009a) presented data supporting a link between periods of unusually warm summer water temperatures during 2006 and 2008 in a northern California river, outbreaks of the parasitic copepod *Lernaea cyprinacea*, and malformations in tadpoles and young of the year foothill yellow-legged frogs. *Rana boylii* are likely to have increased vulnerability to pathogens due to projected climate changes. Changes in climatic regimes are likely to increase pathogen virulence and amphibian susceptibility to pathogens (Pounds et al. 2006, Pounds et al. 2007, Gervasi et al. 2008, Alford 2011).

Dams, Water Development and Diversions

Water development and diversions are the primary (and most well-documented) cause of declines in foothill yellow-legged frogs and water developments on natural waterways

have greater potential to alter habitat for the foothill yellow-legged frog than any other risk factor (Hayes et al. 2013, 2016). In California, the Mediterranean climate produces a very distinct hydrologic signature with high and variable water flows in the fall, winter, and spring; and low, receding, stable flows in the summer. Foothill yellow-legged frogs are adapted to this flow regime, especially spring (rain or snowmelt) recession flows (Yarnell et al. 2010). Modifications to that hydrologic regime can disrupt species responses to environmental cues and have direct effects on survival of aquatic life stages.

Water development and diversions result in hydrological changes that chronically affect several aspects of the frog's life history. Hayes et al. (2013, 2016) note recent studies from both regulated and unregulated rivers have demonstrated that both landscape scale changes and small-scale changes in local habitat conditions, such as water velocities, depths, and temperatures, that often result from water management activities, can lead inconsistent environmental cues for frog breeding, lower growth rates for tadpoles, scouring and/or stranding of egg masses and tadpoles, reductions of overall habitat suitability for breeding and rearing, barriers to gene flow around reservoirs, and establishment of non-native predators in reservoirs that then spread into the rivers.

Water developments exist as two major types: impoundments and diversions. Impoundments block streams with a structure such that natural flows are impeded and water is pooled upstream. Impoundment size varies throughout the foothill yellow-legged frog range, ranging from smaller dams created for water gauging stations and improved fisheries to larger dams created for hydroelectric generation or flood control. Diversions are created for the purpose of removing and delivering water to off-site locations. Some diversions are associated with impoundments, whereas others involve pumping water directly from the waterway or indirectly through groundwater pumping. The California Water Plan Update (CDWR 1998) indicates that dams and diversions are found on most Sierra Nevada streams (Moyle and Randall 1998) and a majority of these alterations exist within the elevational range of the foothill yellow-legged frog.

Reservoir placement on Sierran streams has converted many lotic aquatic habitats to lentic conditions, resulting in habitat with reduced flows, increased depths, and altered temperature and dissolved oxygen regimes (Petts 1980, 1984; Mount 1995). These changes result in direct loss of required habitat for stream-dwelling foothill yellow-legged frogs, which have evolved to inhabit free-flowing, well-oxygenated water with coarse substrates. In an evaluation of the distribution of reservoirs in the Sierra Nevada, Kondolf et al. (1996) found reservoirs had eliminated an estimated 9,972 km (6,209 mi) of aquatic habitat. Given the distribution of reservoirs, foothill yellow-legged frogs could have been historically present in much of this lost habitat. Sierran reservoirs currently inundate at least eight sites once occupied by foothill yellow-legged frogs (Hayes et al. 2013, 2016).

Regulation of flows downstream of dams is associated with lower frog abundances, with *R. boylii* breeding populations on average 5 times smaller in regulated rivers than in unregulated rivers (Kupferberg et al. 2012). Lind (2005) previously found an impoundment effect on foothill yellow-legged frogs; the species was associated with streams lacking dams or with streams with small dams located far upstream of foothill yellow-legged frog occupied locations. Lind (2005) found that former yellow-legged frog localities throughout California where frogs are now extirpated were characterized by higher numbers of all dams upstream, greater number of very large dams upstream,

greater maximum height of dams upstream and closer proximity to upstream dams. Large regulated streams typically have substantially lower numbers of foothill yellow-legged frogs than unregulated streams (Hayes et al. 2013, 2016). At least one large reservoir (≥ 100,000 ac-ft) exists in the foothill region of every major Sierran stream below 600 m (1,968 ft) (Hayes et al. 2013, 2016). Several major streams (such as the Pit River, Feather River, American River, Mokelumne River, Tuolumne River and San Joaquin River) have two or more reservoirs (of varying size) in linear sequence, and a few large reservoirs also occur at higher elevations on major stream tributaries (Hayes et al. 2013, 2016). Additionally, several hundred medium-sized (< 100,000 ac-ft and ≥ 25,000 ac-ft) and small reservoirs (< 25,000 ac-ft) are broadly distributed at elevations below 1,828 m (6,000 ft) over the Sierra Nevada (Mount 1995).

An extensive survey effort by Garcia and Associates (2002) on the North Fork Feather River failed to find foothill yellow-legged frogs in habitats which appeared suitable for this species in the Rock Creek reach. The study areas were below impoundments operated by Pacific Gas & Electric for hydroelectric power generation. However, foothill yellow-legged frogs are present in the Poe reach at decent numbers, and very low numbers in the Cresta reach of the North Fork Feather River (S. Kupferberg, pers. comm., 2016). On the main stem of the Trinity River, northern California, unnatural flow regimes and loss of habitat caused by dam construction are the greatest threats (Ashton et al. 1997). A study on the Trinity River below Lewiston Dam, reported a 94 percent loss of potential breeding habitat after construction of the dam (Lind et al. 1996). After Trinity River flood flows were reduced, there was encroachment by riparian vegetation and reduced cobble/gravel bar formation. Flow releases had been reduced to 10–30 percent of pre-dam operation flows in both total volume and in periodic high flows (i.e., storm runoff) (Lind et al. 1996). Egg masses have been scoured in several years by high late spring releases from Lewiston Dam (Lind et al. 1996). Ellis and Cook (2004) reported half of known egg masses were scoured by five days of high flow releases on the Pit River in California. They suggested duration of high flows and change in current direction (shearing) had a higher impact than overall magnitude. Jackman et al. (2004) also found pulsed flows scoured half of the egg masses on the North Fork Feather River, in only one day. Egg masses may be left to desiccate if receding high flows are poorly timed (Lind et al. 1996; Ashton 1998).

High aseasonal flow releases from dams in late spring sometimes result in scouring of egg masses, whereas receding high flows, if poorly timed, can leave egg masses stranded “high and dry” (Lind et al. 1996). Bobzien and DiDonato (2007) concluded from frog breeding surveys in Alameda Creek in Alameda County, California, that unnatural and consistently higher discharge and irregular flows associated with dam releases appears to be a major factor in poor reproductive conditions for the frog, when compared to stream reaches with natural hydrology.

Kupferberg et al. (2009b), based on review of the literature and FERC-related reports, found foothill yellow-legged frog egg masses are negatively affected by pulsed flows (large magnitude flow fluctuations in rivers with dams) via scouring if flows occur during or after oviposition and desiccation if oviposition occurs during high flows and subsequently drops. Tadpole stranding and potential negative effects on metamorphs have been documented in multiple studies. South Fork Eel River population monitoring shows that the magnitude and timing of spring pulse flows are key factors in survival of eggs and tadpoles. While large magnitude spring pulses decrease egg survival, smaller

pulses later in the spring cause even higher mortality. Fluctuations in population growth are associated with spring pulse events three years prior. Experiments suggest that during pulse flows tadpoles seek refuge from higher velocities in the substrate, but many are swept downstream. Tadpoles confined to refugia face energetic costs in terms of growth and development. Kupferberg et al. (2011) explored the effects of pulsed flows from dams on foothill yellow-legged frog tadpoles, and found that typical velocity increases in near shore habitats (provided for recreational flows for white water boating or peaking releases for hydroelectric power generation) caused tadpoles approaching metamorphosis to be displaced, and that tadpoles exposed to repeated sub-critical velocity stress grew significantly less and experienced greater predation than tadpoles reared at ambient velocities.

Dams not only eliminate habitat and cause local extirpations, and they also interfere with normal dispersal and movements, which can impede recolonization after local extirpations (Fellers 2005; Peek 2010). Kupferberg et al. (2009b) found that water control management that avoids aseasonal flow fluctuations would benefit foothill yellow-legged frogs, and other taxa, whose lifecycles are synchronous with the natural timing of runoff in California's rivers. Most recently, Kupferberg et al. (2012) found that the foothill yellow-legged frog is more likely to be absent downstream of large dams than in free-flowing rivers, and breeding populations are on average 5 times smaller in regulated rivers than in unregulated rivers.

Dam-controlled flows and lack of winter flooding likely results in stable pool areas with established aquatic vegetation (Lind et al. 1996, Kupferberg 1996), and this can increase suitable habitat for exotic species such as bullfrogs (Ashton et al. 1997). Decreased flows can force frogs into permanent pools where they are more susceptible to predation (Hayes and Jennings 1988).

Disease

Amphibian declines in the United States and Panama have been linked to the introduced fungus *Batrachochytrium dendrobatidis* (Bd), which causes chytridiomycosis (Fellers 2001). This disease causes abnormalities in jaw sheaths and teeth rows of tadpoles, and is invariably fatal in populations of some species. Foothill yellow-legged frogs are hosts to this amphibian fungal pathogen. There is conflicting evidence about the lethality of Bd infection for foothill yellow-legged frogs under laboratory conditions (Davidson et al. 2007; Padget-Flohr pers. comm. to S. Kupferberg) and its population effects are unknown (Fellers 2005). Infection with Bd does appear to have negative effects on growth of *R. boylii* in the lab and in the field (Davidson et al. 2007; Lowe 2009). In laboratory experiments, Davidson et al. (2007) found that chytrid infection reduced growth of newly metamorphosed foothill yellow-legged frogs by approximately one-half and that exposure to the pesticide carbaryl likely increases susceptibility to chytrid infection.

Bd has been detected in *R. boylii* in California (Fellers 2001; Davidson et al. 2007; Johnson and Saulino 2007; Lowe 2007, 2009; Padgett-Flohr and Hopkins 2009; Adams et al. in press). Fellers (2001) sampled 25 counties in California and found chytridiomycosis in six species of amphibians including foothill yellow-legged frogs in 10 counties at 73 sites. Johnson and Saulino (2007) found Bd in all anuran species, including foothill yellow-legged frogs, in and around Pinnacles National Monument, and

at a few sites in the western foothills of the San Joaquin Valley. Foothill yellow-legged frogs infected with Bd have been found at 10 of 12 sites sampled in the Diablo Mountains, San Benito County, and western San Joaquin foothills, Fresno County, California, in 2006 (Lowe 2007, 2009). However, most of post-metamorphic frogs were not infected. All foothill yellow-legged frogs >40 mm were chytrid free.

Histological examination of museum specimens of the foothill yellow-legged frog indicates that Bd has been present since at least 1961 in the Alameda Creek watershed in Alameda County (Padgett-Flohr and Hopkins 2009). In the fall of 2013, foothill yellow-legged frogs in the Little Yosemite reach of Alameda Creek experienced an outbreak of Bd in which dead and dying juveniles were observed (Adams et al. in press), a location where annual amphibian breeding censuses have been conducted since 2003. Adams et al. (in press) attribute the die-off to an outbreak of chytridiomycosis, caused by Bd, in which recently metamorphosed frogs had the highest Bd loads among sampled individuals and was confirmed by necropsy and histological examination. Although chytrid infections have been documented by others over the last decade many miles upstream of Calaveras Reservoir, these were the first indications of the effects of Bd infection among the lotic-breeding frogs downstream of the dam. In contrast to laboratory investigations of *R. boylii* from a North Coast California source population by others, these observations corroborate observations that *R. boylii* is susceptible to the lethal consequences of chytridiomycosis. The outbreak coincided with extremely low stream flows that concentrated frogs in drying pools and expanded the spatial distribution of non-native bullfrogs in the stream network. Infection intensity and prevalence has varied through time, but over a 2 year sampling period (fall 2013 through fall 2015) the strongest predictor of Bd load was the presence of bullfrogs. Bullfrogs may represent a reservoir for Bd when foothill yellow-legged frogs in the population are Bd negative. Over three years of drought, the number of *R. boylii* egg masses per stream kilometer (an index of adult female population size), upstream of the dams that regulate flow, has decreased to the extent that abundance is no longer greater than in the regulated reaches where Bd and anthropogenic stressors occur.

An 11 year study on Bd infections of the related Sierra Nevada yellow-legged frog (*R. sierrae*) and southern mountain yellow-legged frog (*R. muscosa*) revealed the extirpation of over 100 populations since 1997, and after the introduction of Bd (Vredenburg et al. 2009). The disease spread at approximately 1 km a year in an easterly direction. Infections of frog populations reached 100 percent within weeks. All populations were stable prior to the onset of Bd invasion. Although mass die-offs from Bd have not yet been observed for *R. boylii* as they have for other ranid frogs in California (Vredenburg et al. 2010), the recent die-off in Alameda Creek and the potential for catastrophic, population level impacts is concerning

In the main stem of the Trinity River, there is evidence of fungal infections on foothill yellow-legged frog egg masses (Ashton et al. 1997), possibly with the water mold *Saprolegnia* sp. which Blaustein et al. (1994) and Kiesecker and Blaustein (1997) found to be fatal for other species of frogs.

Known from related species are the bacterial disease “red leg” (*Aeromonas hydrophila*) (e.g., *R. muscosa*, Bradford 1991) and iridoviruses (Ranavirus species), which are a complex of viruses found in frogs and fish (Mao et al. 1999).

Invasive Species

A host of native vertebrates (e.g. birds and snakes) and aquatic invertebrates (e.g. dragonfly nymphs) feed on foothill yellow-legged frogs and their tadpoles (Fitch 1936, 1941; Everdon 1948; Zweifel 1955; Milne and Milne 1980; Nussbaum 1983; Jennings and Hayes 1994; Lind and Welsh 1994; Duellman and Trueb 1986; Jennings 1988; Moyle and Brown 1997; Ashton et al. 1998; Fellers 2005; Olson and Davis 2009), but nonnative predators are a primary threat to the species.

It is well documented that foothill yellow-legged frog adults, larvae, and/or eggs are vulnerable to an array of non-native predators such as predatory fishes, bullfrogs, and crayfish (Moyle 1973; Hayes and Jennings 1986; Lind et al. 1996; Kupferberg 1996b; Ashton et al. 1997; Lind et al. 2003; Fellers 2005; Paoletti 2009; Paoletti et al. 2011). Invasive bullfrogs and crayfish negatively affect amphibian populations in general through direct predation and competition for resources (Hayes 1985; Hayes and Jennings 1986; Jennings 1988; Kupferberg 1996b; Kats and Ferrer 2003). Centrachid fishes readily eat *Rana* eggs (Werschkul and Christensen 1977) and where introduced into foothill streams may contribute to the elimination of *R. boylii*. Rombough et al. (2005) found that foothill yellow-legged frog abundance and production was inversely related to abundance of smallmouth bass (*Micropterus dolomieu*) and American bullfrogs (*R. catesbeiana*). Borisenko and Hayes (1999) found exotic bullfrogs and fishes occurred significantly more often at historic yellow-legged frog sites in Oregon that lacked yellow-legged frogs during their resurveys. Rombough (2006b) found smallmouth bass were the best predictor of absence of yellow-legged frog in Cow Creek, Oregon, having an inverse relation to the yellow-legged frogs; Rombough also found bullfrogs were negatively correlated with yellow-legged frog distributions. Bullfrogs have been linked to the observed reduction of foothill yellow-legged frog populations in the Sierra Nevada (Moyle 1973). Kupferberg (1997) found foothill yellow-legged frogs to have decreased abundance in stream reaches in northern California occupied by bullfrogs; and that bullfrog larvae perturbed aquatic community structure and exerted detrimental effects on foothill yellow-legged frog populations. Interspecific matings between male foothill yellow-legged frog and female bullfrogs have been observed; these interactions with non-native bullfrogs might reduce the reproductive output of foothill yellow-legged frogs (Lind et al. 2003).

Predation by feral pigs is a concern for *R. boylii* in some locations (Ely 1993, 1994).

The invasive New Zealand mudsnail (*Potamopyrgus antipodarum*) is an emerging concern for California waterways, and according to the Unites States Geological Survey's Non-Indigenous Aquatic Species Database (Foster et al. 2016) these snails occur in watersheds with extant populations of *R. boylii*. The influences of this snail on *R. boylii* are not known, but experiments have shown that they have negative competitive effects on western toad (*Anaxyrus boreas*) tadpole survival (Bennett et al. 2015). The mudsnails have the ability to reproduce quickly, grow rapidly and mass in high densities, and can alter macroinvertebrate community composition and food web function (Alonso and Castro-Díez 2008).

Kupferberg et al. (2009a) found evidence between unusually warm summer water temperatures and outbreaks of the parasitic non-native copepod *Lernaea cyprinacea*, and malformations in *R. boylii* tadpoles and young of the year.

Livestock Grazing

The potential negative effects of intensive livestock grazing on foothill yellow-legged frogs include: the possibility for cattle directly crushing individuals; trampling of stream banks resulting in soil compaction, loss or reduction in vegetative bank cover, stream bank collapse, and increased instream water temperatures from loss of shade; and added sedimentation of stream segments at crossings or other stream areas if used in a very concentrated manner by livestock for watering or grazing on riparian vegetation.

Further investigation is needed to evaluate the extent of livestock grazing impacts on instream habitat quality and population dynamics of *R. boylii* because research on this topic had been focused on different taxa and the results are equivocal. Grazing of livestock at high densities in the absence of off-channel water sources can result in bank erosion, degrading shorelines and increasing stream sedimentation (Davis and Olson 2009). The Sierra Nevada Ecosystem Project, an assessment of the Sierra Nevada ecoregion, concluded that more open vegetation resulting from overgrazing can expose amphibians in general to predation and desiccation, and direct trampling by livestock is likely an important cause of mortality for some taxa (SNEP 1996). A subsequent fencing/cattle exclusion experiment conducted in Sierran wet meadows, however, showed no effect of grazing on toad populations (McIlroy et al. 2013). Masters (1997b) described the negative impacts of cattle grazing on habitat used by foothill yellow-legged frogs in Jackson Creek, in the Umpqua National Forest, Oregon:

> Direct impacts of cattle in riparian areas include crushing eggs and tadpoles of foothill yellow-legged frogs, as well as juveniles and adults…Indirect impacts include alteration and/or elimination of vegetation, alteration of the microhabitat conditions, degradation of water quality, alteration of the structure and composition of the vegetation, and introduction of non-native vegetative species…Increased sedimentation covers up the cobble-sized rocks that the foothill yellow-legged frog requires for breeding, tadpole development, and juvenile and adult habitat. The cowpies and urine degrade the water quality…sedimentation, resulting from cattle grazing…reduces the interstital spaces available for use by tadpoles and it may inhibit attachment of egg masses.

In some locations and under certain circumstances, managed cattle grazing can help keep vegetation from encroaching into the active channel; too much canopy cover can make sites unsuitably shady for foothill yellow-legged frogs (S. Kupferberg, pers. comm., 2016). Thus, controlled livestock exclosure experiments are needed to determine the net effects of grazing on *R. boylii*.

Logging

Timber harvest without sufficient riparian buffer zones can decrease populations of aquatic amphibians such as the foothill yellow-legged frog by increasing water temperatures to lethal levels and by causing siltation of streambeds (Corn and Bury 1989). Even partial removal of stream canopy can increase water temperatures and decrease relative humidity along the stream corridor in headwater reaches which can

make these areas unsuitable for amphibians (Bury and Corn 1988). High levels of silt inhibit the attachment of frog egg masses to the substrate (Applegarth 1994, Ashton et al. 1997), and excessive accumulation of silt on the egg masses likely has adverse effects on embryo development (Jennings and Hayes 1994). Silt also reduces the interstitial spaces available for use by tadpoles, reduces algal growth on which the tadpoles feed (Power 1990), and can have a significant negative impact on adult frog food resources such as aquatic macro-invertebrates (Petts 1984). Sediment impacts likely adversely affect preferred foothill yellow-legged frog habitat through bed aggradation, surface texture fining or changes in hydraulic geometry (Yarnell 2000).

Marijuana Cultivation

Cultivation of *Cannabis*, i.e. marijuana, is a threat to foothill yellow-legged frogs and their habitat, by the direct effects of illegal and legal water extraction that de-waters the streams where frogs live, introduction of pesticides and chemical fertilizers into waterways, denuding terrestrial habitat adjacent to streams and terracing the slopes, and by promoting the growth of toxic cyanobacteria (Gonsolin 2010; Bauer et al. 2015; Carah et al. 2015; Power et al. 2015). This impact is a major threat to *R. boylii* in Northern California, where marijuana cultivation is concentrated, and the severity of the impacts is exacerbated by ongoing drought conditions. Gonsolin (2010) noted the decline of a *R. boylii* population in the upper Coyote Creek watershed, Santa Clara County, due to impacts from illegal marijuana cultivation.

Mining

Ashton et al. (1997) explained that mining can have deleterious effects on egg masses and tadpoles, as well as disturbing postmetamorphic behavior patterns.

Suction-dredge mining, in which water, sediment, and rocks are vacuumed from portions of streams and rivers, and the spoils re-deposited in the stream (CSLC 1993; Harvey and Lisle 1998), may increase suspended sediment, modify stream geomorphology, directly remove aquatic organisms, and rearrange the substrate of streams (CDFG 1994, 2012). This form of mining may have effects on frog reproduction by disturbing adults during courtship and breeding activities, or disrupting habitat during the reproductive season. Dredging up stream substrates can result in displacement, burial, or suffocation of eggs or tadpoles (CDFG 1994, Harvey and Lisle 1998). Depending on the size and stage of foothill yellow legged frog tadpoles, they would not be able to swim away from the strong vacuums created by suction dredging as they can be entrained into currents as slow as 0.33 feet per second (Kupferberg et al. 2011). In response to elevated currents, these tadpoles seek shelter in interstitial spaces in the substrate. Because of this behavior, this species is particularly vulnerable to suction of sediments.

Sweet (1992) observed mortality of eggs and larvae of the stream-breeding arroyo toad (*Anaxyrus californicus*); mortality was a direct effect of increased sedimentation that resulted from suction-dredge mining. Suction-dredging may cause movement of instream habitat features such as rock substrates and woody debris, which may be used by foothill yellow-legged frogs for overwintering. Dredging may also affect foothill yellow-legged frog prey base.

Although a moratorium in California currently prohibits CDFW from issuing suction dredge permits (California Fish & Game Code §5653.1, subdivision a), and use of

related equipment in any river, stream, or lake through 30 June 2016 (California Fish & Game Code §5653.1, subdivision b), suction-dredge mining may be permitted in the future. Many of the foothill streams in the northern Sierra Nevada have regulated and unregulated recreational gold mining activities, which alter the streambed and are likely having a serious, negative impact on the frog fauna (Lannoo 2005).

Gravel mining that removes stream substrates puts all life history stages of foothill yellow-legged frogs at risk of direct mortality if such mining occurs at occupied sites (Olson and Davis 2009).

The tailings of abandoned mines and settling ponds often have contaminants such as mercury that could be harmful to frogs (Olson and Davis 2009). Hothem (2007) discussed harmful mercury levels found in foothill yellow-legged frogs in Harley Gulch, within the Cache Creek watershed in Lake County, California, an area with abundant geologic sources of mercury and a long history of mercury mining and contamination. Hothem (2007) documented that mercury concentrations of 100% of the 13 foothill yellow-legged frogs collected in 1997-1998 from Harley Gulch exceeded the EPA mercury criterion (0.3 µg/g) for issuance of health advisories for human fish consumption and 100% also exceeded the methylmercury criterion for the protection of piscivorous wildlife; and that 31% exceeded FDA criterion (1.0 µg/g) for regulation of commercial fish.

Mining activities likely contributed to the extirpation of the yellow-legged frog population from Baja (Welsh 1988).

Off-road Vehicles

Damage to montane stream habitat from off-road vehicles is credited as a partial cause of the extirpation of the foothill yellow-legged frog from some southern California coastal streams (Sweet 1983). Off-road vehicle activity also likely eliminated a frog population from Corral Hollow in San Joaquin County (Jones & Stokes 2000). M.R. Jennings documented motorcycle use in riparian zones that crushed juvenile and adult foothill yellow-legged frogs (SNEP 1996).

Pollution

In the Sierra Nevada foothills of California, air-borne pesticides that move east on the prevailing winds blowing across the highly agriculturalized Central Valley are likely to be the primary threat to foothill yellow-legged frogs (LeNoir et al. 1999; Sparling et al. 2001; Hayes et al. 2002b; Fellers 2005; Sparling and Fellers 2007; Sparling and Fellers 2008). Pesticide drift from the Central Valley to the Sierra Nevada, and high pesticide levels in the bodies of Sierra Nevada amphibians, have been well documented in California by Davidson et al. (2002). They found a strong positive association between declines of both California red-legged frogs and foothill yellow-legged frogs in areas downwind of agricultural land use. The populations of foothill yellow-legged frogs in greatest decline are all downwind of highly impacted (mostly agriculturalized) areas, while the largest, most robust frog populations are along the Pacific coast (Fellers 2005).

Davidson et al. (2002) found evidence that airborne agrochemicals have played a significant role in the decline of the foothill yellow-legged frog. Davidson (2004)

examined the association between the spatial patterns of declines for five California amphibian species and historical patterns of pesticide use in California from 1974 to 1991, and found that historical pesticide use was a strong, significant variable in population declines for the foothill yellow-legged frog, especially so for organophosphates and carbamates. In particular, Davidson et al. (2002) found that sublethal exposure to the pesticide carbaryl likely inhibits the innate immune defense of foothill yellow-legged frogs and increases susceptibility to disease. Kerby and Sih (2015) conducted three separate laboratory studies examining the toxicity of the insecticide carbaryl on foothill yellow-legged frogs and found that *R. boylii* are more susceptible to pesticide exposure than Pacific tree frogs (*Pseudacris regilla*), and exposure to carbaryl reduced the ability of *R. boylii* to compete with tree frogs. Kerby and Sih (2015) also showed a remarkable increase in mortality (50%) for *R. boylii* exposed to carbaryl with an invasive crayfish (*Pacifastacus leniusculus*) predator present. Buck et al. (2015) demonstrated that exposure of larval and metamorphic amphibians to ecologically relevant concentrations of pesticide mixtures (chlorpyrifos, carbaryl, permethrin, and endosulfan) or herbicides (glyphosate, acetochlor, atrazine, and 2,4-D) altered post-metamorphic susceptibility to Bd load in Pacific treefrogs, spring peepers and western toads.

Fellers et al. (2007) exposed tadpoles for long periods of time in a laboratory to environmentally realistic concentrations of pesticides still in use. They concluded these pesticides are at sufficient concentration levels in the Sierra Nevada to cause a significant decrease in survival rates. Sparling and Fellers (2007) found that environmental concentrations of the pesticides chlorpyrifos, malathion and diazinon and their oxons can be harmful to populations of the foothill yellow-legged frog. Compounds from the breakdown of chlorpyrifos, malathion, and diazinon were found to be 10 to 100 times more toxic than the parent compounds (Sparling and Fellers 2007). Chlorpyrifos was three times more toxic and Endosulfan was 40 times more toxic to foothill yellow-legged frogs. Sparling and Fellers (2009) established the chronic toxicity of chlorpyrifos and endosulfan, two of the insecticides most commonly used in the Central Valley and found in the mountains, which likely contributes to observed declines in the frog. Kerby (2007) examined the sublethal effects of four pesticides on foothill yellow-legged frogs and found significant alteration of behavior and development.

Hayes et al. (2002) found hermaphroditism and other deformities in leopard frogs (*Rana pipiens*) exposed to commonly occurring levels of the widely used herbicide atrazine, both in the laboratory, and in the field. Hayes et al. (2006) found mixtures of pesticides to have much greater effects on frogs than single pesticides, and suggested that studies examining single pesticides may underestimate pesticide impacts on amphibians. Colborn and Clement (1992) attributed foothill yellow-legged frog population declines to endocrine mimicking chemicals that entered the ecosystem through pesticides and fungicides. Foothill yellow-legged frogs are far more susceptible to pesticides than Pacific chorus frogs (Fellers and Kleeman 2009).

Agricultural fertilizers have been linked to amphibian deaths, including in a study showing that several frog, toad, and other amphibian species in Oregon can be highly susceptible to fairly low levels of nitrate and nitrite exposure, especially at more vulnerable larval stages (Marco et al. 1999; Marco and Blaustein 1999). Marco et al. (1999) found that moderate exposure to nitrates and nitrites resulted in reduced feeding activity, disequilibrium, physical abnormalities, paralysis, and even death among some

tadpoles and young frogs. Levels of nitrite considered safe for human drinking water killed over half of Oregon spotted frog (*Rana pretiosa*) tadpoles after 15 days of exposure. Nitrates are of low toxicity but can cause health problems when reduced to nitrites. Nitrite levels can become high in specific areas such as shore sites with high contents of organic matter and can be concentrated due to waste from livestock. Nitrate can be reduced to nitrite in the gastrointestinal tract of amphibians, especially in younger animals (Marco et al. 1999; Marco and Blaustein 1999). Additionally, nitrate deposition from air pollution can greatly alter lake ecosystems, and may shift the normal ecological balance in a manner that increases the ability for disease to take hold in amphibians (V. Vredenburg, pers. comm., 2000).

Ashton et al. (1997) mentioned the potential for spills of toxic materials into streams along roads along the Trinity River in northern California. Bury (1972) found that spilled diesel fuel had negative impacts on foothill yellow-legged frog tadpoles and partially transformed individuals but apparently little impact on adults.

Mercury contamination is another threat to the frog. Hothem et al. (2010) found mercury concentrations in the foothill yellow-legged frog that were high enough to pose a potential hazard to human or wildlife consumption, with the total Hg concentration exceeding the FDA criterion (1.0 µg/g) for regulation of commercial fish in at least one sample at 24 percent of the yellow-legged frog sites, with 13 of the sites (62 percent) exceeding the EPA Hg criterion (0.3 µg/g) for issuance of health advisories for fish consumption. Research shows that mercury likely adversely affects amphibian development and can decrease survival through metamorphosis (Unrine et al. 2004). Other effects can include impaired reproduction, growth inhibition, behavioral modification, and various sublethal effects (Zillioux et al. 1993).

Recreation

There are potential threats to foothill yellow-legged frogs related to recreation (Olson and Davis 2009). Jet boats create waves that could potentially result in dislodgement and loss of egg masses, stranding of tadpoles, disruption of adult basking behavior, and erosion of shorelines (Borisenko and Hayes 1999).

Vehicles driven along stream gravel bars and recreationists fishing, swimming, walking or camping along shores likely adversely affects frogs, including disruption of frog basking opportunities (Borisenko and Hayes 1999). The Marin Municipal Water District documented that people and dogs have been known to squash the eggs of foothill yellow-legged frogs in Little Carson Creek in Marin County (Prado 2005). A concern in the Little Yosemite area of Alameda Creek in Alameda County is intensive disturbance to yellow-legged frog breeding habitat by humans and dogs (S. Kupferberg, J. Miller, pers. observ.).

Roads and Urbanization

Roads and urbanization are logical potential threats to this frog (Davis and Olson 2009). The human population continues to increase within its range and this results in continued expansion of urban and agricultural areas and construction of new roads. Road construction crossing streams likely adversely affects frogs due to sedimentation during road building, maintenance or failures. As explained above, sediments can

embed stream substrates and remove interstitial spaces used by these frogs. The use of culverts that do not easily pass frogs also impacts population connectivity. Lind (2006) found that foothill yellow-legged frog presence was associated with less urban development nearby, using data from both Oregon and California.

INADEQUACY OF EXISTING REGULATORY MECHANISMS

Federal Regulatory Mechanisms

Existing federal regulatory mechanisms that have the potential to provide some form of protection for the foothill yellow-legged frog include occurrence on federally protected land, consideration under the National Environmental Policy Act or the Clean Water Act, and coverage under Habitat Conservation Plans.

Occurrence on National Forests/BLM Lands

Populations of foothill yellow-legged frogs occur on national forest lands and Bureau of Land Management (BLM) lands in California. The foothill yellow-legged frog is listed on the USDA Forest Service Region 5 (California) Sensitive Species List. However, this designation as a “sensitive species” offers little protection for individual frogs, frog populations or frog habitat. The designation merely requires that the impacts to the species be considered, but does not prevent agency actions, such as logging, road building, cattle grazing or mining, that could harm the species or its habitat. Sensitive species cannot be impacted without an analysis of significance of adverse effects on the populations, their habitat, and on the viability of the species as a whole. All Forest Service planned, funded, executed, or permitted programs and activities are reviewed under NEPA for possible effects on sensitive species, through a Biological Assessment and Evaluation. Yet the Forest Service can conclude in a Biological Evaluation that even though individual frogs or frog populations will be harmed or destroyed by an action, it can still carry out this action.

The Forest Service adopted the Sierra Nevada Forest Plan Amendment in 2001 after more than a decade of scientific study, to direct the management of 11.5 million acres of California's national forest lands in the Sierra. The Sierra Nevada Forest Plan Amendment represented a shift in Forest Service management to ecosystem management principles. However, as it has been implemented, the Sierra Nevada Forest Plan arguably has not provided adequate protection for the foothill yellow-legged frog from water withdrawals, river flow regulation by dams, hydrologic alteration of wet meadows by livestock grazing, and sedimentation from forest roads, which are all permitted or agency-directed actions on national forest lands (C. Frissell, pers. comm., 2015).

The Sierra Nevada Forest Plan Amendment committed the Forest Service to completing a Conservation Assessment for the foothill yellow-legged frog in cooperation with other federal agencies, state agencies, universities, and research scientists (USDA Forest Service 2001). The Conservation Assessment was published in 2016 (Hayes et al. 2016). Conservation Assessments provide only management recommendations, not mandated habitat protections. The Conservation Assessment is envisioned as the first of a three-phase process that also includes a Conservation Strategy and a Conservation Agreement. However, this process is moving far too slowly to provide protection for

foothill yellow-legged frogs. The Conservation Assessment alone took more than a decade to produce. The Sierra Nevada Plan's primary emphasis is on terrestrial species, but it also contains an Aquatic Conservation Strategy focused on reducing some threats to amphibians, including the foothill yellow-legged frog. Some of these measures include changes to livestock grazing and exotic fish stocking practices. Yet at the same time, the plan contains proposed management activities (such as fire and fuels management) that may increase risk of habitat degradation for yellow-legged frogs. For example, extensive fuels treatments (e.g., prescribed burning and mechanical thinning of trees) are proposed at lower elevations because these areas contain large wildland/urban interface zones. Some of these treatments may occur within riparian areas, resulting in unknown effects on the foothill yellow-legged frog.

In addition, the Sierra Nevada Forest Plan Amendment has been under attack since its adoption, with ongoing efforts by legislators and industry to increase the amount of logging allowed, limit protections for forests, water quality and wildlife, and to weaken forest monitoring requirements by reducing the management indicator species lists that are tracked across Sierra Nevada national forests.

In 1994 the U.S. Forest Service and Bureau of Land Management adopted the Northwest Forest Plan (USDA and USDI 1994), establishing different land allocations and standards and guidelines intended to conserve and restore both terrestrial and aquatic ecosystems. The Northwest Forest Plan established "riparian reserves" and includes an Aquatic Conservation Strategy that is generally protective of habitat for the foothill yellow-legged frog, in that it sets buffers on logging for year round and intermittent streams, among other measures.

However, as it has been implemented, the Northwest Forest Plan arguably has not provided adequate protection for the foothill yellow-legged frog from water withdrawals, river flow regulation by dams, hydrologic alteration of wet meadows by livestock grazing, and sedimentation from forest roads, which are all permitted or agency-directed actions on national forest lands (C. Frissell, pers. comm., 2015). Frissell (2013, 2014) discussed ongoing efforts by the U.S. Forest Service, BLM and political leaders to alter the Northwest Forest Plan by reducing the area of Riparian Reserves, while also increasing the basis for commercial logging from near-stream and potentially unstable lands. Frissell (2013, 2014) and Heiken (2013) evaluated the potential environmental consequences of altering Riparian Reserve protections in the Northwest Forest Plan to allow more systematic and aggressive logging within Riparian Reserves (mostly as commercial thinning), including alteration of thermal regimes and increased summer stream temperatures, increased erosion and sediment delivery to streams, and diminished capacity of riparian forests to filter nutrients loads that are a threat to water quality. The Forest Service and BLM are moving forward with attempts to revise the Northwest Forest Plan to reduce stream buffers and weaken the Aquatic Conservation Strategy (USBLM 2015b).

The three National Parks (Yosemite, Kings Canyon, and Sequoia National Parks) that encompass a small portion of the historical range of the foothill yellow-legged frog all have guiding principles, management goals and management plans that are beneficial for aquatic ecosystems, but the species is already extirpated from all three of these parks.

Even on federal lands that are protected for ecological values, foothill yellow-legged frogs are not protected from threats such as drifting pesticides or impacts from nonnative predators.

National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C.4321-4370a) requires federal agencies to consider the environmental impacts of their actions. The NEPA process requires these agencies to describe a proposed action, consider alternatives, identify and disclose potential environmental impacts of each alternative, and involve the public in the decision-making process. Most actions taken by the federal agencies such as the National Park Service, U. S. Forest Service, and the Bureau of Land Management that could affect the foothill yellow-legged frog are subject to the NEPA process. NEPA does not, however, prohibit these agencies from choosing alternatives that will negatively affect individual frogs, populations of foothill yellow-legged frogs, or potential foothill yellow-legged frog habitat. De facto evidence of NEPA's inability to protect the foothill yellow-legged frog is that the species has declined precipitously in spite of the existence of NEPA for more than 45 years.

Clean Water Act

Under Section 404 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq. ("CWA"), discharge of pollutants, including dredged or fill material, into "Waters of the U.S." is prohibited absent a permit from the U.S. Army Corps of Engineers. Theoretically the CWA should provide some protection for stream and wetland habitats used by foothill yellow-legged frogs. However, the implementation of the CWA regulatory scheme and the Section 404 program in particular have fallen far short of Congress's intent to protect wetlands and water quality. A National Research Council report entitled "Compensating for Wetland Losses Under the Clean Water Act" concluded that the goal of no net loss of wetlands has not been achieved through the Army Corps regulatory program, and that applicants often do not follow through on promised mitigation packages (National Research Council 2001). These failures of the Army Corps regulatory scheme are due in part because the Corps' implementation of the individual permitting process has allowed too much development while requiring too little avoidance and mitigation. Also, in permitting projects, the Army Corps often takes a very limited view of a project, looking only at impacts in the project footprint. The CWA has been and will continue to be inadequate to ensure the continued survival of the foothill yellow-legged frog.

Habitat Conservation Plans

There are only four Habitat Conservation Plans in California within the range of the species that include the foothill yellow-legged frog as a covered species: the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan; East Contra Costa County HCP/NCCP; Humboldt Redwood Company (formerly Pacific Lumber, Headwaters) HCP; and Santa Clara Valley HCP/NCCP (USFWS 2015).

Two of these HCPs – the San Joaquin County HCP and the East Contra Costa County HCP - no longer have extant foothill yellow-legged frog populations within their plan areas. The San Joaquin County HCP referred to four historic records of *R. boylii* from San Joaquin County, with the most recent observation in the Corral Hollow area in 1977, and defined the status of the species in the county as unknown (San Joaquin County

2000). Though the HCP set out some incidental take minimization measures for foothill yellow-legged frogs, the species is likely already extirpated from lower Corral Hollow Creek, western San Joaquin County and the HCP plan area. The East Contra Costa County HCP noted that there are no recent documented occurrences of foothill yellow-legged frogs within the eastern Contra Costa Habitat Conservation Plan inventory area, covering major portions of eastern Contra Costa County (CCC 2006).

The Humboldt Redwood Company HCP (HRCHCP) noted that foothill yellow-legged frogs were "commonly observed" in the HCP area along the Eel River and Van Duzen River; also reported from the Yager and Bear-Mattole watershed areas, and were "suspected to occur" in suitable habitat in the Humboldt watershed area (HRC 1999). While the HRCHCP's amphibian and reptile conservation plan contains vague promises of retention of habitat diversity and mix of forest types post-logging (HRC 1999), no concrete measures are specified to protect or enhance habitat specifically for foothill yellow-legged frogs, and the plan allows levels of timber harvest and road building likely to be detrimental to the species. The HRCHCP allows logging of a substantial portion of remaining late-successional forest on their lands; of an estimated 26,147 acres of old-growth (12% of their total lands), 57% is available for harvest (USDI et al. 1999).

The Santa Clara Valley HCP (SCVHCP) noted that foothill yellow-legged frogs had essentially disappeared from the farmed and urbanized lowland areas of Santa Clara County, as well as many of the perennial streams below major reservoirs; but still occurred in Santa Clara County in the upper reaches of Coyote Creek, nearly all of the streams in the Pajaro River watershed, Penetencia Creek, and in the Santa Cruz Mountains west of Gilroy (ICF 2012).

The SCVHCP anticipated potential direct impacts from projects in stream channels that could result in removal of cobblestone substrate or riparian vegetation, increase in erosion and sediment discharge, creation of pooling habitat where higher risk of predation exists for frogs, and dewatering of breeding locations. The SCVHCP anticipated permanent impacts in up to 5.7 stream miles and temporary impacts in up to 2.0 miles of modeled primary and secondary habitat for foothill yellow-legged frogs.

The SCVHCP included no conservation efforts within the study area that directly target the recovery of this species, but noted that stream restoration projects that return creeks and streams to natural flow regimes would benefit the species. The SCVHCP proposed to acquire a minimum of 80 miles of primary and secondary modeled habitat for the foothill yellow-legged frog for the SCVHCP's Reserve System; but only proposes to protect 32-44% of the 690 miles of foothill yellow-legged frog modeled primary and secondary habitat within the study area.

The HCP Reserve System was expected to protect only 4 known occurrences of the foothill yellow-legged frog: 3 on Llagas Creek above Chesbro Reservoir and 1 on San Felipe Creek above Anderson Reservoir. The SCVHCP notes that the species could possibly occur on the Reserve System on Upper Penitencia Creek, Uvas Creek below Uvas Reservoir, and Little Arthur Creek, but the species presence had not been documented. The SCVHCP prioritizes acquisition of streams for the Reserve System by: sites with documented records of breeding foothill yellow-legged frog; sites with known occurrences, but no documented breeding; and sites without known occurrences of foothill yellow-legged frogs but with western pond turtle habitat and known occurrences of other covered amphibian species. The SCVHCP proposed to "restore" from 1.0 to

10.4 miles of streams, with a goal of to supporting breeding of yellow-legged frogs, by adding sediment to stream courses so that sand bars will form to create egg laying substrate, or adding large rocks to the stream course for the same purpose. Management will include selectively applying herbicides or other treatments to control nonnative invasive vegetation along creek corridors that might inhibit sediment movement and restrict the creation of egg laying habitat. Proposed management techniques and tools include stream channel rehabilitation, planting native understory and overstory riparian vegetation, adding rocky substrate to the stream channel, and translocation to help establish new populations.

Very few extant foothill yellow-legged populations will gain any protection from the two HCPs which overlap with the current range of the species.

In addition, coverage by an HCP is not a guarantee of protection for a species. Kareiva et al. (1999) thoroughly discussed the failure of most HCPs to protect and recover listed species that are covered under HCP agreements. Kareiva et al. (1999), in a nationwide study of HCPs by the National Center for Ecological Analysis & Synthesis and the American Institute of Biological Sciences, found that most HCPs contributed to habitat losses for the targeted species, failed to meet recovery goals, and suffered from poor planning and plan evaluation. Kareiva et al. (1999) documented that nearly 30% of HCPs "take" 100% of the focal species' populations or habitat in the permit area; about 50% of HCPs allowed 50% or more of the species' populations or habitat in the plan area to be taken; 43% of the time, HCPs failed to provide sufficient mitigation measures; 23% of the time, species and their habitats were taken before mitigation measures were implemented and found effective (most HCPs failed to reduce allowed take levels or use other more conservative approaches in the face of inadequate information or uncertainties); 33% of HCPs failed to secure up-front funding to ensure that mitigation actually occurs; and 81% of HCPs studied had irreversible impacts. Not surprisingly, HCPs that failed to adequately conserve species also tended to lack rigorous impact assessments and planning. Kareiva et al. (1999) found that: 75% of the time, impacts to species were not adequately studied by HCPs; 42% to 49% of the time, HCPs failed to quantify how much of a species' habitat and population, respectively, would be taken; most HCPs used low quality data to evaluate their mitigation measures; and 25% of the time, sufficient information did not exist to determine how HCPs would affect the species' viability.

Several other studies have documented a variety of shortcomings regarding the scientific foundation and conservation promises of HCPs (e.g. Hood 1998; Smallwood et al. 1998; Bowler 2000; Smallwood 2000; Harding et al. 2001; Wilhere 2002). Rahn et al. (2006) found that the conservation benefits of multispecies HCPs (MSHCPs) to individual covered species may be overestimated. Rahn et al. (2006) reviewed the species selected for coverage in 22 MSHCPs from USFWS Region 1, and found that conservation measures were often not clearly defined, and that the presence of the species in the planning area was not even confirmed for 41% of covered species. Owley (2015) used a case study approach to illustrate the concerns associated with whether federal and local agencies are able to locate, understand, track and adequately enforce HCP mitigation requirements and conservation easements, focusing on four HCPs in California (San Bruno Mountain HCP in San Mateo County, approved in 1983; Lytle Creek Turnout Low-Effect HCP in San Bernardino County, approved in 2009; Cushenbury Sand and Gravel HCP in San Bernardino County, approved in 1996; and

Wildcat Line Property HCP in Monterey County, approved in 2001). Owley (2015) found that the government entities involved in these HCPs struggled to locate and understand the permits themselves, let alone the details of the compensatory mitigation projects, and that county offices charged with recording property restrictions on conservation easements often had inadequate records of land use restrictions.

State Regulatory Mechanisms

The state of California lists the foothill yellow-legged frog as a “Species of Special Concern.” This is an administrative designation and carries no formal legal status.

Natural Community Conservation Plans

Of the 9 approved Natural Community Conservation Plans (NCCP) in California, only 2 are within the range of the foothill yellow-legged frog: the East Contra Costa County NCCP and Santa Clara Valley NCCP (CDFW 2015). These plans are joint NCCP/HCPs, and the limitations of these plans for protecting foothill yellow-legged frogs was discussed above. Of NCCPs in the planning phase, only one, the Butte Regional Conservation Plan, lists the foothill yellow-legged frog as a proposed covered species (CDFW 2015).

California Environmental Quality Act

The environmental review process under the California Environmental Quality Act (“CEQA”, California Public Resources Code §§ 21000-21177) requires state agencies, local governments and special districts to evaluate and disclose impacts from "projects" in the state. CEQA declares that it is the policy of the state to prevent “the elimination of fish or wildlife species due to man’s activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities” (California Public Resources Code, section 21001(c)). The CEQA process is triggered when discretionary activities of state agencies may have a significant effect on the environment. When the CEQA process is triggered, it requires full disclosure of the potential environmental impacts of proposed projects. The operative document for major projects is usually the Environmental Impact Report.

Under CEQA, Species of Special Concern must be considered during the environmental review process, with an analysis of the project impacts on the species, only if they meet the criteria of sensitivity under Section 15380 of the CEQA Guidelines. However, project impacts to foothill yellow-legged frogs are often not analyzed because project proponents are able to claim insignificant impacts to non-listed species if the project does not have population-level or regional effects or impacts a small proportion of the species’ range.

Theoretically, besides ensuring environmental protection through procedural and informational means, CEQA also has substantive mandates for environmental protection. The most important of these is the provision requiring public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen such effects. In practice, however, this substantive mandate is rarely implemented, particularly with regard to instream

projects, water diversions, mining permits, grazing permits and projects causing pollution and sedimentation that have impacted and continue to impact habitat for foothill yellow-legged frogs. If significant impacts remain after all mitigation measures and alternatives deemed feasible by a lead agency have been adopted, a lead agency is allowed under CEQA to approve a project despite environmental impacts if it finds that social or economic factors outweigh the environmental costs. It is important to note that CEQA is not, nor was it ever intended to be, a habitat protection mechanism.

Regional and Local Government Plans

Madera County adopted a Yellow-legged Frog Conservation Program in 1997, which contained some measures to protect suitable primary frog habitat "from the direct significant impact of human activity," however the foothill yellow-legged frog may already be extirpated from Madera County.

Summary: The perilous status of the foothill yellow-legged frog reflects the overall failure or inability of existing federal and state regulatory mechanisms to protect foothill yellow-legged frog habitat and provide for the conservation of the species. Neither CEQA nor any other state or local regulatory mechanism provide protection from factors adversely impacting foothill yellow-legged frogs such as invasive species, pollutants and pesticides, disease or climate change. Without state listing, reintroduction of the species at unoccupied historic sites and implementation of confirmed frog habitat enhancement methods (e.g. Kupferberg 1996a; Lind et al. 1996; Lind and Shaffer 2005; Yarnell 2005) are unlikely to be utilized.

RECOMMENDED MANAGEMENT AND RECOVERY ACTIONS

Recommended management actions for foothill yellow legged frogs will vary depending on the type of river system where a given extant population remains, either with flows regulated by dams or in free-flowing systems that may be subject to other forms of human perturbation (such as illegal diversion of flows in summer for *Cannabis* cultivation or excessive sedimentation and hillslope erosion due to road building and other types of land use in the upland portions of the watersheds).

Require frog-friendly flow regimes: In rivers with dams, a-seasonal flow fluctuation which could cause stranding and scouring of egg masses and tadpoles should be prohibited. Limit pulsed flows from dams during or after oviposition and during tadpole development. For rivers with frog populations below dams, flow regimes should be developed that mimic natural seasonal flows to which the various life stages of *R. boylii* are adapted to. Maintaining thermal regimes below dams that are conducive to larval survival and rapid development will also be important.

Stream channel habitat restoration: Where upstream dam operations have artificially cooled downstream river reaches, suppressed flood disturbance, limited sediment supply, and allowed encroachment of woody riparian vegetation into the active channel (thus reducing frog opportunities for thermoregulatory behaviour), create thermal habitat heterogeneity by restoring gently sloping and sun-lit gravel bars used for breeding and by enhancing edgewater habitats.

Eradication of invasive predators: Conduct active eradication and management efforts to decrease the abundance of bullfrogs (removing egg masses, netting tadpoles, hunting adult frogs, etc.). Develop eradication or control programs for non-native fish and crayfish which are predators of frogs, tadpoles, and egg masses. In managed rivers, manipulate stream flows to negatively affect non-native taxa not adapted to a winter-flood/summer drought flow regime.

Mitigate impacts of *Cannabis* cultivation: Direct some of the money that will be gained from new *Cannabis* taxes to rehabilitation of *R. boylii* streams, including for law enforcement to end illegal dewatering of creeks, and to conduct clean-up of spilled diesel fuel, fertilizers and rodenticides.

Prohibit habitat damage: Ensure that state regulations for timber harvest within watersheds with yellow-legged frogs adequately prevent siltation of streambeds or increase of water temperatures to lethal levels. Prohibit instream gravel mining or dredging in stream reaches with yellow-legged frogs. Ensure that all state-managed off-road vehicle areas are not negatively impacting yellow-legged frogs or their habitat.

Restrict pesticides: Determine where and which pesticide uses should be restricted to prevent harm to yellow-legged frogs.

Reintroduction: Explore reintroduction of foothill yellow-legged frogs into stream systems with appropriate habitat within the historical range of the species. Start with streams in the National Parks once the stressors have been removed, such as post-eradication of bullfrogs in Yosemite National Park.

Curate locality data: The California Department of Fish and Wildlife should take responsibility for, or find a curator to maintain a repository of, all the foothill yellow-legged frog survey data collected by agencies, utilities and researchers, and submitted to the CNDDB.

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State of California
Department of Fish and Wildlife

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Memorandum

Date: April 17, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Evaluation of the Petition to List Foothill Yellow-legged Frog (*Rana boylii*) as Threatened under the California Endangered Species Act**

The California Department of Fish and Wildlife (Department) has completed its evaluation of the Petition to list Foothill Yellow-legged Frog as a threatened species (Petition) under the California Endangered Species Act, Fish and Game Code section 2050 et seq. The California Fish and Game Commission (Commission) received the Petition from the Center for Biological Diversity on December 14, 2016. Pursuant to Fish and Game Code section 2073, the Commission referred the Petition to the Department on December 22, 2016. In accordance with Fish and Game Code section 2073.5, subdivision (b), on February 14, 2017, the Department timely requested a 30-day extension to further analyze the Petition and complete its evaluation report.

The Department completed the attached Petition evaluation report pursuant to Fish and Game Code section 2073.5. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).). The Department's evaluation report delineates the categories of information required in a petition, evaluates the sufficiency of the available scientific information regarding each of the Petition components, and incorporates additional relevant information that the Department possessed or received during the review period. Based upon the information contained in the petition and other relevant information in the Department's possession, the Department has determined that there is sufficient scientific information available at this time to indicate that the petitioned action may be warranted. The Department recommends that the Petition be accepted and considered.

If you have any questions or need additional information, please contact Mr. T.O. Smith, Wildlife Branch Chief, at (916) 445-3555 or by email at Timothy.Smith@wildlife.ca.gov or Mr. Kevin Shaffer, Fisheries Branch Chief, at (916) 327-8841 or by email at Kevin.Shaffer@wildlife.ca.gov.

Attachment

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State of California
Natural Resources Agency
Department of Fish and Wildlife

REPORT TO THE FISH AND GAME COMMISSION

EVALUATION OF THE PETITION FROM THE CENTER FOR BIOLOGICAL DIVERSITY TO LIST THE FOOTHILL YELLOW-LEGGED FROG (*RANA BOYLII*) AS THREATENED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT



Prepared by
California Department of Fish and Wildlife

April 2017

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I. Executive Summary

The Center for Biological Diversity (CBD) submitted a petition (Petition) to the Fish and Game Commission (Commission) to list the Foothill Yellow-legged Frog (*Rana boylii*) as threatened pursuant to the California Endangered Species Act (CESA), Fish and Game Code Section 2050 et seq.

The Commission referred the Petition to the Department of Fish and Wildlife (Department) in accordance with Fish and Game Code Section 2073. (Cal. Reg. Notice Register 2017, No. 3-Z, p. 46.) Pursuant to Fish and Game Code Section 2073.5 and Section 670.1 of Title 14 of the California Code of Regulations, the Department has prepared this evaluation report for the Petition (Petition Evaluation). The Petition Evaluation is an evaluation of the scientific information discussed and cited in the Petition in relation to other relevant and available scientific information possessed by the Department during the evaluation period. The Department's recommendation as to whether to make Foothill Yellow-legged Frog a candidate for listing under CESA is based on an assessment of whether the scientific information in the Petition is sufficient under the criteria prescribed by CESA to consider listing Foothill Yellow-legged Frog as threatened.

After reviewing the Petition and other relevant information, the Department makes the following findings:

- Population Trend. The Petition contains sufficient scientific information to indicate that Foothill Yellow-legged Frog populations have declined in portions of the species' range in California.

- Range. The Petition contains sufficient scientific information to indicate that the Foothill Yellow-legged Frog's occupied range in California has been reduced from its historical extent due to population extirpations, particularly in southern California and the southern Sierra Nevada.

- Distribution. The Petition contains sufficient scientific information to indicate that the distribution of extant Foothill Yellow-legged Frog populations within the species' current range has been reduced throughout much of California.

- Abundance. The Petition contains sufficient scientific information to indicate that the abundance of remaining Foothill Yellow-legged Frog populations have been reduced from historical numbers throughout parts of California.

- Life History. The Petition contains sufficient scientific information to indicate that some of the Foothill Yellow-legged Frog's life history traits render it particularly vulnerable to natural and anthropogenic impacts.

- Kind of Habitat Necessary for Survival. The Petition contains sufficient scientific information to indicate that Foothill Yellow-legged Frogs require specific habitat conditions for survival, particularly during early life stages.

- Factors Affecting the Ability to Survive and Reproduce. The Petition contains sufficient scientific information to indicate that Foothill Yellow-legged Frogs are adversely affected by a number of threats including, but not limited to, dams and diversions, invasive species, climate change, and pollutants.

- Degree and Immediacy of Threat. The Petition contains sufficient scientific information to indicate that impacts from the main factors threatening the long-term survival of Foothill Yellow-legged Frogs will continue and potentially worsen in the future.

- Impacts of Existing Management. The Petition contains sufficient scientific information to indicate that existing regulatory mechanisms and management plans do not adequately protect Yellow-legged Frogs from some impacts that threaten their long-term survival.

- Suggestions for Future Management. The Petition contains sufficient scientific information on additional management actions that may aid in maintaining and increasing self-sustaining populations of Foothill Yellow-legged Frogs in California.

- Availability and Sources of Information. The Petition contains a 35-page bibliography of literature cited and personal communications with credible sources, nearly all of which were provided to the Department on a CD upon request.

- A Detailed Distribution Map. The Petition contains four detailed maps containing information on the historical and contemporary distribution of Foothill Yellow-legged Frogs.

In completing its Petition Evaluation, the Department has determined the Petition provides sufficient scientific information to indicate that the petitioned action may be warranted. Therefore, the Department recommends the Commission accept the Petition for further consideration under CESA.

II. Introduction

A. Candidacy Evaluation

CESA sets forth a two-step process for listing a species as threatened or endangered. First, the Commission determines whether to designate a species as a candidate for listing by determining whether the petition provides "sufficient information to indicate that the petitioned action may be warranted." (Fish & G. Code, § 2074.2, subd. (e)(2).) If the petition is accepted for consideration, the second step requires the Department to produce within 12 months of the Commission's acceptance of the petition a peer reviewed report based upon the best scientific information available that indicates whether the petitioned action is warranted. (Fish & G. Code,

§ 2074.6.) The Commission based on that report and other information in the administrative record, then determines whether or not the petitioned action to list the species as threatened or endangered is warranted. (Fish & G. Code, § 2075.5.)

A petition to list a species under CESA must include "information regarding the population trend, range, distribution, abundance, and life history of a species, the factors affecting the ability of the population to survive and reproduce, the degree and immediacy of the threat, the impact of existing management efforts, suggestions for future management, and the availability and sources of information. The petition shall also include information regarding the kind of habitat necessary for species survival, a detailed distribution map, and other factors the petitioner deems relevant." (Fish & G. Code, § 2072.3; see also Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).) The range of a species for the Department's petition evaluation and recommendation is the species' California range. (*Cal. Forestry Assn. v. Cal. Fish and Game Com.* (2007) 156 Cal. App. 4th 1535, 1551.)

Within 10 days of receipt of a petition, the Commission must refer the petition to the Department for evaluation. (Fish & G. Code, § 2073.) The Commission must also publish notice of receipt of the petition in the California Regulatory Notice Register. (Fish & G. Code, § 2073.3.) Within 90 days of receipt of the petition, the Department must evaluate the petition on its face and in relation to other relevant information and submit to the Commission a written evaluation report with one of the following recommendations:

- Based upon the information contained in the petition, there is not sufficient information to indicate that the petitioned action may be warranted, and the petition should be rejected; or

- Based upon the information contained in the petition, there is sufficient information to indicate that the petitioned action may be warranted, and the petition should be accepted and considered.

(Fish & G. Code, § 2073.5, subd. (a)(1) and (a)(2).) The Department's candidacy recommendation to the Commission is based on an evaluation of whether or not the petition provides sufficient scientific information relevant to the petition components set forth in Fish and Game Code Section 2072.3 and the California Code of Regulations, Title 14, Section 670.1, subdivision (d)(1).

In *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, the California Court of Appeals addressed the parameters of the Commission's determination of whether a petitioned action should be accepted for consideration pursuant to Fish and Game Code Section 2074.2, subdivision (e), resulting in the species being listed as a candidate species. The court began its discussion by describing the standard for accepting a petition for consideration previously set forth in *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104:

> As we explained in *Natural Resources Defense Council* [citation], "the term 'sufficient information' in section 2074.2 means that amount of information, when

> considered with the Department's written report and the comments received, that would lead a reasonable person to conclude the petitioned action may be warranted." The phrase "may be warranted" "is appropriately characterized as a 'substantial possibility that listing could occur.'" [Citation.] "Substantial possibility," in turn, means something more than the one-sided "reasonable possibility" test for an environmental impact report but does not require that listing be more likely than not. [Citation.]

(*Center for Biological Diversity*, *supra*, 166 Cal.App.4th at pp. 609-10.) The court acknowledged that "the Commission is the finder of fact in the first instance in evaluating the information in the record." (*Id.* at p. 611.) However, the court clarified:

> [T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department under [Fish and Game Code] section 2074.6.

(*Ibid*.)

B. Petition History

On December 14, 2016, CBD submitted the Petition to the Commission to list Foothill Yellow-legged Frog as threatened under CESA. On December 22, 2016, the Commission referred the Petition to the Department for evaluation. The Department requested of the Commission a 30-day extension to the 90-day Petition evaluation period on February 14, 2017. This Petition Evaluation report was submitted to the Commission on April 26, 2017.

The Department evaluated the scientific information presented in the Petition as well as other relevant information the Department possessed at the time of review. The Department did not receive any information from the public during the Petition Evaluation period pursuant to Fish and Game Code Section 2073.4. Pursuant to Fish and Game Code Section 2072.3 and Section 670.1, subdivision (d)(1), of Title 14 of the California Code of Regulations, the Department evaluated whether the Petition includes sufficient scientific information regarding each of the following petition components to indicate that the petitioned action may be warranted:

- Population trend;
- Range;
- Distribution;
- Abundance;

- Life history;
- Kind of habitat necessary for survival;
- Factors affecting ability to survive and reproduce;
- Degree and immediacy of threat;
- Impacts of existing management;
- Suggestions for future management;
- Availability and sources of information; and
- A detailed distribution map.

C. Overview of Foothill Yellow-legged Frog Ecology

Foothill Yellow-legged Frogs (*Rana boylii*) are part of the "true frog" family Ranidae. Species within the genus *Rana* from western North America possess dorsolateral folds, a glandular ridge extending from the eye area to the rump, a feature that is indistinct in Foothill Yellow-legged Frogs (Stebbins and McGinnis 2012). Foothill Yellow-legged Frogs are small- to medium-sized frogs with granular skin, even on the tympana, that gives them a rough appearance (Nussbaum et al. 1983, Stebbins and McGinnis 2012). Their dorsal coloration is typically gray, brown, reddish, or olive with brown-black flecking and mottling, which generally matches the substrate of stream in which they reside, and as their name suggests, the underside of their hind limbs and lower abdomen are yellow (Ibid.).

The Foothill Yellow-legged Frog was first described as a unique species in 1854, but a century of taxonomic uncertainty regarding its relationship with other Ranids followed before it was eventually recognized as a distinct species again by Zweifel (1955, 1968). Lind et al. (2011) identified substantial genetic partitioning between coastal and Sierra Nevada populations, two distinct northerly groupings, and a single sample in the southern Sierra Nevada from those in the central and northern Sierra Nevada. Individuals separated by a distance of 10 km (6.2 mi) may be effectively genetically isolated from one another (Dever 2007). Genetic isolation can occur at even shorter distances when populations are separated by dams, reservoirs, or reaches downstream of dams where flows fluctuate artificially (Peek 2010, 2012).

Foothill Yellow-legged Frogs historically ranged from the Willamette River drainage in Oregon to at least the San Gabriel River drainage in Los Angeles County, California, in foothill and mountain streams east of the Sierra-Cascade crest from sea level to 1,940 m (6,400 ft) (Hemphill 1952, Nussbaum et al. 1983, Stebbins 2003). Extirpations in the northern and southern portions of the species' range have resulted in a reduction in its current range from its historical extent; it appears to have disappeared from previously occupied sites south of Monterey County and in the southern Sierra Nevada (Hayes et al. 2016, Jennings and Hayes 1994, USFS 2011).

Foothill Yellow-legged Frogs inhabit partially shaded, rocky perennial streams and rivers at low to moderate elevations across a range of vegetation types including chaparral, oak woodland, mixed coniferous forest, riparian sycamore and cottonwood forest, and wet meadows (Hayes and Jennings 1988, Nussbaum et al. 1983, Stebbins 1985). They have also been observed using isolated pools, vegetated backwaters, and streams lacking a rocky, cobble substrate (Ashton et al. 1998, Fitch 1938, Hayes and Jennings 1988). Post-metamorphic frogs (i.e., juveniles and adults) may overwinter in refugia from high winter flows such as small tributary streams, seeps, springs, and clumps of woody debris or vegetation (Bourque 2008, Gonsolin 2010, Rombough 2006, Van Wagner 1996). Breeding habitat is typically associated with low-gradient stream reaches at depositional features like lateral point bars and pool tail-outs, and egg masses are usually deposited on the downstream side of rocky substrates in shallow slow-moving water near the stream margin (Bondi et al. 2013, Kupferberg 1996a, Wheeler and Welsh 2008).

Foothill Yellow-legged Frog larvae (i.e., tadpoles) graze on algae attached to rocks and plants, while post-metamorphic frogs consume primarily terrestrial invertebrates, although aquatic invertebrates are also occasionally eaten (Ashton et al. 1998, Csuti et al. 2001, Fitch 1936, Jennings and Hayes 1994, Kupferberg 1997b, Nussbaum et al. 1983, Van Wagner 1996). A wide variety of native and non-native species prey on Foothill Yellow-legged Frogs including signal crayfish (*Pacifasticus leniusculus*), caddisfly larvae (Limnephilidae), California Giant Salamander larvae (*Dicamptodon ensatus*), Rough-skinned Newts (*Taricha granulosa*), American Bullfrogs (*Rana catesbeiana*), gartersnakes (*Thamnophis* spp.), mallards (*Anas platyrhynchos*), river otters (*Lontra* (= *Lutra*) *canadensis*), Centrarchids like bass (*Micropterus* spp.), Cyprinids like Sacramento pikeminnow (*Ptychocheilus grandis*), and other fish (Ashton and Nakamoto 2007, Corum 2003, Evenden 1948, Fidenci 2006, Fitch 1941, Hayes and Jennings 1988, Hayes et al. 2016, Kupferberg 1996a, Kupferberg 1997a, Paoletti et al. 2011, Rombough et al. 2005a, Rombough and Hayes 2005, Wiseman et al. 2005, Zweifel 1955).

III. Sufficiency of Scientific Information to Indicate the Petitioned Action May Be Warranted

The order in which the petition components are evaluated below reflects the order that they were provided in the Petition. This differs from their sequence in Fish and Game Code section 2072.3 and Section 670.1, subdivision (d)(1), of Title 14 of the California Code of Regulations, as well as in the Executive Summary and Introduction of this Petition Evaluation.

A. Range

1. Scientific Information in the Petition

The Petition, on pages 6 through 10, provides the following information on the Foothill Yellow-legged Frog's historical and current range. However, for purposes of this Petition Evaluation,

"range" is limited to the species' California range. (*Cal. Forestry Assn. v. Cal. Fish and Game Com., supra,* 156 Cal. App. 4th at p. 1551.)

The historical range of the Foothill Yellow-legged Frog included lower elevation streams draining the Pacific slope from the upper reaches of the Willamette River system in Oregon to northwestern Baja California (Hayes et al. 2016, NatureServe 2011). In California, the species occurred from the Oregon border to at least as far south as the Upper San Gabriel River, Los Angeles County, and may have occurred as far south as Orange County, southwestern San Bernardino County, and San Diego County.

The species has disappeared from more than half of its historically occupied sites in California and Oregon, which has resulted in range contractions at the northern and southern boundaries (Lind 2005). In California, the species' decline is most severe in southern California where it appears to have been completely extirpated south of San Luis Obispo County and in the southern Sierra Nevada (Hayes et al. 2016, Jennings and Hayes 1994, USFS 2011).

2. Other Relevant Scientific Information

According to Thomson et al. (2016), the Foothill Yellow-legged Frog's presence in Baja California is based on an unverified account described by Loomis (1965). The Foothill Yellow-legged Frog's elevation range has been reported to extend from sea level to approximately 1,830 m (6,000 ft) (Stebbins and McGinnis 2012), although Hemphill (1952) observed the species at 1,940 m (6,400 ft).

3. Sufficiency of the Petition with regard to Range

The Department concludes that the Petition contains sufficient information on the historical and contemporary ranges of the species, which suggests the Foothill Yellow-legged Frog's range has contracted in southern California and the southern Sierra Nevada due to extirpation of populations once occurring in these regions.

B. Kind of Habitat Necessary for Survival

1. Scientific Information in the Petition

The Petition, on pages 11 and 12, provides the following information regarding Foothill Yellow-legged Frog habitat requirements.

In general Foothill Yellow-legged Frogs inhabit partially shaded, rocky perennial streams and rivers at low to moderate elevations across a range of vegetation types including chaparral, oak woodland, mixed coniferous forest, riparian sycamore and cottonwood forest, and wet meadows (Hayes and Jennings 1988, Nussbaum et al. 1983, Stebbins 1985). Within a single watershed, Foothill Yellow-legged Frogs can be found in first- to seventh- order streams (Bury and Sisk 1997), but occupied sites are typically small- to mid-sized streams with shallow flowing water (Hayes and Jennings 1988). They are mostly found near water, often in or near riffles and on open sunny banks (Stebbins 1985) but have been found as far as 80 m (262 ft) from water

(Rombough pers. comm. in Olson and Davis 2009). Foothill Yellow-legged Frogs have also been documented in atypical habitats like isolated pools, vegetated backwaters, and streams lacking a rocky, cobble substrate (Ashton et al. 1998, Fitch 1938, Hayes and Jennings 1988). Presence of introduced aquatic predators such as bullfrogs (*Rana catesbeiana*) and bass (*Micropterus* spp.) are negatively correlated with Foothill Yellow-legged Frog occurrence and abundance, even in otherwise suitable habitat (Hayes and Jennings 1986, 1988; Kupferberg 1997a).

Habitat requirements vary seasonally and by life stage. Juveniles and adults appear to overwinter in refugia from high winter flows such as small tributary streams, seeps, springs, and clumps of woody debris or vegetation (Bourque 2008, Gonsolin 2010, Rombough 2006, Van Wagner 1996). Breeding habitat is typically associated with low-gradient stream reaches at depositional features like lateral point bars and pool tail-outs (Kupferberg 1996a, Wheeler and Welsh 2008). Within these areas, females often deposit egg masses in shallow water toward the margin of the stream on the downstream side of rocky substrates within a narrow range of flow velocities (Bondi et al. 2013, Kupferberg 1996a), although they have been documented to oviposit at depths greater than 1 m (3.3 ft) and distances up to 20 m (65.6 ft) from the water's edge (Mokelumne River, unpublished data from Garcia and Associates for PG&E). Cobble and pebble are the preferred substrate for oviposition, but egg masses have also been found attached to aquatic vegetation, woody debris, gravel, and bedrock (Ashton et al. 1998, Bondi et al. 2013, Fuller and Lind 1992). Larvae actively thermoregulate (Brattstrom 1962) and prefer warm temperatures at or above 20º C (68º F) (Kupferberg et al. 2013). They require protection from swift flowing water, especially when they are approaching metamorphosis and are poor swimmers (Kupferberg et al. 2011).

2. Other Relevant Scientific Information

The Department possesses the following additional information relating to the Foothill Yellow-legged Frog's thermal and flow velocity habitat requirements.

Based on breeding experiments undertaken by Zweifel (1955), Thomson et al. (2016) report the critical thermal maximum (the temperature above which most individuals die) for Foothill Yellow-legged Frog embryos is 26º C (79º F). Catenazzi and Kupferberg (2013) reported that larvae preferred temperatures between 16.5 and 22.2º C (61.7 to 72.0º F) and that mortality increased within increasing deviation from this range in both warmer and cooler directions. They also found that Foothill Yellow-legged Frog distribution and abundance was positively associated with larval thermal preference (Ibid.).

Eggs are often deposited in areas with flows below 5 cm/s (9.8 ft/min) (Hayes et al. 2016). The flow velocity threshold at which egg masses will be scoured and displaced depends on factors such as water depth and the amount of protection provided by the substrate to which the egg mass is attached but can occur at mean column velocities of 10 cm/s (19.7 ft/min) or greater (Ibid.). This critical velocity for egg mass shearing is expected to become slower over the duration of development as layers of egg mass jelly disintegrate (Ibid.).

Low flow velocities are also particularly important during certain stages in larval development. Immediately after hatching and as they approach metamorphosis larvae are relatively poor swimmers (Kupferberg et al. 2011). Larvae swim freely in flows between 0 and 2 cm/s (0 to 3.9 ft/min) and seek shelter within the interstices of rocky substrates when velocities increase (Ibid.). While the velocity required to flush Foothill Yellow-legged Frog larvae downstream varies inversely with size, developmental stage, and proportion of time spent swimming, median critical velocity was determined to be 20.1 cm/s (39.6 ft/min), although flows as low as 10 cm/s (19.7 ft/min) were able to displace larvae approaching metamorphosis (Ibid.).

3. Sufficiency of the Petition with regard to Kind of Habitat Necessary for Survival

The Department concludes that Petition contains sufficient information on the breadth habitat types used by Foothill Yellow-legged Frogs, including information that suggests the species requires specific habitat conditions for survival, particularly during early life stages.

C. Life History

1. Scientific Information in the Petition

The Petition, on pages 5 and 6 and 11 through 14, provides the following information on Foothill Yellow-legged Frog life history, which includes descriptions of the species' identification, taxonomy, life cycle, diet, home range and movements, and mortality.

Foothill Yellow-legged Frogs are moderate in size, adults ranging from 37 – 82 mm (1.5 – 3.2 in) snout to urostyle length (SUL), with indistinct dorsolateral folds, fully webbed feet, slightly expanded toe tips, and rough pebbly skin (Stebbins 1951, 2003; Zweifel 1955). Their dorsal coloration is usually light and dark mottled gray, olive, or brown with variable amounts of brick red; a pale triangle is often present between the eyes and snout; and the undersides of the rear legs and posterior abdomen are yellow, fading into white anteriorly (Jones et al. 2005, Nussbaum et al. 1983, Stebbins 1951, Zweifel 1955). The species is sexually dimorphic; females attain a larger size than males, and mature males possess nuptial pads and proportionately larger forearm muscles and narrower waists than females (Hayes et al. 2016, Jennings and Hayes 1994). Juveniles look similar to adults except they are smaller (14 – 36 mm [0.6 – 1.4 in] SUL), have a more contrasting color, and lack significant yellow on their undersides (Jones et al. 2005, Nussbaum et al. 1983, Stebbins 1951, Zweifel 1955). Foothill Yellow-legged Frog larvae hatch out a dark brown or black but turn olive with a coarse brown mottling above and an opaque silvery color below (Hayes et al. 2016). Their eyes are positioned dorsally when viewed from above (i.e., within the outline of the head), and their mouths are large, downward-oriented and suction-like with several tooth rows (Ibid.). Foothill Yellow-legged Frog egg masses resemble a cluster of grapes approximately 45 to 90 mm diameter length-wise (1.8 – 3.5 in) and contain anywhere from about 100 to over 3,000 eggs (Hayes et al. 2016, Kupferberg et al. 2009c). The individual eggs are dark brown to black and surrounded by three jelly envelopes that range in diameter from approximately 3.9 to 6.0 mm (0.15 – 0.25 in) (Hayes et al. 2016, Storer 1925, Zweifel 1955).

Foothill Yellow-legged Frogs belong to the family Ranidae and were first described by Baird in 1854 as *Rana boylii* (Zweifel 1955). After substantial taxonomic uncertainty and several name changes, it was eventually recognized as a distinct species again by Zweifel (1955, 1968). Previously thought to be most closely related to Mountain Yellow-legged Frogs (*R. muscosa*) based on morphology (Zweifel 1955), genetic analyses undertaken by Macey et al. (2001) suggest they are more closely related to Oregon Spotted Frogs (*R. pretiosa*). Genetic differentiation within the species was recently described by Lind et al. (2011), who identified substantial partitioning between coastal and Sierra Nevada populations, two distinct northerly groupings, and a single sample in the southern Sierra Nevada from those in the central and northern Sierra Nevada. A genetic study by Dever (2007) suggested that individuals separated by a distance of 10 km (6.2 mi) may be effectively isolated from one another and not part of the same interbreeding population. Peek (2010, 2012) found that when populations are separated by dams, reservoirs, or reaches downstream of dams where flows fluctuate artificially, genetic isolation can be observed at even shorter distances.

The Foothill Yellow-legged Frog's life cycle is closely tied to seasonal timing of streamflow. Movement to breeding sites is triggered by warming water temperatures, decreasing flows, and increasing daylight. Adult males are likely territorial during breeding season but are infrequently heard; most calling occurs underwater (MacTauge and Northen 1993). Breeding begins as early as March at relatively warm coastal sites and as late as July in areas with snowmelt-dominated rivers (Ashton et al. 1998, Storer 1925, Wheeler et al. 2015, Zweifel 1955). Larvae can hatch in as few as 5 days or greater than 35 days depending on temperature (Ashton et al. 1998, Zweifel 1955). They typically remain near the egg mass for several days and then disperse a short distance into the interstitial spaces of the rocky substrate and may move downstream with moderate currents (Ashton et al. 1998). Duration of development and survival to metamorphosis are influenced by water temperature and velocity and quality and quantity of algal resources (Catenazzi and Kupferberg 2013, Furey et al. 2014, Kupferberg et al. 2011, Railsback et al. 2016). Time to metamorphosis typically takes three to four months (Zweifel 1955), and sexual maturity is usually attained at age one or two in males and two or three in females depending on latitude and elevation (Gonsolin 2010, Kupferberg et al. 2009c).

Foothill Yellow-legged Frog diet differs by life stage. Larvae scrape algae from rocks and plants and appear to grow fastest on epiphytic diatoms on filamentous algae such as *Cladophora* sp., which they have been observed preferentially feeding on (Ashton et al. 1998, Jennings and Hayes 1994, Kupferberg 1997b). Post-metamorphic Foothill Yellow-legged Frogs primarily feed on a variety of terrestrial invertebrates, although some aquatic invertebrates are also consumed. Prey items include flies, moths, mosquitos, hornets, ants, beetles, grasshoppers, water striders, snails, and arachnids (Csuti et al. 2001, Fitch 1936, Nussbaum et al. 1983, Van Wagner 1996).

Foothill Yellow-legged Frogs are primarily diurnal and may be active year-round where winter temperatures are warm enough (Airola 1980). Peak activity is in April and May during the breeding season (Airola 1980, Gonsolin 2010). Home range size and patterns of dispersal are not well understood (Jennings and Hayes 1994). Foothill Yellow-legged Frogs often use watercourses as movement corridors (Nussbaum et al. 1983) and are rarely found greater than 12 m (39 ft) from the stream channel (Bourque 2008), although one post-breeding female was

radio-tracked over a period of 60 days moving up a perennial stream channel to intermittent and tributary channels, over a ridge, and eventually downstream into perennial waters in an adjacent watershed (Bourque pers. comm. in Olson and Davis 2009). Bourque (2008) reported movement distances to and from breeding sites as far as 0.65 km (0.4 mi) for males and 7.04 km (4.4 mi) for females with median daily movements of 65.7 m (216 ft) and 70.7 m (232 ft), respectively. During the breeding season, adults congregate around breeding pools and become scarce by late summer, potentially dispersing into uplands or tributaries or reducing diurnal behavior (Ashton et al. 1998). Recently metamorphosed frogs show a strong tendency to move upstream during the fall and winter (Twitty et al. 1967).

Foothill Yellow-legged Frogs are preyed upon by a wide range of species during different life stages. Predators on eggs and larvae include signal crayfish (*Pacifasticus leniusculus*) and caddisfly larvae (Limnephilidae) (Kupferberg 1996a, Rombough and Hayes 2005), and Rough-skinned Newts (*Taricha granulosa*) (Evenden 1948). Post-metamorphic frogs are preyed upon by gartersnakes (*Thamnophis* spp.), (Fitch 1941, Zweifel 1955), river otters (*Lontra* (= *Lutra*) *canadensis*) (Hayes et al. 2016), and mallards (*Anas platyrhynchos*) (Rombough et al. 2005a). Foothill Yellow-legged Frogs are also vulnerable to predation by fishes, native and non-native, including bass, Sacramento pikeminnow (*Ptychocheilus grandis*), and others (Ashton and Nakamoto 2007 [cited as Ashton and Nakamoto 1997 in the Petition], Corum 2003, Hayes and Jennings 1988, Paoletti et al. 2011, Rombough and Hayes 2005).

2. Other Relevant Scientific Information

The Department does not possess any relevant scientific information regarding Foothill Yellow-legged Frog life history beyond what was provided in the Petition.

3. Sufficiency of the Petition with regard to Life History

The Department concludes the Petition contains sufficient information on the Foothill Yellow-legged Frog's life history to demonstrate some aspects may render it particularly vulnerable to natural and anthropogenic impacts.

D. Distribution and Abundance

1. Scientific Information in the Petition

The Petition, on pages 14 through 95, contains extensive detail on changes in Foothill Yellow-legged Frog distribution and abundance at regional, county, and watershed scales. The Petition notes that determining the abundance of Foothill Yellow-legged Frogs is problematic due to their cryptic coloration and dispersal across a range of channel sizes after the breeding season; therefore, visual counts such as those summarized in this section may not accurately reflect Foothill Yellow-legged Frog abundance at a site. Based on a population viability analysis (Kupferberg et al. 2009c), the Petition made the following qualifications regarding relative health of populations based on abundance when that information is available: populations with hundreds of breeding adults are considered robust, while populations in the single digits are

considered to be at high risk of extinction. Figure 1 shows recent and historical records of Foothill Yellow-legged Frogs.

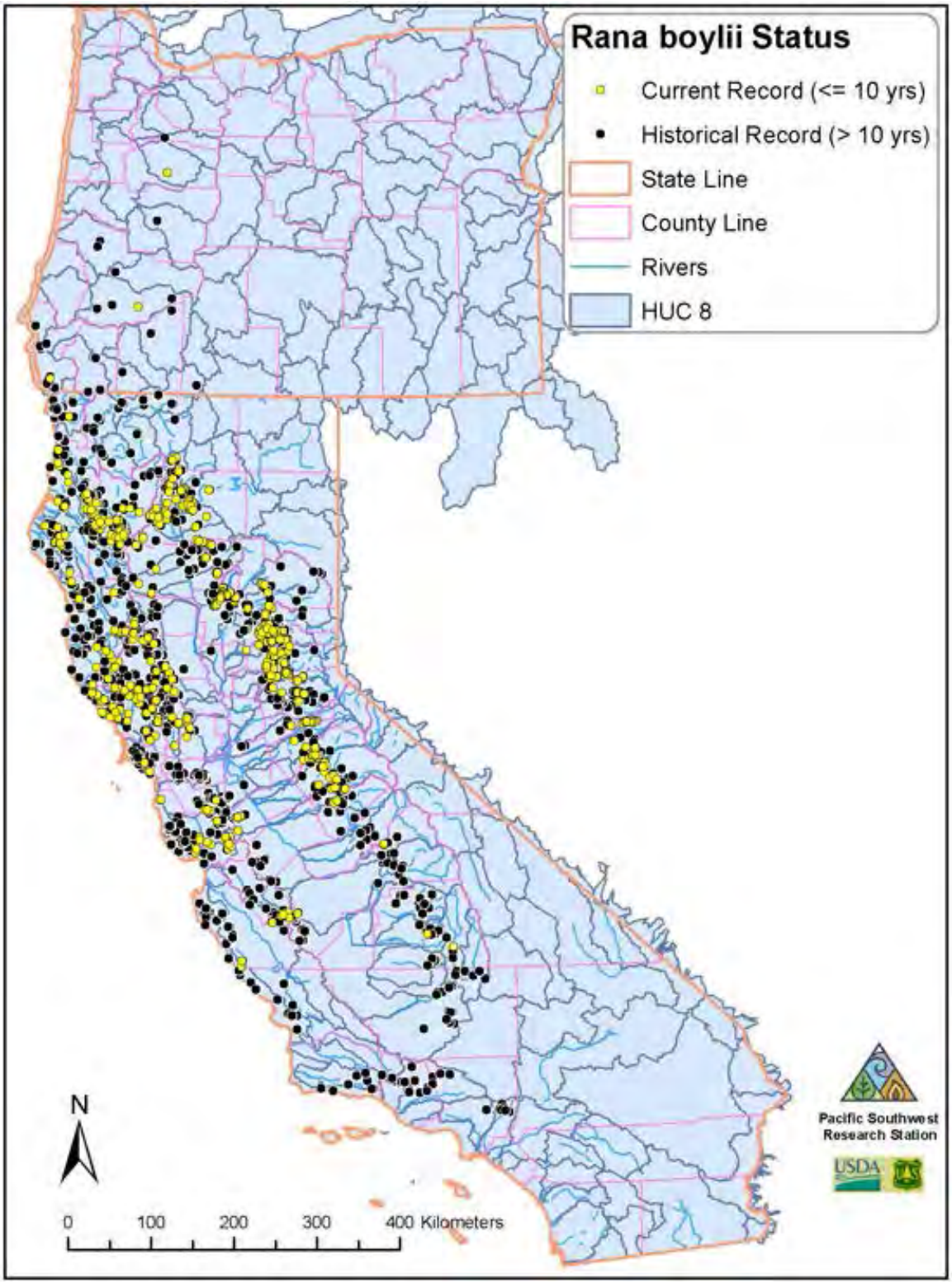


Figure 1. Foothill Yellow-legged Frog Distribution (USFS 2011)

Southern California

This region includes San Diego, Orange, San Bernardino, Los Angeles, Ventura, and Santa Barbara counties.

San Diego, Orange, and San Bernardino counties are outside of what is considered the known historical range of the Foothill Yellow-legged Frog; however, there are numerous museum specimens from this area from the 1920s to the 1960s that were labeled "*Rana boylii*". As previously mentioned, there was much taxonomic uncertainty surrounding this species' relationships with other Ranids, and many of these have since been correctly identified as Southern Mountain Yellow-legged Frogs (UCMVZ 2001, 2015; UKMNH 2001). However, the Petition states there are specimens from each of these counties that were collected well below the known elevation for Southern Mountain Yellow-legged Frogs that may warrant investigation. Nevertheless, there are no current records of Foothill Mountain Yellow-legged Frogs from these counties.

Los Angeles, Ventura, and Santa Barbara counties are within what is considered the known historical range of Foothill Yellow-legged Frogs. There are historical records of Foothill Yellow-legged Frogs at reasonably low elevations from the foothills of the San Gabriel Mountains, the greater Los Angeles floodplain, and the Santa Clara River drainage in Los Angeles County; from several creeks and tributaries within the Santa Clara River drainage in Ventura County; and from the Santa Ynez River drainage and two small coastal streams in Santa Barbara County (CAS 2011; CNDDB 2016; Cornell University 2002; HMCZ 2001; Jennings and Hayes 1994; SBMNH 2001; UCMVZ 2011, 2015; UMMZ 2001). Despite repeated surveys, the last reliable sighting of a Foothill Yellow-legged Frog in this region is from Piru Creek in Los Angeles County in 1977, and the species is considered extirpated from Southern California (Jennings and Hayes 1994, Sweet 1983).

South Coast

This region consists of San Luis Obispo County and the portion of Monterey County that includes coastal drainages south and west of the Santa Lucia Range.

There are historical records of Foothill Yellow-legged Frogs from numerous river tributaries, streams, and creeks in this region; however, most of the museum collections only date to the 1950s (CNDDB 2016, LPNF 2001, SBMNH 2001, UCMVZ 2015). Between 1988 to 1991, Jennings and Hayes (1994) found Foothill Yellow-legged Frogs present at 3 of 11 historically occupied sites (27%) in San Luis Obispo County; however, the last documented occurrence in the county was an individual collected from Little Pico Creek SSE of San Simeon in 1999 (CNDDB 2016). In Monterey County, Foothill Yellow-legged Frogs were verified to be present at four drainages in the 1990s (Jennings and Hayes 1994, Stephenson and Calcarone 1999); however, none were found during resurveys of two of these in 2014 (S. Kupferberg pers. comm. 2015). The species may be near extirpation in the South Coast.

Central Coast

This region includes portions of Monterey, San Benito, Santa Cruz, San Mateo, Fresno, Merced, Stanislaus, and San Joaquin counties.

Historical records of Foothill Yellow-legged Frogs exist from several locations within the Salinas River, Carmel River, and Santa Lucia Range watersheds (CAS 2001, CNDDB 2016, FMNH 2001, UCMVZ 2015, Zweifel 1955) in Monterey County. Jennings and Hayes (1994) were able to document presence at 5 of 12 of historical locations (42%) from 1988-1991. Small populations were observed in Salinas River tributaries in the early 2000s, and the species is presumed to occur at the Hastings Reserve within the Carmel River drainage (UCNRS 2015); however, there are no documented sightings in this county since 2002 (CNDDB 2016).

There are numerous historical records of Foothill Yellow-legged Frogs from the Salinas River drainage, including Pinnacles National Monument, the San Benito River drainage, and Panoche Creek in San Benito County (CAS 2001, SDNHM 2001, UCMVZ 2015). The species was considered “abundant” and “quite common” in Pinnacles in the 1950s (Banta and Morafka 1967, Wauer 1958) and was still present in the mid-1960s (De Foe 1963, Morafka 1965) but was considered “rare” by the mid-1980s (Fellers 1986). Extensive surveys from 1992-1994 failed to detect them (Ely 1993, 1994), and the species was considered extirpated from Pinnacles by 2002 (Fesnock and Johnson 2002). Large populations of Foothill Yellow-legged Frogs were observed on Bureau of Land Management land in the upper San Benito River watershed above and below Hernandez Reservoir during surveys in 1992 (Ely 1992), and the species remained locally abundant in some streams through 2009 (CNDDB 2016; USBLM 2009, 2013). Small to moderate populations were documented in tributaries to Panoche Creek in the 1990s (CAS 2001, CNDDB 2016); however, there have been no reports of Foothill Yellow-legged Frogs from this drainage in the past two decades. Jennings and Hayes (1994) located the species in 3 of 11 historical locations (27%) between 1988 and 1991 in San Benito County.

There are historical records of Foothill Yellow-legged Frogs from the San Lorenzo River and tributaries, tributaries to the Pajaro River and Watsonville Slough, and Aptos, Soquel, and Waddell creeks in Santa Cruz County (CNDDB 2016, HMCZ 2001, LSUMNS 2001, Slevin 1928, UCMVZ 2015). The species was considered “virtually extinct” in the Santa Cruz Mountains by the 1990s (R. Seymour and M. Westphal pers. comms. 1996). Small numbers of Foothill Yellow-legged Frogs were reported from the Aptos Creek watershed in1998, and small to moderate populations were reported from 1992-2008 in the Soquel Creek drainage (CNDDB 2016). Jennings and Hayes (1994) found the species at 3 of 4 historical locations (75%) they surveyed in Santa Cruz County between 1988 and 1991.

There are numerous historical records of Foothill Yellow-legged Frogs from the Pescadero Creek watershed and a couple from San Gregorio Creek in San Mateo County (CAS 2001, UCMVZ 2015). Jennings and Hayes (1994) found the species at 4 of 9 of historical sites (44%) in the county from 1988-1991, but the last documented sighting was a single individual at Pescadero Creek County Park in 1999 (CNDDB 2016).

There are some historical records of Foothill Yellow-legged Frogs from creeks that drain into the San Joaquin Valley from western Fresno, Merced, Stanislaus, and San Joaquin counties (CAS 2001, CNDDB 2016, Ely 1992, HWCSP 2015, UCMVZ 2015, UMMZ 2001). While Fellers (1994) reported healthy reproducing populations in western Fresno County, Jennings and Hayes (1994) were unable to find Foothill Yellow-legged Frogs at any of the six locations they surveyed there from 1988-1991. Small to large populations were documented in the mid-1990s in one watershed (CAS 2001, Ely 1992), but by the 2000s, there was only one report of a single small population (CNDDB 2016). The last records of Foothill Yellow-legged Frogs in western Merced County were of small populations in the Los Banos Creek watershed from 1985-1988 (CNDDB 2016). In western Stanislaus County, the most recent records of Foothill Yellow-legged Frogs were of very small populations documented along Del Puerto Creek from 2000-2008, and small numbers were reported in 2005 in a tributary to Orestimba Creek (CNDDB 2016). Museum collections suggest Lower Corral Hollow Creek in western San Joaquin County supported a relatively large population, but the last record of a Foothill Yellow-legged Frog in this drainage is from 1971 (CNDDB 2016).

Bay Area

This region includes portions of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Solano, Napa, Sonoma, and Marin counties.

There is a single historical record of Foothill Yellow-legged Frogs from San Francisco in 1938 (CAS 2001), and resurvey efforts between 1988 and 1991 failed to detect the species (Jennings and Hayes 1994). Foothill Yellow-legged Frogs were collected from two localities in San Mateo County in 1899 and 1915 (CAS 2001, Slevin 1928, USNM 2001), but there have been no recent observations.

Numerous historical records exist for Foothill Yellow-legged Frog populations throughout Santa Clara County (CAS 2001, CDFG 1975, CMNH 2001, CNDDB 2016, Cornell 2002, FMNH 2001, LSUMNS 2001, Slevin 1928, TMM 2001, UCMVZ 2015, UMMZ 2001, USACE 2001, USNM 2001), and the species was likely present in nearly all of the larger perennial streams in Santa Clara County except the lower portions of Coyote Creek and Guadalupe River (H.T. Harvey and Associates 1999). There are no recent observations of Foothill Yellow-legged Frogs from Saratoga, Stevens, or San Francisquito creeks; the species in the latter watershed was described as “fairly common” in the 1960s (Launer et al. 1999). Jennings and Hayes (1994) located the species at 8 of 14 historical locations (57%) in Santa Clara County from 1998-1991. H.T. Harvey and Associates (1999) conducted widespread surveys in 1999 and concluded Foothill Yellow-legged Frogs had essentially disappeared from low-lying areas that had been converted to agricultural and urban uses as well as many perennial streams below major reservoirs, but they were still relatively abundant in foothill and mountain streams in the eastern portion of Santa Clara County. Small populations have been documented as recently as 2000 in the Guadalupe River watershed, 2007 in the Pajaro River watershed, and 2011 in headwater tributaries of the Mountain Hamilton/Alameda Creek watershed (CNDDB 2016). Small to moderate populations have been documented throughout the Coyote Creek watershed from

1986-2004 and as recently as 2016 (CAS 2001, CNDDB 2016, Gonsolin 2010, HWCSP 2015, PRA 1997).

There are historical records of Foothill Yellow-legged Frogs from several locations within the Alameda Creek watershed in Alameda County, as well as a population from Corral Hollow Creek, and two specimens collected from Oakland and Berkeley around the turn of the 20th century (CAS 2001, CMNH 2001, Schoenherr 1992, Slevin 1928, UCMVZ 2015, UMMZ 2001). The largest Foothill Yellow-legged Frog population in Alameda County, and potentially the entire Bay Area, inhabited upper Alameda Creek within the Sunol Regional Park; nearly 300 individuals were found at 4 locations during surveys from July through October 1996 (CNDDB 2016, EBRPD 1998). Jennings and Hayes (1994) found Foothill Yellow-legged Frogs in 4 of 13 historical locations (31%) surveyed between 1988 and 1991. During extensive surveys from 1997-1999 on East Bay Regional Park District lands, Foothill Yellow-legged Frogs were found in the upper Alameda Creek watershed but were extirpated or absent from all other streams surveyed (Bobzien and DiDonato 2007). One population was described as “abundant” as recently as 2006 (B. Sak pers. comm. 2006); however, this population has since crashed as a result of the drought (S. Kupferberg pers. comm. 2015). Prior to 1997, Foothill Yellow-legged Frogs were observed “frequently” along several miles of Corral Hollow Creek, but by the late 1990s it was restricted to the upper half mile of the creek (CNDDB 2016, Jones & Stokes 2000).

There are historical records of Foothill Yellow-legged Frogs from several creeks in Contra Costa County, and the species was apparently once abundant in San Pablo Creek near Orinda (G. Beeman pers. comm. 2002; CAS 2001; CNDDB 2016; UCMVZ 2001, 2015; USACE 2001). Jennings and Hays (1994) found the species at 3 of 9 historical locations (33%) in the county surveyed between 1988 and 1991 and suspected 8 of 11 historical populations had been extirpated. Foothill Yellow-legged Frogs were extirpated from East Bay Municipal Utility District watershed lands as early as the 1950s (EBMUD 1994); none were found by Bobzien and DiDonato (2007) during surveys of East Bay Regional Park District lands from 1997-1997; and there are no records within the East Contra Costa County Habitat Conservation Plan area (CCC 2006). Small numbers of Foothill Yellow-legged Frogs were still present in headwater tributaries draining Mt. Diablo in the early 2000s (G. Beeman pers. comm. 2002), but there have been no more recent observations from the county.

Small to moderate populations of Foothill Yellow-legged Frogs have been reported from the early to mid-2000s in tributaries to Lake Berryessa and Putah Creek, Alamo and Ulatis creeks, and a tributary to Ledgewood Creek in Solano County (CNDDB 2016, Solano County Water Agency 2002).

Foothill Yellow-legged Frogs historically occurred in relatively large numbers at some locations in Napa County and were widely distributed within the Napa River and Putah Creek watersheds (CAS 2001, CNDDB 2016, FMNH 2001, UCMVZ 2015). Small to very small populations were observed as recently as the 1990s in a few Putah Creek tributaries, the 2000s in some Napa River watershed creeks, and 2007 in Milliken and Capell creeks (CNDDB 2016, Napa County 2016).

In Sonoma County, Foothill Yellow-legged Frogs were historically collected from tributaries throughout the Russian River, Gualala River, Petaluma River, and Sonoma Creek watersheds, sometimes in large numbers (CAS 2001, CMNH 2001, FMNH 2001, LSUMNS 2001, UCMVZ 2015, UMMZ 2001). The species was considered “common” and was found in “large numbers” in the Sonoma Mountains east of Petaluma in the 1990s (Harvey et al. 1992). Foothill Yellow-legged Frogs continued to be documented throughout Sonoma County into the 1990s and 2000s, but the records are of small populations with the exception of a half-dozen moderate (20+ individuals) to moderately large (50+ adults and sub-adults) populations (CNDDB 2016).

Foothill Yellow-legged Frogs were historically found throughout Marin County, including the Lagunitas Creek drainage, tributaries on Mount Tamalpias, Redwood Creek, tributaries to Bolinas Lagoon and Tomales Bay, in apparently high abundance if collection numbers are any indication (CAS 2001, CMNH 2001, GANDA 2010a, LSUMNS 2001, TMM 2001, UCMVZ 2015, UKMNH 2001, UMMZ 2001, USNM 2001). However, surveys in the 1990s and 2000s failed to find the species in many previously occupied sites, including a population that had been considered abundant as recently as the early 2000s (Ely 1993, Fong 1997, GANDA 2010a). Foothill Yellow-legged Frogs appear to have been extirpated from most former locations and watersheds; only two known populations remain within Mount Tamalpias tributaries (CNDDB 2016, GANDA 2010a, MMWD 2014), although small populations may still occur in some Tomales Bay tributaries (GANDA 2010a).

Upper Sacramento River

This region consists of Yolo, Colusa, Glenn, Tehama, and Shasta counties.

Small populations of Foothill Yellow-legged Frogs were reported between 1997 and 2000 at a few locations in the Cache Creek drainage in northwestern Yolo County (CAS 2001, CNDDB 2016, Yolo County 2013), and there was a historical record from Putah Creek west of Winters (Harvey et al. 1992, Slevin 1928). The Petition notes that the paucity of Foothill Yellow-legged Frog locations in Yolo County suggests the species may never have been common (Yolo County 2013).

There are historical records of Foothill Yellow-legged Frogs from the Stony Creek drainage and one from Sand Creek 5 miles west of Arbuckle in Colusa County (CAS 2001, CNDDB 2016, UCMVZ 2015). Based on collections, it appears the species was relatively common in the Stony Creek drainage (UCMVZ 2015) and continued to be relatively abundant in Mill Creek and Little Stony Creek as recently as 2008 (CNDDB 2016, Fellers 1996). Small populations were observed in other creeks within this drainage as well as Cache Creek tributaries, Bear Creek, and Sulphur Creek from the 1990s and early 2000s (CNDDB 2016).

Foothill Yellow-legged Frogs were known historically from a handful of locations in the Stony Creek and Black Bear River drainages in Glenn County (CAS 2001, CNDDB 2016, Slevin 1928, UCMVZ 2015), and small populations were documented in the former as recently as 2000 with a single observation of a juvenile in the latter in 1999 (CAS 2001, CNDDB 2016).

Historical records of Foothill Yellow-legged Frogs exist for Battle Creek, Paynes Creek, and Antelope Creek drainages, as well as Dye Creek, Mill Creek, Deer Creek, and the Sacramento River near Red Bluff in Tehama County (CNDDB 2016, LNF and PNF 1999, UCMVZ 2015, UMMZ 2001). With the exception of the Sacramento River locality, which is extirpated, all of these watersheds were still supporting the species in small numbers in the 1990s and 2000s (CAS 2001, CNDDB 2016, Fellers 1996, Hayes et al. 2013). Jennings and Hayes (1994) found the species at 3 of 7 (43%) historically occupied sites (43%) in the eastern part of the county during surveys from 1988-1991. No Foothill Yellow-legged Frogs were found during amphibian surveys from 1990-1998 in the Lassen National Forest (LNF and PNF 1999), but according to Hayes et al. (2013), there had been some scattered sightings in the area as part of Federal Energy Regulatory Commission surveys. A relatively large population (79 over 2 years) was found in the Red Bank Creek watershed in the mid-2000s (Bourque 2008), and at least 10 adults and 1 egg mass were observed in Antelope Creek in 2016 (CNDDB 2016).

Foothill Yellow-legged Frog historical collections were made throughout the upper Sacramento River tributary creeks in Shasta County (CAS 2001, FMNH 2001, UCMVZ 2015, UMMZ 2001, USNM 2001). The species was found at 3 of 14 historical locations (21%) in the county during surveys from 1988-1999 by Jennings and Hayes (1994); however, small populations were recorded in three dozen tributaries in the 2000s (CNDDB 2016, FERC 2001).

Northern Coastal California

This region consists of Lake, Mendocino, Humboldt, Trinity, Siskiyou, and Del Norte counties.

Foothill Yellow-legged Frogs were historically collected from the Eel River, Clear Lake, Cache Creek, and Putah Creek drainages in Lake County (CAS 2001, CNDDB 2016, UCMVZ 2015), some of which were documented to “moderately abundant” in the mid-1950s (CNDDB). Small to moderately large populations have been documented in all of the historically occupied watersheds as recently as 2000 (Clear Lake tributaries) with some as recent as 2008 (Eel River watershed) (CNDDB 2016). While reported numbers are small from many sites, no known extirpations have occurred in Lake County.

There are numerous historical collection records of Foothill Yellow-legged Frogs from across several watersheds in Mendocino County including the Eel, Tenmile, Noyo, Big, Navarro, Garcia, Gualala, and Russian rivers, as well as some small coastal rivers: some collections suggest large populations like those from the South and Middle Forks of the Eel River (CAS 2001, CMNH 2001, CNDDB 2016, FMNH 2001, LSUMNS 2001, SDNHM 2001, UCMVZ 2015, UMMZ 2001, USMN 2001). The species was still widespread in all the major watersheds as recently as the 1990s and 2000s, including some moderately abundant populations in the Eel and Russian River watersheds (CNDDB 2016, Fellers 1996, D. Matson pers. comm. 2001).

Historical collection records of Foothill Yellow-legged Frogs exist from numerous locations throughout Humboldt County including the Klamath, Trinity, Redwood Creek, Mad, Eel, Van Duzen, and Mattole rivers and Redwood Creek; some were relatively large from Maple Creek within the Mad River drainage and from Redwood Creek (CAS 2001, CMNH 2001, CNDDB 2016, FMNH 2001, RNSP 2001, SDNHM 2001, UCMVZ 2015, UMMZ 2001, USNM 2001). As

of the 1990s, the species was still well-distributed through the watersheds in the county (CNDDB 2016; D. Matson pers. comm. 2001, RNSP 2001; USDA 1994, 1995a, 1995c, 1999; USDA and USDI 1996, 1998; Welsh and Hodgson 2011). In addition, relatively abundant populations were documented in some areas into the 2000s (CNDDB 2016), as well as during single pass egg mass surveys conducted by the Department between 2010 and 2016 along reaches of the Mad River, South Fork Eel River and one of its tributaries (M. van Hattem pers. comm. 2016).

There are historical collections of Foothill Yellow-legged Frogs from the Trinity, Salmon, Mad, and Eel rivers and Cottonwood Creek within Trinity County with large numbers taken from the Trinity River and its tributaries and the Mad River (Bury 1969, CAS 2001, CMNH 2001, CNDDB 2016, LSUMNS 2001, Slevin 1928, UCMVZ 2015, UMMZ 2001, USDA 1999). The species was common in the 1990s in the North Fork and Middle Fork Eel River drainages, but its current status is unknown, and despite declines along the mainstem Trinity River downstream of Lewiston Dam, the species continues to be widespread throughout the river basin through the 2000s with a particularly large population along the South Fork Trinity River (CNDDB 2016).

Historical records of Foothill Yellow-legged Frogs exist from the Klamath and Sacramento River drainages in Siskiyou County (CAS 2001, CNDDB 2016, LSUMN 2001, UCMVZ 2015, UMMZ 2001). The species was reportedly “fairly common” in the 1990s in the former (KNF 1999), and small numbers have been reported throughout the latter as recently as 2003 (CNDDB), but overall current status is unknown.

There are historical collections of Foothill Yellow-legged Frogs from the Rogue River and Smith River watersheds in Del Norte County (CAS 2001, CMNH 2001, FMNH 2001, RNSP 2001, SDMNH 2001, UCMVZ 2015, UMMZ 2001, UTA 2001). The species was found in most Smith River tributaries in the 1990s and was considered abundant in the Middle Fork (USDA 1995b, 1999) with an apparently stable population documented on Hurdygurdy Creek as recently as the mid-2000s (Wheeler et al. 2006). In addition, a small number of Foothill Yellow-legged Frogs were discovered on a tributary to the Klamath River in 1990 (CNDDB 2016), but there have not been any more recent records from the county.

Southern Sierra Nevada

This region consists of eastern Kern, Tulare, Fresno, Madera, and Mariposa counties. Like Southern California, there are a few dubious Foothill Yellow-legged Frog specimens based on elevation that may be Mountain Yellow-legged Frogs; the two species’ ranges historically abutted each other in mid-elevation streams in this region (Zweifel 1955).

There are historical records of Foothill Yellow-legged Frogs from the Kern River watershed, Tehachapi Creek, Caliente Creek, and Tejon Creek in Kern County (CAS 2001, CNDDB 2016, LSUMNS 2001, UCMVZ 2015, USNM 2001). There are no records from the county since 1967, and Jennings and Hayes (1994) were unable to locate the species at 15 historical sites in the county from 1988-1991. Foothill Yellow-legged Frogs are considered extirpated from Kern County.

Historical collections of Foothill Yellow-legged Frogs exist from the Kern River, Kaweah River, Deer Creek/White River, and Tule River drainages in Tulare County (CAS 2001; CNDDB 2016; HMCZ 2001; UCMVZ 2015; UMMZ 2001; USNM 2001). Jennings and Hayes (1994) were unable to locate the species during surveys from 1988-1991 at 17 historic locations within the county. The only records since 1970 are one small and one moderate-sized population found between 1998 and 2008 in the Kern River drainage and an observation of a single individual in the Tule River drainage from 2004 (CNDDB 2016). The Foothill Yellow-legged Frog is nearly extirpated from Tulare County.

There are historical records of Foothill Yellow-legged Frogs from the Kings River and San Joaquin River watersheds in Fresno County (CAS 2001; CNDDB 2016; TMM 2001; UCMVZ 2015; Wright and Wright 1949). Despite many surveys, the species has not been seen in over 30 years in the Kings River drainage (SKCNP 2001). Jennings and Hayes (1994) found the species at 4 of 9 historic locations (44%) in eastern Fresno County from 1988-1991. No Foothill Yellow-legged Frogs were found during surveys on the San Joaquin River (PG&E 2000), but small populations were found in a tributary to the San Joaquin River between 1994 and 2007 (CNDDB 2016).

Foothill Yellow-legged Frogs were found historically in the San Joaquin River and Fresno River drainages in Madera County (CNDDB 2016; Madera County 2007; PG&E 2000, UCMVZ 2015). In addition, Moyle (1972, 1973) documented the species in Chowchilla River in 1970; however, there are no more recent records from that watershed (CNDDB 2016). Jennings and Hayes (1994) relocated the species at 3 of 6 of historical sites (50%) surveyed from 1988-1991. The most recent sightings were in 1991 and 1994 of small populations within the Fresno River watershed (CNDDB 2016), but subsequent survey efforts failed to find the species (PG&E 2000). Foothill Yellow-legged Frogs may be extirpated from Madera County.

There are numerous historical collection records for Foothill Yellow-legged Frogs from throughout the Merced River drainage in Mariposa County (CNDDB 2016, FMNH 2001, Grinnell and Storer 1924, HMCZ 2001, Martin 1940, Richards 1958, UMMZ 2001, USNM 2001). According to Storer's field notes, the species appeared to be relatively common, but extensive resurveys of the Grinnell and Storer Yosemite transect and other areas in Yosemite failed to find Foothill Yellow-legged Frogs within the park (Drost and Fellers 1994, Fellers 1997, Fellers and Freel 1995, Jennings 1996, Moritz 2007). Small populations were located in North Fork tributaries in the 1990s through 2009, but resurveys only detected a single individual (CNDDB 2016, S. Kupferberg pers. comm. 2016). Jennings and Hayes (1994) found Foothill Yellow-legged Frogs at 1 of 5 of historical locations (20%) from 1988-1991 in Mariposa County. The species is likely extirpated from most of the county with the possible exception of small populations upstream of Lake McClure.

Central/Northern Sierra Nevada

This region consists of Tuolumne, Sutter, Calaveras, Amador, El Dorado, Placer, Nevada, Sierra, Yuba, Butte, and Plumas counties.

There are historical records of Foothill Yellow-legged Frogs from several sites within the Tuolumne River watershed in Tuolumne County (CNDDB 2016; Martin 1940; Moyle 1972, 1973; Richards 1958, UCMVZ 2015, USNM 2001). Jennings and Hayes (1994) found the species at 2 of 6 historical locations (33%) surveyed from 1988-1991. Small populations were documented in the 1990s and early 2000s (CNDDB 2016), but focused surveys in 2012 failed to detect the species (HDR 2013). Small populations were documented between 1998 and 2003 in portions of the Stanislaus River watershed (CNDDB 2016), but currently there is only one known population from the Sand Bar Dam reach of the Stanislaus River (S. Kupferberg pers. comm. 2016).

There is a single historical record of Foothill Yellow-legged Frogs from the Sutter Buttes in Sutter County, but Jennings and Hayes (1994) were unable to relocate the species. This population is likely extirpated.

Foothill Yellow-legged Frogs were historically collected from a few locations within the Stanislaus River and Mokelumne River watersheds in Calaveras County (UCMVZ 2015, USMN 2001). The species was found at 2 of 9 historic sites (22%) in the county surveyed between 1988 and 1999 by Jennings and Hayes (1994). Small populations have been recorded from tributaries in both watersheds in Calaveras County from as recently as the mid- to late 2000s (CNDDB 2016).

The Petition states there were no historical localities of Foothill Yellow-legged Frogs from Amador County; however, it also states that Jennings and Hayes (1994) resurveyed 3 historic locations between 1988 and 1991 and failed to detect the species at any of them. Since that time, small populations were found in a tributary to Dry Creek in the early 2000s and during Federal Energy Regulatory Commission amphibian surveys in 2001 and 2009 within the Mokelumne River drainage (CNDDB 2016).

There are numerous historical records of Foothill Yellow-legged Frogs in the South Fork American River and Cosumnes River drainages in El Dorado County (UCMVZ 2015, Slevin 1928). Jennings and Hayes (1994) found the species at 1 of 9 historical sites (11%) surveyed between 1988 and 1991. Since then, small populations on the South Fork American River were documented between 2002 and 2004 (CNDDB 2016), but several other efforts between 2002 and 2011 failed to detect the species in this watershed (Devine Tarbell & Associates and Stillwater Sciences 2005, ECORP 2011, GANDA 2010b). Numerous breeding populations of Foothill Yellow-legged Frogs were documented by the Placer County Water Agency (PCWA 2008) throughout the Middle Fork American River watershed in 2007. The species was reportedly widespread, and abundance and density of egg masses varied by stream size, flow regulation, and water temperatures, which were greatest along downstream reaches of the Rubicon River (Ibid.). Small populations of Foothill Yellow-legged Frogs were documented during the 1990s within the Cosumnes River watershed, but no more recent records exist from this area (CNDDB 2016).

The Petition states there was one historical location of Foothill Yellow-legged Frogs within the North Fork American River watershed in Placer County (UCMVZ 2015); however, it also states that Jennings and Hayes (1994) resurveyed 4 historical sites from 1988-1991 and found the

species at 2 (50%). Small populations were recorded from about a dozen sites in Placer County in the 1990s and 2000s, many from undammed locations within the North Fork watershed, but also from a couple sites within the Middle Fork American River watershed (CBI 2008, CNDDB 2016, Lehr 1998).

There are historical collections of Foothill Yellow-legged Frogs from a tributary to the mainstem Yuba River and South Fork Yuba River drainages in Nevada County (CAS 2001, UCMVZ 2015). Jennings and Hayes (1994) found the species at 2 of 5 historical sites (40%) in the county from 1988 to 1991. Foothill Yellow-legged Frogs were found in small numbers in the 1990s along some tributaries to the Middle Fork Yuba River (CNDDB 2016), and PG&E documented relatively high numbers of egg masses and larvae in the mainstem Middle Fork Yuba River and tributaries in 2008 (FERC 2013). Small populations were reported from the South Fork Yuba River and tributaries between 1991and 2008 (CAS 2001, CNDDB 2016), and PG&E documented numerous small populations throughout the South Fork Yuba River drainage in 2008 and 2009 (CNDDB 2016, FERC 2013). Declining populations were documented by the City of Grass Valley in a portion of the Bear River drainage (Grass Valley 2000), but PG&E documented all life stages in moderate to high numbers from 2002-2009 in the Bear River and its tributaries; one population was very large (349 adults, 2,082 juveniles, and 1,063 larvae in August 2008) (CNDDB 2016, FERC 2013), Additional small populations have been documented in the watershed from 2007-2008 (CNDDB 2016).

The Petition states there are no historical records of Foothill Yellow-legged Frogs from Sierra County; however, it also states Jennings and Hayes (1994) were successful in relocating the species at 1 of 4 historical sites (25%) in the county between 1988 and 1991. Small populations were documented in the North Fork Yuba River and a dozen of its tributaries in the late 1990s and early 2000s, as well as from three tributaries to the Middle Fork Yuba River between 1997 and 2008 (CAS 2001, CNDDB 2016).

There are historical records of Foothill Yellow-legged Frogs from the North Fork Yuba River and one if its tributaries, as well as from the Dry Creek drainage in Yuba County (CAS 2001, UCMVZ 2015, USNM 2001). Jennings and Hayes (1994) found the species at 2 of 3 of historical locations (67%) in the county resurveyed between 1988 and 1991. Foothill Yellow-legged Frogs were documented to occur in the lower Yuba River in the 1990s (PG&E 2000), and some small populations and single individuals were observed from the mid-1990s to the mid-2000s in tributaries to the North Fork Yuba River, but there are no records from Dry Creek since the early 1950s (CAS 2001, CNDDB 2016).

Foothill Yellow-legged Frogs were collected historically from the Feather River watershed and several creeks in Butte County including Mud Creek/Rock Creek, Big Chico Creek, Butte Creek, Dry Creek, Cottonwood Creek, and Honcut Creek (CAS 2001, CNDDB 2016, Slevin 1928, UCMVZ 2015). Hayes and Cliff (1982) noted that Foothill Yellow-legged Frogs were found in most drainages in Butte County as low as 72 m (250 ft). By the early 1990s, the species was becoming harder to find; Koo and Vindum (1999) did not relocate them at several historical locations within the Plumas National Forest in the 1990s. Jennings and Hayes (1994) found the species at 5 of 17 historical sites (29%) in the county from 1988-1991. With the exception of a

single male and female on the North Fork Feather River in 2008 and a single individual observed in a tributary to Dry Creek, all other records in Butte County date back to the 1990s (CNDDB 2016, Gallaway 1999, PG&E 2000).

There are historical collections of Foothill Yellow-legged Frogs from tributaries to the North Fork, the East Branch of the North Fork, and the Middle Fork Feather River in Plumas County (CAS 2001, UCMVZ 2015, UMMZ 2001). Jennings and Hayes (1994) located the species at 4 of 11 historically occupied sites (36%) in the county during surveys between 1988 and 1991, and Koo and Vindum (1999) found Foothill Yellow-legged Frogs at 45% of historical sites on the Plumas National Forest. The species appears to be extirpated from most historical sites in the East Branch of the North Fork Feather River, Little Butte Creek, Dry Creek, North Fork Yuba River, and West Branch Yuba River (Hayes et al. 2013), but populations remain in the North and South Forks of the Feather River watersheds (CNDDB 2016).

2. Other Relevant Scientific Information

The Department possesses the following additional information regarding Foothill Yellow-legged Frog distribution and abundance. If a geographic region is not discussed below, it means the Department does not possess any additional relevant scientific information for that particular area at this time. However, due to statutory time limitations on completing the Petition Evaluation, the Department could not process all the unpublished data it possesses, so the information below should not be considered a complete record.

South Coast

A robust population of Foothill Yellow-legged Frogs was reported to exist in the Arroyo de la Cruz watershed in in San Luis Obispo County in1993 in the upper two miles of the mainstem Arroyo de la Cruz and in the two tributaries that join to form the mainstem (Burnett Creek and Marmalejo Creek). The lands in this watershed are apparently owned by the Hearst Corporation, and access is restricted. The Petition reports that there have been no documented observations of Foothill Yellow-legged Frogs in this county since 1999; however, in 2004, baseline environmental documents prepared by consultants for the Hearst Ranch noted that Foothill Yellow-Legged Frogs were still present at those sites (J. Nelson pers. comm. 2017). The population's current status is unknown.

Central Coast

Approximately 25-30 Foothill Yellow-legged Frogs were observed on July 12, 2012, in Lewis Creek near the Monterey/San Benito County line (HERP 2016), an area the Petition described as having small populations present in the 1990s but no recent records.

Recent (2013-2015) "routine sightings" of Foothill Yellow-legged Frogs have been reported in the Soquel Creek watershed in Santa Cruz County (J. Jankovitz pers. comm. 2017) in an area described in the Petition as having small to moderate populations as recently as 2008. These sightings have been anecdotal to fisheries surveys and habitat restoration project evaluations and do not represent a comprehensive population survey; however, the frequency of sightings and numbers observed suggest a potentially robust population occurs here (Ibid.).

Bay Area

The Department conducted numerous stream surveys for salmonids within the Russian River watershed (Sonoma and Mendocino counties) from 1995 to 2007 (CDFW unpublished data). Survey reaches generally ranged from around 90-460 m (300-1,500 ft) in length. Incidental observations of sensitive species of amphibians, including Foothill Yellow-legged Frogs, were also tallied during these steam surveys; however, life stage was not recorded. It is assumed that numbers represent post-metamorphic frogs. The Petition stated that nearly all populations documented in the 2000s were small throughout the Russian River drainage with the exception of a moderate-sized population (20-49 individuals) on Cherry Creek and a moderately large population (50-99 individuals) on Gird Creek with populations on Miller, Porter, and Ward creeks also being "notable." While the following data are not any more current than the information in the Petition, they augment what was known about the distribution and abundance of the species and demonstrate that larger populations occurred at that time. Only observations of 10 or more Foothill Yellow-legged Frogs within a particular stream are reported below; in some cases, numbers are combined from more than one reach. Smaller numbers of the species were also recorded in numerous creeks within the greater Russian River watershed during the period surveys were conducted.

Black Rock Creek (Lower Russian River, Sonoma County) on 9/23/1996: 11

Devil Creek (Lower Russian River, Sonoma County) on 10/8/1996: 19

Gilliam Creek (Lower Russian River; Sonoma County) on 10/9 and 10/11/2001: 23

Kidd Creek (Lower Russian River, Sonoma County) on 10/9/2001: 10

Ingalls Creek (Middle Russian River, Sonoma County) on 10/3/1996: 18

Bluegum Creek (Middle Russian River; Sonoma County) on 10/15/1996: 53

Pechaco Creek (Middle Russian River, Sonoma County) on 10/28/1998: 10

Lovers Gulch Creek (Middle Russian River; Sonoma County) on 10/11/1999: 12

Hale Creek (Middle Russian River; Sonoma County) on 11/3/2000: 151

Gird Creek (Middle Russian River; Sonoma County) on 10/22/2001: 21

Pena Creek (Middle Russian River, Sonoma County) on 10/20/1998: 10

Pena Creek (Middle Russian River; Sonoma County) on 10/9 and 10/12/2001: 23

Redwood Creek (Middle Russian River; Sonoma County) on 10/2/2001: 10

Squaw Creek (Middle Russian River; Sonoma County) on 10/15/2001: 17

Chapman Branch (Middle Russian River; Sonoma County) on 10/20/1998: 19

Eldridge Creek (Upper Russian River; Mendocino County) on 10/22/1999: 14

Forsythe Creek (Upper Russian River; Mendocino County) on 10/26/1999: 10

Jack Smith Creek (Upper Russian River; Mendocino County) on 10/18 and 10/21/1999: 35

Johnson Creek (Upper Russian River; Mendocino County) on 10/18/2001: 17

McClure Creek (Upper Russian River; Mendocino County) on 10/24/2001: 18

Morrison Creek (Upper Russian River; Mendocino County) on 10/15 and 10/16/2001: 53

South Branch Robinson Creek (Upper Russian River; Mendocino County) on 9/28/2001: 48

Miners Creek (Upper Russian River; Mendocino County) on 8/7/2003: 10

Upper Sacramento River

The Department recorded incidental observations of Foothill Yellow-legged Frogs in the Stony Creek drainage (Colusa, Glenn, and Lake counties) during snorkel and electroshocking fish surveys in the 2000s that generally support the population distribution and abundance data in the Petition from this area (CDFW unpublished data). In 2001, a field note from surveys along the Middle Fork exclaimed "Foothill Yellow-legged Frogs (lots!)." In 2008, 33 adults were observed in the North Fork, 1 in the South Fork, 3 in the Middle Fork, and 31 in the mainstem. In 2009, "many *R. boylii* adults and larvae observed in section" was recorded from a 208 m (684 ft) survey reach along the North Fork. In the same year, the species was present at all three reaches surveyed along 11.3 km (7 mi) span of the South Fork, although no counts were recorded.

Northern Coastal California

The Department incidentally recorded Foothill Yellow-legged Frogs in the course of conducting snorkel surveys throughout much of this region between 2009 and 2015 (CDFW unpublished data, J. Garwood pers. comm. 2017), many of which occurred in Humboldt County where the Petition stated there were a paucity of surveys or records from the 2000s in many of these watersheds. The following data suggest there are still sufficiently large, reproducing, well-distributed populations of Foothill Yellow-legged Frogs in Northern Coastal California.

Blue Slide Creek (Mattole River watershed; Humboldt County) in 2015: 135 mostly subadults.

Grindstone Creek (Mattole River watershed; Humboldt County) in 2013: 25 adults.

Mattole Canyon Creek (Mattole River watershed; Humboldt County) during 2014-2015: 59 adults and 3 larvae.

Fourmile Creek (Mattole River watershed; Humboldt County) during 2014-2015: 26 adults.

North Fork Fourmile Creek (Mattole River watershed; Humboldt County) during 2014-2015: 22 adults.

Sholes Creek (Mattole River watershed; Humboldt County) during 2013-2015: 25 adults.

Mattole River mainstem (Humboldt County) during 2014-2015: 891 mixture of adults, subadults, and larvae (including 500 subadults in one survey section).

Van Duzen River mainstem (Humboldt County) during 2013-2016: 13 adults.

Big River mainstem (Mendocino County) during 2009-2010: 59 unknown life stage.

Navarro River mainstem (Mendocino County) during 2009-2013: 107 unknown life stage.

North Fork Smith River (Del Norte County) during 2012-2014: Small numbers of adults and 500 larvae.

Patrick Creek (Smith River drainage; Del Norte County) during 2012: Small numbers of adults and >100 larvae.

Cedar Creek (Smith River drainage; Del Norte County) during 2011-2016: 44 adults and subadults.

Hurdygurdy Creek (Smith River drainage; Del Norte County) during 2014-2015: 14 adults and 6 larvae.

Mill Creek (Smith River drainage; Del Norte County) during 2014-2015: 10 adults.

South Fork Smith River (Smith River drainage; Del Norte County) during 2012-2016: 32 adults, subadults, and larvae.

Smith River mainstem (Del Norte County) during 2012-2016: 199 adults, subadults, and larvae, as well as 4 egg masses.

3. Sufficiency of the Petition with regard to Distribution and Abundance

The Department concludes the Petition contains sufficient information on Foothill Yellow-legged Frog distribution and abundance to suggest both have been reduced over parts of the species' range in California.

E. Population Trend

1. Scientific Information in the Petition

The Petition, on pages 95 through 100, contains the following information on Foothill Yellow-legged Frog population trends across its complete range in California and Oregon, within California, and at regional scales.

The best measures of long-term (i.e., > 50 years) population trends for Foothill Yellow-legged Frogs involve resurveying historically occupied sites (e.g., Borisenko and Hayes 1999, Davis and Olson 2008, Drost and Fellers 1996, Jennings and Hayes 1994, Lind 2005, Olson and Davis 2009, Sweet 1983). For population trends over shorter, more recent, timeframes, repeated egg mass censuses have been undertaken by researchers, government agencies, and utility companies because each adult female Foothill Yellow-legged Frog lays one discrete clutch of eggs that are easily detectable. Peek and Kupferberg (2016) determined that there was significantly higher inter-annual variability in egg mass density in regulated river populations than those in unregulated channels. They concluded that population trends may not be detectable when high variability was combined with sparse densities (Ibid.).

Oregon and California

Lind (2005) assessed Foothill Yellow-legged Frog population status across their range in California and Oregon using a subset of historical sites and resurvey efforts. She determined that the species had disappeared from 201 of 394 of the historical localities (51%) in the dataset. Hayes et al. (2013, 2016) suggest this may be an underestimate of the number of populations that have been extirpated.

California

Jennings and Hayes (1994) thoroughly researched Foothill Yellow-legged Frog historical observations, compiling information from reports, surveys, Department files and data, searched museum specimens and naturalists' field notes, and conducted field surveys between 1988 and 1991. They found that Foothill Yellow-legged Frogs had been extirpated from at least 225 of 445 known historical locations (53%) and had disappeared from 45% of their historical range in California by 1994 (Ibid.). For a species to survive in the long-term, populations need to be large enough to be self-sustaining (Lanoo 2005). Fellers (2005) determined that 30 of the 213 sites in California (14%) with Foothill Yellow-legged Frogs had populations estimated to be 20 or more adults.

Southern California

Foothill Yellow-legged Frogs are extirpated from 21of 21 historically occupied sites (100%) in Southern California (Jennings and Hayes 1994). Drost and Fellers (1996) also concluded the species is likely extirpated from the Tehachapi Mountains southward.

South Coast

The species is still present in some coastal drainages and in the Salinas River watershed from Monterey County to northwestern San Luis Obispo County but in lower abundance. Jennings and Hayes (1994) found that Foothill Yellow-legged Frogs had been extirpated from 81 of 118 of historical sites (69%) from the South Coast.

Central Coast/Bay Area

Foothill Yellow-legged Frogs have declined in abundance and distribution through many parts of the greater Bay Area. There appear to be relatively stable populations remaining in the Diablo Range through western Fresno, San Benito, western Stanislaus, Santa Clara, and Alameda counties. Foothill Yellow-legged Frogs appear to be extirpated from Monterey County north of the Salinas River and western San Joaquin County. They may be near extirpation in western Merced, Contra Costa, Santa Cruz, and San Mateo Counties.

Marin/Sonoma

Foothill Yellow-legged Frogs have been extirpated from many historic locations in Marin County, and there may be only one relatively stable population remaining at Big Carson Creek. The species is still widely distributed throughout Sonoma County; however, there are no published reports of populations with over 50 adults.

North Coast

The largest populations of Foothill Yellow-legged Frogs in California occur in the North Coast Range with healthy populations distributed throughout the region; however, only 6 sites have estimated populations of greater than 100 adults and an additional 9 sites with greater than 50 adults. By the early 1990s, Jennings and Hayes (1994) determined they had been lost from 39 of 165 of historically occupied sites (24%) in this region.

Upper Sacramento River

Foothill Yellow-legged Frogs have declined from the upper Sacramento River basin; the proportion of historically occupied sites that were resurveyed by Jennings and Hayes (1994) in the early 1990s was 21% for Shasta County, and 43% for western Tehama County. The species remains in dozens of tributaries and creeks, but most populations are small.

Southern Sierra Nevada

Declines in Foothill Yellow-legged Frogs in the Southern Sierra Nevada were suspected by Moyle (1973) when he found the species at only 30 of 95 of the sites he sampled (31%) from the vicinity of Yosemite south. The species was thought to be near extirpation due to the low incidence of finding them during resurvey efforts (Drost and Fellers 1996; Fellers 1994, 1997; Fellers and Freel 1995). Foothill Yellow-legged Frogs are extirpated from Yosemite and Sequoia and Kings Canyon National Parks and near extirpation in Sequoia and Sierra National Forests (Hayes et al. 2013, 2016). Remaining populations are few and limited in distribution to Mariposa, Tulare, and eastern Fresno counties.

Central/Northern Sierra Nevada

Foothill Yellow-legged Frogs have experienced widespread declines in abundance and distribution across this region. The species is now gone from at least half of known historical locations in every county within this region except Plumas. Most extant populations are small and isolated from each other with little evidence of successful reproduction. Stable populations remain in El Dorado, Placer, Nevada, and Plumas counties.

2. Other Relevant Scientific Information

The Department does not possess any additional relevant scientific information on Foothill Yellow-legged Frog population trends beyond what was provided in Section D.2. above.

3. Sufficiency of the Petition with regard to Population Trend

The Department concludes the Petition contains sufficient information to indicate that Foothill Yellow-legged Frog populations may have declined in portions of the species' range in California.

F. Factors Affecting the Ability to Survive and Reproduce and Degree and Immediacy of Threat

1. Scientific Information in the Petition

The Petition, on pages 100 through 113, contains the following information regarding threats to Foothill Yellow-legged Frog long-term survival. A combination of anthropogenic stressors have led to the decline of the species throughout its range in California, primarily through habitat loss, fragmentation, and degradation of instream habitat conditions.

Climate Change

Climate change models for terrestrial systems in the Northern Hemisphere predict warmer temperatures, more intense precipitation events, and increased summer drying (Cayan et al. 2005, Field et al. 1999, IPCC 2007). Precipitation is predicted to fall earlier in the spring as rain rather than snow, which will shift the hydrograph to lower snowpack, earlier snowmelt, more winter rain, and higher winter storm runoff events (Maurer et al. 2007, Stewart 2009, Young et al. 2009). California is likely to experience an increase in average annual temperature of 1.5 – 4.5º C (2.7 – 8.1º F) in the next century (Cayan et al. 2008, Field et al. 1999). This combined with changes in precipitation will likely increase the low flow season and increase water temperatures, which may stress species that are adapted to more moderate temperature regimes. Spring snowmelt has already declined in the Sierra Nevada over the past century as a result of changes in timing and amount of precipitation; the portion of Sierra runoff between April and June has declined by 9% (Aguado et al. 1992, Kadir et al. 2013).

As ectotherms, amphibians are particularly sensitive to changes in air and water temperatures, precipitation, and hydroperiod because their body temperatures and activity cycles depend on the availability of optimal environmental conditions in their habitat (Lind 2008). Shifts to earlier breeding have already been observed in some species of amphibians, presumably in response to warming temperatures (Bebee 1995, Blaustein et al. 2001, Gibbs and Breish 2001). If shifts in activities such as breeding are not accompanied by shifts in other critical environmental factors such as emergence of insect prey, growth and survival may be effected.

Changes in frequency, duration, and magnitude of droughts and in runoff quantity and timing may have significant adverse impacts on Foothill Yellow-legged Frogs. Jennings and Hayes (1994) attributed population declines in part to drought. Decreases in summer runoff may result in the loss of foraging and refuge habitat for adults and juveniles, and increasing stream water temperature has been shown to decrease invertebrate density and biomass (Hogg and Williams 1996), which could negatively impact the species' prey base. In addition, as streams dry, Foothill Yellow-legged Frogs congregate in remaining wetted areas, increasing their contact and probability of transmitting diseases and parasites. Increased summer water temperatures were implicated in outbreaks of the parasitic copepod *Lernaea cyprinacea* and malformations in Foothill Yellow-legged Frog larvae and young-of-the-year in California (Kupferberg et al. 2009a). Changes in climatic regimes are likely to increase pathogen virulence and amphibian susceptibility to pathogens (Alford 2011, Gervasi et al. 2008, Pounds et al. 2006, Pounds et al. 2007).

Changes in climatic patterns, particularly those linked to precipitation, may have substantial impacts on Foothill Yellow-legged Frog populations, particularly those at lower latitudes and elevations. Climate change appears to already be a contributing factor in decline of the species (Fellers 2005, Olson and Davis 2009). Low precipitation and increased variability in precipitation were both inversely related to Foothill Yellow-legged Frog presence (Lind 2005), and drought severity has been greater at lower latitudes in California (Cook et al. 2004). Davidson et al. (2002) found a north-to-south gradient of increasing Foothill Yellow-legged Frog losses, consistent with climate change hypotheses (i.e., more losses at drier sites to the south). Continued climate change is likely to cause further contraction of the Foothill Yellow-legged Frog's range with loss of southernmost populations, as well as potential habitat shift upward in elevation, as temperatures increase and precipitation becomes more variable.

Dams, Water Development, and Diversions

Water development and diversions are the primary and most well-documented cause of Foothill Yellow-legged Frog declines and have a greater potential to alter habitat for the species than any other risk factor (Hayes et al. 2013, 2016). Water management activities can produce landscape and localized changes in habitat conditions, such as water velocities, depths, and temperatures, that can lead to inconsistent environmental cues for breeding, lower growth rates in larvae, scouring and/or stranding of egg masses and larvae, reductions of overall habitat suitability for breeding and rearing, barriers to gene flow around reservoirs, and establishment of non-native predators in reservoirs that then spread into the rivers (Ibid.).

There are two major types of water developments: impoundments and diversions. Impoundments block streams with a structure (most often a dam) such that natural flows are impeded and water is pooled upstream, while diversions remove water and deliver it to off-site locations. At least one large reservoir exists in the foothill region of every major stream in the Sierra Nevada below 600 m (1,968 ft), and several major streams and rivers have two or more reservoirs in linear sequence (Ibid.) In addition, several hundred medium-sized and small reservoirs are broadly distributed at elevations within the Foothill Yellow-legged Frog's range over the Sierra Nevada (Mount 1995).

Reservoirs convert lotic (flowing) aquatic habitats to lentic (still) conditions, resulting in habitat with reduced flows, increased depths, and altered temperature and dissolved oxygen regimes (Mount 1995; Petts 1980, 1984). Because Foothill Yellow-legged Frogs have evolved to inhabit free-flowing, well-oxygenated water with coarse substrates, these alterations result in direct loss of required habitat for the species. At least eight historically occupied sites in the Sierra Nevada are currently inundated by reservoirs (Hayes et al. 2013, 2016), and given the number and location of dams, it is likely Foothill Yellow-legged Frogs could have historically occupied many of these sites.

In addition to direct loss of habitat within the footprint of the reservoir, degradation of upstream and downstream habitat can be severe. Lind et al. (1996) reported a 94% loss of potential breeding habitat after construction of the Lewiston Dam on the Trinity River in Northwestern California. Dam operations reduced flood flows to 10-30% in total volume and periodic high flows (i.e., storm runoff) from pre-dam conditions, which facilitated encroachment by riparian

vegetation and reduced cobble/gravel bar formation (Ibid.). In addition, regulated flows and lack of winter flooding can create stable pool areas with established aquatic vegetation (Kupferberg 1996a, Lind et al. 1996), which increases suitable habitat for exotic species such as bullfrogs (Ashton et al. 1998). And decreased flows that result in drying channels can force Foothill Yellow-legged Frogs into permanent pools where they are more susceptible to predation (Hayes and Jennings 1988).

Foothill Yellow-legged Frogs are adapted to the distinct hydrograph created by California's Mediterranean climate, which is marked by high and variable water flows in the fall through spring and low, receding, stable flows in the summer (Yarnell et al. 2010). Water development and diversions cause changes to the hydrograph that recurrently affect several aspects of the species' life history, which can result in reduced abundance and even extirpation (Hayes et al. 2013, 2016). Foothill Yellow-legged Frog breeding populations were five times smaller on average in rivers with regulated flows than in unregulated rivers (Kupferberg et al. 2012). In studying Foothill Yellow-legged Frog distribution, Lind (2005) identified an impoundment effect. The species was associated with streams lacking dams or with streams with small dams that were located far upstream of occupied locations, and extirpated localities were characterized by higher numbers of all dams upstream, greater number of very large dams upstream, greater maximum height of dams upstream, and closer proximity to upstream dams (Ibid.). Along with eliminating habitat and causing local extirpations, dams fragment stream habitat, which interferes with normal dispersal and movements and can impede recolonization after local extirpations (Fellers 2005, Peek 2010).

In addition to a reduction of suitable breeding habitat downstream of dams, aseasonal releases can result in significant loss of annual breeding efforts. High flow releases in late spring can result in scouring of egg masses downstream, whereas poorly timed receding flows can leave egg masses stranded on land to desiccate (Kupferberg et al. 2009b, Lind et al. 1996). Scouring of egg masses has been documented at several locations across the species' range in California including the Trinity River (Lind et al. 1996a), Pit River (Ellis and Cook 2004), and North Fork Feather River (Jackman et al. 2004). In Alameda Creek, Bobzien and DiDonato (2007) concluded that unnatural and consistently higher discharge and irregular flows appeared to be a major factor in poor reproductive conditions for Foothill Yellow-legged Frog populations below dams when compared to those occupying stream reaches with natural flows.

In addition to aseasonally high flows scouring egg masses, summer pulse flows, primarily provided for white water rafting recreation or hydroelectric power generation, can displace larvae approaching metamorphosis (Kupferberg et al. 2011). Experiments suggest that during these pulse flows, larvae seek refuge from higher velocities in the substrate, but many are washed downstream (Ibid.). Larvae exposed to repeated sub-lethal velocities grew significantly less and experienced higher predation than larvae reared at ambient velocities, suggesting there is an energetic cost associated with pulse flows during this stage of development (Ibid.)

Disease

The introduced fungal pathogen *Batrachochytrium dendrobatidis* (Bd), which causes chytridiomycosis, is responsible for amphibian declines in the United States and Central

America (Fellers 2001). This disease causes abnormalities in jaw sheaths and teeth rows of larvae and is fatal in some species. Bd has been detected in Foothill Yellow-legged Frogs in California by several researchers sampling over large areas of the state (Adams et al. in press; Fellers 2001; Davidson et al. 2007; Johnson and Saulino 2007; Lowe 2007, 2009; Padgett-Flohr and Hopkins 2009), but its population-level effects are unknown (Fellers 2005). Most post-metamorphic frogs were not infected, and all individuals >40 mm were Bd-free. While Foothill Yellow-legged Frogs are hosts to Bd, there is conflicting evidence regarding its lethality under laboratory conditions (Davidson et al. 2007, G. Padget-Flohr pers. comm. to S. Kupferberg), although Bd infection does appear to negatively affect growth in the lab and the field (Davidson et al. 2007, Lowe 2009). In laboratory experiments, Davidson et al. (2007) found that Bd infection reduced growth of newly metamorphosed Foothill Yellow-legged Frogs by approximately one-half and that exposure to the pesticide carbaryl likely increases susceptibility to Bd infection.

In the fall of 2013, Foothill Yellow-legged Frogs in the Little Yosemite reach of Alameda Creek experienced an outbreak of Bd in which dead and dying juveniles were observed (Adams et al. in press). Padgett-Flohr and Hopkins (2009) determined through histological examination of museum specimens of Foothill Yellow-legged Frogs that Bd has likely been present in the Alameda Creek watershed in Alameda County since at least 1961. Bd had been detected by others over the last decade many miles upstream of the site, but this die-off event was the first documented negative effect of Bd infection among Foothill Yellow-legged Frogs in the watershed (Adams et al. in press). The outbreak coincided with extremely low stream flows, which concentrated frogs in drying pools and expanded the spatial distribution of non-native bullfrogs in the stream network (Ibid.). Bullfrogs may represent a reservoir for Bd when Foothill Yellow-legged Frogs in the population are Bd negative because the strongest predictor of Bd load in Foothill Yellow-legged Frogs was the presence of bullfrogs (Ibid.). Although Foothill Yellow-legged Frogs have not experienced the kind of catastrophic die-offs across its range like those observed in the Sierra Nevada Yellow-legged Frog (*R. sierrae*) and Southern Mountain Yellow-legged Frog, this die-off event proves the species is susceptible to large-scale mortality from chytridiomycosis under certain conditions.

Other potential Foothill Yellow-legged Frog pathogens include *Saprolegnia* sp., a water mold observed on amphibian egg masses in the Trinity River (Ashton et al. 1998); the bacteria *Aeromonas hydrophilia*, which is responsible for “red leg” disease; and iridioviruses (*Ranavirus* spp.), which are found in fish and frogs.

Invasive Species

Non-native predators such as predatory fishes, bullfrogs, and crayfish are a primary threat to Foothill Yellow-legged Frogs (Ashton et al. 1998, Fellers 2005, Hayes and Jennings 1986, Kupferberg 1996b, Lind et al. 2003, Lind et al. 1996, Moyle 1973, Paoletti 2009, Paoletti et al. 2011).

Bullfrogs and crayfish adversely affect amphibian populations in general through direct predation as well as competition for resources (Hayes 1985, Hayes and Jennings 1986, Jennings 1988, Kats and Ferrer 2003, Kupferberg 1996b). Centrachid fishes readily eat Ranid

eggs (Werschkul and Christensen 1977) and may contribute to the extirpation of Foothill Yellow-legged Frog populations. Rombough et al. (2005b) reported that Foothill Yellow-legged Frog abundance and production was inversely related to abundance of smallmouth bass (*Micropterus dolomieu*) and bullfrogs. Borisenko and Hayes (1999) found bullfrogs and fishes occurred significantly more often at sites where Foothill Yellow-legged Frogs had been extirpated than extant sites. Bullfrogs have been linked to decreased Foothill Yellow-legged Frog abundance in the Sierra Nevada (Moyle 1973) and the North Coast (Kupferberg 1997a); in the latter system, it was discovered that bullfrog larvae perturbed the aquatic community structure, resulting in negative effects on Foothill Yellow-legged Frog populations (Ibid.). In addition, interspecific pairings due to mate-confusion between male Foothill Yellow-legged Frogs and female bullfrogs have been observed, which has the potential to reduce the reproductive output of Foothill Yellow-legged Frogs (Lind et al. 2003).

The invasive New Zealand mudsnail (*Potamopyrgus antipodarum*) is an emerging concern for California waterways due to their ability to grow and multiply rapidly, attaining high densities that can alter macroinvertebrate community composition and food web function (Alonso and Castro-Díez 2008). New Zealand mudsnails occur in watersheds with extant populations of Foothill Yellow-legged Frogs (Foster et al. 2016), and while experiments have demonstrated the mudsnails can have adverse effects on survival of Western Toad (*Anaxyrus boreas*) larvae (Bennett et al. 2015), their impact on Foothill Yellow-legged Frogs in the wild is unknown.

Ely (1993, 1994) reported that predation by feral pigs (*Sus scrofa*) is a concern for Foothill Yellow-legged Frogs in some locations, and as previously mentioned, Kupferberg et al. (2009a) found evidence that unusually warm summer water temperatures were associated with outbreaks of the parasitic non-native copepod *Lernaea cyprinacea* and malformations in Foothill Yellow-legged Frog larvae tadpoles and young of the year.

Livestock Grazing

Masters (1997) described the negative impacts of cattle grazing on habitat used by Foothill Yellow-legged Frogs from a site in Oregon, which included crushing eggs, larvae, juveniles, and adults; elimination of vegetation; introduction of non-native vegetation; alteration of vegetation composition and structure; degradation of water quality from urine and feces; alteration of microhabitat conditions; and erosion resulting in sedimentation covering cobble-sized rocks used for breeding and reducing the interstitial spaces used by larvae.

In addition, overgrazing that results in open vegetation can expose amphibians to increased risk of predation and desiccation (SNEP 1996), but in some locations carefully managed grazing could be used as a tool to keep vegetation from encroaching into the active channel because too much canopy cover can make sites unsuitably shady for Foothill Yellow-legged Frogs (S. Kupferberg pers. comm. 2016).

Logging

Timber harvest in the absence of sufficient riparian buffer zones can decrease populations of Foothill Yellow-legged Frogs by increasing water temperatures to lethal levels and by causing

siltation of streambeds (Corn and Bury 1989). High levels of silt can hamper attachment of egg masses to substrate (Applegarth 1994, Ashton et al. 1998), inhibit embryonic development (Jennings and Hayes 1994), reduce the interstitial spaces available for use by larvae and algal growth on which they feed (Power 1990), and negatively impact adult prey such as aquatic macro-invertebrates (Petts 1984).

Marijuana Cultivation

Cultivation of *Cannabis* (i.e., marijuana) is a threat to Foothill Yellow-legged Frogs and their habitat, particularly in Northern California where it is concentrated and its effects are magnified by prolonged drought conditions. Marijuana cultivation can adversely impact the species by legal and illegal water extraction that can dewater the streams, introducing pesticides and chemical fertilizers into waterways, denuding terrestrial habitat adjacent to streams and terracing the slopes, and promoting the growth of toxic cyanobacteria (Bauer et al. 2015, Carah et al. 2015, Gonsolin 2010). Gonsolin (2010) observed the decline of a Foothill Yellow-legged Frog population in the upper Coyote Creek watershed, Santa Clara County, due to impacts from illegal marijuana cultivation.

Mining

Mining activities, particularly suction dredging and gravel mining, can adversely affect all life stages of Foothill Yellow-legged Frogs and substantially degrade the species' habitat (Ashton et al. 1998, Olson and Davis 2009). Suction dredging can increase suspended sediment; modify stream geomorphology, directly remove aquatic organisms; and rearrange the substrate of streams (CDFG 1994, 2012). It can adversely impact reproduction by disturbing adults during courtship and breeding activities; disturbing habitat during the reproductive season; and displacing, burying, or suffocating eggs and larvae (CDFG 1994, Harvey and Lisle 1998). Suction dredging can also kill larvae that cannot escape the vacuum, remove or displace overwintering habitat such as woody debris, and adversely affect Foothill Yellow-legged Frog prey base. A moratorium in California prohibited the Department from issuing suction dredge permits and use of related equipment in any river, stream, or lake through 30 June 2016, but it may be permitted in the future.

Many northern Sierra Nevada foothill streams have regulated and unregulated recreational gold mining activities, which alter the streambed and are likely having a serious, negative impact on the frog fauna (Lannoo 2005). In addition, abandoned mine tailings and settling ponds are often contaminated with heavy metals like mercury that are detrimental (Olson and Davis 2009). Mercury concentrations in 100% of 13 Foothill Yellow-legged Frogs collected in the late 1990s from the Cache Creek watershed in Lake County exceeded the EPA mercury criterion for issuance of health advisories for human fish consumption and the methylmercury criterion for the protection of piscivorous wildlife (Hothem 2008).

Off-road Vehicles

According to Sweet (1983) off-road vehicle damage to Foothill Yellow-legged Frog habitat contributed to the species' extirpation from some Southern California coastal streams. In

addition, the disappearance of Foothill Yellow-legged Frogs from Corral Hollow in San Joaquin County may have been as a result of off-road vehicle damage (Jones & Stokes 2000).

Pollution

A number of pollutants found in the environment have the potential to adversely impact Foothill Yellow-legged Frogs including air-borne pesticides, herbicides, fertilizers, air pollution, and mercury contamination. Toxic material spills are also a concern where roads and railroads occur near streams (Ashton et al. 1998).

Easterly prevailing winds from the Central Valley carry herbicides and pesticides into the Sierra Nevada foothills where they are deposited on the land and in the water and are taken up into the tissues of amphibians, including Foothill Yellow-legged Frogs. Davidson et al. (2002) found a strong positive association between declines Foothill Yellow-legged Frogs in areas downwind of agricultural land use and that sublethal exposure to the pesticide carbaryl likely inhibits their innate immune defense, increasing susceptibility to disease. Kerby and Sih (2015) reported that exposure to carbaryl reduced Foothill Yellow-legged Frogs' ability to compete with Pacific Treefrogs (*Pseudacris regilla*) and increased mortality 50% when exposed to the pesticide with signal crayfish present. Sparling and Fellers (2007) determined that compounds derived from the breakdown of commonly used pesticides are 10-100 times more toxic than their parent compounds on Foothill Yellow-legged Frogs, and they concluded the pesticides found in the Sierra Nevada are at sufficient concentration levels to cause a significant decrease in survival rates. In addition, sublethal effects of pesticides in Foothill Yellow-legged Frogs have been observed including significant alteration of behavior and development (Kerby 2007). Studies that examine the effects of individual pesticides may be underestimating the impacts because mixtures of pesticides, like those found deposited in the wild, have much greater adverse effects on frogs than single pesticides (Hayes et al. 2006).

Hayes et al. (2003) observed hermaphrodism and deformities in Northern Leopard Frogs (*R. pipiens*) exposed to the widespread herbicide atrazine. Marco et al. (1999) reported reduced feeding activity, disequilibrium, physical abnormalities, paralysis, and even death in some larval and young Oregon Spotted Frogs exposed to moderate concentrations of nitrates and nitrites. In addition to drift from aerially applied fertilizers, nitrate can be deposited in higher elevations from air pollution and from livestock waste. Nitrate deposition from air pollution can greatly alter lake ecosystems, and may shift the normal ecological balance in a manner that increases the ability for disease to take hold in amphibians (V. Vredenburg pers. comm. 2000).

Mercury contamination is another threat to the Foothill Yellow-legged Frogs in some areas of California. Research shows that mercury can adversely affect amphibian development and decrease survival through metamorphosis (Unrine et al. 2004). Other effects can include impaired reproduction, growth inhibition, behavioral modification, and various sublethal effects (Zillioux et al. 1993). As previously mentioned under "Mining," several Foothill Yellow-legged Frogs from the Cache Creek area had mercury concentrations high enough to pose a potential hazard to human or wildlife consumption (Hothem 2008).

Recreation

Foothill Yellow-legged Frogs and their habitat can be adversely impacted by some forms of recreation. Any activities undertaken near a stream bank or in the stream could potentially disturb basking behavior or crush or displace egg masses or small larvae including wakes caused by motor boats, vehicles driving on gravel bars, people camping, angling, swimming, and waking dogs (Borisenko and Hayes 1999). There are documented cases of Foothill Yellow-legged Frog egg masses being crushed by dogs and people in Little Carson Creek in Marin County (Prado 2005), and intensive disturbance by humans and dogs in breeding habitat in the (S. Kupferberg pers. comm., J. Miller pers. obs.).

Roads and Urbanization

As the population in California continues to grow, habitat is converted to urban and suburban uses and roads are constructed to connect newly developed areas. Roads that span over streams likely have some adverse effect on Foothill Yellow-legged Frogs through sedimentation during road construction, maintenance work disturbances, potential culvert or foundation failures, or use of culverts that frogs will not pass through. Using data from Oregon and California, Lind (2005) found that Foothill Yellow-legged Frog presence was associated with less urban development nearby.

2. Other Relevant Scientific Information

The Department does not possess any additional relevant scientific information beyond what was provided in the Petition regarding factors affecting the Foothill Yellow-legged Frog's ability to survive and reproduce or the degree and immediacy of those threats.

3. Sufficiency of the Petition with regard to Factors Affecting the Ability to Survive and Reproduce and Degree and Immediacy of Threat

The Department concludes that the Petition contains sufficient information to suggest that Foothill Yellow-legged Frogs are adversely affected by a number of on-going and future threats including, but not limited to, dams and diversions, invasive species, climate change, and pollutants.

G. Impact of Existing Management Efforts

1. Information in the Petition

The Petition, on pages 113 through 119, contains the following information related to federal and state regulatory mechanisms that have the potential to provide some form of protection for the Foothill Yellow-legged Frog. Federal regulatory mechanisms include occurrence on federally managed lands, consideration under the National Environmental Policy Act (NEPA) or the Clean Water Act (CWA), and coverage under Habitat Conservation Plans (HCP). State regulatory mechanisms include coverage under Natural Community Conservation Plans (NCCP) and consideration under the California Environmental Quality Act (CEQA).

Occurrence on Federal Land

Foothill Yellow-legged Frogs occur in National Forests and on Bureau of Land Management (BLM) lands in California. The Foothill Yellow-legged Frog is listed as Sensitive by the Forest Service, a designation that offers little protection for the species or its habitat. A “Sensitive” designation requires that project impacts be considered under NEPA through a Biological Assessment and Evaluation, but it does not mean a project with substantial adverse effects to Foothill Yellow-legged Frogs cannot be approved.

The Forest Service adopted the Sierra Nevada Forest Plan Amendment (Amendment) in 2001, which was intended to shift management of 4.65 million ha (11.5 million ac) of National Forests in the Sierra Nevada to ecosystem management principles. In practice, it has not provided adequate protection for Foothill Yellow-legged Frogs from water withdrawals, river flow regulation, livestock grazing, and sedimentation from forest roads. The Amendment committed the Forest Service to completing a Foothill Yellow-legged Frog Conservation Assessment in cooperation with other federal and State agencies, universities, and research scientists, which was published in 2016 (Hayes et al. 2016); however, this document only provides management recommendations, not mandated protections. While the Amendment contains an Aquatic Conservation Strategy that focuses on reducing some threats to amphibians such as changes to livestock grazing and fish stocking, the primary focus of the Amendment is on terrestrial ecosystems. It contains some management recommendations, like fuels treatments at lower elevations due to their large wildland/urban interface areas that could increase the risk of habitat degradation for Foothill Yellow-legged Frogs. And since its adoption, the Amendment has been under attack by legislators and industry that want to weaken environmental protections and monitoring to increase logging.

The Forest Service and BLM adopted the Northwest Forest Plan (Plan) in 1994, which included an Aquatic Conservation Strategy and established “riparian reserves” that set protective buffers from logging along perennial and intermittent streams, among other measures. However, like the Amendment, in practice, it has not been effective in preventing damage and is jeopardized by efforts to weaken environmental protections by reducing Riparian Reserves to allow for more logging on near-stream and unstable lands (Frissell 2013, 2014). The Forest Service and BLM are in the process of revising the Plan to reduce stream buffers and weaken the Aquatic Conservation Strategy (USBLM 2015). If adopted, logging near streams could alter thermal regimes, increase summer stream temperatures, increase erosion and sediment delivery to streams, and diminish the capacity of riparian forests to filter nutrient loads that threaten water quality (Frissell 2013, 2014; Heiken 2013).

While the three National Parks (Yosemite, Kings Canyon, and Sequoia) within the Foothill Yellow-legged Frog’s historical range in the Sierra Nevada have guiding principles, management goals and management plans that are beneficial for aquatic ecosystems, the species is already extirpated from them, and even federal lands such as these are not protected from threats such as pesticide drift and invasive predators.

National Environmental Policy Act

NEPA requires federal agencies to consider the environmental impacts of their actions through a process where they describe a proposed action, consider alternatives, identify and disclose potential environmental impacts of each alternative, and involve the public in the decision-making process. NEPA does not prohibit agencies from choosing alternatives that will adversely affect Foothill Yellow-legged Frogs or their habitat. In spite of NEPA being in place for 45 years, the species has continued to decline on federal lands throughout most of California.

Clean Water Act

Under Section 404 of the CWA, discharge of pollutants, including dredge or fill material, into "waters of the U.S." is prohibited without a permit from the U.S. Army Corps of Engineers (USACE). According to a report entitled "Compensating for Wetland Losses Under the Clean Water Act," the goal of no net loss of wetlands has not been achieved through the USACE regulatory program, partly because permittees do not follow through on required mitigation packages (National Research Council 2001). In addition, the USACE regulatory program has allowed development with too few requirements to avoid and mitigate impacts, and it only looks at the project footprint when evaluating impacts.

Habitat Conservation Plans

There are four HCPs within the Foothill Yellow-legged Frog's range in California that include it as a covered species: the San Joaquin County Multi-species HCP and Open Space Plan, East Contra Costa County HCP/NCCP, Humboldt Redwood Company (formerly Pacific Lumber, Headwaters) HCP, and Santa Clara Valley HCP/NCCP (USFWS 2015). The species is likely extirpated from the coverage areas of the first two HCPs, and very few extant populations will gain any protection from the last two.

Depending on the waterway, Foothill Yellow-legged Frogs are considered common, rare, or potentially absent in the rivers and streams within the Humboldt Redwood Company HCP (HRCHCP) area. There are no species-specific conservation measures within the HRCHCP, but there is an amphibian and reptile conservation plan that describes a promise to retain habitat diversity and a mix of forest types post-logging. The HRCHCP permits logging 57% of the remaining 10,580 ha (23,147 ac) of old growth forest within the plan area, and the total level of timber harvest and road building will likely have an overall adverse impact on the species.

Foothill Yellow-legged Frogs are considered extirpated from the lowlands and below most dams within the Santa Clara Valley HCP (SCVHCP) area, but populations are still extant in streams above the reservoirs. Approximately 9.2 km (5.7 mi) of modeled Foothill Yellow-legged Frog stream channels are expected to be permanently impacted by covered activities and 3.2 km (2.0 mi) are expected to be temporarily impacted. The SCVHCP proposed to acquire a minimum of 129 km (80 mi) of primary and secondary modeled habitat for the species into the SCVHCP's Reserve System and to restore 1.6-16.9 km (1.0-10.4 mi) of streams with a goal of to supporting Foothill Yellow-legged Frog breeding. However, the SCVHC only proposes to protect 32-44% of the 1,110 km (690 mi) of modeled primary and secondary habitat within the plan area. The HCP

Reserve System was expected to protect only four known Foothill Yellow-legged Frog populations in the plan area, although the species could be present in areas of suitable habitat and just haven't been documented yet.

Coverage under an HCP does not guarantee a species will be better off (or recovered) in the long run, and numerous analyses of the failures of HCPs to achieve their desired goals are presented on pages 117-118 in the Petition (Bowler 2000, Harding et al. 2001, Hood 1998, Kareiva et al. 1999, Owley 2015, Rahn et al. 2006, Smallwood 2000, Smallwood et al. 1998, Wilhere 2002). Issues include, but are not limited to, insufficient and/or poorly defined mitigation measures; allowance of too much take of individuals or habitat; failure to properly take inadequate data and uncertainties into account; failure to secure adequate funding for preserve acquisition and management; and improper or inadequate tracking of mitigation obligations, including recording conservation easements and effectiveness monitoring.

The State of California lists the Foothill Yellow-legged Frog as a "Species of Special Concern," but this administrative designation carries no formal legal status.

Natural Community Conservation Plans

Of the nine NCCPs approved in California, two are within the Foothill Yellow-legged Frog's range: the East Contra Costa County NCCP and the Santa Clara Valley NCCP (CDFW 2015). These plans are joint HCP/NCCPs, so the discussion above regarding the limitations of the HCPs to protect the species applies here. Currently, there is one other NCCP that's in a planning phase and lists Foothill Yellow-legged Frog as a covered species: Butte Regional Conservation Plan (Ibid.).

California Environmental Quality Act

CEQA requires State agencies, local governments, and special districts to evaluate and disclose project impacts when they undertake discretionary activities that may have a significant effect on the environment. The CEQA statute language includes "it is the policy of the State to… prevent the elimination of fish or wildlife species due to man's activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities." CEQA has procedural mandates for environmental protection that include a provision requiring lead agencies to deny approval of a project that would have significant adverse impacts when feasible alternatives or mitigation measures exist and can reduce the impacts to less than significant; however, if social or economic factors outweigh environmental costs, they can approve the project after all the feasible avoidance and mitigation measures are adopted. Under CEQA, lead agencies are only required to consider project impacts on Species of Special Concern if they meet the criteria of sensitivity under Section 15380 of the CEQA Guidelines. In practice, this means that unless a project is likely to have significantly adverse impacts at a population or regional level, the lead agency does not have to consider Foothill Yellow-legged Frogs.

Regional and Local Government Plans

Madera County adopted a Foothill Yellow-legged Frog Program in 1997 that included measures to protect suitable habitat from significant anthropomorphic activities, but the species may already be extirpated from the county.

Summary

In spite of existing regulatory and voluntary conservation mechanisms, Foothill Yellow-legged Frog populations continue to decline and disappear. They do not provide the type of protections that address impacts from invasive species, pollutants and pesticides, disease, and climate change. Without state listing, conservation methods such as reintroductions and habitat restoration are unlikely to be utilized.

2. Other Relevant Information

The Department does not possession any addition relevant information regarding the impact of existing management but does have three points of clarification. First, while the Species of Special Concern designation carries no formal protections, its intent is to draw attention to a species and implement proactive conservation measures before it warrants the special protections afforded by CESA. Second, the intent of an HCP is not to recover covered species; its measures are meant to provide protection for the species and mitigate incidental take from covered activities. Nearly all of the reports citing the failures or limitations of HCPs were written over 15 years ago when their development was still relatively new and well before the finalization of the SCVHCP.

Finally, the purpose of NCCPs is to sustain and restore covered species and habitat necessary to maintain continued viability of biological communities impacted by human changes to the landscape. NCCPs must ensure implementation of mitigation and conservation measures roughly proportional in time and extent to impacts on covered species or habitat and protect and maintain habitat areas large enough to support sustainable populations of covered species. The Petition states that only 32-44% of modeled Foothill Yellow-legged Frog habitat within the SCVHCP area is proposed for protection under the SCVHCP. However, the SCVHCP limits direct impacts from covered activities to less than 1% of the total modeled Foothill Yellow-legged Frog habitat in the plan area. Because mitigation and conservation measures under the SCVHCP must be roughly proportional to any impacts on Foothill Yellow-legged Frog and its habitat, the Department expects that implementation of the SCVHCP will protect adequate habitat to support sustainable populations of the Foothill Yellow-legged Frog.

3. Sufficiency of the Petition with regard to Impacts of Existing Management Efforts

The Department concludes that the Petition contains sufficient information to suggest that existing regulatory mechanisms and management plans do not adequately protect Yellow-legged Frogs from impacts that threaten their long-term survival.

H. Suggestions for Future Management

1. Information in the Petition

The Petition, on pages 119 to 120, contains the following suggestions for future management.

Require frog-friendly flow regimes: In rivers with Foothill Yellow-legged Frog populations below dams, prohibit aseasonal flow fluctuations that could strand or scour egg masses and larvae, develop flow regimes that mimic the natural seasonal flows the species is adapted to, and maintain thermal regimes that are conducive to larval survival and rapid development.

Restore stream channel habitat: In rivers with Foothill Yellow-legged Frog populations below dams where operations have artificially cooled the water, suppressed flood disturbance, limited sediment supply, and facilitated encroachment of woody riparian vegetation into the active channel, create thermal habitat heterogeneity by restoring gently sloping and sun-lit gravel bars used for breeding.

Eradicate invasive predators: Conduct active eradication and management efforts to decrease the abundance of bullfrogs, non-native fish, and crayfish. In managed rivers, manipulate stream flows to negatively affect non-native species that are not adapted to a winter flood/summer drought flow regime.

Mitigate impacts of marijuana cultivation: Direct some of the money collected through taxes on *Cannabis* sales through Proposition 64 to rehabilitate streams with Foothill Yellow-legged Frogs. This includes funding law enforcement to find and stop illegal dewatering of streams as well as site remediation to remove pollutants.

Prohibit habitat damage: Ensure that State regulations for timber harvests within watersheds occupied by Foothill Yellow-legged Frogs adequately prevent siltation in streambeds or increases in water temperatures above lethal levels. Prohibit instream gravel mining or dredging in occupied reaches. Ensure all State-managed off-road vehicle areas are not adversely affecting the species and its habitat.

Restrict pesticides: Determine where and which pesticide uses should be restricted to reduce harm to Foothill Yellow-legged Frogs.

Reintroduction: Explore reintroduction of Foothill Yellow-legged Frogs to sites within the species' historic range with appropriate habitat, starting with National Parks once the stressors have been removed (e.g., post-bullfrog eradication in Yosemite National Park).

Curate locality data: The Department should take responsibility for, or find a curator to maintain a repository of, all Foothill Yellow-legged Frog survey data collected by agencies, utilities, and researchers, and submitted to the California Natural Diversity Database.

2. Other Relevant Information

Most of the following recommendations are adapted from the Foothill Yellow-legged Frog species account in the recently published California Amphibian and Reptile Species of Special Concern (Thomson et al. 2016).

Explore dam removal: Where appropriate, removing dams can benefit multiple species and improve ecosystem function.

Consider Foothill Yellow-legged Frogs during river restoration projects: Sometimes habitat management and restoration projects target specific taxa and don't consider the potentially negative effects to sympatric species. For example, placement of instream structures to improve habitat for fish can adversely impact Foothill Yellow-legged Frogs (Fuller and Lind 1992).

Prioritize conservation of southern populations: Due to the degree of losses experienced in the southern part of California and the high degree of genetic diversity found in this part of the species' range (Lind et al. 2011), funding and conservation efforts should be prioritized here, including an attempt to relocate potentially remnant populations.

Remove anthropogenic features that support invasive species: Remove artificial pools such as abandoned mine tailing ponds that support bullfrog breeding.

Increase understanding of population dynamics: Currently, the mechanisms underlying hydrological impacts on Foothill Yellow-legged Frogs are best understood at the egg mass stage, but more research is needed into survival of larvae and juveniles, particularly during overwintering.

Conduct a range-wide landscape genomics study: Advances in genetic techniques allow for analysis of large datasets at reasonable prices, and the results can help identify genetic hotspots, barriers to dispersal, and where management units should be drawn that can inform potential future reintroductions.

Maintain adequate riparian buffers: Reduce the risk of habitat degradation from adjacent activities like timber harvest, agriculture, and grazing by maintaining robust riparian buffers around extant populations and in sites suitable for or identified for potential future reintroductions.

3. Sufficiency of the Petition with regard to Suggestions for Future Management

The Department concludes that the Petition contains sufficient information to demonstrate that additional management efforts may aid in maintaining and increasing self-sustaining populations of Foothill Yellow-legged Frogs in California.

I. Availability and Sources of Information

1. Information in the Petition

The Petition contains a 35-page bibliography, on pages 121 through 155, of literature cited and personal communications with credible sources, the vast majority of which were provided to the Department on a CD upon request.

2. Other Relevant Information

The Department used publicly available information and provided citations. The Department also used unpublished reports and data as well as personal communications that can be provided upon request. The Department did not receive any information from the public during the Petition Evaluation period pursuant to Fish and Game Code Section 2073.4.

3. Sufficiency of the Petition with regard to Availability and Sources of Information

The Department concludes the Petition contains sufficient sources of information that are readily available to attempt to determine the status of the Foothill Yellow-legged Frog.

J. Detailed Distribution Map

1. Information in the Petition

The Petition contains four detailed maps, on pages 7 through 10, depicting historical and current distribution of Foothill Yellow-legged Frogs.

2. Other Relevant Information

The Department does not possess any additional relevant information regarding Foothill Yellow-legged Frog distribution that would substantively change the maps provided in the Petition.

3. Sufficiency of the Petition with regard to a Detailed Distribution Map

The Department concludes the Petition contains a sufficient depiction of the Foothill Yellow-legged Frog's historical and current distribution.

IV. Status of the Species

The Foothill Yellow-legged Frog's range has contracted in California; the species appears to be extirpated from its former range in Southern California and near extirpated from the southern Sierra Nevada. Within its current range, the Foothill Yellow-legged Frog's distribution and abundance have declined in some areas. The species' life cycle is closely tied to seasonal stream flows, and it requires specialized habitat conditions for successful reproduction.

Changes in natural flow regimes as a result of dams and diversions appear to be a primary threat to long-term survival of the species. As an ectotherm with highly permeable skin, the Foothill Yellow-legged Frog is particularly sensitive to climate change and pollution. Invasive species and incompatible land uses near stream habitats may also threaten the species' long-term survival.

Having reviewed and evaluated the Petition on its face and in relation to other relevant information, including the material referenced in the Petition and other information in possessed or received by the Department, the Department has determined that there is sufficient scientific information available at this time to indicate that the petitioned action may be warranted and recommends that the Petition be accepted and considered. (See Fish & G. Code, § 2073.5, subd. (a)(2); Cal. Code Regs., tit. 14, § 670.1, subd. (d).)

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Vredenburg, Vance. University of California Museum of Vertebrate Zoology, Department of Integrative Biology, Berkeley, CA.

Westphal, Mike. Biologist, Coyote Creek Riparian Station.

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17 May, 2017

Dear California Fish and Game Commission, Department of Fish and Game, and Secretary of Resources –

I am writing to respectfully request that an importation ban be placed on turtles and frogs. These animals are not native to California. Many are diseased and/or parasitized -- it is illegal to sell such products for human consumption. Worse, the majority of the bull frogs carry the dreaded chytrid fungus (Bd) which has caused the extinctions of 200-plus amphibians species worldwide in recent years. The animals are kept in horrid conditions and routinely butchered while fully conscious. They are routinely released into the wild where they prey upon and displace native species.

Please act on this issue and invoke a long overdue ban on importation of these animals. This ban will be a win-win-win…for the state of California, California native species, and the imported species themselves.

Thank you,

M. Purdy

Mark Purdy

Cc: Governor Jerry Brown
The State Capitol
Sacramento, CA 95814

From:	christa romanowski
To:	FGC
Subject:	Petition #2016-030 To add American Bullfrog to list of restricted species
Date:	Wednesday, April 26, 2017 7:27:06 AM

Dear Commissioners,

Please vote to add the American Bullfrog to the list of restricted species in California!

So many native California species are threatened by the increasing prevalence f non-native invasive species, either by their overwhelming numbers or by the diseases they bring to our native species.

This is the case with the American Bullfrog. Please ban the sale and importation of these frogs. We do not need them as food! By adding them to the list of restricted species, you may aid the wonderful California native amphibians, who are struggling for survival.

So many of California's native species of plants and animals are threatened or have been lost. Please give those that remain a fighting chance!

Christa Romanowski

From:	Kerry Kriger
To:	FGC; Bonham, Chuck@Wildlife
Subject:	Regarding Erin Chappell"s 4/26/2017 comments on frog jumping
Date:	Thursday, May 04, 2017 4:26:36 PM

Dear FGC,
At the 4/26/2017 FGC hearing, Erin Chappell implied that those who jump bullfrogs should be given special rights, but codes 6880-6885 make absolutely no mention of bullfrogs. Bullfrogs are the predominant frog being jumped currently, but Erin failed to mention that these contests date back to the 1800's before bullfrogs were in the state, and that the original frogs being jumped were not American Bullfrogs. Please disregard any claims that bullfrogs should be given any special rights due to being part of California's history or culture. The FGC has the full authority to add bullfrogs to the state's list of prohibited species.

Please be aware of this statement on the DFW's website:

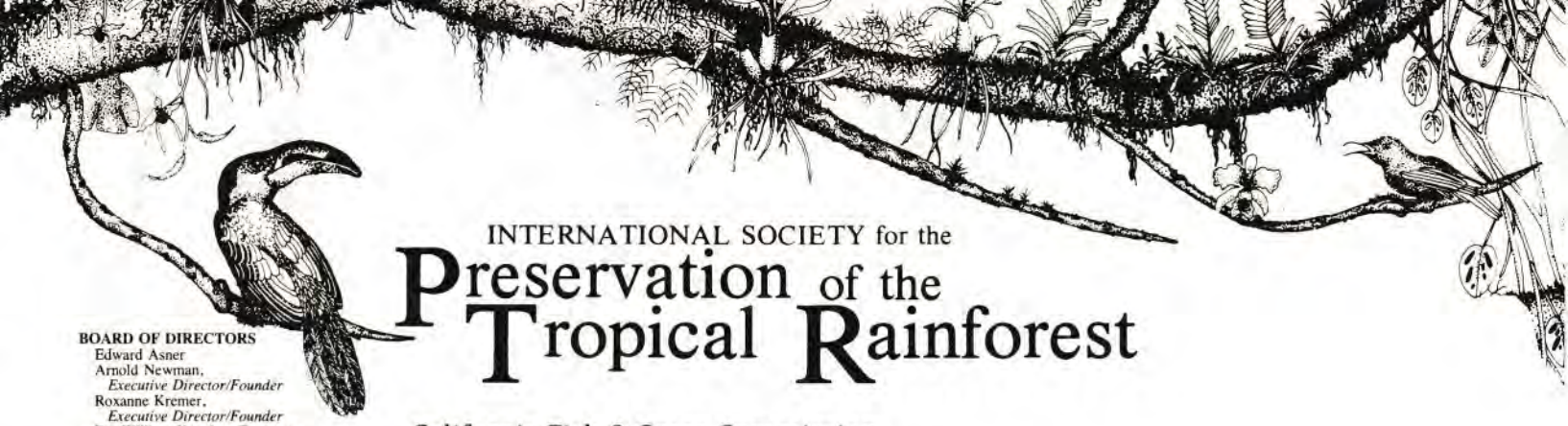
"Adult American bullfrogs have voracious appetites and will eat anything they can fit into their mouths, including invertebrates, birds, bats, rodents, frogs, newts, lizards, snakes, and turtles. Bullfrog tadpoles mainly eat algae, aquatic plant material, and invertebrates, but they will also eat the tadpoles of other frog species. As a result of these feeding behaviors, all lifestages of bullfrogs prey upon and are able to out-compete native frogs and other aquatic species. Additionally, bullfrogs are a known carrier of chytrid fungus, which causes the potentially fatal skin disease in frogs called chytridiomycosis. Chytridomycosis is believed to be a leading cause of the decline of native amphibian populations all over the world and responsible for the extinction of over 100 species since the 1970s."

Thank you
Dr. Kerry Kriger
SAVE THE FROGS!
Founder, Executive Director, Ecologist

SAVE THE FROGS! is the world's leading amphibian conservation organization. We work in California, across the USA, and around the world to prevent the extinction of amphibians, and to create a better planet for humans and wildlife. Since 2008, SAVE THE FROGS! has educated over three million people about endangered amphibians, and frog enthusiasts from at least 87 countries have participated in our programs. Together we can SAVE THE FROGS!

From: Arnold & Arlene Newman
To: FGC
Subject: Fwd: Turtle Ban
Date: Monday, May 01, 2017 4:41:46 PM
Attachments: IMG_20170501_0001.pdf
IMG_20170501_0002.pdf

Attached is an examination of the proposed turtle ban as was on the recent Fish & Game Commission agenda in Van Nuys, California.



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Preservation of the Tropical Rainforest

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Arlene Newman, Executive Secretary

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

(Please distribute this testimony to all Commissioners and staff)

I was in attendance at the recent Van Nuys hearing and thought it best to respond in print to the dialogue regarding a potential ban on the importation of turtles and frogs into California. I am aware that your quite able staff has been wrestling with this issue for some time and perhaps this has led to over-kill solutions which may be somewhat simplified in this analysis.

A. The pet trade problem is overwhelmingly the case of juvenile red-eared sliders being purchased by naïve consumers for their children, which quickly grow into difficult maintenance with fast solutions to release the problems into the aquatic environment – with perilous results for our California pond turtles. The quick and clear solution is a ban on import of red-eared sliders. Other problem species, of course, may be added as the need arises.

B. Lest we not throw out the baby with the bath water, quite on the other end of the spectrum are the studious and responsible turtle collectors who are very well informed regarding aspects of care and feeding and who often pay hundreds and even thousands of dollars to acquire the species of their heart's desire. These are not the problem people who cast their rare pets into habitat. Neither are they a problem that requires costly animal regulation staff oversight and annual fees for those services that would, for example, be appropriate for the licensed keeping of venomous snakes.

C. Then we have some two million non-native bullfrogs and almost half million non-native freshwater turtles taken from the wild – mostly, once again, red-eared sliders (as well as various soft shelled species) depleting populations

in other states and Mexico. These are imported into California for human consumption even though they most commonly carry chytrid fungus, serious disease and parasites – illegal to sell for human consumption. And this is yet another market site where the ubiquitous red-eared slider is sold as a pet (illegally). I will leave it to staff to make their recommendations on this hot potato issue.

I hope these insights toward simplification can be helpful in manifesting your commissions' strategies and recommendations for the benefit of California residents, which include its wildlife – quite an admirable endeavor.

Sincerely,

Arnold Newman, Ph.D.
Executive Director
International Society for the Preservation of the Tropical Rainforest
rain.forest@earthlink.net

ACTION FOR ANIMALS

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"We need a boundless ethics which will include the animals also."
—Dr. Albert Schweitzer



April 2017



LIVE ANIMAL FOOD MARKETS (Item #16 on the 4/26 agenda):

A MAJOR THREAT TO THE ENVIRONMENT, THE PUBLIC HEALTH, AND A SOURCE OF HORRENDOUS ANIMAL CRUELTY

In anticipation of the Fish & Game Commission's 4/26-27/17 meeting In Van Nuys, a friend and I on April 4 visited three "Chinatown" markets in Oakland, and another three in San Francisco. I purchased two bullfrogs from each of the six markets, for a total of 12 frogs, all with the intent of having some assays done on the carcasses for chytrid fungus and ranavirus.

None of the butchers spoke English (or perhaps only pretended they didn't). One butcher tried to sell me live frogs (though DFW signs were posted stating that all frogs & turtles must be killed on-site). Four of the six butchers decapitated the frogs' heads with a meat cleaver. The other two attempted to dispatch the frogs with a single blow to the head with a wooden mallet. (We later learned, to our dismay, that at least two of the frogs were still alive.)

The cruelty in these markets is staggering. All **F&G Commissioners and DFW director & staff should be required to spend time in the markets to see how these animals are housed and butchered.** The frogs and turtles are kept in deplorable conditions, stacked on top of one another, some injured, some alive, some dead. The stench alone can knock you down. Then there's the public health hazard: The water is surely loaded with all kinds of disease organisms, which are likely transmitted to the cleaning tables, food counters, and ultimately to the consumers, a major public health hazard. Yet the markets continue to get high ratings from the Health Dept. Go figure.

At the first market, the butcher chopped off the heads of two frogs per my request, then placed the bodies in a plastic bag for me to take to the cashier. When I did so, one of the beheaded frogs hopped from the bag and across the counter, inciting screams from the cashier. Clearly, the cleaver had not done its job--no telling how much suffering is caused by such ineptness.

In another market, a butcher chopped off one front leg of a live softshell turtle, then the other leg, then most of the turtle's face, finally butchering the still-alive and struggling creature. NOT ACCEPTABLE! And likely commonplace. There is near-ZERO enforcement or oversight by DFW or Animal Control in these markets, and the abuses and suffering continue unabated. Politics, anyone?

over

We later stopped in Golden Gate Park to take photographs of our purchases. To our chagrin, two of the frogs were still alive: one merely stunned, the other with a broken back. We clubbed both to death with a tire iron. Not a pleasant experience.

NOTE: None of the market frogs or turtles are native to California. When released into local waters (a common though illegal practice), they prey upon and displace our native species, while spreading diseases. Indeed, the majority of the bullfrogs carry the chytrid fungus (Bd), which has caused the extinctions of some 200 amphibian species worldwide in recent years. The bullfrogs do not generally succumb to the fungus, but they certainly do disperse it.

Reportedly, California annually imports some **TWO MILLION** bullfrogs for human consumption. Most are commercially-raised in Taiwan, Brazil and Mexico. Plus an estimated 300,000-to-400,000 freshwater turtles, **ALL** taken from the wild in states East of the Rockies, depleting local populations. **NONE** are commercially-raised from egg to market, as is often reported.. The dealers merely collect the turtles from the wild until they have enough for shipment

More than two dozen necropsies on the market frogs & turtles in recent years documented all sorts of diseases and parasites: E. coli, pasturella, salmonella (all potentially fatal in humans), plus blood parasites, giardia, even one case of malaria. **It is ILLEGAL to sell such products for human consumption, yet the commerce continues unabated. It needs to stop.**

SOLUTION: The Department should adopt rules prohibiting the importation, possession and/or sale of these non-native animals for human consumption, adding these animals to the state's list of "RESTRICTED SPECIES." (as Oregon has done). **And assuredly, any in-state aquaculture of these animals should be permanently prohibited.** The merchants can easily switch to frozen products, likely saving themselves money in the process.

WHAT THE PUBLIC CAN DO TO HELP:

WRITE: Chuck Bonham, Director, California Dept. of Fish & Wildlife, Resources Building, 1416 Ninth Street, Sacramento, CA 94514; email - director@wildlife.ca.gov

Fish & Game Commission, same address; email - fgc@fgc.ca.gov **MEMBERS:** Eric Sklar, president (St. Helena); Jacque Hostler-Carmesin, VP (McKinleyville); Anthony C. Williams (Huntington Beach); Russell E. Burns (Napa); Peter S. Silva (Chula Vista).

John Laird, Resources Secretary, same address; email - secretary@resources.ca.gov

Governor Jerry Brown, c/o The State Capitol, Sacramento, CA 95814.

Let them hear from you!

Eric Mills

Dangerous Crossings

Race, Species, and Nature in a Multicultural Age

CLAIRE JEAN KIM
University of California, Irvine

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3

The Optic of Cruelty

Challenging Chinatown's Live Animal Markets

> The issue is not culture but a degrading human tradition, from Ming Lee to KFC, that ... needs to be changed.
>
> – United Poultry Concerns

Animal advocates in San Francisco have challenged the way Chinatown's live animal vendors keep and kill animals, arguing that cruelty is something "you know when you see it." Positing the prohibition against cruelty as a universal value and appealing to a least common denominator of public belief are strategies that date back at least to the American Society for the Prevention of Cruelty to Animals in the 1830s, the first organized animal advocacy group to emerge in the United States. What becomes clear in the course of struggle in San Francisco is the difficulty of reaching a legally and politically actionable consensus on what constitutes cruelty toward animals, in large part because there is little formal institutional acknowledgment of the notion that animals are morally considerable at all. The argument from the universal, in any case, promptly triggered a counterargument from the particular, as Chinese American business advocates and community leaders claimed that they were being targeted because they are racially different. The optic of cruelty foregrounds animal suffering and backgrounds questions of racism, and the optic of racism (discussed in the next chapter) does the reverse.[1]

In this chapter, I begin with a brief discussion of what Americans make of animals, animal usage, and animal activists at the turn of the millennium. I then turn to the Chinatown live animal market campaign and trace its development from approximately 1995 to 2006, paying particular attention to how the optic of cruelty was articulated and deployed and to what effect. By looking closely at the origins of the campaign, we can evaluate the charge made by many Chinese American activists that the campaign was racially motivated. The

[1] Throughout this book, single-spaced quotes are excerpts from personal interviews conducted by the author.

overall narrative of the campaign also speaks to the complications involved in advocating for "lesser" animals like birds, fish, turtles, and frogs; the dynamics of cooperation and conflict among animal advocacy groups; and the challenges of negotiating the institutional terrain of San Francisco politics. Unlikely and hard-fought victories are won again and again by animal advocates in different venues, but a confluence of political and institutional factors ensures that little changes in the actual lives of animals as a result.

AMBIVALENT ANTHROPOCENTRISM (AND THE SUSPECT ANIMAL ACTIVIST)

As a nation, we are not quite sure what we think about animals. The belief that humans and animals are discontinuous and hierarchically ranked orders of beings remains strong, not only because of the philosophical and religious traditions discussed in the previous chapter but also because of the energetic ideological, political, and legal labor of industries heavily vested in this belief. Humans are, the story goes, rational, intelligent, morally autonomous, self-aware beings with advanced cognitive and emotional capacities, the ability to communicate through language, and complex social relations. Animals operate from instinct, have limited intelligence and no self-consciousness, show only lower-order cognitive and emotional capacities, and do not communicate through language. But if many of us accept some version of this story, we are not Cartesians: most of us believe that the dog crying out during dissection is not a machine but a feeling being. And as long as we are not Cartesians, there is a nagging possibility that nonhuman animals might in fact deserve some, perhaps a good deal of, moral consideration.

In the United States over the past several decades, there has been, simultaneously and contradictorily, an intensification in the instrumental usage of animals, driven by consumer demand and enabled by technological innovation, *and* a widening and deepening discussion over whether animals have the intrinsic right to be protected from such usage. "Animal capital" (Shukin 2009) is more salient than ever in the U.S. economy: scientists are genetically engineering "biopharm" animals to produce specific substances like human insulin; "xenotransplant" animals to be harvested for cells, tissues, and organs for transplantation into humans; "food" animals like fast-growing salmon, pigs whose meat contains omega-3 fatty acids, and the "Enviropig" whose manure contains less phosphorus (Adams 2009). In its ruthless single-mindedness, the neoliberal instrumentalization of animal bodies has reached the level of science fiction.

But there is little doubt that affective interest in the capacities and moral standing of animals is growing as well, judging from the expanding genre of blockbuster animal escape movies (*Chicken Run*, *Babe*, *Babe 2*, *Madagascar 1*, *Madagascar 2*, *Madagascar 3*, *Madagascar 4*, *Free Willy*, *Free Willy 2*, *Free Willy 3*), the explosion of stories about institutionalized animal exploitation in mainstream newspapers over the past several years, the success of a number of

prominent animal welfare campaigns, and the dramatic increase in academic and legal attention to animal issues. If we have always been "anxious" anthropocentrists (Fudge 2000), we have now become ambivalent ones as well, worrying quite openly about whether we should be treating animals as we do. The recent decision by the National Institutes of Health, the primary funder of scientific research in the United States, to move decisively away from the use of chimpanzees in scientific research is a watershed moment in the struggle against vivisection. Yet NIH Director Francis Collins's words – "Chimpanzees are very special animals. We believe they deserve special consideration as special creatures" (Brumfield 2013) – are as important for what they do not say as for what they say. Chimpanzees are uniquely deserving of exemption from scientific usage, but other species (namely rats and mice, who make up more than 90 percent of laboratory animals) are not. In the taxonomy of species, humans are at the top, and chimpanzees and other Great Apes (bonobos, orangutans, gorillas) are positioned fairly close to them, along with a few other favored animals such as whales, dolphins, elephants, and dogs. But almost all other species are seen as much less "special."[2]

The paradox of intensifying usage and growing ambivalence can be seen clearly with factory farming. In the past few decades, industrial concentration in the U.S. meatpacking, poultry processing, and dairy industries has created an "intensely consolidated landscape" where a "few giant agribusinesses" exercise unprecedented power over independent producers.[3] The result has been a dramatic increase in both the size of farming facilities and the concentration of animals therein as producers struggle to maintain or increase their profit margin in this context. According to Food & Water Watch's report *Factory Farm Nation* (2010), a dramatic shift occurred between 1997 and 2007 in U.S. food production, with large-scale operations in a few areas replacing dispersed small and medium-sized farms. This is confirmed by a General Accounting Office study showing that the number of large livestock operations in the United States tripled from 3,600 to 12,000 between 1982 and 2002.[4] As of 2008, the four largest firms controlled 83 percent of beef packing, 66 percent of pork packing, 58 percent of poultry processing, and 43 percent of fluid milk processing.[5] Using USDA Census of Agriculture data from 1997, 2002, and 2007, *Factory Farm Nation* shows that the total number of livestock on the largest farms rose by more than 20 percent between 2002 and 2007 – with a 93 percent increase in dairy cows from 1997 to 2007, a 17.1 percent increase in beef cattle, a 36.3 percent increase in hogs, an 87.4 percent increase in broiler chickens, and a 23.6 percent increase in egg-laying hens.[6]

[2] See Donaldson and Kymlicka (2011) for a philosophical argument for making distinctions among animal species in terms of how close they are to us and what our obligations to them are.
[3] Food & Water Watch, *Factory Farm Nation*, 6.
[4] "United States Facts."
[5] Food & Water Watch, *Factory Farm Nation*, 24.
[6] Ibid., 5.

Concentration and growth have vaulted animal production to historic levels: roughly 10 billion land animals are killed for food every year in the United States alone. Supported by federal policies that reduce the two main costs of livestock production (purchasing feed and managing manure), and by various technological advances (artificial insemination, the use of hormones and antibiotics, improvements in slaughterhouse assembly lines), agribusinesses profit while independent farmers struggle and everyone else loses out.[7] Consumers get relatively inexpensive meat, dairy, and eggs, but the externalized costs of raising animals for food this way are staggering: animals suffer from intensive confinement; rural communities suffer adverse health effects related to the pollution of the water, soil, and air; workers suffer from pollution-related conditions and injuries; the public suffers from increased antibiotic resistance and foodborne illnesses like *e. coli* and salmonella; and the environment suffers from pollution, topsoil erosion, and the release of greenhouse gases such as methane.

The plight of the egg-laying hen is emblematic of animal suffering under this regime. The chicken coop of the family farm has been replaced by the battery cage, a wire cage approximately the size of a file cabinet drawer. Battery cages are stacked one on top of the other, several cages high, and crammed into industrial sheds large enough to hold up to 100,000 birds each. Hatched in an incubator, each hen is placed into a battery cage along with several other birds for the duration of her adult life. The overcrowding in battery cages is extreme. Each hen has approximately a single piece of paper's (8" x 11") worth of space in which to exist. Hens are "debeaked," a painful procedure in which the front of the beak is cut off without anesthetic, to prevent them from pecking at each other in these conditions of stressful confinement. Some birds perish because they cannot reach food or water on the other side of the cage. None of the birds can engage in preferred behaviors such as scratching in the dirt and dust-bathing; indeed, none has the room to stretch her wings. Some farmers practice "forced molting," which involves depriving hens of food for extended periods in order to shock them into producing more eggs. Through genetic manipulation, hens are made to lay significantly more eggs than they would naturally, which leads to severe osteoporosis as their bodies use available calcium to make more eggs. After a year or so, the hen's productivity declines and she is sent to slaughter, her body sufficiently damaged that she can only be used for potpies or pet food. (The natural lifespan of a hen is approximately ten years.) The hen is not a grievable life. She is not just vulnerable to premature death but certain to meet it, although it is not culturally legible to talk about her death as premature. She has the ontological status of an instrument in the profit-making venture of industrial farming.

But with the intensification of mastery has come the intensification of doubt. As major animal advocacy groups like the Humane Society of the United States (HSUS) and People for the Ethical Treatment of Animals (PETA) turn their

[7] Ibid.

attention to factory farming, there are intimations of a shift in public attitudes. Books like Eric Schlosser's *Fast Food Nation* (2002) and Jonathan Foer's *Eating Animals* (2009), as well as movies like *Earthlings* (2005) and *Food, Inc.* (2008), have made Americans more aware of what goes on inside of industrial farms and slaughterhouses. Grocery chains and restaurants increasingly offer organic, cage-free, free-range, or grass-fed animal products to the environmentally conscious and/or cruelty-conscious consumer.[8] The HSUS has developed a highly successful strategy of bypassing state legislatures – where food industry lobbyists exercise significant clout – and taking the issue of farm animal welfare straight to the people in the form of ballot initiatives. And the people have responded. In 2002, Florida was the first state to outlaw the use of gestation crates to confine sows. In 2006, Arizona banned both gestation crates and veal crates. In the next few years, Oregon banned gestation crates and Colorado banned both gestation and veal crates through legislative action.[9] In 2008, Californians passed Proposition 2, which alleviates overcrowding for egg-laying hens, sows, and veal calves.

All of this indicates that many Americans think that even lowly "food" animals, who occupy a much lower taxonomic status than "pets" or "charismatic mega-fauna," deserve some consideration. A recent poll by Oklahoma State University and the American Farm Bureau Federation found that 75 percent of the public favors government mandates for basic animal welfare measures.[10] Another survey of Ohioans showed that 92 percent agreed or strongly agreed that it is important for farm animals to be well cared for, 85 percent agreed or strongly agreed that the quality of life for farm animals is important even when they are used for meat, 81 percent agreed or strongly agreed that the well-being of farm animals is just as important as that of pets, and 75 percent agreed or strongly agreed that farm animals should be protected from feeling physical pain.[11] The food industry knows what is at stake if this shift in public thinking goes too far. In addition to launching commercial campaigns intended to salve the public's conscience – such as the California cheese producers' advertising campaign, "Happy Cows come from California" – agribusinesses have fought hard to pass "food libel" laws at the state level (making it easier for food producers to sue animal activists) and "ag gag" laws at the state and federal levels intended to hamper animal activism such as undercover investigations of farming and slaughterhouse facilities.[12]

[8] Sales of organic meat and poultry grew from $33 million in 2002 to an estimated $121 million in 2004 in the United States (Holcomb et al., n.d.).

[9] Humane Society of the United States, *Factory Farming in America*, 30.

[10] *Putting Meat on the Table*, 31.

[11] Rauch and Sharp (2005).

[12] "Food-Disparagement Laws." When Oprah Winfrey said that guest Howard Lyman's remarks on feeding rendered cow remains to other cows "stopped [her] cold from eating another hamburger" in April 1996, Texas beef producers sued Winfrey and Lyman under the state's food libel law, which criminalizes criticisms of food production. The lawsuit, *Texas Cattlemen v. Howard Lyman and Oprah Winfrey*, did not succeed. http://www.madcowboy.com/01_BookOP.000.html.

The recent formation of a Pew Commission on Industrial Farm Animal Production signals the mainstreaming of concerns about modern industrial farming. The Commission, composed of fifteen experts in animal agriculture, public health, animal health, medicine, ethics, public policy, and rural sociology, conducted public hearings, collected technical information, and visited facilities. It then issued the report *Putting Meat on the Table: Industrial Farm Animal Production in America* (2008), which plainly states: "The present system of producing food animals in the United States is not sustainable and presents an unacceptable level of risk to public health and damage to the environment, as well as unnecessary harm to the animals we raise for food" (viii). Significantly, the report discusses the powerful economic interests who strive to keep the public in the dark about animal farming. It notes the obstructionism the Commission encountered – "while some industrial agriculture representatives were recommending potential authors for the technical reports to Commission staff, other industrial agriculture representatives were discouraging those same authors from assisting us by threatening to withhold research funding for their college or university" (viii) – and, in a self-conscious echo of Eisenhower's warning about the military-industrial complex, identifies and warns against "the agro-industrial complex – an alliance of agriculture commodity groups, scientists at academic institutions who are paid by the industry, and their friends on Capitol Hill" (viii).

Public discussion about the moral considerability of animals is not only widening but deepening. Where advocates in the early twentieth century aimed to reduce cruelty and alleviate animal suffering, the modern animal liberation movement that began in the 1970s introduced the argument that nonhuman animals should be emancipated from all forms of domination and exploitation. The U.S. animal movement today, a complex amalgam of these welfarist and abolitionist arguments, is being energized by myriad factors – genetic studies showing humans share 98.7 percent of their DNA with chimpanzees; ethological studies showing the tremendous cognitive, emotional, and moral capacities of nonhuman animals (Savage Rumbaugh 1996; Fouts 1998; Moss 2000); legal and philosophical arguments urging justice toward animals (Wise 2003; Nussbaum 2007; Francione 2009; Donaldson and Kymlicka 2011); and investigative journalism shedding light on concealed farming and slaughtering practices (Eisnitz 2007). There has been an explosion of scholarly interest in human-animal studies in the past decade, reflected in the emergence of new think tanks, journals, anthologies, book series, conferences, and list serves. Harvard and Georgetown law schools offered the first classes in animal law in 1999; as of 2011, 121 U.S. law schools, including the top ten, offered them.

A May 2003 Gallup Poll shows that 96 percent of Americans think that animals deserve some protection from harm and exploitation, with a full 25 percent saying they deserve "the exact same rights as people to be free from harm and exploitation," and only 3 percent saying they do not require much protection "since they are just animals." A significant majority (62 percent) support strict laws on the treatment of farm animals. At the same time, large majorities

reject bans on medical research, product testing, and hunting.[13] However, more recent polling by the Pew Research Center suggests that even views on medical research – that last outpost of valorized animal usage – may be moving. Fifty-nine percent of respondents in 2010 said they thought medical testing on animals was morally acceptable (34 percent said it was morally wrong), whereas the numbers in the same poll taken nine years earlier were 65 percent/26 percent.[14] Moreover, a 2009 poll showed that 39 percent of 18–29-year-olds favored animal research and 58 percent opposed it, while 61 percent of those 65 and older supported it and 33 percent of this group opposed it.[15] Attitudes on animals are shifting.

Views of animal activists, on the other hand, seem to have hardened. In contemporary U.S. public discourse, animal activists are routinely condemned as rabid, overzealous, unbalanced, irrational, absurd, and morally out of joint (Girgen 2008). Indeed, they have gone from being ridiculed as misanthropists to being prosecuted as terrorists. As Will Potter recounts in *Green Is the New Red: An Insider's Account of a Social Movement Under Siege* (2011), a fire set by the Animal Liberation Front (ALF) at a UC Davis veterinary diagnostic lab in April 1987 marked a turning point after which the federal government began labeling animal and environmental activism as "terrorism" – indeed the FBI described it as the "number one domestic terrorism threat." For their part, animal industry groups hired public relations firms to generate campaigns whose explicit aim was to "insert eco-terrorism into the national security dialogue."[16] In 1992, responding to animal industry lobbying, Congress passed the Animal Enterprise Protection Act (AEPA), which created the term "animal enterprise terrorism" and applied it to anyone who a) "travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprise" or b) "intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise."[17] Suddenly, anyone engaged in the time-honored protest tactic of disrupting business as usual could, as long as their target was an "animal enterprise," be prosecuted as a "terrorist."

The AEPA mandated the production of a governmental report on "animal enterprise terrorism," and the report's findings, issued a year later, cast doubt upon the need for the law in the first place. Put together by the USDA and the Department of Justice, the "Report to Congress on the Extent and Effects of Domestic and International Terrorism on Animal Enterprises" (1993) states: "In order to present as reliable a profile of animal rights extremism as possible,

[13] "Public Lukewarm on Animal Rights."
[14] Russell (a) (2011).
[15] http://www.people-press.org/2009/07/09/section-5-evolution-climate-change-and-other-issues/.
[16] Potter (2011), 58.
[17] http://www.nal.usda.gov/awic/legislat/pl102346.htm.

representatives from entities that have been victimized by animal rights extremists, including government agencies, private industry, and organizations representing the interests of targeted industries or professions, were interviewed."[18] Without a trace of irony, the report thus suggests that a full understanding of animal activism can be gleaned by talking exclusively to those targeted by it. The implication is that animal "extremists" are irrational, pathological, and malevolent – they do not have a bona fide viewpoint to explore. Constrained by the historical record, in any case, the report concedes: "Despite the severely destructive nature of some of these activities, none of the extremist animal rights-related activities analyzed for this report is known to have resulted in the injury or death of another individual." According to the report, between 1977 and June 1993, a total of 313 incidents were recorded; of these, 51 percent involved vandalism (minor property damage), 25 percent the theft/release of animals, 9 percent threats against individuals, 8 percent vandalism (major property damage), 7 percent arson, 5 percent bomb threats, 4 percent firebombing, 3 percent bomb hoaxes. The incidents peaked in the late 1980s and declined thereafter. If there was a case to be made for denoting animal activism as the "number one domestic terrorism threat" in the United States, the report did not make it.

The process by which the state labels certain actors "terrorists" is, of course, deeply politicized. Currently, animal activists are domestic "terrorists" and anti-abortion activists – who committed eight murders between 1977 and 2009 and whose actions also include bombings, arson, vandalism, and death threats – are not.[19] In 2005, U.S. Representative Bernie Thompson, a ranking member of the House Committee on Homeland Security, issued a report along with some other committee members criticizing the Department of Homeland Security for focusing on "eco-terrorism" and ignoring right-wing threats such as anti-abortion activists, militia groups, and white supremacists.[20] Could it be that those who threaten major corporate interests in the United States get labeled as "terrorists" whereas those who do not remain mere "criminals"? Documents obtained through Freedom of Information Act requests show that in 2003 an FBI Joint Terrorism Task Force surveilled activists doing undercover investigations on farms and recommended prosecuting them as "terrorists."[21] These activists posed a real and present danger to the profit margins of the farms involved, but it is straining credulity to suggest that they threatened national security. Consider, too, the placement of animal activist Daniel Andreas San Diego on the FBI's Most Wanted Terrorist list.[22] San Diego is wanted in connection with bombings at a biotechnology corporation and a nutritional products

[18] http://www.naiaonline.org/articles/archives/terrrpt.htm.

[19] Potter (2011), 46.

[20] Ibid., 237.

[21] http://www.greenisthenewred.com/blog/fbi-undercover-investigators-animal-enterprise-terrorism-act/5440/#more-5440.

[22] http://www.fbi.gov/wanted/wanted_terrorists/@@wanted-group-listing.

corporation in 2003 – actions in which no one was injured or killed. The other individuals on the list are wanted for charges such as "Conspiracy to Kill U.S. Nationals," "Conspiracy to Murder U.S. Employees," "Conspiracy to use Weapons of Mass Destruction Against U.S. Nationals," and the like.

In 2006, Congress upgraded the AEPA into the AETA or Animal Enterprise Terrorism Act. The AETA closed a loophole that the AEPA had left open. Animal activist groups like Stop Huntingdon Animal Cruelty (SHAC) had effectively pressured so-called tertiary targets, or businesses doing business with their main corporate target. The AETA, therefore, prohibited intentionally damaging not only an animal enterprise, but any entity having a connection to an animal enterprise. It also prohibited "intentionally plac[ing] a person in reasonable fear of" death or serious bodily injury "by a course of conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation."[23] This broad and vague language was intended to have a chilling effect on animal activism. Anticipating free speech objections, the law states that nothing shall be construed "to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment." Yet in 2009, four activists were indicted under the AETA for peacefully protesting on public property outside of the homes of university faculty engaged in animal research. By the time charges were dismissed, the defendants had been under house arrest for almost a year.[24] On December 15, 2011, five activists filed a lawsuit in U.S. District Court in Massachusetts claiming that the AETA violates First and Fifth Amendment guarantees to free speech and due process.[25]

The driving force behind the passage of the AETA was the American Legislative Exchange Council (ALEC), a group of conservative corporate and legislative leaders working together behind the scenes to advance a corporate agenda through governmental (primarily state level) action. ALEC's corporate members, who include many food industry representatives, were determined to move against the threat of animal activism. In 2003, the group issued a report, "Animal & Ecological Terrorism in America," which called for a federal law to crack down on this phenomenon through various measures, including expanding the definition of "terrorism" to include journalists taking undercover footage of animal facilities and creating a federal "terrorist registry."[26] ALEC was

[23] http://www.govtrack.us/congress/bills/109/s3880/text.

[24] Order Dismissing Indictment Without Prejudice and Denying as Moot Other Pending Motions http://cldc.org/PDFs/aeta4_dismissal.pdf.

[25] Complaint for Declaratory and Injunctive Relief, *Sarah Jane Blum et al. v. Eric Holder*. Plaintiff attorneys are from the Center for Constitutional Rights and a private firm. Plaintiffs argue that the AETA violates the First and Fifth Amendments and is unconstitutional because a) it is overbroad and includes speech protected by the First Amendment; b) it is vague so citizens do not know which actions violate law; and c) it discriminates on the basis of the content of speech and conduct (3). In March 2013, the District Court granted the defendant's motion to dismiss on the grounds that the plaintiffs lacked standing to bring the suit. Plaintiffs are appealing.

[26] Potter (2011), 128. ALEC has also been instrumental in getting state legislation passed on this issue. In April 2006, a Pennsylvania law aiming to include "ecoterrorism" in the state criminal

also the animating force behind Arizona's SB 1070 and Alabama's HB 56 (two controversial anti-immigrant state laws), the "stand your ground" laws rendered infamous by George Zimmerman's killing of Trayvon Martin in Sanford, Florida in February 2012, as well as various antiunion and antienvironment statutes.

ALEC's modus operandi has been to operate by stealth. They have sought to influence state and federal legislation anonymously rather than publicly. As a result, few Americans know that ALEC exists. It has been called "the most influential corporate-funded political force most of America has *never* heard of."[27] Few Americans know that the organization spearheaded Arizona's SB 1070 – or, more specifically, that it was a specific subset of ALEC's members, a set of private prison companies who stood to gain economically from this anti-immigrant measure, who drafted the legislation and pushed it through the state legislature. But the veil of secrecy has been slipping lately, and a series of exposés has laid out the remarkable influence this organization has had on American politics in recent years. As an organization that labors to intensify the domination of the poor, nonwhites, immigrants, nonhuman animals, and the earth in the service of a corporate agenda, ALEC is a powerful reminder of the silent war that neoliberal elites are waging on the most marginalized and vulnerable among us. Journalist Bill Moyers's chilling assessment of its reach is reflected in the name of his documentary, *United States of ALEC* (2012).

Despite the growing public discussion about the moral status of nonhuman animals, animal activists remain distinctly unpopular, widely depicted by animal industry types as "a universal threat impinging on the interests of all Americans."[28] The specter of the human-hating, destructive animal extremist has worked its way into the American cultural lexicon. Although animal activists in the Chinatown controversy were not, as we shall see, called "terrorists" or prosecuted under the AETA, they had to contend with the general suspicion and disparagement that attaches to animal advocacy in the United States today, even in an animal-friendly city like San Francisco.

THE BEGINNING: WITNESSING CRUEL PRACTICES

The Chinatown story begins in the mid-1990s with Pat Briggs. Pat Briggs had lived in San Francisco for forty-nine years, and for much of that time she had been a part-time activist on animal issues, including spay and neuter, the circus,

code passed both houses overwhelmingly. The law makes the obstruction of commercial activity involving animals or plants a felony, and the penalties are up to forty years in prison or a fine of up to $100,000, as well as restitution up to triple the amount of damages. The American Civil Liberties Union opposed the bill as "a threat to the First Amendment rights of all Pennsylvanians who wish to express their views on matter of public policy" and stated that "classifying people who trespass or engage in disorderly conduct as terrorists is unwarranted." Rutmanis (2006), 4.

[27] http://www.theunitedstatesofalec.org.

[28] Girgen (2008), 118.

fur farming, hunting, and rodeos. She was an animal rescuer and a member of Animal Protection Institute, In Defense of Animals, PETA, and Sierra Club. In the mid-1990s, Briggs was working at the Wax Museum at Fisherman's Wharf. On her way to work each day, she passed vendors at the Wharf putting live crabs and lobsters into pots of boiling water. Her visceral experience of anguish at this daily sight led her to approach the vendors:

> I was going down to Fisherman's Wharf every day to the Wax Museum. ... [T]his crab stand was right there. I had to go past it. They had a big tank with, I could swear sometimes the crabs were like, probably, maybe this is an exaggeration, but not a very big one, there would be, like, crabs 20 deep. And then they'd throw them in the boiling vats of water. ... And then I went down one night and I talked to the vendor and said, "Can't you find a more humane way?" And he said, "The meat is more tender." So for your taste, you're putting this animal through horror. And then they say, "Well, how do you know they feel pain?" Absence of proof is not proof of absence. If you can't prove that that animal has a nervous system and feels pain, you still can't prove that they don't, and you have to give it the benefit of the doubt.

Around the same time, Briggs noticed a Chinese market in her neighborhood, the Richmond district of San Francisco:

> One day I was walking by Clement Street and I went by Wing Hing market. And I noticed there was, like, a bin on the floor, and my curiosity took me in there, and I swear to God, when I walked in that store, I nearly lost it. The sights and the smells were just so overwhelming. ... I saw this bucket on the ground of turtles that were red-eared slider turtles, no water, they're aquatic turtles, semi-aquatic. They need water. There was not a drop of water in there. They were piled on top of each other, pitifully trying to crawl over each other. They had cracks in their shells. And then we went on to see horrors like fishhooks in their mouths. ... And then I went in there and the frogs were in a tank that was – again, you know, frogs are aquatic, no water in there, or just residual water, filthy. Filthy. I mean, you could smell it a mile away. And then I went on to go back in there repeatedly, and it started opening up, going into other markets and seeing horrors like you would not believe. I mean, they would take the turtles and either lay 'em down flat on the counter and cut around the carapace and you see their feet kicking wildly or they would stand them up on end and hack between the shells. It was very disturbing to see that. You don't forget, ever. It puts a cloud over your head.

Briggs wrote a letter in 1994 to Mayor Brown, the California Assembly, and the San Francisco Commission on Animal Control and Welfare, asking them to address the cruelty she had observed toward "live food" in various locales, including large supermarkets, Fisherman's Wharf, and Chinatown. In two subsequent letters, entitled "Observations on the Selling of Live Food" and "Why Live Food Markets Should Be Regulated or Outlawed," she broadened her focus to other live animal vendors in the city including the farmers' markets at the Civic Center and Alemany, Chinese markets in the Richmond and Sunset districts, and restaurants throughout the city.[29] During this same period, she

[29] Both letters are undated but were written in the mid-1990s, around the start of the live animal market campaign.

wrote letters to the managers of Lucky supermarkets objecting to the cruelty of their seafood tanks, and contacted experts in marine biology and invertebrate zoology about humane methods of killing crabs and lobsters.

Place structured this story in critical ways. It was in the course of Briggs's spatially embedded daily routine that she observed and attached meaning to killing practices at Fisherman's Wharf and Clement Street. Being forced to observe emplaced practices (over and over again) led to moral evaluation and political action. Place also gave Briggs both a sense of responsibility and a sense of standing on this issue. A witness is someone who has seen and is then called upon to provide evidence. Briggs felt this way – that having seen, she was morally obligated to testify to what she had seen, to try to persuade others to take another look at these naturalized and normalized forms of violence. María Elena García (2013) writes that animal suffering is "invisibilized." What Briggs sought to do in this case was bring it out into the light.

As someone who had lived in the city for nearly five decades, Briggs also had a stake in the place and the sense of standing that comes with that. Unlike animal advocates who work in the headquarters of national organizations like the Humane Society of the United States, where they brainstorm about what national campaign to develop next, animal advocates in the Bay Area are locally oriented and reactive. They usually work in small local groups or as individuals, and even when they are affiliated with national organizations, they tend to organize around local events and practices as they arise. Their resources consist mainly of time, energy, and commitment; their activities consist mainly of attending meetings, lobbying, and letter writing. When other animal advocates questioned the live animal market campaign's importance, Briggs's response had something to do with place:

> [P]eople would come to us sometimes and they'd say, "Why aren't you working on factory farming?" I'd say, "You know, I have worked on that, and by the way" – this is not what I told them, but this is what I would say today – "By the way, what are you doing? You're criticizing me, and all you're doing is mouthing off. Let's all work together. You pick your issue that has to do with making the world a better place, and I work on my issue, and together we're going down the same road, and together we're going to make for a more compassionate world. It's all related." But there's some of these people that just want to attack you. Hey, we've worked on all those issues. Virginia's worked on veal calves. She's been in Sacramento for 30-plus years. She's gone to all the meetings. She goes religiously to all the meetings. So does Eric. The Fish and Game. And factory farming is one of our big issues. So we've been there. Chinatown is happening right in your own backyard. It's extreme cruelty, and on a large scale.

Locally grown activism, responding to place-specific practices and events, might not pass a decontextualized assessment of issue urgency, but the notion of a "backyard" – of a place to which one belongs and in which one has standing and responsibility – remains a powerful force in activism.

For generations, of course, live food has been largely "out of place" in U.S. cities. Nicole Shukin recounts that in 1903, Swift & Company provided public

tours of its Chicago slaughterhouse in order to interest consumers in meat consumption. But the risk of such tours was apparent to all, and company representatives handed out Visitor's Reference Books meant to be read after the tour to manage and shape recollections and ensure that visitors' affect would not "revert into counterproductive forms of metabolic and political revolt."[30] Because of concerns about hygiene and disease, as well as urban dwellers' squeamishness about animal suffering and violence, slaughterhouses throughout the United States eventually went the way of their counterparts in England and France and moved out of the cities into surrounding areas. Those few live food vendors who remain in cities like San Francisco sell birds, fish, crustaceans, turtles, and frogs rather than larger farm animals, and they often cater to an exclusively immigrant clientele. Most San Franciscans now purchase meat and fish at the grocery store.

Food questions are of course, "profoundly cultural questions."[31] Cultures have distinct rules about which foods are permissible and which foods are taboo, and there can be intense emotional investment in these demarcations. For this reason, foodways are often "instrumental in marking differences between cultures"[32] and in grounding group identity (García 2013). As mentioned in Chapter 2, nineteenth-century white Californians derided Chinese immigrants for their food choices as a way of marking them as unassimilable others. In the live animal market dispute, Chinese community leaders suggested that Briggs and other animal advocates were continuing this historical pattern of expressing racism through food complaints. Yet Briggs's primary targets included non-Chinese entities such as Fisherman's Wharf and local supermarkets. She neither focused on Chinese eating habits in particular nor sought to apply culturally specific norms about which animals are edible and which are not. She did not argue that turtles and frogs are not suitable for sale in live animal markets because they are not "food" animals to most Americans. Rather, she expressed concern about the suffering of all animals in all "live food" establishments in the city.

Briggs found herself swimming upstream, so to speak, by focusing on the animals found in "live food" markets. In the scientifically and culturally defined taxonomy of species, crustaceans, fish, turtles, frogs, and fowl are lowly indeed. They are not loved like "pets," admired like "charismatic mega-fauna," or loathed like rodents and insects – they are simply unremarkable, not considerable, morally invisible. Animal advocates and scholars in human-animal studies have responded to these complex hierarchical distinctions in disparate ways. Legal scholar Steven Wise (2003) seeks to codify the taxonomy by assigning different species numerical rankings that reflect their intelligence and dictate the amount of consideration they are due. Peter Singer (2009), Tom Regan (2004), and Carol Adams (1995, 2010), on the other hand, advance

[30] Shukin (2009), 96.
[31] Ashley et al. (2004), 187.
[32] Lupton (1996), 25.

philosophical arguments meant to broaden our concern significantly beyond the most valued animals, although the outer limits of this concern are not always clear. Sue Donaldson and Will Kymlicka (2011) reject a hierarchy of worth among species but recuperate the principle of differentiation to help us think through our duties of justice toward differently situated categories of animals. Activists are no less divided on the issue. Historically, most general animal advocacy organizations have focused on "pets" and "charismatic megafauna" because this is what works, in terms of getting the public to pay attention and make donations. The Great Ape Project, too, works with the grain of the species taxonomy, seeking legal personhood for Great Apes and only them. On the other hand, in the past few decades, the extreme scope of industrial farming has prompted groups like HSUS and PETA to turn their attention to lowly "food" animals. But the kinds of animals found in San Francisco's live animal markets have remained largely invisible, even to animal activists.

In her letter "Observations on the Selling of Live Food," Pat Briggs notes that animal advocates have shown little inclination to fight for "lesser creatures" like crustaceans. Writing to Jennifer Holdt of Animal Legal Defense Fund, she says: "This would be a most valuable case, because it starts people looking at the 'lesser' animals (which they are not) and even amongst animal welfare groups, there's much inertia in starting to look at crabs, frogs, lobsters and the like."[33] And in a letter to Virginia Handley, who was to become one of the leaders of the campaign, Briggs writes:

> Someone mentioned that they don't care about fish, but that would make us sound speciesist as we're (at least) trying not to draw bounds, at least not with those that have nervous systems. Also, many people have been very upset with the supermarkets' tanks. I think it's time ALL the animal welfare groups ... enlist in this field. Purely and simply, it would be as cruel to throw a crab or lobster into boiling water as it would be a turtle. I think it's important to also include F. Wharf as well as supermarkets because this is live food and it gets it away from being a "cultural" issue and then the opposition could not treat it as such. But that's not the point – the issue, of course, is to call attention to all live food. We may lose with the [Board of] Supervisors ... but we're not losing if we let the public at large become aware that the lesser creatures are suffering, too.[34]

Far from discouraging her, it was the indifference of the public and animal advocates to "lesser creatures" that helped to motivate Briggs to act.

Briggs turned to her local network of activist colleagues – in particular, Virginia Handley of the Fund for Animals and Animal Switchboard and Eric Mills of Action for Animals – for help.[35] She had known each of them for

[33] The letter is dated February 11, 1995.

[34] The letter is dated February 24, 1995.

[35] Eric Mills started Action for Animals (AFA) twenty-five years ago with a handful of friends. AFA has had an anticruelty focus from the start. As one of the key leaders of the live animal market campaign, Mills lobbied commissioners, supervisors, and state legislators; wrote letters to officials and the media; built coalitions to support particular bills; attended public hearings; visited the markets and called in violations to CALTIP (Fish and Game's hotline), and more. Virginia Handley, another key leader in the campaign, was with the Fund for Animals until it merged with HSUS. She is now with Animal Switchboard and PawPAC. She has been an animal activist for forty years and specializes in lobbying for animal protection laws at the state level. She has shepherded through laws prohibiting painful animal experiments in elementary and high schools, banning killing in decompression chambers at local pounds, and banning the introduction of greyhound racing. At various times, she has worked on humane slaughter, the facebranding of cattle, whale hunting, traveling animal shows, fur, laboratory animals, feral cats, and wildlife.

more than thirty years and had built a relationship of deep trust with them by working on various animal issues together. The San Francisco Society for the Prevention of Cruelty to Animals (SFSPCA) and American Tortoise Rescue also got involved, and there were occasional contributions from organizations like HSUS, In Defense of Animals, United Poultry Concerns, and Animal Legal Defense Fund over the years, but Mills, Handley, and Briggs coalesced into the core leadership of the live animal market campaign.[36]

None of the three wanted the campaign to be thought of as an "animal rights" action because of the denigration associated with that term. If the animal "rights" person or liberationist is despised as fanatical and misanthropic, the animal "welfarist" or "protectionist" is seen as more reasonable, precisely because s/he is not trying to undermine the human-animal divide. Pat Briggs comments on this:

> [T]he only reason I call myself a welfarist is because if you say "animal rights," all of a sudden you're like a fanatic, you're one of the confrontational PETA types. The funny thing is, everyone knows PETA because they are so activist. But there's a difference. Animal welfare says, for example, you can eat animals as long as you kill them humanely. But you're taking their life. Whereas animal rights says, no, you can't eat them. They have intrinsic interests of their own. They want to live as much as you do. They have a right to life as much as you do. So I am more an animal rights [advocate]. ... I'm somewhat a vegan. It's hard to be a vegan unless you're cooking all the time. I'd say I'm about 65 percent, 75 percent vegan.

And Eric Mills:

> You talk animal rights and right away you're a kook in this country. I don't believe in God-given rights for humans in the universe. It's something that civilized people do. But animal rights? Most people think it's a joke. Animals have a right to drive, to vote, and all that nonsense? ... [I]n my work, I never say "animal rights." I always say "animal welfare," "animal protection," "environmental protection," "human health." I want to do what works. "Animal rights" really doesn't work very well.

To maximize their public appeal, therefore, Mills and his colleagues framed the live food campaign as an animal protectionist (and later environmental protectionist) campaign. On more than one occasion, Eric Mills scolded a journalist for referring to it as an "animal rights" campaign. The optic of cruelty

[36] Karen Benzel of In Defense of Animals organized some early meetings in the fall of 1996 involving IDA, HSUS, and local activists. The HSUS sent representatives to speak at public hearings occasionally and also paid for necropsies on some frogs and turtles. Animal Legal Defense Fund provided legal advice. United Poultry Concerns helped with the lawsuit animal advocates brought against Chinatown markets.

fit naturally with this orientation – the point being to reduce animal suffering rather than to radically transform human-animal relations.

There was a good deal of discussion initially over how to delimit the campaign – both in terms of how to define the targets and what kind of animals to include. The two were related, of course, because including Fisherman's Wharf meant including crustaceans. Briggs recalls:

> I remember Virginia [Handley] saying at one point that if we brought in the crabs at Fisherman's Wharf, that instead of – how did she put it? She put it very eloquently. She said. ... "We may end up bringing all the animals down if we bring in the fish and the crabs, because people don't relate to them."

Despite her initial resolve, Briggs started to think that perhaps

> [P]eople weren't ready for crabs. People would write letters to the editor and make a mockery of us, saying, "Why don't you get a life?" My first media contact was when this guy came out to ... [interview me]. ... And they were kind of – not making fun of it, but in a subtle way.

Handley recalls her own concerns about feasibility:

> [T]here was always the fear that Fisherman's Wharf is so powerful, they'll just come in and kill the whole thing. ... But I think most of the animal people were very democratic in our efforts in that we don't care who's doing it. It's about the animals. So whether it's Fisherman's Wharf or the pet trade, our preference would be to do something about it. The problem is, what is doable?

Mills, too, wanted to include Fisherman's Wharf in the campaign but thought it politically impracticable. Of course, leaving Fisherman's Wharf out of the campaign presented another political problem, the appearance of targeting the Chinese. Mills comments:

> Here's where politics and money get involved. Can you imagine on Fisherman's Wharf, if the restaurants couldn't sell crab or lobster? They would all go belly up. There's no way in hell that was going to fly. ... [T]here were 11 Supervisors, and I met with nine of them, one to one, to talk about this issue. They were all supportive, but nobody wanted to touch Fisherman's Wharf because of the restaurant trade and tourism that bring billions of dollars into San Francisco. I mean, the city would go belly up without Fisherman's Wharf. So money is always involved in there. We as a species are quite happy to trade morality and ethics for money, whatever it is. So that was dropped out of the equation, and then the backers of the Asian markets rightfully said, "This is not fair. This is discrimination. You're letting Fisherman's Wharf, which is almost all white, off the hook while you pick on Chinatown." And I agreed. And I also am quite aware of the horrendous treatment that Asians have gotten in San Francisco over the centuries, where they used to cut off pigtails and burn Chinatown to the ground a number of times, put women into prostitution, they died of syphilis, illegal trade. It's a nightmare.

Here Mills grants the point that there is no moral distinction between Fisherman's Wharf and Chinatown markets, only a distinction in money and political clout. The Chinatown markets were low-hanging fruit, relatively

speaking.[37] When Pat Briggs approached the San Francisco Commission on Animal Control and Welfare, she included Fisherman's Wharf and crustaceans in her request for action, but the Commissioners, as we will see later in this chapter, self-consciously excluded the Wharf from their considerations, which left the campaign to focus on the other major institutional player in the city's live food industry, Chinatown. The targeting of the Chinese was not racially motivated in the sense of reflecting special animus toward the Chinese – the activists' initial focus was broader and they went to some lengths to avoid targeting only the Chinese or giving the appearance of racial targeting – but the campaign was shaped by political exigencies, and Handley's question, "What is doable?" was inextricably tied to questions of relative vulnerability and disadvantage.

THE ANIMAL COMMISSION HEARINGS: CRUEL PRACTICES SHOULD BE BANNED

The San Francisco Commission on Animal Control and Welfare (CACW) makes recommendations on animal issues to the Board of Supervisors, the legislative body of San Francisco city and county.[38] It is strictly advisory and has no enforcement powers. The CACW is composed of eleven members – seven who are appointed at large and four who represent the city's Departments of Animal Control, Public Health, Police, and Parks and Recreation. All serve as volunteers with no compensation. The CACW holds monthly meetings that solicit public comment on all matters animal from the treatment of stray dogs and cats to dog licensing to animal cosmetic surgery to the use of animals at UCSF for research. In the mid-1990s, according to Commissioners who served then, the CACW was a somewhat obscure, ad hoc, disorganized affair. It was, in fact, the Chinatown controversy that thrust the CACW into the spotlight for the first time, baptizing it through fire. Once the Commissioners decided to take up the live food issue, Chinese American community leaders got involved and the media was not far behind.

After Pat Briggs brought the issue to the CACW in 1995, the Commission formed the Live Animals for Food Consumption Subcommittee to investigate. For nearly a year, the subcommittee held public hearings, examined photographs of the markets, researched laws and regulations in California and other states, and consulted various experts, including people in Hialeah, Florida who had been involved in the Santería animal sacrifice controversy there.[39] During this process, animal advocates gave public testimony, provided evidentiary material, lobbied, wrote letters, and talked to the media. The argument they made focused squarely on cruelty: the live animal markets keep animals in cruel conditions (there is severe overcrowding, many are injured and sick, they

[37] My thanks to Kenneth Warren for insight on this issue.
[38] The city and county are exactly coterminous.
[39] Golden (1996).

are often deprived of food and water), and they kill them cruelly (by hacking or beating them to death or skinning them alive).[40] Something needed to be done. Eric Mills recounts:

> The overriding issue for everybody, first off, was the animal cruelty. Because much of it was avoidable. Just kill an animal and then eat it, big deal. But no, these animals were tortured to death quite often. ... So it was the animal cruelty, seeing turtles hacked up while fully alive, seeing them stacked this deep and the ones on the bottom being crushed to death. I saw frogs with missing body parts. Almost all of them had abraded noses from rubbing on the wire trying to get out of the cage, with no water in there.

Eyewitness testimony was a recurrent feature of the public hearings, as animal advocates tried to make these animals visible, both literally and morally, to the CACW and the public.

The San Francisco SPCA entered the picture at this point, conducting an undercover investigation and submitting its report, "Statement on San Francisco's Live Animal Markets" (September 12, 1996), to the CACW. Elaborating on the optic of cruelty, the report condemns conditions in the markets as "deplorable and inhumane" (2) and provides this summary statement on the cover page:

> The conditions we witnessed included intense overcrowding, failure to provide for the animals' most basic needs, and inhumane methods of slaughter. ... [T]he fact that animals in San Francisco's markets are sold to be killed and eaten does not mean these creatures don't feel and can't suffer. And the fact that markets sell them to be killed and eaten does not mean these dealers have a license to inflict *needless suffering* on the animals beforehand (italics added).

On page 1, the report lists "Conditions Observed in San Francisco Live Animal Markets":

- An eighteen-inch turtle having its shell sliced from its body, while the animal was fully alive. We believe this is akin to skinning or scalping a person alive.
- Chickens crammed into rusted wire cages with less than eight-by-five inches of floor space per bird – an area smaller than half a sheet of normal typing paper.
- Fish packed into tanks so severely overcrowded that even those who remained alive were pinned upside down and sideways, unable to move or right themselves. We estimate the crowding in these tanks was equivalent to shoving seventy-five people into an eight-by-eight-foot elevator.

[40] In addition, animal advocates raised two other dangers – the potential threat to public health (necropsies on market frogs and turtles turned up diseases and parasites that can infect humans, such as salmonella, pasturella, giardia, and roundworms) and the potential threat to local ecosystems (as imported frogs and turtles who find their way to the wild endanger local species through competition, predation, and disease). But the main focus at this stage of the campaign was cruelty.

- Two geese – a bird whose average height is two and a half feet with a wingspan up to four feet – forced to remain hunched down in a single wire cage a little more than one foot high and about two feet long.
- Frogs piled one on top of each other, crushing those at the bottom, in bare wire cages and open plastic bins smeared with black slime.
- Quail jammed so tightly together in tiny cages they were unable to move or turn around. These birds, like others we saw, were made to stand on wire over a layer of encrusted feces and other debris.
- Turtles, whose natural habitats include quiet lakes and rivers, stacked up to five layers deep, some turned defenselessly on their backs and half buried beneath others.
- Fish, flailing and gasping, left to suffocate slowly in shallow dry pans.
- A turtle, vainly struggling to retreat into its shell, hacked and pounded at least six times on and about the head with a dull knife before finally being decapitated and cut apart.

What the report deems cruelty is not the keeping and killing of animals for food per se, or even the infliction of suffering, but rather the infliction of "needless suffering" on these animals. The term "cruelty" is usually only invoked when suffering is seen to be unjustifiable and gratuitous, whether it is caused negligently or maliciously. When suffering is inflicted for the sake of the sufferer (e.g., medical treatment) or for the sake of some higher good, however defined, the label of cruelty is typically not applied. The report continues:

> We heard no testimony whatsoever that the conditions we witnessed were in any way necessary to produce fresher, more palatable, or healthier food. ... Nor did anyone come forward to testify that keeping geese or other birds hunched down in small wire cages, unable to spread their wings or stretch their necks, was a necessary component of any religious practice or cultural tradition. In fact, the only justification given for the inhumane and unsanitary conditions in our City's live animal markets was that it was cheaper: To do any better – to improve conditions for the animals and for the public – would cut into business profits (2–3).

The suffering of animals in the markets is "needless," the report suggests, because its only justification is greater profits.

Veterinarian Lexie Endo presented forensic evidence to the CACW that reinforced the theme of cruelty, while also raising public health concerns. In a July 19, 1996 letter, Endo recounts that she examined 200 turtles, mostly red-eared sliders rescued from Chinatown markets. Thirty percent arrived dead or died within ten days because of "deplorable health"; another fifteen percent were chronically ill. Most of the turtles were dehydrated and starved, and many had bacterial shell and skin infections in addition to being "riddled with parasites, primarily roundworms, giardia and flukes as well as blood parasites like hemogregarines." Endo writes: "If these same animals were presented to me as a dog or cat, the owner of the stores would be reported to authorities for animal cruelty. ... I ask that you give serious consideration to the health and

treatment of turtles both from a humanitarian aspect as well as that of the consumer."

Using the optic of cruelty to defend animals is a centuries-old strategy in the United States. When the ASPCA (the parent organization of the SFSPCA) first opened its doors in New York City in the 1830s, members chose to condemn the "cruelty" of animal practices (such as the beating of carriage horses), which was both radical in that it demanded recognition of animals as morally considerable and conservative in that it demanded only the amelioration of animal practices rather than their cessation (Beers 2006). Since the advent of the modern animal liberation movement in the 1970s, animal advocacy has been divided between "abolitionists" calling for an end to the institutionalized exploitation of animals (e.g., PETA) and "welfarists" calling for more humane treatment and a reduction in animal suffering (e.g., HSUS) (Francione 1996).[41] The live animal market campaign in San Francisco, which deployed a cruelty optic to mobilize public support, belongs in the latter category, although its leaders hold abolitionist views on some issues.

Significantly, animal advocates did not argue that Chinese culture was singularly cruel or more cruel than American culture. Rather, they chose to make a universalist argument that cruelty is wrong *no matter what group is engaged in it*. In a magazine article, Eric Mills wrote:

> There can only be one standard of decency, regardless of the impressive array of cultural influences in the United States. ... We must have the courage of our convictions in declaring that practices that are harmful, destructive and cruel are unacceptable – in any language. In a letter I received in December, 1990 from Cesar Chavez, he writes: "Kindness and compassion towards all living things is a mark of a civilized society. Conversely, cruelty, whether it is directed against human beings or against animals, is not the exclusive province of any one culture or community of people. Racism, economic deprivation, dog fighting and cock fighting, bullfighting and rodeos are cut from the same fabric: violence. Only when we have become nonviolent towards all life will we have learned to live well ourselves."[42]

Mills is not making an anti-multiculturalist argument (that the Chinese are more cruel than whites and are thus an inferior and unassimilable other) but rather an argument about the proper limits of multiculturalism (that cruelty and injustice cannot be allowed to continue in the name of respecting cultural differences).

Still, the use of the optic of cruelty should give us pause because it seems to rely on the mobilization of cultural antipathies to work, regardless of activists' intentions. Animal advocates presented facts about the live animal markets on the assumption that "you know cruelty when you see it" – that people recognize cruelty viscerally and instinctually because of a universal human sensibility. But it is almost certainly true that our judgments about cruelty are strongly culturally inflected – that acts become legible to us as cruel or not cruel through

[41] This distinction is much cleaner in theory than in the real world.

[42] Mills (1999).

a cultural lens. This means that the concern about cruelty can easily become (and has often been) a vehicle for ethnocentrism and even imperialism (Ritvo 1987; Davis 2013; Deckha 2013). In addition, the cruelty optic – again regardless of the intentions of activists – cannot help but reverberate with the culturally embedded trope of Chinese cruelty and transgressiveness. This is not to say, however, that there is no *there* there when it comes to cruelty. That we are culturally predisposed to evaluate certain practices as cruel and not others does not change the fact that humans engage in practices that inflict intense and prolonged suffering on animals.

As the CACW deliberations over the live food ban proceeded, the Commissioners made the explicit decision to exclude crustaceans and therefore Fisherman's Wharf from consideration. Althea Kippes, a member of the Live Animals for Food Consumption Subcommittee, comments:

> Everyone gets worked up over the gorilla, but no one really cares about a lab rat. And it was like, crabs, no one is going to take banning the sale of crabs seriously. There's Pat Briggs supporting the crabs and everybody else, it was like, people don't think crabs is the same thing. I know there are frogs in Chinatown. When Pat brought the issue up, and I think Eric [Mills], too, it covered crabs and everything. But we told them, you've got to pick your battles and draw the line. No one's going to get worked up over crabs. People – it will just make them hungry – this has no chance in hell of ever passing.

Richard Schulke, the chair of the Subcommittee, elaborates:

> *Was there a pretty open discussion about whether to include the crabs and lobsters?*
>
> Oh, it went back and forth all the time. Patricia Briggs was really big on trying to add crabs and lobsters. ... Some of the other Commission members were okay with it and some were not. So it seemed it would be better if we left them out if we could get a consensus vote.

Although the Commissioners and animal advocates continued to talk about the issue as one of "live animal markets" generally, it was clear to everyone that the campaign would focus thenceforth on Chinatown, which, like Fisherman's Wharf, held a concentration of such markets.

At this point, Chinese American community leaders and organizations got involved in an attempt to forestall the ban.[43] The Chinese Consolidated Benevolent Association (or "Six Companies") invited Commissioners to their headquarters in Chinatown for discussions. Julie Lee and Rose Tsai of the San Francisco Neighborhood Association used their Chinese-language radio program to mobilize people to turn out at the CACW hearings. Julie Lee comments on the hearings:

> First of all, this Commission is just six animal lovers. What do you expect them to do? And how they can fix a law to tell the rest of us how to live? That is wrong, I think. They're not even willing to talk. ... They keep a very – they never go to the community. They never go talk to people. Because I go on radio every day, we have call-in every day, we talk with hundreds, thousands real people every day. We don't just close door and have, you know

[43] Chapter 4 explores relations among these Chinese American activists and organizations.

Because my business, I know a lot people, we talk about everything what's going on. ... There were no Asians on the board. There were no colored people on the board. And they all animal lovers, okay? That's fine. You can love your animal. I don't have a thing against them. But they cannot tell us how to eat, how to live. That is wrong.[44]

Rose Pak, a consultant with the Chinese Chamber of Commerce (CCC), organized Chinatown merchants (clients of the CCC) in response to the campaign. Pak was widely recognized as a major powerbroker in San Francisco politics, a close ally of Mayor Willie Brown, and a liaison of sorts between Chinatown and City Hall. (She would help to arrange the ascension of Ed Lee to the mayor's office in 2011.) At one Subcommittee meeting at the Chinatown Public Library in August 1996, an animal activist held a sign saying, "Rose Pak I hope you're reincarnated as one of those frogs in the tanks," to which Pak responded, "You come back as a fly and I'll eat you up!"[45] Her take-no-prisoners attitude was legendary. Pak attended the CACW hearings even though she thought they were ridiculous:

Can you tell me what you remember about the Commission hearings back in '95, '96?

Oh, those? Well, they wasted a lot of time for our small businesses, because people usually are family-owned, small stores, and the owners have to take time off to participate. That's their living. So then people like me had added pressure to represent them, to go to those hearings. It never ceased to amaze me, where did those people [animal rights activists] find the time? It's not a legitimate cause when you're talking about food on tables versus pets or whatever. ... They freak you out, because they're very vocal. They're very belligerent ... The animal rights activists. Their messages are very confrontational, and they make up in noise, as I said, they're belligerent, and they are vocal, and they carry signs and so it's – for our people, it's intimidation. So they call you names, they do all kinds of stuff. ... [A]ll the media was there, and there's a circus. And our people get intimidated. So then I feel the burden, like, how do you fight them without letting them wear you down and not let your people suffer.

They [the CACW] voted to recommend the ban to the Board of Supervisors. The Board of Supervisors didn't do anything.

No, no, I was not surprised. They [the Commissioners] were cowed. They were all – and they were ignorant, cowed, they were just so scared of them [animal rights activists] because of their tactics. And so they don't want to be harassed. ... I knew that the Mayor [Brown] would support us, because it doesn't make any sense.

How many of the merchants who were actually involved went [to the CACW hearings]?

I just make them sign and then we represented them. They have to make a living. They can't shut down the business. So we always had a handful that rotated, the 40, 50 stores that would send each hearing three or four as a representative, and then I'll go to each and every one.

Did you go to a lot of those hearings?

I went to every hearing.

[44] Vickie Ho Lynn, a Chinese American, was a member of the CACW during this period.
[45] Golden (1996), 4.

Pak invokes negative tropes about both animal activists ("belligerent" and "confrontational") and animals ("not a legitimate cause when you're talking about food on tables") to construct a narrative sympathetic to the Chinese merchants.

Pak's assessment that Mayor Brown would protect the Chinatown merchants, in part because of his close alliance with her, was widely shared by the CACW Commissioners. Richard Schulke recounts:

You mentioned the phrase "political hot potato." Can you talk about that? Was this an open discussion within the subcommittee and within the larger Commission that this was a politically tricky issue?

Of course it was an open discussion that it was a politically tricky issue. It was more of our discussion amongst ourselves where the city department people [Commissioners from city departments] were like, "What are you, crazy?" ... [and] "This is a very tough issue. It's a very hard political issue here in the city." And it certainly was. I sure realized it.

Althea Kippes elaborates:

Was there sort of behind-the-scenes discussion that this was a political hot potato?

Oh, that was obvious. ... It was pretty apparent, because at the time the mayor was Willie Brown, and he got a tremendous amount of political support from Chinatown merchants, and they didn't want any kind of ban, any restriction. Yeah, actually, I do remember, because I remember that before the vote, I had gotten a call from the city attorney's office telling me that the Mayor had removed me from the Commission. I think it was, I guess Lorraine [Lucas] and Richard [Schulke], too. ... I thought it was very interesting, because we were appointed by the Board of Supervisors and not the Mayor, I just remember it struck me as something he would do, because he just thinks he's God.

According to Schulke, the Commissioners who worked for city departments never considered voting for the ban:

It always shook down pretty much that I knew the city people on the Commission were not going to vote for this. They pretty much told me that. ... I could tell when we finally got to the full Commission hearings on it that I wasn't going to change anybody's mind, even if they agreed with me. I had several of them tell me under the table that the Mayor was not going to allow this to happen, nor was the Board [of Supervisors] president, Barbara Kaufman. They were adamantly against it, so they [the Commissioners] weren't going to vote for it.

As the CACW hearings went on, they became dramatic and intense, filled with charges, countercharges, and emotional testimony. The city's very identity seemed to be on the line. As one reporter put it: "What's an animal-respecting, multiculturally sensitive, compulsively democratic city to do?"[46] Richard Avanzino, who was president of the SFSPCA, comments:[47]

[46] Golden (1996).
[47] Richard Avanzino was president of the SFSPCA until 1999, when he became the director of Maddie's Fund.

We knew that this was a controversy of major significance. One out of every three households in San Francisco supported the San Francisco SPCA. That's a huge market penetration for a not-for-profit charity, especially in a community that is very liberal and very fond of charitable causes. ... At the same time, we knew that the Chinese American community had a very, very strong backing of San Franciscans because San Franciscans believed in diversity. This was always of huge import to city hall, but to the people of San Francisco as well, that we were one that respected all cultures, that we admired the contribution of the Chinese American community, and that this was a group that was actually revered. So if we put a clash of culture versus animal rights, that this was going to be an uncertain outcome, because there was divided loyalties. Many of our members who were animal lovers, some to the extreme, were also very much aligned with protecting all minorities in San Francisco, and particularly the Chinese American community. So it was a clash of titanic proportion in terms of allegiances and cross-allegiances. There were many in the Chinese American community, especially the younger generations, that were very much in favor of what we were trying to accomplish, but some of the older members of the community and some of the people of more recent immigration to the city had very strong committed feelings about these practices and traditions that had come from the old country.

Richard Schulke recounts how suddenly the live food ban became a big media story:

We [Commissioners] were doing a variety of things, really just trying to figure out how the Commission worked. We used to have our meetings over in the auditorium of the state building. It was sparsely attended, I would say. A big auditorium, and I was looking around saying, "Wow, there's nobody here." A few people in the front row. But a couple of people in the front row mentioned the live animal markets. They looked around and said, "Let's form a subcommittee," and I volunteered to chair the subcommittee. And that's kind of what got everything rolling. ... [I]n the beginning, the subcommittee, hardly anybody came except the same faces, Patricia Briggs, Eric Mills sometimes, a few other people. We were about to wrap up the testimony, taking some testimony. And then word got out somehow. It was pretty funny, a local TV station, Channel 5, maybe ... [T]here were so few people at this subcommittee that we had to move around the table, we'd all be in different locations to make it look like there were more people there. But that story broke, and all of a sudden now everybody wants to come testify on this issue. It really got big. So now I can't close the subcommittee, because now I have – the more we'd have meetings, the subcommittee, the more people wanted to testify. ... So when we go to the full Commission hearings on it, it's packed. It was crazy packed, you know? We had to make public comment a couple of minutes just because every meeting there was 100 people that wanted to get up and give public comment. ... I'll be quite honest with you, I had no idea the firestorm that this would create, and the media firestorm that it would create. We hardly had – we'd get the local radio, KCBS guy, in the beginning once in a while. [By the end], you couldn't fit the television trucks, crews were in there, people were getting made up before they came out on the Commission because they wanted to look good on CNN.

As things heated up, Richard Schulke, chair of the Subcommittee, faced accusations of racism from the Chinese American community:

After the Commission hearings some people would pull me aside and say – and it was quite often from the Six Companies – "You're giving the Asian community a black eye. We don't need that." ... It looked bad. I said, "Gee, that's certainly not what's driving this." ... I was in law school at the time, or I had just graduated, so I was getting a lot of the, you know, the famous case about the Chinese laundromat [*Yick Wo v. Hopkins*], "It's just another version of that, you're doing that."[48] ... [W]e all started to be called "racist" or "anti-Chinese" or "anti-Asian." For me it was weird, I'd never been accused of being anti-anything. I always thought I was kind of a very liberal kind of guy. So it was – it took me aback a little bit. But I also realized that some of it was just political tactics from the people that didn't want the markets closed down. They essentially played the race card, which was difficult to deal with. But I don't think that it swayed any of the Commissioners.

At times, Schulke was afraid for his personal safety:

And then there were the death threats. Boy, I started getting death threats like crazy. ... Mostly by phone. Really, really angry Chinese people, sometimes in Chinese, sometimes in English, sometimes in a mix of both. ... [Y]ou know, very angry, bad things. I can't really repeat them. They were going to "fuckin' kill me," all this kind of stuff. I basically contacted the police and they said, not super-reassuring, "These kind of people are either hunters or howlers," as they called them, "And the people that howl generally never hunt. And the people who hunt you aren't going to let you know. So don't really worry about it." But it was a little bit in the background. I only got them randomly, it wasn't like I was getting them every day. But it was enough to make you think. ... At one point in time, I am living in the Sunset. The advice [from police] was, "Look out for angry young Asian males." ... I said, "I live in a neighborhood filled with Asian males. Who am I looking out for? The angry ones? Maybe they're having a bad day, it has nothing to do with me, you know?" So that was a little bit of pressure, not much, but it was just a little bit disconcerting to think that I was in a volunteer position and people would threaten my life.

The vote turned out largely as predicted, with the seven at large Commissioners voting yes on the ban, three of the city department people voting no, and one city department person abstaining. On December 9, 1996, Matt Kaplan, the chair of the CACW, wrote a letter to the Board of Supervisors declaring that the CACW had passed a motion recommending that the Board enact an ordinance to "Prohibit the keeping and selling of live mammals, birds, fowl, reptiles, and amphibians intended for human consumption within the City and County of San Francisco." Crustaceans as well as fish were excluded by this language.

Schulke recalls that he would have preferred regulating the sale of live animals to banning it, but that he had decided that regulation was impossible:

[48] In *Yick Wo v. Hopkins* (1886), the U.S. Supreme Court ruled that a law that is facially neutral with regard to race but applied in a racially discriminatory manner violates the Equal Protection Clause of the Fourteenth Amendment. The case dealt with a San Francisco ordinance that required laundry operators housed within wooden buildings to secure a permit from the city. Most of those who fell into this category were Chinese immigrants and when they applied for permits, they were denied. Much of the legislation against the San Francisco Chinese in the 1800s was race neutral on its face, including the Sidewalk Ordinance of 1870 (outlawing the Chinese method of carrying laundry and peddling vegetables with poles), the Cubic Air Ordinance of 1871 (requiring 500 cubic feet of living space per adult), and the Queue Ordinance of 1873 (requiring prisoners to have their hair cut within an inch of their scalp). See Bernard Wong (1998).

I think the reason we went finally for banning was that we felt it was such a political hot potato that the local agencies wouldn't regulate it even if we appointed a law for regulation. It just was not going to happen. So since it was not going to happen, we decided we should go for the ban. It was very difficult for me, to be honest with you. ... Just an outright ban just seemed to be too harsh for me if we weren't banning crabs and lobsters over at Fisherman's Wharf. I was much more for the regulation, but if anything, I changed my mind, because I can speak for myself, when I realized that it wouldn't be enforced. ... Animal Care and Control said, "Look, we don't have the budget and the people." Carl [Friedman] said, "Between you and me, we don't have the budget and the people and the Mayor don't want it, we're not doing it." And the Health Department said, "No, it's Animal Care and Control that has to do that. We can't."

Nor did the Commissioners expect the Board of Supervisors to act on their recommendation. According to Schulke, the Board of Supervisors heeded the CACW's recommendations about 10 percent of the time – and only on basic municipal issues like dog licensing rather than on general animal welfare issues like this one:

Would it be fair to say that those of you who voted for the ban didn't expect the Supervisors to accept it?

Absolutely fair to say that.

What was the purpose of doing it then?

I guess more than anything else to try to get the word out there about what was going on, get everybody involved in thinking about it. I just want to – I realized that the best thing we could do was get people to think about it, and perhaps to get the state legislature involved, which eventually it did, it got to the point where, because I knew that on the local level, again, just because it's such a political hot potato, that the Board wasn't going to do anything.

Lorraine Lucas, another Subcommittee member, comments:

We didn't think it [the ban] was going to pass the Board, I didn't think so. Maybe some of the others thought it might, but from dealing with city hall on the zoning issues, I didn't think it was going to pass, there was too much of a political thing. Chinatown is very powerful with money and votes, so I didn't think it was going to pass. I just thought that maybe if we did this, there would be some sort of compromise, that if we banned it, we could have compromised and said, "OK, we're not going to ban it, but we're going to do some enforcement."

The political fallout of the CACW vote could be observed the following year when the Board of Supervisors refused to renew the terms of two of the Commissioners who had voted for the ban, including the sole Chinese American, Vickie Ho Lynn. Schulke recounts: "It was very under-the-table. Some aides of Supervisors came to me and said, 'Hey, there's going to be blood money for that.'"

What happened with the CACW is a modern urban politics tale. It is a story about city officials passing the buck in dealing with problems, budget shortfalls disabling the enforcement of regulations, and issues falling through

the cracks of jurisdictional lines. It is a story of how public hearings staged by local or state commissions are more often about mobilizing opposing constituencies than they are about discussion and consensus building (although the former may be no less democratic than the latter). It is a story of the influence of political contributions on local elected officials. It is a story about behind-the-scenes politicking and machinations, how intensely personal these can be on the local level, and how configurations of political clout set the parameters for what is thinkable in terms of political action. Finally, it is a story about the role of symbolic politics – how actions are taken even when or sometimes precisely because they will have minimal if any material impact on the issue at hand. With the CACW drama concluded, both sides to the conflict moved forward, negotiating the complex grid of local and state institutions and looking for points of maximum influence.

THE LAWSUIT: CRUEL PRACTICES VIOLATE THE LAW

According to animal advocates, Chinatown live animal markets violated numerous city health codes and animal welfare laws, but the problem was enforcement. Baron Miller, attorney for the animal advocates, said: "We didn't see the DA, the district attorney, getting involved in prosecuting anybody for violating these penal code sections. We went through all that. We tried. I remember talking to the district attorney at the time, trying to get him interested in this, and they weren't."[49] With Mayor Brown on the other side of the issue and the Board of Supervisors refusing to get involved, the next step was to take the matter in front of a judge. In 1997, Baron Miller filed a lawsuit in the California Superior Court of the City and County of San Francisco on behalf of animal advocates against twelve Chinese-owned live animal markets, including nine in Chinatown, two in the Richmond, and one in the Sunset.[50]

Before filing the lawsuit, Baron Miller talked with Eric Mills, Virginia Handley, and others about how broadly to define the targets. Once again, the issue of Fisherman's Wharf came up and once again, it was set aside. Miller explains:

Originally I took the position that we weren't going to – I was not going to be involved in suing live animal markets in Chinatown unless we also sued the restaurants in Fisherman's Wharf that were boiling crabs alive, killing them by boiling them. And then once we got into the preparation stage of the lawsuit, I discovered how difficult if not impossible it was going to be to establish physical or mental suffering by the crabs, as opposed to establishing it for the animals in the stores that were mostly in Chinatown. I realized that it was probably going to be a loser, it almost certainly would be a loser against the Fisherman's Wharf stores. ... I wasn't happy about it. I wasn't happy about people in the Chinese community

[49] Baron Miller has practiced law in San Francisco since 1973.

[50] Baron Miller worked on the lawsuit pro bono for a time and then took a much-reduced fee. United Poultry Concerns and Animal Legal Defense Fund helped to raise money for the lawsuit; individual donations were also received from all over the country.

feeling that they were being singled out. It was disturbing to me. It was disturbing to a lot of people in the coalition. We didn't want that. We didn't want to hurt people's feelings. We didn't want to single them out. And I can fully understand why they felt that they were being singled out. And they were being singled out. But I can understand why they felt they were being singled out for their race or for their culture. Because realistically what was going on in Chinatown is no worse than what's going on at any factory farm anywhere in the state. And it's just that we felt we could do something about this. We couldn't do anything about the factory farms. That was the reality.

Crustaceans would have been a hard sell not only because most people do not see them as morally considerable but also because it is harder to "prove" scientifically that they suffer. Again, the main consideration was what was doable.

The Plaintiffs' Trial Brief (April 1998) argued that the business practices of the named stores were "unlawful" because they violated portions of the city Health and Safety Code (prohibiting the keeping of live animals where food is stored and sold) and the California Penal Code (prohibiting the cruel treatment of animals and mandating the provision of adequate exercise, food, and water to animals) and requested that the court enjoin these practices. While Penal Code 599c explicitly states that anticruelty provisions are not meant to interfere with the right to kill animals for food, the plaintiffs' brief avers that this only precludes the claim that the act of killing animals for food is itself cruel and illegal. Plaintiffs do not make this claim; instead they argue that the keeping of food animals in inhumane conditions and the killing of food animals in an inhumane fashion are cruel and illegal.

Baron Miller followed the animal liberation movement's controversial practice of linking the animal issue to slavery and the Holocaust.[51] The Plaintiffs' Trial Brief stated:

> Historical cruelty in so-called civilized societies, e.g. the Holocaust in Europe or the American institution of slavery, were made possible because what we now perceive as cruelty was then rationalized as necessary and acceptable. Society teaches us daily not to perceive animals as the sentient, conscious, feeling beings that they are, but as objects for us to exploit in order to enhance our lives. It is due to this conditioned attitude that the defendants are able to come into court and argue that the atrocities they are committing and the misery they are creating are neither extraordinary nor consequential, and should be ignored (6).

In another brief, Miller states: "That we live in an anthropocentric world is no more justification for inflicting misery on other species than the racism of American society was justification for the Dred Scott case" (7–8).[52] Miller, who describes himself as a vegan committed to "animal rights," says that he used animal liberationist language to appeal to the judge's affect and conscience:

[51] See Chapter 9 for further discussion of this practice.

[52] "Memorandum of Points and Authorities in Opposition to Defendants' Motion for Summary Judgment," February 20, 1998.

> [T]he argument is made by me as a way ... to reach the judge, as a way to get the judge to maybe have a light bulb go on in his head where he says, "Oh, yeah, we're doing the same thing to animals that the Nazis did to Jews or that – " So I'm not suggesting that animals suffer as Jews suffer. ... I'm trying to educate the judge. The judge obviously has defenses built up through a lifetime of living in our society, and so to win a case like this, you can't just present the facts of the law and say, "Now rule in our favor." You have to educate the judge. You have to make the judge want to rule in your favor. You have to make the judge understand why you're doing what you're doing.

Eric Mills later expressed skepticism about this strategy, wondering whether they would have been better off with a lawyer who "didn't give a damn about animals."

Attorney Paul Wartelle, hired by Rose Pak to represent the defendants, argued that the market practices in question were "customary community practices" (2) that were already intensely regulated. Because the "defendants' practices fall well within the law and custom of the industry" (5), plaintiffs' charges about overcrowding and other issues were, according to Wartelle "farcical, fanatic, and fantastic" (4), "lunacy" (5), and "outlandish" (5).[53] He also argued that the markets' manner of keeping and killing animals was an integral part of Chinese cultural tradition.

As Wartelle understood quite well, the legal definition of cruelty to food animals in the United States hinges on the question of whether given practices are "customary" or not. U.S. courts do not assess cruelty in farming based on whether a particular practice is intrinsically horrifying but rather by looking at whether it is standard practice in the industry, in which case it is deemed not cruel. Cruelty, again, means the infliction of wanton, gratuitous suffering, and the courts have ruled that just about any amount of animal suffering is non-gratuitous and permissible in farming if the practice is customary and thus presumably related to business success (Francione 1996). No matter how stomach churning a practice is and how much suffering it produces, it is not cruel if enough people are doing it. In one Pennsylvania case, a defendant was convicted of cruelty for starving horses to be sold for meat not because he inflicted suffering by starving the horses, but because his attorney "could not prove that enough people were doing the same thing."[54]

This legal state of affairs – where animals raised for food are radically unprotected by law – is a result of concerted lobbying on the part of U.S. agribusiness interests. As Wolfson and Sullivan explain, agribusinesses have "persuaded [state] legislatures to amend criminal statutes that purport to protect farmed animals from cruelty so that [they] cannot be prosecuted for any farming practice that the industry itself determines is acceptable, with no limit whatsoever on the pain caused by such practices."[55] There are no federal laws regulating the

[53] "Memorandum of Points and Authorities in Support of Defendants' Motion for Summary Judgment," March 6, 1998.

[54] Wolfson and Sullivan (2004), 215.

[55] Ibid., 206.

treatment of farm animals, either, and the one federal law that regulates slaughter, the Humane Slaughter Act of 1958, is virtually unenforced by the USDA (Eisnitz 2007).

Whether or not a farming practice is customary, as long as there is no cost-effective alternative that is more humane, the courts are likely to deem it not cruel. In HBO's *Death on a Factory Farm* (2009), a documentary about an undercover animal investigator working on a Midwest hog farm, the court admits that it finds the farm's practice of killing sows by hanging to be offensive (as well as not customary), but concludes that it does not violate the anticruelty statute because there is no way to kill a sow that is feasible and more humane. This is similar to what happened in the live animal market case, where in his Tentative Opinion of July 20, 1998 Judge Carlos Bea ruled that the markets' practices did not constitute "cruelty," defined in Penal Code 599b as physical pain and suffering, inflicted unnecessarily or unjustifiably, caused by gross negligence or omission, such that it causes danger to an animal's life (6). He wrote: "[A]s distasteful as is the shell removal method of slaughter [of turtles], there presently is no reasonable alternative. As a result, there is no 'cruelty' because the physical pain inflicted is neither unnecessary nor unjustified within the meaning of Penal Code section 599b" (11–12). On the significance of this statute, Bea wrote:

> By making this the law of California in 1905, and refusing to amend it since then, the People have spoken: humans have the right to kill all food animals. If they can reasonably kill the animals with little or no physical pain, they should choose that method. However, if the slaughter involves physical pain to the animal that is not reasonably avoidable, food animals can still be killed by people even though the animal suffers physical pain (19).

Bea traces this view of animals back to Genesis 1:28 (where God grants man "dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth")[56] and concludes: "Whether the plaintiff is correct in its world-view of what are desirable relations between humans and animals is a matter which, in a democracy based on the separation of powers, must be addressed to the People's Legislature" (20).[57]

In the "Plaintiff-Appellant's Reply Brief" (August 1999), Baron Miller challenged Judge Bea's reasoning, arguing that it would

> [A]llow the most egregious acts of cruelty on animals used for food as long as they were done often enough. It would allow those in control of the animals, whose main considerations are necessarily cost and efficiency, to decide for themselves what level of cruelty is acceptable. ... Letting the industry decide what is or is not cruel is to metaphorically allow the fox to guard the hen house. Cruelty should not become legal simply because it occurs on a massive scale. Such a result would defeat the statutory purposes of protecting animals and promoting public morals (20).

[56] King James Bible, Cambridge edition. See Matthew Scully (2003) for an alternative, more animal-friendly reading of "dominion."

[57] Bea also took a moment to declare his distaste for multiculturalist arguments on behalf of the Chinese: "Some time and effort has been devoted by defendants to justify their conduct on the basis of their shared Chinese 'culture.' Claims have been made that what defendants do in their markets is what has been done in China for thousands of years. This 'culture' argument is not only irrelevant, it is bothersome and is rejected. Defendants' markets are in San Francisco, not China. The laws which apply here are Californian, not Chinese" (3).

Here Miller spoke to the core of the problem – that legal and statutory definitions of animal "cruelty" are structured so that business interests will decisively trump animal interests every time. There are anticruelty laws on the books, but they do more to give animal industries protective cover and to salve our collective conscience than they do to protect animals from suffering (Francione 1996). In the "Defendants-Respondents' Brief" (June 30, 1999), Wartelle ridiculed Miller for overreaching in this case: "In this action, Appellant ... sought to achieve a revolution in the law of animal husbandry: the virtual liberation of live seafood and poultry from commercial sale" (1). Months later, the Court of Appeals, First Appellate District, Division One, ruled against the plaintiffs, and an editorial in the *San Francisco Chronicle* (February 11, 2000), entitled "A Win for Chinatown Markets," declared the markets were now "safe from animal rights zealots." Victorious in court, Wartelle was rebuked at home: "My main critic was my [eight-year-old] daughter. She said, 'Daddy, you should start that case over and do it on the other side!'"

THE JOINT GUIDELINES AND THE KUEHL BILL: ON "HUMANE" CARE AND KILLING

Animal advocacy groups who made common cause during the CACW hearings found themselves in conflict after the hearings concluded. Eric Mills, Virginia Handley, and Pat Briggs initiated the lawsuit with Baron Miller and went to both the California legislature (seeking legislation on the humane treatment of animals in live markets) and the California Fish and Game Commission (seeking a ban on the importation of turtles and frogs for food). Meanwhile, Richard Avanzino of the SFSPCA decided to negotiate an agreement with the Chinese Six Companies. These "Joint Guidelines" laid out certain parameters for the "humane" care and killing of animals in the Chinatown markets. The campaign's core activists thought the agreement was meaningless – it was strictly voluntary and did not include enforcement provisions – and believed that Avanzino had sold them (and the animals) out for his own glory. Eventually, Mills and his colleagues persuaded the California legislature to pass the Kuehl Bill, AB 2479, which was almost identical to the "Joint Guidelines" except that it had the force of law. However, the Kuehl Bill has not been enforced.

Avanzino pursued a separate agreement with the Chinese Six Companies not because he had philosophical differences with the other animal advocates about how animals should be treated – they had all coalesced consensually around an anticruelty theme – but because he differed with them in his assessment of what was possible, what counted as progress, and how to achieve it.

Conceding the strength of the opposition, Avanzino believed that moderation and compromise were in order. Here he contrasts the behind-the-scenes, conciliatory approach of the SFSPCA with the more militant approach of other animal advocates:

[The SFSPCA] never got involved in public controversies if there was a way to get the job done without making it a matter of public spectacle. There is a separation between us and some of the other animal rights groups in that regard. They were – their first agenda, I think, was to bring public awareness to a controversy and try to get the public on their side to bring about change, either through outreach or through legislation, but basically create a controversy. Our style was to approach all issues initially by trying to reach a win-win situation without anybody being aware of it other than the principals.

It was the SFSPCA's reputation for moderation and discretion that gave them leverage to be effective negotiators, Avanzino claimed. Furthermore, according to Avanzino, discretion required him to conduct the negotiations in this case privately, without the other animal advocates knowing:

When we negotiate, we let the other party pretty much declare the ground rules. We at no point wanted to keep anybody out, but many times when we're negotiating, the other party decides who they want in the room and who they don't want in the room. My recollection, and this is imperfect, so I don't want you to consider it a fact, was that Virginia and Eric had taken some rather strong statements, tried to – I don't know how to say it – villainize? Anyway, they were certainly very critical of the live animal markets. We had been less outspoken than they had been, and therefore my recollection was that Pius Lee was more comfortable trying to see if he could work something out with us. I believe that we had the stronger hand. We had the best market penetration, the best access to a broad section of the San Francisco community. But knowing full well that their hand was also extremely strong because of the reverence for the Chinese American community and for Chinatown and for their political influence. They had the Board of Supervisors very much in their hand.

The SFSPCA and the Chinese Six Companies were the soft liners in their respective assemblages of organizations: both favored behind-the-scenes conciliation and compromise. This made it easier for the two to come together and broker an agreement, at least on paper. Implementing the agreement over the resistance of hard-liners was a different matter.

The timing of the announcement of the Joint Guidelines on April 1, 1998 could not have been more dramatic. For months, the core activists had been pressing the California Fish and Game Commission to pass a ban on the importation of turtles and frogs for food, on the grounds that these animals escape (or are released from) the markets and endanger local wildlife through predation, competition, and disease (see Chapter 5). Such a ban would have effectively ended the sale of turtles and frogs in Chinatown markets, which import turtles from the southeastern U.S. and frogs from Taiwan. The Fish and Game Commission was on the verge of passing a ban at its April 1, 1998 meeting in Long Beach when Avanzino stood up during public comment and announced the agreement on the Joint Guidelines.

JOINT STATEMENT OF PRINCIPLES AND GUIDELINES

Subscribed to by The San Francisco Society for the Prevention of Cruelty to Animals and Representatives of San Francisco's Live Animal Markets

The San Francisco SPCA and the representatives of San Francisco's live animal markets agree that cultural, religious, and ethnic diversity are vital to our community's success and well-being. We also recognize that all people benefit when different traditions, beliefs, and practices are allowed to flourish in an atmosphere of tolerance and goodwill. To further our mutual respect and understanding, the San Francisco SPCA and the representatives of San Francisco's live animal markets are committed to working together to preserve traditional practices and foster kindness and compassion throughout our community. Towards this end, the following guidelines have been agreed upon and will be adhered to in a spirit of cooperation, respect, and compassion:

1. All animals that are to be killed will be killed humanely.
2. No animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is alive.
3. No injured or diseased live animal, or carcass of any such animal, will be sold or offered for sale.
4. No live animals will be confined, held, or displayed in a manner that results, or is likely to result, in injury, starvation, dehydration, or suffocation.
5. No live animals will be confined, held, or displayed in a manner that results in the animal being crushed, attacked, or wounded by any other animal.
6. No live animal will be confined, held, or displayed in a manner that prevents the animal from lying down, standing erect, changing posture, and resting in a normal manner for that species.

During public comment, Virginia Handley tried to control the damage, pointing out that she and other activists had also met with Chinese merchant representatives, who had refused to negotiate guidelines unless Handley and her colleagues backed off of the Fish and Game ban:

It came down to, "Either you go to the [Fish and Game] Commission and oppose this ban or you can forget anything happening in San Francisco on these markets." We were absolutely threatened that nothing would happen unless we opposed this ban. We said, "No, we will not oppose this ban." At that point, all those guidelines are tossed in the can. All that's out the window now, and Mr. Avanzino sat down with them, and the guidelines, I don't know how long it took them to write it up, with absolutely no specificity to them at all, absolutely no enforcement to them at all. No, we are not – we would just be sickened to think that this Commission would accept that as though now the problem is solved.

Handley's suggestion was that Chinese merchant representatives cynically manipulated the SFSPCA and that the latter let themselves be used, to the detriment of the cause. Eric Mills comments:

> [A] number of us felt betrayed at that meeting when Avanzino got up and spoke, because he hadn't told us ahead of time that that's what he was going to do, and the Commissioners all about peed in their pants, fell all over themselves. "Oh, what a great idea, let's go for that. We don't have to do a ban. Now nobody's going to shoot me!" So that's what happened, and of course, nothing came of it, nothing was enforced, nothing changed, business as usual. I just think Avanzino sold out. He'd done a lot of terrific work before then. Maybe he thought he was doing the right thing, that he didn't think we were going to win the whole caboodle. But you didn't know that at the time. He should have pushed for it, I thought, and then come up with some kind of a compromise, perhaps. I hate that word, "compromise." It always means the animals lose.

Upon hearing about the Joint Guidelines, the Fish and Game Commission postponed consideration of the ban. It would be another twelve years of deliberation before they voted to pass the ban in 2010.

The Joint Guidelines revealed a dramatic fracture among Chinese American groups. As discussed in the next chapter, two groups competed to organize the Chinese American community's response to the live animal market campaign: Pius Lee and the Chinese Six Companies (CCBA), on the one hand, and Rose Pak and the Chinese Chamber of Commerce (CCC), on the other. Pius Lee and the Chinese Six Companies had negotiated the Joint Guidelines, so Rose Pak and the CCC wanted nothing to do with them. Although the Chinese Six Companies, the CCC, and the SFSPCA met several times to discuss implementation of the guidelines through the summer and fall of 1998, the meetings were unproductive and eventually came to a halt. In personal correspondence dated July 22, 1998, Paul Wartelle, attorney for the CCC, chastised Richard Avanzino for believing that the Chinese Six Companies represented the Chinese merchants and could command their cooperation – when, in fact, Wartelle had made it quite clear that the merchants were his own clients. He wrote: "You negotiated with the wrong parties. You got what you negotiated for – an empty agreement that nobody needed to implement."

A few months later, the SFSPCA formally declared the Joint Guidelines a failure. In its "Statement Regarding Live Animal Markets" (September 29, 1998), the SFSPCA recounts that it made good-faith efforts to "find a harmonious and nonadversarial resolution" and to promote a "voluntary, community-based effort" based on "mutual respect and understanding" (1). Although the Chinese merchants had agreed to an October 1 deadline for implementation, they had stopped coming to meetings and had made no changes in their practices despite the arrival of the deadline. The statement closes with: "We must now conclude, however, that our attempt to forge a resolution based on mutual trust and understanding has failed, and that further controversy in our community would appear to be inevitable" (2).

As the drama of the Joint Guidelines came to a close, the action shifted to Sacramento. There the legislature, responding to heavy lobbying from both sides, simultaneously passed two bills related to the live animal market issue, the Honda Bill (AB 238) and the Kuehl Bill (AB 2479). Chinese American community leaders pushed for the first bill and declared its passage a victory; animal advocates pushed for the second bill and declared its passage a victory. Sponsored by Assemblyman Mike Honda, a prominent advocate for Asian American issues, AB 238 originally sought to prohibit the Fish and Game Commission from banning the importation of turtles and frogs into the state for food.[58] Tying the hands of the state-level body proved politically infeasible, however, and AB 238 became greatly diluted through the legislative process. In its final iteration, it simply "permit[ted]" a city or county to "regulate the disposition" of such animals in various ways. Because it mandated no action and only allowed for something that the Board of Supervisors showed no inclination to do, it seemed of mostly symbolic value. Its pronouncements that the selling of turtles and frogs for food had gone on in California "since the days of the Gold Rush," that wholesalers and retail restaurants in the state purchase an estimated one million pounds of these animals per year, and that many small markets and restaurants depended on this commerce to stay in business were gestures of support for the Chinese merchants' position.

The passage of AB 2479 also raised questions about what counts as a legislative victory. Eric Mills explains why he and Virginia approached Assemblywoman Sheila Kuehl in the first place:

> I wanted to shut [the live animal markets] down. I think everybody else did, too, but we knew that that was not politically realistic. People are going to eat animals, regardless, even if it kills them, and it probably will before it's over with. But we wanted at least the basics taken care of. No butchering of live animals, no animals kept out of water that lived there, basic stuff. ... We went to Sheila Kuehl, and Virginia and I co-sponsored a bill.

The initial version of the Kuehl Bill was almost identical to the Joint Guidelines.

KUEHL BILL/AB 2479

Original Version, as Introduced in the California Assembly on February 24, 2000

1. Animals are to be killed humanely.
2. No animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is still alive.
3. Take reasonable care to offer for sale only those animals or carcasses that are free of injury or disease.

(*continued*)

[58] As originally introduced by Assemblyman Mike Honda into the California Assembly on January 28, 1999.

4. No live animal will be confined, held, or displayed in a manner that results, or likely to result in injury, starvation, dehydration, or suffocation.
5. No live animal will be confined, held, or displayed in a manner that results in the animal being crushed, attacked, or wounded by any other animal.
6. No animal will be confined, held, or displayed in a manner that prevents the animal from lying down, standing erect, changing posture, and resting in a normal manner for that species.
7. Provides that the standards outlined in d, e, and f are met, in the case of frogs and turtles, when the animals are held and kept according to internationally accepted standards for the transport of live animals.

This bill, too, became watered down in the legislative process: only items (2) and (4) were left standing in the final iteration, and the penalties were weakened. Virginia Handley, who had fought hard for the Kuehl Bill, was nevertheless overjoyed at its passage:

I cried when it passed, I was so happy. I thought, "Thank God, at last, something!" Even though it was heavily compromised. ... [A] lot of people say, "Don't bother with the bills, because they don't get enforced." But I say, get them on the books, and enforcement is a whole other issue.

In Handley's view, the Kuehl Bill was a step in the right direction: it was an act of symbolic importance as the declaration of a legislative body, and it had the potential to change conditions on the ground were it to be enforced. But others disagreed. Miles Young, a warden with the Department of Fish and Game (DFG) who later worked as an investigator for animal advocates in this case, explains why he would not tell his squad to enforce the bill:

Eric [Mills] let me look at the [Kuehl] bill. I was at that time one of the senior members on the policy procedures team for the Department of Fish and Game. We reviewed all legislation, all laws, from our viewpoint. Is it going to work? Is it not going to work? Is it applicable? Is it practical? Is this just showpiece? Can we afford it? Do we have the manpower? ... I looked at it and I went, "You know, this doesn't look right. I want to see the penalty section. If there's no penalty section, it doesn't mean anything." ... Eric's one of my best friends, but we're at totally opposite ends on some of this stuff. ... I've got 36 years of law enforcement [experience]. And I kind of have an idea of what gets through the courts and what doesn't and how politics works. They never consulted me. ... So they came out with this bill and he calls me up one day and says, "Oh, you're going to love this. This is great. It's out. We need you to go enforce it. Here's a copy." He sends me an email version. I went right to the penalties section. The penalties section says if they're mishandling the animals, you have to give them a verbal warning. I'm thinking, "That's useless right there." The second time, if you catch them a second time, they can pay up to a $250 fine. Has to be the same person. And I went, "Eric," I'm talkin' to him on the phone, he's all excited, "Eric, calm down. This is useless. I'm not going to send my squad into San Francisco for that." "What are you talking about?" "Eric, if you look at it, the second time might be a $250 fine, but it has to be the same person. Do you think we're going to remember months later which person in one of these Chinese markets was the same one that was butchering? Not only that, they have an option [of taking a class on animal welfare provided by law enforcement instead of paying a fine]." ... And I said, "That's what I want to do. We're shorthanded, we don't have enough people, and I want to send somebody in there and have them do that and have them cite somebody and then we have to put a class on? We lose money in the deal and time." They fought me for – they thought I wasn't doing my job. As good friends as we were and everything, they thought I wasn't doing my job for a long time. I said, "Eric, I'm not sending my squad in."

The bill was simply unenforceable, from Young's perspective, especially in a time of budget constraints and reduced manpower for the Department of Fish and Game:

Do you think with the Kuehl bill, do you think it's worse to have it on the books than not to have it at all?

Yeah, because once it came out, the merchants said, "We were nice." Pius [Lee] was great: "We supported your bill." Once they found the penalty section, they said, "We support it. You've got a law. Don't complain about it. If there's a law, enforce it if we're doing something wrong." And we're going, "Yeah, right."

So that's sort of a permanent loophole for them?

Exactly. If it wasn't there, we'd be better off, we at the enforcement agency. Understand, San Francisco couldn't enforce that itself. Have you gone to the markets and have you seen the health inspection numbers up there? Next time you go to Chinatown, next time you're up here, I'll walk you through and show you this stuff. They've got these little green stickers that say "health inspection." You go to some of their finest restaurants and they've got a reading of 78 or 80 or something. This frickin' market's got 88, 92, 94. There's flies floating around, people walking out with frog guts on their feet.

Because they're bought off?

Absolutely. It's a joke to everybody.

Because the merchants pay them a little bit?

I can't – all I know is that it's a lie. You just have to go there and look at it. They can't rate a 90 something. Hell, the Safeway in Nob Hill doesn't get that.

Young's point was that laws get written in the way that they do because they represent compromises among competing interests, but they do not take into account what is practical and enforceable on the ground. Thus legislators can earn credit for taking action even though the laws don't actually work. Enforcement is then stymied by a mix of factors, including budget problems (leading to understaffing) and corruption.[59] Responding to queries about the nonenforcement of the Kuehl Bill years later, L. Ryan Broddrick, director of the DFG, wrote in an April 25, 2006 memorandum to John Carlson Jr., executive director of the Fish and Game Commission: "With current staffing levels

[59] See Miles Young (2004) for his critique of AB 2479.

the same as in the 1960s and with the increased demands on enforcement, live animal market cases don't make our enforcement priority list."[60]

This part of the story ends where it began – with the San Francisco Commission on Animal Control and Welfare. Even after the conclusion of the CACW hearings in 1996, animal advocates continued to attend the CACW's monthly meetings and to raise the live food issue there. In 2001, CACW Commissioners once again considered a ban on the sale of live animals for food. Dr. Thelma Lee Gross, a veterinary pathologist at the School of Veterinary Medicine at University of California, Davis, gave a presentation on the suffering of "lower vertebrates" at the March 14, 2002 CACW meeting. In words that echoed Pat Briggs's early ruminations on crustaceans, Dr. Gross stated: "Pain is often neglected in lower animals because of a lack of knowledge and an inability to recognize pain in those species. But the inability to recognize pain does not mean that it doesn't exist." Her words were to no avail. Despite energetic discussion of the matter, the CACW did not propose another ban.

Americans are ambivalent anthropocentrists at the start of the new millennium, and they are thoroughly skeptical of animal advocacy. Against this backdrop, animal advocates in San Francisco challenged Chinatown's live animal vendors using an optic of cruelty that traces back to the first stirrings of animal advocacy in the United States. Although they did not set out to target the Chinese only, and in fact went to some lengths to avoid doing so, the question of what was doable ultimately shaped their decisions, and this question was in turn related to which animal species are morally considerable and which human groups are relatively vulnerable. While their arguments for the most part scrupulously respected multiculturalist and colorblind norms, the optic of cruelty inevitably mobilized ethnocentric and anti-Chinese feeling among some part of the public, as I discuss in later chapters. Animal advocates won victories at the CACW and the California state legislature, but these came to naught in large part because Chinese Americans had enough political clout to counter these moves. The next chapter looks at how Chinese American groups countermobilized around the optic of racism in a moment of broader Chinese political ascendancy within San Francisco.

[60] The relationship between the Department of Fish and Game and the Fish and Game Commission is discussed in Chapter 5.

4

The Optic of Racism

Mobilizing the Chinese American Community

> When you target just Chinese merchants, you have to be out of your mind not to see it is racially motivated.
>
> – Supervisor Leland Yee

The live animal market conflict emerged just as the Chinese American community in San Francisco was reaching for meaningful political power. A significant presence in the city for a century and a half, the Chinese community survived the Exclusion era (1882–1943) to be reinvigorated by post-1965 waves of immigration from throughout the Chinese diaspora. Global political and economic developments powerfully influenced Chinatown and Chinese San Francisco more broadly during this period, shaping the flow and composition of migration as well as the circulation of capital and goods (including animals and animal parts). By the mid-1990s, Chinese San Francisco was vibrant, diverse, and complex, fractured by class, national origin, language, and politics even as it was stitched together by an enduring identification as a distinct cultural and racial group. With dramatic population growth and dispersal beyond Chinatown into the far reaches of San Francisco, Chinese Americans made significant gains in terms of political representation at both the local and state levels, securing the ultimate prize of the mayor's office in 2011.

The live animal market campaign was one of several issues Chinese American leaders used during the late 1990s and early 2000s to build community or mobilize their fractious population into a reliable political base. Advancing the optic of racism – uniquely resonant in San Francisco because of its distinctive history of anti-Chinese persecution – Chinese leaders argued that the animal campaign was racially motivated and thus threatening not only to Chinese live animal vendors and Chinatown residents but to *all* Chinese Americans throughout the Bay Area and indeed the nation. The appropriate response, they insisted, was community mobilization, self-defense, and empowerment – that is, to circle the wagons around the live animal vendors and understand that what happened to them happened to the whole Chinese American community.

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR NON-MARINE PETITIONS FOR REGULATION CHANGE RECEIVED THROUGH APR 27, 2017, FOR FGC ACTION
Revised 06-09-2017

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

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

Tracking No.	Date Received	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	Staff Recommendation	FGC Decision
2017-002	3/1/2017	A	Walter Lamb	Ballona Wetlands Land Trust	630(h)(3), T14	Eliminate parking use exemption for County of Los Angeles leases	DENY; 1) the current use provides a public benefit and 2) do not recommend making any land use changes until after the environmental impact report is complete.	RECEIPT: 4/26-27/2017 **ACTION: Scheduled 6/21-22/2017**

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

2017-002

Tracking Number: (Click here to enter text.)

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Walter Lamb, Ballona Wetlands Land Trust

   Email address: landtrust@ballona.org

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code Section 1580 ["The commission may adopt regulations for the occupation, utilization, operation, protection, enhancement, maintenance, and administration of ecological reserves."]

3. **Overview (Required) -** Summarize the proposed changes to regulations: This petition proposes to amend Section 630 of the Code of California Regulations, Title 14 to eliminate the parking use exception for "[e]xisting parking areas under leases to the County of Los Angeles" in the Ballona Wetlands Ecological Reserve, by striking paragraph (b)(9)(F). The purpose of this proposed change is to convert approximately 72,600 square feet of paved parking lot, used by an unrelated County agency and by staff and patrons of a private shopping plaza, to a use more compatible for a public ecological reserve.

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: California taxpayers spent $139 million over a decade ago to acquire the land which now makes up the Ballona Wetlands Ecological Reserve. This includes approximately 72,600 square feet of land currently leased to Los Angeles County, Department of Beaches and Harbors ("Beaches and Harbors"), for purposes that are primarily unrelated to the purpose of the ecological reserve (i.e. parking for Beaches and Harbors vehicles and parking for patrons and visitors to the Fisherman's Village shopping plaza across the street from the ecological reserve). The current parking exception was adopted by the Commission at its August 19, 2005 meeting. At least as early as 2011, the record shows that the California Department of Fish and Wildlife (previously Department of Fish and Game) began contemplating Beaches and Harbors' desire to construct a three-level parking garage within the

boundaries of the ecological reserve. This proposal is currently part of all three alternatives under consideration for the Ballona Wetlands Restoration Project. The "No Project" alternative is the only alternative not to include the parking structure component.

Los Angeles County currently pays the Department of Fish and Wildlife $1,608 per year to lease approximately 254 parking spaces, the same amount it has paid since approximately 1995. Only a small portion of this lot is used by the Department of Fish and Wildlife for its vehicles and an office trailer.

Section 630 currently provides the Department with sole discretion as to whether a more appropriate use of this parcel should take precedence over the existing parking use. There is no question that this parcel of land can and would be more appropriately used if the Department exercised that discretion, but the Department has not done so. Therefore the only available remedy short of litigation available to stakeholders of the ecological reserve is to request this regulatory change.

SECTION II: Optional Information

5. Date of Petition: March 1, 2017

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☒ Other, please specify: Ecological Reserves

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):630
☐ 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: As soon as practically possible, but not an emergency

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Please see attached records relating to the existing parking use and proposed parking structure.

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: Eliminating the existing parking lease with Beaches and Harbors would result in the loss of $1,608 in annual lease payments, which is

substantially below market value. That amount would be more than offset by lease payments offered by the Land Trust to use the parcel to promote environmental education and passive recreation activities consistent with the purpose of the ecological reserve. The Department could open a competitive bidding process for other appropriate uses that also generate more income than the current lease payments. Loss of parking spaces to the County and to Fisherman's Village may have some limited economic impact, but parking does not currently appear to be a constraint in the area.

Additionally, due to lease payments that are clearly well below market value, and because parking for a shopping plaza and an unrelated County agency do not further the public purpose of the ecological reserve and the Department of Fish and Wildlife generally, the state could be in violation of the constitutional provision against gifts of public funds between agencies.

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. March 1, 2017 12:01 PM

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: April 26-27, 2017

Meeting date for FGC consideration: June 21-22, 2017

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____

Tracking Number

- ☐ Granted for consideration of regulation change

Ballona Wetlands Land Trust

June 8, 2017

Fish and Game Commission
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Via e-mail: fgc@fgc.ca.gov

Dear President Sklar and Members of the Fish and Game Commission:

In 2005, this Commission added the following language to Section 630, Title 14 of the California Code of Regulations regarding governance of the Ballona Wetlands Ecological Reserve:

> *Existing parking areas under leases to the County of Los Angeles may be allowed unless it is determined by the department that restoration or other uses in those areas are more appropriate.*

The Commission clearly intended that the parking areas in question would be temporary, and that the California Department of Fish and Wildlife ("CDFW") would maintain ongoing discretion to terminate the parking lots at any time in favor of a more appropriate purpose. The Commission specifically alluded to "restoration" because, at the time, a reserve-wide restoration effort was expected to commence in the relatively near future (*see highlighted timeline discussion in attachment A which has been substantially delayed since*). Reinforcing the temporary nature of these parking areas is the fact that they operate under a month-to-month lease that was executed with the previous, private land-owner over two decades ago. That lease expired in 1996, thereby activating the month-to-month provision of the lease. (*see highlighted sections of attachment B*).

Yet, at least as early as 2011, CDFW began contemplating the idea of relinquishing its discretion over the parking lots, and allowing the Los Angeles County Department of Beaches and Harbors to construct and operate a permanent parking garage inside the boundaries of the ecological reserve (*see highlighted sections of attachment C*). Both CDFW and Beaches and Harbors sought to keep the parking garage proposal hidden from the environmental community. Like the existing parking area that it would replace, the parking garage would provide parking to employees of Fisherman's Village, a commercial shopping area across the

street from the ecological reserve, and, to a lesser extent, employees of Beaches and Harbors. The parking garage would include plumbing and electrical hookups and 24/7 lighting. (*see highlighted sections of attachment D*). CDFW's 2012 *Notice of Preparation (*NOP*) of a Draft Environmental Impact Report* (DEIR) for the Ballona Wetlands Restoration Project made **no reference to parking at all**, let alone to the construction of a three-story parking garage (*see attachment E*), even though this component of the restoration was being actively explored.

Currently, the proposed parking garage is included as a component of every restoration alternative under consideration for the DEIR, except for the "no project" alternative, which the project team notes would leave the reserve "in its current impaired state." Remarkably, none of the alternatives analyze the ecological benefit of removing the existing parking lots and restoring the land back to native habitat. Thus, CDFW has made no effort to determine whether restoration of the area would be a more appropriate use.

As of June 8th, based on discussions with Commission staff, CDFW has not provided any argument in support of the proposed parking garage or for keeping existing parking areas in place. Nor has CDFW provided the Commission with any documentation or other information about the existing and proposed parking facilities that would allow the Commission to make a finding based on the relative merits of the Land Trust's Petition. Instead, our understanding is that CDFW's sole argument for rejecting Petition #2017-002 is that the proposed parking garage is part of a Draft Environmental Impact Report which is expected to be published later this summer, after years of delays and setbacks. This argument lacks any merit and is designed to impede the Commission from exercising its independent, statutory responsibility to establish regulations that further the public conservation purpose of this ecological reserve.

The purpose of the California Environmental Quality Act ("CEQA") is to aid the public in minimizing the negative environmental impact of proposed projects, not to shield poorly conceived special interest projects from public scrutiny or corrective action. **An inappropriate use of public land does not become immune to oversight action simply because it has been surreptitiously inserted into a CEQA process.** CDFW seeks to invert the public purpose of CEQA in order to deprive the public of a merit-based determination on Petition #2017-002 by the Commission. Nothing in CEQA prevented CDFW from making a case to the Commission in support of the parking garage. CDFW is being evasive not because CEQA requires or encourages evasiveness (it doesn't), but because neither the parking garage nor the existing parking lot can withstand basic public scrutiny. The Commission has a duty to exercise its independent regulatory authority and to terminate these incompatible parking uses without further delay. While the Commission is not responsible for the CEQA process, granting Petition #2017-002 will aid the process by improving the ecological and legal soundness of the DEIR before, rather than after publication.

It is important to note that this is not the first questionable special interest project at Ballona that CDFW has attempted to shield behind the CEQA process. In 2013, after 16 months of closed-door discussions with the Annenberg Foundation, the CDFW announced the proposed construction of a 46,000 square foot "urban ecology center" (see https://goo.gl/P5IhPr), which

was in actuality a thinly disguised domestic pet adoption facility (*the facility will soon open on commercial property as the Annenberg Pet Space*). Despite being panned by the US Fish and Wildlife Service, the environmental community, the Los Angeles Times and Los Angeles Daily News, and numerous elected officials (*see select examples in attachments F*), CDFW insisted that criticism of the proposal was premature until the elusive DEIR was published. The Annenberg Foundation withdrew its proposal in December of 2014, having substantially delayed the project and having undermined the credibility of the project team.

Also worth noting is that the lease payments from the County to the Department are the same as those set in the 1995 lease renewal. They are well below market value, creating the perception of a gift of state assets to the County, which is prohibited by the California Constitution. A provision of the lease that requires payment of %150 percent of the lease if the lease reverts to a month-to-month basis, as it has, seems to have been ignored. The Land Trust offered to increase the lease payments and use the land in a manner that is consistent with the purpose of the ecological reserve, namely environmental conservation and education. The Land Trust communicated this offer in a February 6, 2017 letter to CDFW's South Coast Regional Manager, Ed Pert (See attachment G), but received no response.

The Land Trust is a small, non-profit entity with very limited resources. We have invested substantial resources into researching this issue and bringing it before the Commission on behalf of the public. Despite having considerably more resources at its disposal, CDFW has neglected to make a similar effort at informing the Commission or public about this important issue. The parking garage proposal is a dead end, with the only question being how much time and public effort will be squandered pursuing the proposal. It would not be in the public's best interest for the Commission to reward CDFW's lack of response on this matter by further delaying action.

For all of these reasons, the Ballona Wetlands Land Trust respectfully urges the Fish and Game Commission to grant Petition #2017-002 in order to terminate parking uses that are incompatible with the purpose of the public state-owned ecological reserve.

Sincerely,



Walter Lamb
President
Ballona Wetlands Land Trust
310-384-1042

cc: Charles Bonham, Director, California Department of Fish and Wildlife

Attachment A

Coastal Conservancy

MEMO

August 13, 2004

TO: Chuck Raysbrook, South Coast Regional Manager
Terri Stewart, Lands Manager
California Department of Fish and Game

CC: Pam Griggs, Staff Counsel and Project Manager, State Lands Commission

FR: Marc Beyeler, Southern California Regional Manager
Mary Small, Senior Project Manager, Ballona Wetlands Restoration Planning Project
State Coastal Conservancy

RE: Ballona Wetland Restoration Planning, Proposed Approach

This memo outlines the Coastal Conservancy's proposed approach for planning the restoration and enhancement of the Ballona Wetland Restoration Project ("the project"). The restoration plan will be developed for all of the lands owned (or soon to be owned) by the Department of Fish and Game and the State Lands Commission, as shown on the attached map, a total of approximately 607 acres. The project area will include the 547 acres, parcels "A," "B," and "C", owned (or soon to be owned) by the Department of Fish and Game and the approximately 60 acres currently owned by the State Lands Commission (38 acres within the Freshwater Marsh and 22 acres in the Expanded Wetlands Parcel).

The project will develop restoration alternatives for the state owned properties. Consistent with the recommendations of the Wetland Recovery Project's Regional Strategy, restoration planning will be conducted within the landscape and watershed context, with attention paid to adjacent and ecologically related resources. This comprehensive planning approach will increase the efficiency of the planning, environmental review and permitting processes resulting in lower overall costs and superior restoration alternatives. Restoration planning is expected to take three years and cost up to two million dollars.

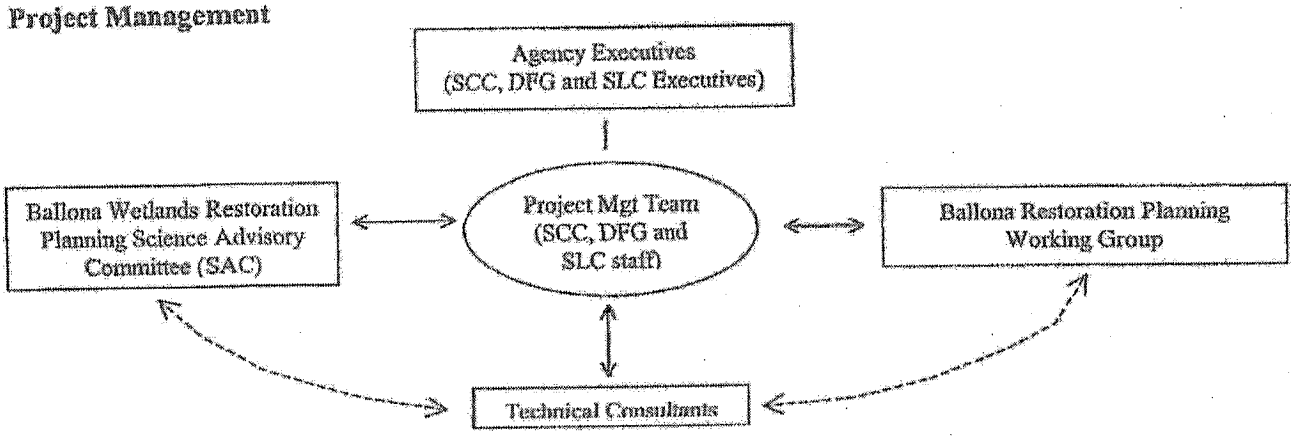
Goals/Principles

The restoration plan will be based on the best science, incorporate technical scientific expertise, and will be developed through a transparent planning process that allows stakeholders to provide input and comment on all restoration planning products. The restoration planning process will develop and analyze a range of alternatives to implement the following project goals:

* Restore and enhance a mix of wetland habitats to benefit endangered and threatened species as well as other migratory and resident species;
* Provide for wildlife-oriented public access and recreation opportunities; and
* Implement a technically feasible, cost-effective, ecologically beneficial and sustainable restoration.

1330 Broadway, 11th Floor
Oakland, California 94612-2530
510-286-1015 Fax: 510-286-0470

Project Management



The principal state agencies, the State Coastal Conservancy (SCC) and Department of Fish and Game (DFG) will work together to develop a restoration plan for the Ballona Wetlands. The two principal state agencies will cooperate with the State Lands Commission (SLC), the current owners of a portion of the Ballona Wetlands, including the recently constructed Freshwater Marsh. All the cooperating state agencies will actively encourage and plan for the participation of interested stakeholders, agency representatives, technical and scientific experts, and members of the general public.

Decisions about the restoration plan will be based on the best available science, with input from technical scientific experts, stakeholders and the public. Each state agency involved in the planning process will respect the right and discretion of its own decision-making body and will work cooperatively to resolve planning, funding, or other issues as they arise. A project management team consisting of staff from SCC, DFG, and SLC will meet regularly to provide updates on the restoration planning.

The SCC will develop and manage the workplan, budget, and schedule for restoration planning. The SCC will provide funding for the planning effort, which is estimated to take about three years. The SCC will manage funds made available to or by SCC for restoration planning, hire and manage contractors, and ensure availability of its project management staff to oversee day-to-day project management.

DFG, as the landowner, will be the applicant for any permits needed for the restoration project and the lead agency for purposes of CEQA. DFG and, to the extent its lands are proposed for restoration, SLC, will have final discretionary authority and approval of the environmental document, with respect to their respective ownerships, prepared for the restoration planning and construction.

<u>Ballona Restoration Planning Working Group: Stakeholder Committee and Public Involvement</u>

A Ballona Restoration Planning Working Group (BRPWG) made up of interested organizations, agencies, and individuals, will meet periodically to obtain project status updates, to provide input, and to support the restoration planning process. These meetings will be open to the public. Subcommittees may be established to address specific issues that may arise during planning.

Ballona Wetlands Restoration Planning Science Advisory Committee (SAC)

A scientific advisory committee made up of wetland restoration scientists will be assembled at the beginning of the restoration planning process and will meet regularly to review the science used in the development of the restoration plan and to guide implementation of an adaptive management and monitoring program. Members of the SAC can be nominated by interested stakeholder organizations, public agency representatives and members of the public. Members of the SAC shall be selected by the Project Management Team to include a variety of relevant wetland restoration experience and expertise.

Work Program Overview

The Coastal Conservancy shall be responsible for developing a work program for the restoration planning project, working with the members of the Project Management Team, the Working Group and the SAC. A draft outline of work program tasks and preliminary budget estimates have been provided below.

Task	*Estimated Budget*
Baseline Conditions: Opportunities & Constraints Report	$50-150K
Geographic Information System (GIS)	50-100K
Pre-Construction Monitoring	150-200K
Develop Restoration Alternatives	150-250K
Alternative Feasibility Analysis	250-300K
Environmental Impact Analysis	250-300K
Final Design	250-350K
Permitting	150-200K
Public Outreach	100-150K
Total Estimated Budget	$1.40-2.0 M

Baseline Conditions – Opportunities and Constraints Report
Collect existing data, identify data gaps and outline opportunities and constraints at the site. Data will be collected for the following types information: habitat, hydrology, water quality, topography, soils, cultural resources, infrastructure, etc.

Geographic Information System (GIS)
Develop a project GIS component, providing for user-friendly access to much of the baseline conditions information, including historic and current aerial photos, site topography, site infrastructure and other relevant data.

PreConstruction Monitoring
Design and implementation of a monitoring program to establish pre-project baseline conditions. This monitoring will be designed to enable the evaluation of project success and to determine possible effects to existing conditions.

Develop Restoration Alternatives
Develop restoration alternatives that achieve the goals and objectives of the project and include alternative construction methods and different long-term habitat mixes. Draft and final alternatives will be presented to the BRPWG and the SAC for input.

Alternative Feasibility Analysis
At least three alternatives will be analyzed to determine environmental, technical and economic feasibility. Modeling may be required to design an effective restoration strategy, evaluate site evolution over time, and analyze the benefits and impacts of the alternatives with regard to habitat evolution, water quality, and other factors. Planning level cost estimates will be prepared as part of this analysis.

Environmental Impact Analysis
Alternatives will be analyzed to determine potential environmental impacts in compliance with CEQA and NEPA.

Final Design – Construction Drawings
Complete detailed design and construction level drawings for the entire project area. Designs will be developed to allow for implementation in manageable phases.

Permitting
Regulatory agency staff will be kept informed of the project alternatives as they are developed and will be invited to attend meetings at key points in the design process. Once a final design is developed, DFG (and SLC if necessary) will obtain permits necessary to start construction.

Public Outreach
Conduct public outreach efforts to ensure that the public remains informed about project status and has opportunities for involvement in the planning process. Communication with and input from the community and interested organizations will be achieved using a variety of means, such as: periodic working group meetings, other public meetings and workshops, a website, email notices, press releases, and presentations.

Project Schedule

A graphic schedule of the overall planning process is attached. The schedule for restoration planning is estimated to take approximately three years. The schedule identifies key elements of the planning process, such as the periodic meetings of the working group and the science advisory committee, as well as anticipated major milestones. The schedule is intended to guide overall planning, but the actual schedule will be subject to numerous external factors.

Next Steps – Project Initiation

Below is a breakdown of tasks to be completed during the project initiation phase.

Month	Activity
August	Prepare project management schedule and approach
September	Community Briefing: present restoration planning approach Solicit SAC nominations, select members Prepare draft restoration consultant team RFQ
October	Community Design Charrette/"Visioning" workshop First SAC meeting: refine restoration goals & objectives; review and refine draft RFQ; define data needs and data sources
November	Interview prospective consultants (project mgt team and SAC representatives) Finalize scope of work and contract
December	SCC Board Meeting - authorize planning funding Hire Consultant Team First BRPWG meeting: introduce consultant team, review/advise: goals & objectives
January	Start work under consultant contract

The Coastal Conservancy seeks your input on the overall planning approach, the structure of the proposed project organization, as well as input on the individual tasks and proposed budget. We seek your concurrence of the various elements of the approach before we, the Coastal Conservancy, Department of Fish and Game, and State Lands Commission, brief the interested community on the planning process. We would like to schedule that meeting during the last two weeks of September. We are available to discuss the contents of memo at your convenience.

Sincerely,

Marc Beyeler
Southern California Regional Manager

Mary Small
Senior Project Manager, Ballona Wetlands
Restoration Planning Project

Cc: Sam Schuchat, Executive Officer, Coastal Conservancy
Elena Eger, Senior Staff Counsel, Coastal Conservancy
Deborah Ruddock, Senior Project Manager, Coastal Conservancy
Kara Kemmler, Project Manager, Coastal Conservancy

Attachment B

LEASE

THIS LEASE ("**Lease**") is made and entered into as of the 2nd day of August, 1995, by and between MAGUIRE THOMAS PARTNERS-PL VISTA, a California limited partnership ("**Landlord**"), and THE COUNTY OF LOS ANGELES, a body politic and corporate ("**Tenant**")

SECTION 1.
Demise

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon the following terms and conditions, the real property described in Exhibit "A" attached hereto and incorporated herein by reference ("**Leased Property**"), subject to all covenants, conditions, restrictions, easements, rights of way, and all other matters of record, including, without limitation, all gas, electric and other utility easements.

SECTION 2.
Term

2.01 The term of this Lease (the "**Term**") shall be for a period of one (1) year commencing on August 2, 1995 and ending on August 1, 1996, unless earlier terminated or renewed as provided herein. Tenant hereby accepts the Leased Property in its "AS-IS" condition and hereby releases Landlord and its directors, officers, employees and agents from any liability or loss caused by any latent or patent defect therein. Landlord shall have no obligation to improve, repair, restore or otherwise alter the Leased Property. Tenant hereby acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Leased Property including, without limitation, any representation or warranty with respect to the suitability or fitness of the Leased Property or any portion thereof for Tenant's purposes.

2.02 (a) Landlord shall have the following rights to terminate this Lease prior to the expiration of its stated Term:

(i) Landlord and Tenant acknowledge that there is presently proposed future development of Landlord's property which encompasses the Leased Property which future development would render the Leased Property unusable for a parking lot. In the event construction of such future development is scheduled to commence during the Term of this Lease, Landlord shall have the right to terminate this Lease upon ninety (90) days' written notice to Tenant.

(ii) In the event Landlord at any time determines in good faith that this Lease interferes with or is otherwise detrimental to Landlord's attempts to (A) obtain the approval

desired by Landlord from the California Coastal Commission of Landlord's intended development of the area adjacent to and/or encompassing the Leased Property, or (B) obtain the rezoning desired by Landlord of the Leased Property and/or such adjacent area, or (C) obtain a jurisdictional determination on "waters of the United States" from the U.S. Army Corps of Engineers, Landlord shall have the right to terminate this Lease upon ninety (90) days' written notice to Tenant.

Upon such termination, Tenant agrees to vacate the Leased Property as of the date of termination and thereafter this Lease shall be null and void.

(b) If Landlord terminates this Lease pursuant to Subparagraphs 2.02(a)(i) or (a)(ii) above, Landlord agrees that it will use reasonable efforts to assist Tenant in finding an alternative location for Tenant's parking lot, either on other real property owned by Landlord or on other real property not owned by Landlord, provided, however, that Landlord shall be under no obligation or liability to Tenant to find such alternative location. In the event such alternative site is on property owned by Landlord, the parties shall negotiate an appropriate agreement as to Tenant's use of the alternative site, including, without limitation, the appropriate consideration and reimbursement of Tenant's relocation costs.

(c) In the event Landlord terminates this Lease pursuant to Subparagraphs 2.02(a)(i) or (a)(ii) above, Landlord shall refund to Tenant a pro rata portion of the amount of prepaid rent paid to Landlord for the Leased Property for the year in which Landlord terminates this Lease.

2.03 In the event Tenant shall hold possession of the Leased Property (without the consent of Landlord) after the expiration of the stated Term of this Lease, such holding over shall create a tenancy from month-to-month only, and not a renewal hereof, and such month-to-month tenancy shall be subject to the same terms and conditions herein set forth; provided, however, that Tenant shall pay as rent during any holding over period, an amount equal to one hundred fifty percent (150%) of the rent payable immediately preceding the expiration of the Term.

2.04 Landlord and Tenant shall also have the right, upon giving the other party hereto at least one hundred eighty (180) days prior written notice ("**Termination Notice**"), to terminate this Lease (and all rights and obligations of the parties hereunder, except for accrued and unpaid or unperformed obligations and liabilities) effective on the termination date specified in the Termination Notice, provided that such date (the "**Termination Date**") is at least one hundred eighty (180) days after the date the Termination Notice is delivered to the other

party. If this Lease is terminated pursuant to this Section 2.04, Landlord shall refund to Tenant a pro rata portion of the annual rent prepaid to Landlord for the portion of the lease year subsequent to the Termination Date.

SECTION 3.
Rent

3.01 Tenant agrees to pay Landlord as rent for the Term of this Lease the following sum: an annual sum of One Thousand Six Hundred Eight Dollars ($1,608) at the commencement of the first year of the Term.

3.02 All rents and other moneys required to be paid by Tenant shall be paid annually to Landlord without reduction, counterclaim or offset, at 13250 Jefferson Boulevard, Los Angeles, California 90094, Attention: Playa Vista Property Manager, or at such other place as Landlord may designate in writing. The Rent shall be payable (a) within fifteen days after the first day of the Term hereof provided Landlord has caused a claim therefor to be filed with the County Auditor of the County of Los Angeles (a "Rent Claim"), or (b) in any event within thirty (30) days after a Rent Claim is so filed if not filed prior to the first day of the Term.

SECTION 4.
Use of Leased Property

4.01 The Leased Property is leased to Tenant for use as an automobile parking lot for employees, staff and patrons of the Department of Beaches and Harbors and Fisherman's Village, and Tenant shall not permit the Leased Property to be used for any other purpose whatsoever.

4.02 Tenant shall, by entering upon and occupying the Leased Property, be deemed to have accepted the Leased Property "as-is" in its then condition, and Tenant hereby releases Landlord, its directors, officers, employees and agents from any liability or loss caused by any latent or patent defect therein.

4.03 Tenant, at Tenant's sole cost and expense, shall keep and maintain the Leased Property in good order, condition and repair (including any such replacement and restoration as is required for that purpose); shall provide all precautions for safety and protection of persons and property; keep the Leased Property free from waste; and upon termination of this Lease restore the Leased Property to as good a condition as at the commencement of this Lease, reasonable wear and tear excepted.

4.04 Tenant shall comply with all governmental rules, regulations, ordinances, statutes and laws, and all covenants, conditions and restrictions pertaining to the Leased Property or Tenant's use thereof.

SECTION 24.
GOVERNMENT PERMITS

Tenant shall procure at its expense and deliver to Landlord evidence of compliance with all applicable codes, ordinances, regulations, and requirements.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

LANDLORD:

MAGUIRE THOMAS PARTNERS-PLAYA VISTA
a California limited partnership

By: MAGUIRE THOMAS PARTNERS/JMB ASSOCIATES, L.P.
a California limited partnership
Its General Partner

By: MAGUIRE THOMAS PARTNERS-PLAYA VISTA ASSOCIATES
a California limited partnership
Its General Partner

By: _____
Name: _____
Title _____

TENANT:

COUNTY OF LOS ANGELES
SALLY R. REED
Chief Administrative Officer

By: Sharon Yonashiro
Sharon Yonashiro
Assistant Administrative Officer
Chief Administrative Office

ATTEST:

BEATRIZ VALDEZ
Registrar-Recorder/County Clerk

By _____
Deputy:

APPROVED AS TO FORM:

DE WITT W. CLINTON
County Counsel

By Francis E. Scott
Deputy: Francis E. Scott

STATE OF CALIFORNIA)
)ss.
COUNTY OF ~~CA~~ Los Angeles)

On October 10, 1995 before me, Anna Elena Cervantes, a Notary Public in and for said County and State, personally appeared Sharon Yonashiro personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Anna Elena Cervantes
Signature of Notary

[SEAL]

ANNA ELENA CERVANTES
COMM. #966869
Notary Public-California
LOS ANGELES COUNTY
My comm. expires MAY 24,1996

STATE OF CALIFORNIA)
)ss.
COUNTY OF Los Angeles)

On October 23, 1995 before me, Marilyn Skirmont, a Notary Public in and for said County and State, personally appeared James A. Thomas personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Marilyn Skirmont
Signature of Notary

[SEAL]

OFFICIAL SEAL
MARILYN SKIRMONT
Notary Public-California
LOS ANGELES COUNTY
My Commission Expires
November 14, 1995

SFH:yb/16851/3/083095
1006.071

Attachment C

Walter Lamb

From: Don Geisinger
Sent: Thursday, March 10, 2011 12:57 PM
To: Gary Jones; Charlotte Miyamoto; Kerry Silverstrom
Cc: Vivian Paquin-Sanner; Kenneth Foreman; testSK
Subject: Area A Parking Lots

I had 2 conversations with David Lawhead of the Department of Fish and Game (DFG) yesterday and would like to recap the issues that were discussed.

1. Parking Lots: DFG is now willing to discuss leasing the parking lots to DBH. Rather than pay rent, DFG is proposing that we maintain (Facilities) and monitor (Parking) the Gordon's Market parking lot. In our initial conversation, David was reluctant to discuss a long-term lease or sale although he acknowledged that there had been discussions about building a parking structure in connection with the development of Fisherman's Village. I explained that DBH needs a long-term commitment in order to factor the parking lots into the Department's long-term visioning plan.
2. I discussed the conversation with both Santos and Kerry. Santos prefers a sale and would be willing to agree to maintain the Gordon's Market parking lot in exchange. Kerry raised the issue of parking and asked that I check with Vivian about the difficulties the Department would have in providing a monitoring program. (In a later conversation with Vivian, Vivian stated that there is no problem at all in providing monitoring.)
3. I spoke with David about a sale. He initially had several objections that included: a) he did not know whether a portion of the Ballona Wetlands could be sold as bonds were issued to purchase the land. b) DFG is finalizing or near finalizing the proposed plan for the development of the Ballona Wetlands and is concerned that the environmental groups might reject the plan if it were announced that the parking lots would be sold. c) if a sale could be accomplished, the money would go to the State's General Fund and would not benefit the Ballona Wetlands. This last objection appears to be critically significant because DFG appears to be concerned about having sufficient funds to maintain the Wetlands once it is developed.
4. In this connection, David raised another issue-whether DBH would be willing to have the baseball field in Area C transferred to DBH with the understanding that: a) the baseball field would be kept as a baseball field; and b) DBH would maintain the area.
5. As soon as David raised this issue, I asked why DFG could not transfer the parking lots if DFG is able and willing to "transfer" the baseball field. It appears as if it may be more an issue of timing (after the plans have been approved so that the environmental groups will not oppose the entire plans).
6. Ken Foreman and I visited both Gordon's Market and the baseball field. Several issues arose about the size and scope of work on each location. I will call DFG for more detailed information.

Finally, in discussions about negotiating for the parking lots, the issue arose as to which entity, DBH or the CEO, will be the lead agency. I will check but would appreciate any comments on this issue.

This is simply an outline of what has been discussed. If anyone has any comments or wants to give advice or instructions please do so. It appears as if there is an opportunity to acquire or control the parking lots in Area A.

Don Geisinger
Senior Real Property Agent
County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina del Rey, CA 90292
Office: (310) 305-9506
e-mail: dgeisinger@bh.lacounty

Attachment D

From:	Charlotte Miyamoto
To:	"Diana Hurlbert"; McCormick, Donna; Mayfield, Rick@Wildlife
Cc:	rlmayfield@hotmail.com; Barry Kurtz; Michael Tripp
Subject:	RE: Area A Parking Questions
Date:	Thursday, June 27, 2013 7:35:42 PM
Attachments:	Elevations from Fiji Way.pdf

Hello all. Attached is the parking structure conceptual sketch with elevations. Also, below are DBH/Barry Kurtz' answers to the questions shown in bold.

Thanks much.

Charlotte Miyamoto
(310) 305-9512

-----Original Message-----
From: Diana Hurlbert [mailto:dhurlbert@santamonicabay.org]
Sent: Tuesday, June 18, 2013 4:40 PM
To: McCormick, Donna; Rick Mayfield (rmayfield@dfg.ca.gov)
Cc: rlmayfield@hotmail.com; Charlotte Miyamoto; Barry Kurtz; Michael Tripp
Subject: RE: Area A Parking Questions
Importance: High

Hi Donna,

I will take a crack and answering some of your questions below and have Cc'd Rick Mayfield and the County folks so they can help fill in the gaps....D

Diana Hurlbert
Restoration Project Coordinator
Santa Monica Bay Restoration Commission
dhurlbert@santamonicabay.org
Office - 310-216-9899
Cell - 831-241-3463

From: McCormick, Donna [Donna.McCormick@icfi.com]
Sent: Tuesday, June 18, 2013 3:42 PM
To: Diana Hurlbert
Subject: Area A Parking Questions

Hi Diana:

Here are the questions I have about the B&H parking project now. If all these could be answered I could complete the project description and probably have everything we need for analysis.

My biggest concern is about the driveway entrance and what the structure would "look like" – elevations would be great. Heights and materials would be the next best thing.

Please address, or pass them along to the party that can. Of course, we need these asap – or absolutely by June 28 if we are to stay on schedule.

1. What will become of the existing parking adjacent to the structure (along the north/south extension of Fiji Way? It is within a dashed red line area on the plans. Will it be demolished and returned to wetlands or will it remain parking? Will the existing driveways remain?

DH - the existing asphalt parking and driveways will be removed and restored to upland habitat.

2. I am wondering about the new driveway location. It is "mid-block" allowing direct entry/exit only for the northbound lanes of Fiji Way. Others will have to U-turn to enter the driveway. Is this what is intended? Or will there be a new cut through the median on Fiji Way? Or would it be better to include a driveway all the way to the existing northern driveway into the parking lot (aligning with Fisherman's Village exit). This would result in less traffic impacts.

DH - County to answer

BK - The driveway for the parking structure is intended to have right-turn in, right-turn out access only, with no median opening for the driveway. Westbound motorists on Fiji Way en route to the parking structure will drive to the end of Fiji Way and turn around. This is not considered to be an inconvenience to motorists. We explored the possibility of having a driveway aligning with Fisherman's Village exit, and found that incorporating a left-turn pocket at that location involves extensive utility relocations. It would require at a minimum, lowering the Edison vault, relocating the Edison vent cans to the back of sidewalk, relocating the cathodic protection system and power source to the back of sidewalk, and relocating the street light to back of sidewalk on the water side and back of curb on the Ballona Wetlands side. Also, constructing the entrance at the easterly location allows us to return more of the existing parking lot for the wetland project. Considering these factors, we recommend the driveway as shown on the plans.

3. How much parking would be available to the public? How much would be reserved for B&H, Sheriff, CDFW?

DH - County to answer but I don't think the Sheriff's parking needs are included in this garage

DBH - All spaces would be available to the public except Beaches and Harbors would need about 20 spaces to park County vehicles.

4. What amenities are proposed at eh bicycle station?

DH - I think it would be nice to have this as part an extension of the bicycle amenities proposed on

Area C by the AF team, such as air and lock-ups. I am hoping that AF/DFW will look into having a bike share program for the Reserve where people could check a bike out from this and Area C and leave them in either area. Maybe it is something that BH would be interested in doing too and link it to the rest of the Marina

BK – The bike station would be strategically located at a location served by a Culver City Bus Line, the Marvin Braude Bicycle Trail, the most heavily used bicycle path in Los Angeles County, and Fisherman's Village, a major attraction in the region. It is close to other bus lines including Metro buses and Santa Monica's Big Blue Bus along Admiralty Way and Lincoln Boulevard.

5. Is this going to be a paid parking lot? If so, what collection system would be used? If not, how will you keep people headed for Fisherman's Village parking there for free?

DH - DFW/County to answer....I don't know if they want to charge for people to visit the Reserve

DBH – It will be a paid parking structure using pay stations. Parking rates will be consistent with the rates for public parking throughout the Marina.

6. What are the proposed hours of operation? How will it be secured?

DH - DFW/County

DBH – The parking structure will likely have opening and closing times, but they are yet undetermined It will be secured with a gate arm.

7. Who will operate & maintain the facility?

DH - DFW/County

BK - DBH will operate and maintain the facility.

8. Will we get elevations? Will we get heights?

DH – County

DBH – A sketch of the parking structure with elevations and heights is attached.

9. What materials will be used? (Assuming concrete, but any special aesthetic treatment?)

DH – County

DBH – The building will be constructed of concrete. The design, materials, colors, signage, lighting and landscaping for the parking structure will need to be approved by the Marina del Rey Design Control Board.

10. Currently there occasionally are trailers and boats parked on the site. Will there be any accommodations for oversized vehicles, etc.

DH - DFW/County

DBH – We don't expect to accommodate boats or oversized vehicles. However, the facility would accommodate 8'2" vehicles for ADA vans. The trailers currently on the lot belong to CDFW.

11. Will the existing mobile home/office be moves or incorporated into the property somewhere?

DH - DFW/County

DBH - The trailers belong to CDFW.

12. What access will there be between the parking facility and the wetlands? Pedestrian? Bicycle? How will it connect with the trail system?

DH - This is going to be part of the Recreation/Access MP that Melendrez is working on....there would be bike and ped connection to the bike/ped levee trail we are proposing that goes along the perimeter of the restored wetlands in Area A

BK – There would also be a bike connection between the bike lanes along Fiji Way and the parking facility, bicycle station and bike/ped levee trail.

13. Will there be lighting? If so, what kind? If so, when will it operate (i.e., will there be lights on the roof 24/7)? Currently there is no lighting so this will be an important issue.

DH - DFW/County - There might already be safety lighting on the trailer but I don't know...the nearest lighting is maybe street lighting for Fiji or at Fisherman's Village

BK – The parking structure will have energy efficient LED or florescent lighting operating 24/7 on all levels. The lighting will be dark-sky compatible.

14. Will there be any amenities on the observation deck? (Signage, mapping, scopes?) If so, will this be coordinated with the Annenberg's visitor amenities?

DH - Yes, I would think so to both questions.....DFW/County to elaborate

BK – There will be an information kiosk with signage, maps and telescopes.

15. Will there be removal of any existing landscaping? It seems like the lawn and tree area right at the turn of Fiji Way is not part of the "project" but that the new driveway would remove some street trees. (See my concerns about the new driveway in #2, above.)

DH - I would think that most of what is there is non-native and on Reserve property and that it along with other existing non-native plant material in Area A would be removed during restoration

BK – In addition, the existing landscaping in the vicinity of the driveway of the parking structure would be removed to provide adequate visibility for motorists exiting the driveway.

16. Would there be any additional landscaping? If so, what would be planted? Would it be irrigated (permanently or temporarily)?

DH - I would think that additional landscaping would be limited to the creation of restored uplands and transition habitats adjacent to the garage as part of the overall restoration....

BK – In addition, the existing landscaping in the vicinity of the driveway of the parking structure would be removed to provide adequate visibility for motorists exiting the driveway.

17. Besides electrical (to power elevator and for lighting), would there be any other utilities extended to the site (water)?

DH – County

DBH – Besides electrical power, there would be water supply and sewer lines to maintain the parking area.

18. Would the site drain into the existing storm drains? Would there be any special collection/traps, etc., to address runoff from parking areas, trash screens, etc. Very importantly, would the site be isolated from the wetlands with no draining from parking area/driveways into the wetlands.

DH - DFW/County ....but I would assume "yes"

DBH – Yes, the site would drain into existing storm drains in conformance with County Department of Public Works standards. We would be looking to include all appropriate BMPs.

19. Would the "project" include demolition of the parking at the south end of Fiji?

DH - DFW/County - Do you mean the lot used by the Sheriff....If so I don't think they are going away at this point....I would have a hard time believing they would want to park their vehicles along with the public but who knows....

BK – Department of Fish and Wildlife to address this.

20. Who would build the structure? Timing of the building, would it be done early in the restoration or even before? Who would reclaim the areas that would no longer be needed?

DH - DFW/County.....I would think the parking areas to be restored would be demo'd as part of the

restoration of Area A....can't speak to the timing of the garage being built....

DBH – The County would build the structure within a timeframe that compliments the overall construction schedule for the larger Ballona Wetlands project.

Donna

DONNA McCORMICK | Principal | 949.333.6611 (direct) | 949.929.3536 (mobile) | dmccormick@icfi.com<http://kiosk.jsanet.com/signature/> | icfi.com<http://www.icfi.com/> ICF INTERNATIONAL | 1 Ada, Suite 100, Irvine, CA 92618 | 949.333.6601 (fax) P Please consider the environment before printing this e-mail.

Attachment E

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT

Ballona Wetlands Restoration Project

Introduction

The California Department of Fish & Game (CDFG), the State Coastal Conservancy (Conservancy), and the California State Lands Commission (SLC) are considering a large-scale restoration of the Ballona Wetlands, a State-owned Ecological Reserve located in the western portion of the city and county of Los Angeles. As the primary landowner, project proponent, and permitting agency for the state, CDFG is serving as the lead agency under the California Environmental Quality Act (CEQA). The project will require permits from the U.S. Army Corps of Engineers, Los Angeles District (Corps), who will serve as lead agency under the National Environmental Policy Act (NEPA). The agencies are examining the environmental consequences associated with implementing the project. CDFG is hereby issuing this Notice of Preparation (NOP) that they will be preparing a draft environment impact report (EIR) to satisfy the environmental review requirements of CEQA. The Corps is also issuing a separate Notice of Intent to prepare a draft environment impact statement (EIS) to satisfy the requirements of NEPA. The two documents will be prepared as a joint document (EIS/EIR). This notice solicits input as to the content of environmental review for the project from the public and federal, state, and local agencies relevant to their respective statutory responsibilities.

Project Location

The Ballona Wetlands Ecological Reserve is located in the western portion of the city of Los Angeles (partially within unincorporated Los Angeles County), south of Marina Del Rey and north of Playa Del Rey, as shown in Figure 1. The site is approximately 1.5 miles west of Interstate 405 and approximately 0.25 mile east of Santa Monica Bay. The entire project site is held by the State of California, with part owned by CDFG and part owned by SLC. The site is bisected by and includes a channelized span of Ballona Creek, and it is traversed by Culver Boulevard, Jefferson Boulevard, and Lincoln Boulevard. An aerial photograph of the project site is shown in Figure 2.

Project Summary and Proposed Action

The project entails restoring, enhancing, and creating native coastal wetland and upland habitats in the approximately 600-acre Ecological Reserve. The reserve comprises previously filled and dredged coastal wetland and upland habitat that would be restored by increasing tidal flow throughout the project area, removing invasive species, and planting native vegetation. Figure 3 shows a conceptual design of the proposed restoration. The main components of the project are:

- Habitat restoration of estuarine wetland and upland habitats connected to a realigned Ballona Creek.
- Removal of existing Ballona Creek levees and realignment of Ballona Creak to restore a more meandering channel.
- Construction of new levees to replace the existing Ballona Creek levees and to allow restoration of tidally influenced wetlands while providing flood protection for Culver Boulevard and surrounding areas.
- Installation of water control structures, including culverts with self-regulating tide gates or similar structures, to provide a full range of tides up to an elevation acceptable for flood management and storm drainage, while protecting against some storm events.
- Maintenance of existing levels of flood protection for areas surrounding the Ballona Wetlands site and inclusion of flood hazard management measures into the restored wetlands.

- Provision of erosion protection as an integral part of the restoration design.
- Modification of infrastructure and utilities as necessary to implement the restoration project.
- Improving public access by realigning existing trails, creating new trails, repairing existing fences, constructing overlook platforms, and providing other visitor-oriented facilities.
- Long-term operations and management activities including inspections, repairs, clean-up, vegetation maintenance, and related activities.

As this project is anticipated to be implemented over the course of several years, the project would include an adaptive management component whereby lessons learned from initial stages would be considered as further work is planned, designed, and implemented, allowing maximum realization of project objectives and minimization of on- and offsite environmental impacts. Additionally, the restoration and flood management approaches to the project will consider the effects of future sea-level rise, per the California Governor's Executive Order S-13-08 and the Conservancy's Climate Change Policy, adopted June 4, 2009.

The primary federal action associated with this project is the issuance by the Corps of permits pursuant to Clean Water Act Section 404 and Section 408. The 404 permit is required for dredge and fill of material within jurisdictional waters of the U.S.; the 408 permit is required for demolition of the concrete-lined flood control channel and realignment of Ballona Creek. The Corps and CDFG also anticipate formally consulting with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act, with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, and with the Native American Heritage Commission regarding this project.

Potential Environmental Effects

The project's effects with respect to the following environmental issue areas will be analyzed and addressed in the EIS/EIR: aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, and utilities. Additional issues may be identified during the scoping process. The EIS/EIR will consider direct, indirect, and cumulative impacts, and will present a coequal level of detail for impact analysis on a reasonable range of alternatives to the project, including the No Action/No Project Alternative.

Scoping Process

CDFG and the Corps will conduct a public scoping meeting for the EIS/EIR to receive agency and public comment regarding the appropriate scope and preparation of the environmental document. Potential significant issues to be addressed in the EIS/EIR include aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation, sea-level rise, traffic, and utilities. Additional issues may be identified in during the scoping process. Comments are invited from the public and affected agencies.

A public scoping meeting to receive input on the scope of the EIS/EIR will be conducted on August 16, 2012, beginning at 4:00 pm at the Fiji Gateway entrance to the Ballona Wetlands (13720 Fiji Way, Marina del Rey, CA 90292, across from Fisherman's Village and the Los Angeles County Department of Beaches and Harbors). Participation in the public meeting by federal, state, and local agencies and other interested persons and organizations is encouraged. If you have any questions regarding the meeting, please contact Donna McCormick at (949) 333-6611 (Donna.Mccormick@icfi.com).

Written comments on the scope of environmental review may be submitted at the scoping meeting or sent to the address listed below. Comments will be accepted until September 10, 2012.

Ballona Wetlands Restoration Project
C/O Donna McCormick
1 Ada, Suite 100
Irvine, CA 92816

or by email to:
Donna.McCormick@icfi.com

Additional information on the project and the environmental review process is available on the Ballona Wetlands Restoration website at: www.ballonarestoration.org.

Attachment F

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011

In Reply Refer To:
FWS-LA-02B0010-13TA0185

MAR 14 2013

Ms. Donna McCormick
Ballona Wetlands Restoration Project
1 Ada, Suite 100
Irvine, California 92816

Subject: Revised Notice of Preparation of a Draft Environmental Impact Report for the Ballona Wetlands Restoration Project, City of Los Angeles and Unincorporated Los Angeles County, California

Dear Ms. McCormick:

We have reviewed the Revised Notice of Preparation (NOP) for the proposed Ballona Wetlands Restoration Project in the city of Los Angeles and unincorporated Los Angeles County, California. The Revised NOP was issued by the California Department of Fish and Wildlife (CDFW) to address the addition of an interpretive center to the project. The interpretive center would have a footprint of approximately 46,000 square feet and would include an auditorium, classrooms, public lobby, facilities for an animal adoption and care program, exhibits on wildlife and domestic animals, veterinary facilities, officer space, retail and concessions space, and associated parking.

We offer the following comments and recommendations regarding the proposed interpretive center based on our review of the Revised NOP and our knowledge of declining habitats and species within Los Angeles County. These comments are intended to supplement our comments on the original NOP (FWS-LA-02B0010-13TA0023), and are provided in keeping with our agency's mission to work "with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people."

Our primary concerns with the construction of an interpretive center within the state-owned ecological reserve include: 1) a reduction in the extent of land available for restoration of native habitats, 2) the potential for limitations on the design of the restoration project, and 3) the potential for a substantial increase in the number of visitors and associated degradation of habitats from human-generated disturbance.

We recommend CDFW evaluate alternative locations for the interpretive center, adjacent to but not within the ecological reserve. Coastal lands available for restoration are extremely limited

and therefore, the benefits of including any development within the ecological reserve will need to be weighed against the cost of losing this limited resource. The proposed location of the interpretive center is at the eastern end of the property which is also the furthest upstream point along Ballona Creek. It is our understanding that Ballona Creek contains significant levels of contaminants that could impact the quality of the restoration site (Johnston et al. 2012). One potential option to address this concern would be to create a detention basin and/or treatment wetlands at the upstream end of the property to increase the quality of Ballona Creek water before it enters the restoration site. Alternative uses of the land for the creation of habitats that will contribute to the overall function and value of the restoration project should be given priority over the inclusion of an interpretive center within the ecological reserve.

If no other adjacent property is available for development of an interpretive center, we recommend interpretive spaces within the state lands be restricted to educating the public about the native habitats and species within Ballona Wetlands, rather than creating a domestic animal adoption center and veterinary services, which could be located anywhere.

We appreciate the opportunity to comment on the subject NOP. If you have any questions regarding these comments, please contact Christine Medak of this office at 760-431-9440, extension 298.

Sincerely,

for Karen A. Goebel
Assistant Field Supervisor

Literature Cited

Johnston, K.K., Del Giudice-Tuttle, E., Medel, I.D., Piechowski, C.J., Cooper, D.S., Dorsey, J., and Anderson, S. 2012. The Ballona Wetlands Ecological Reserve Baseline Assessment Program: Second Year Report. Santa Monica Bay Restoration Commission. Prepared for the California State Coastal Conservancy, Los Angeles, California.

Ted Lieu

FOR U.S. CONGRESS

May 17, 2014

Mr. Walter Lamb, President
Ballona Wetlands Land Trust
P.O. Box 5623
Playa del Rey, CA 90296

Dear Mr. Lamb,

I believe the Annenberg Foundation and their generosity has made a profound and positive impact on our community. While I support the creation of an interpretive center as well as increased pet adoption opportunities for our community, I do not believe one should be built on the Ballona Wetlands.

Per your request, you may list my name. Thank you for your advocacy on this issue.

Sincerely,

Ted W. Lieu

TED W. LIEU
Senate, 28th District

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FROM THE ARCHIVES

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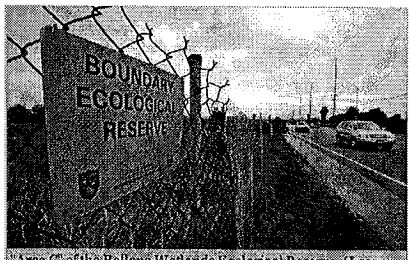
Editorial

A bad fit for Ballona Wetlands

The Annenberg Foundation's idea for an animal adoption center there doesn't mesh with preservation efforts.

September 20, 2013 | By The Times editorial board

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"Area C" of the Ballona Wetlands Ecological Reserve. (Los Angeles Times)

It's not surprising that the Annenberg Foundation's plans for an expansive interpretive center in the Ballona Wetlands Ecological Reserve has stirred controversy. The cherished 640-acre reserve that stretches from Westchester to Marina del Rey has passionate advocates who often disagree on the best course for its restoration.

One element of the Annenberg plan that has come under fire is an animal adoption and care facility. That would be a welcome service in almost any other location in the Los Angeles area, but it doesn't fit into a preservation scheme for Ballona and should not be part of a final design plan.

Certainly, this would be a very small part of Annenberg's elaborate center and restoration efforts, to which the foundation is committing at least $50 million in a partnership with the California Department of Fish and Wildlife (which controls the wetlands), the state's Coastal Conservancy and the Santa Monica Bay Restoration Commission. The animal adoption facility would take up about 1,500 square feet of the 46,000-square-foot interpretive center, as part of its educational narrative on the urban ecology of this area. "How do you leave cats and dogs out?" said Leonard Aube, executive director of the foundation.

The Annenberg Foundation has made no secret of its commitment to animal welfare, and it supports many organizations in that field. A few years ago, in partnership with the city of Rancho Palos Verdes, it tried to create a park at Lower Point Vicente with an interpretive center that also would have included a small animal adoption center. (That project ran into opposition too.) The foundation's involvement in animal welfare concerns, particularly pet adoption, should be applauded. But a domestic animal adoption center, as well intentioned and needed as those kinds of facilities are, does not belong at Ballona.

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Stewardship of this precious wetland is paramount, and the abuse of it — littering, dumping of soil from construction of Marina del Rey developments — has been shameful. And preservation means restoring the wetlands to a habitat for the flora and wildlife that have thrived there in the past and stubbornly remain despite urban encroachment: great blue herons, burrowing owls, voles and lizards, among other creatures. Yes, wandering feral cats are an intrusion these days, as are people illegally walking their dogs. Those issues need to be dealt with.

But the reason the state bought this land more than a decade ago was to preserve the last sizable coastal marsh in Los Angeles County. The goal should be to work hard to restore it, as well as offer visitors an educational experience about the urban wetland.

ENDANGERED HABITATS LEAGUE
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

November 14, 2013

Chuck Bonham, Director
California Dept. of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814
director@wildlife.ca.gov

RE: Proposed Annenberg Interpretive Center in Ballona Wetlands Ecological Reserve – *Opposition*

Dear Director Bonham:

The Endangered Habitats League (EHL) fully respects the purposes and environmental commitment of the Department, Annenberg Foundation and other parties involved in the Interpretive Center MOU, yet urges that a more publicly accountable process be developed for the use and management of the Ballona Wetlands Ecological Reserve. Until such time, EHL regretfully opposes the construction of this or other facilities on general policy grounds. We also have specific concerns over aspects of the project as proposed. For your reference, EHL is Southern California,s only regional conservation group. We have been active participants in Natural Communities Conservation Planning since 1991 and have helped create Ecological Reserves in Riverside and San Diego Counties.

On a broad policy level, the management of State Ecological Reserves, including visitor uses and facilities, should be determined by the Department using public input and through publicly accessible processes. The MOU contravenes such an approach and the Department would set an adverse precedent if this became a „model„ for public-private partnerships. *Furthermore, public-private partnerships should only fund management actions or facilities identified and adopted in a standard and open planning process.* If, instead, public-private partnerships supplant an open process, then we create the perception that public lands are being inappropriately used to advance private agendas, even if those agendas align with State interests. This MOU should be rejected on these general policy and process grounds.

On a site-specific level, in EHL,s view, the proposed interpretive center is over-scaled and should not contain a domestic pet facility. That is not to say that the ultimate interpretive programs should not educate the public on the severe dangers posed by feral cats and other uncontrolled domestic animals to wildlife. If given the opportunity via a new planning process, we would urge the Department to focus available public and private interpretive resources on programs more than structures.

We believe the Department and other involved agencies erred in not developing a publicly accountable visitor use plan for the Ballona Wetlands Ecological Reserve. The result has created the unfortunate appearance of trading public trust responsibilities for monetary considerations. Recognizing that the Department is the ultimate decision-maker, we urge the Department and other MOU entities to step back and collaborate with other stakeholders during a more inclusive planning exercise. The result should be able to constructively accommodate the interests of those involved to date in interpretive facilities and management actions. EHL would be happy to participate.

Yours truly,



Dan Silver
Executive Director

cc:

Sonke Mastrup, Executive Director
California Fish and Game Commission
sonke.mastrup@fgc.ca.gov

Ballona Wetlands Restoration Project
c/o Donna McCormick
DONNA.MCCORMICK@icfi.com

Rick Mayfield, California Department of Fish & Wildlife
Rick.Mayfield@wildlife.ca.gov

Mary Small, State Coastal Conservancy
msmall@scc.ca.gov

Shelley Luce, Santa Monica Bay Restoration Foundation
sluce@santamonicabay.org

Leonard Aube, The Annenberg Foundation
LAube@annenbergfoundation.org

LOS ANGELES AUDUBON

P.O. Box 931057
Los Angeles, California 90093-1057

February 11, 2013

Ballona Wetlands Restoration Project
c/o Donna McCormick
1 Ada, Suite 100
Irvine, CA 92816

Dear Ms. McCormick:

After review of the revised Notice of Preparation and the executed Memorandum of Understanding (MOU) between the Annenberg Foundation, California Department of Fish and Wildlife, Santa Monica Bay Restoration Commission/Foundation, and State Coastal Conservancy, The Los Angeles Audubon Society opposes the inclusion of the proposed Annenberg interpretive center in area C of the Ballona Wetlands for the following reasons.

1. The MOU implies in its text that it is possible to recreate in sensitive habitats with pets (described as "proper techniques for recreating outdoors with pets in ways that are respectful of sensitive natural ecosystems, and allow humans, domestic animals, and wildlife to coexist"). Pets simply should not be brought to the Ballona Wetlands, and every effort should be made to remove stray or feral domestic species from the wetlands property.

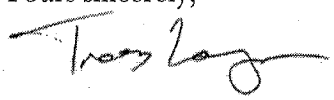
2. It is not consistent with the purpose for which the property was purchased to include a companion animal adoption and veterinary facilities on it and Los Angeles Audubon finds this use to be highly inappropriate at this location.

3. The proposal was presented to the stakeholder community as a *fait accompli.* Los Angeles Audubon has run a successful education program in the Ballona Wetlands for more than twenty years, educating over 2,000 elementary school children per year. We have learned that the best way to teach people about the wetlands is to get them outside. We do not see a need for the proposed center that could not be met in other ways that do not involve construction on public land that was obtained for wildlife conservation.

The open spaces at Ballona are precious, and Area C is one of the few places left in Los Angeles where one can see Loggerhead Shrikes and White-tailed Kites, two species that have

been in steep decline on the coastal plain. As much of this land as possible should be restored to native vegetation, without the introduction of a new building and the attendant impacts.

Yours sincerely,



Travis Longcore, Ph.D.
President

cc: California Department of Fish and Wildlife
State Coastal Conservancy
Santa Monica Bay Restoration Commission
The Annenberg Foundation

Attachment G

Venskus & Associates
A PROFESSIONAL CORPORATION

603 WEST OJAI AVE., SUITE F
OJAI, CALIFORNIA
93023
TEL: 805-272-8621; FAX: 213-482-4246

1055 WILSHIRE BLVD., SUITE 1660
LOS ANGELES, CALIFORNIA
90017
TEL: 213-482-4200; FAX: 213-482-4246

February 6, 2017

VIA ELECTRONIC and U.S. MAIL

Edmund Pert
Regional Manager, South Coast Region
Department of Fish and Wildlife
3883 Ruffin Road
San Diego, CA 92123

ed.pert@wildlife.ca.gov

RE: Inquiry concerning potential lease agreement between the Ballona Wetlands Land Trust and The California Department of Fish and Wildlife for use of land in Area A of the Ballona Wetlands Ecological Reserve

Dear Mr. Pert,

I represent the Ballona Wetlands Land Trust ("Land Trust"), a non-profit 501(c)(3) organization dedicated to preservation, restoration and education related to the greater Ballona Wetlands ecosystem. I am respectfully submitting this lease inquiry on the Land Trust's behalf. The California Department of Fish and Wildlife ("Department") is currently leasing land within the state-owned Ballona Wetlands Ecological Reserve to Los Angeles County ("County") for use by the County's Department of Beaches and Harbors and also by employees and patrons of commercial businesses at Fisherman's Village, a shopping area located across Fiji Way from the ecological reserve. The Land Trust is interested in leasing the same property under the same terms, except that the Land Trust would consider paying $2,000 per year, which is a $392 per year increase over what the County currently pays.

Additionally, my client would utilize the space in a manner that is consistent with the purpose for which the land was acquired by the State of California with taxpayer funds over a decade ago, as further described below. The current use by the County is not consistent with the purpose of the ecological reserve. The $1608 annual payments currently being made by the County, which have been in place since at least 1995, appear to be well below fair market value. The existing parking lot contains roughly 250 spaces,

making the lease payment for each space less than $6.50 per year. While my client's tentative proposal to pay $2,000 per year is likely also well below fair market value, this shortfall would be mitigated by a land use that is consistent with the Department's mission and the land's public purpose. Thus, my client's tentative lease proposal would increase revenue to the Department by almost 25% and would also facilitate a land use that is consistent with the Department's mission, avoiding any perception that Department has made a constitutionally prohibited gift of public assets from the State of California to a local agency.

In a November 29, 2005 "Final Statement of Reasons for Regulatory Action" relating to the ecological reserve, the California Fish and Game Commission stated that "Two additional special regulations will allow licensed recreational use of a portion of an area of the proposed reserve known as Area C, and leased parking use under existing agreements, unless it is determined that other uses are more appropriate for these areas. Because these licensed recreational and parking uses are not normally allowed on ecological reserves, these two special regulations are necessary when the department has determined these activities are appropriate and will cause no impacts to protected species and habitats." It is not clear whether the Department has ever exercised its discretion to determine whether an alternate land use would be more appropriate than parking for commercial businesses and for County vehicles. However, the Land Trust is respectfully requesting that the Department exercise that discretion now with regard to the Land Trust's proposed alternate use.

My client is prepared to address any reasonable concerns or requirements that the Department may have with regard to the use of this land, including insurance, security, maintenance, etc. The Land Trust will also limit its use of the land to any reasonable restrictions the Department may impose. The Land Trust would be interested in removing the existing paved lot and replacing it with a temporary outdoor education center and native habitat garden if the Department were to approve such a use. Otherwise, the parking lot could be kept in place and nature education related activities could be conducted in a cordoned-off section of the lot. Any final lease agreement would require approval by the Land Trust's Board of Directors before going into effect.

Please provide the Department's response to this initial lease inquiry at your earliest convenience.

Sincerely,

Sabrina Venskus, Esq.

From:	Marion Klein
To:	FGC
Cc:	Walter Lamb
Subject:	Support for Petition #2017-002
Date:	Friday, May 26, 2017 10:40:52 AM

To whom it may concern:

I want to express my support for the petition above.

It follows the original intention and mandate regarding Ballona Wetlands for eventually using that land as part of the reserve. It is important to **replace the existing parking lot with native habitat to support wildlife to comply with the original mandate:** *(F) Existing parking areas under leases to the County of Los Angeles may be allowed unless it is determined by the department that restoration or other uses in those areas are more appropriate.*

The month to month lease was designed to be terminated when land use requirements changed. And the Land Trust has offered to pay the County the user fee and even to increase it to keep it as part of the Reserve.

The parking area is used primarily by non Ballona users, and there is ample underutilized County parking nearby. The County would be able to continue to use the small area of the parking lot they now occupy.

These Wetlands are a necessary ecological reserve that are utilized by a multitude of species already fighting for more of the limited space to live and reproduce, including migratory birds who have no other stopping place for hundreds of miles on their journeys. Any disturbance or limitation on this habitat is detrimental to the survival of many species. Their space is limited as it is, and needs to be expanded, not limited further.

Thank you for your consideration.

Sincerely,
Marion H. Klein

From:	Jeanette Vosburg
To:	FGC
Cc:	patricia mc pherson; Kathy Knight; Susan Goodman; Lauren Ahsler; jackneff01 ; Miriam Faugno; Jeanette Vosburg
Subject:	Support for Ballona Wetlands Land Trust Petition #2017-002 re: Ballona Wetlands Ecological Reserve to Fish and Game Commission to be heard at June 24-25, 2017 meeting.
Date:	Tuesday, June 06, 2017 9:55:05 AM

June 6, 2017

Melissa Miller-Henson
Fish and Game Commission

Re: Support for Petition #2017-002 submitted by Ballona Wetlands Land Trust

Dear Ms. Miller-Henson,

On June 5, 2017 the **Sierra Club Airport Marina Group Executive Committee voted unanimously to support the complete Ballona Wetlands Land Trust's Petition #2017-002.**
We are very familiar with the history of the Ballona Wetlands Ecological Reserve.

We oppose: Construction of a three story parking garage within the Ballona Wetlands Ecological Reserve.
We support: Replacing the existing parking lot with native habitat to support wildlife.

Sincerely,

Sierra Club Airport Marina Group Executive Committee Members:
Patricia McPherson, Kathy Knight, Susan Goodman, Lauren Gottlieb, Jack Neff and Miriam Faugno

Jeanette Vosburg, Chair
Jeanette@saveballona.org

BALLONA CREEK Renaissance

P.O. Box 843, Culver City CA 90232

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Steven Coker
Shea Cunningham
Bobbi Gold
Blake Hottle
Dino Parks
Gerald Sallus
Marina Tidwell
David Valdez

June 8, 2017

TO: Fish and Game Commission
fgc@fgc.ca.gov

RE: Support for Petition #2017-002:
Prevention of construction of a 3-story parking Garage within the Ballona Wetlands Ecological Preserve and in support of removal of pavement and restoration of land back to its natural state.

Attn: State of California Fish and Game Commission

Ballona Creek Renaissance (BCR) is a more than twenty year old, all volunteer organization that offers cleaning, greening and education as it pertains to the Ballona Creek and its environs. We represent the interest of hundreds of people that care about the health of the watershed area of Los Angeles and Culver City.

We firmly support all efforts to put a stop to the proposed 3-story parking garage within the Ballona Wetlands Ecological Reserve as drawn up by Walker & Assoc. Parking Consultants, (there is no apparent date on the drawings). Any work performed on this site should strive toward restoring this invaluable piece of state-owned property by removing the existing pavement and returning the land to its natural state. Barraging the wetlands with more construction and obstructing the existing views and vertical open space will only work against what the taxpayers have fought for and won over decades ago.

Please do not make us fight for those that cannot fight for themselves, but rather help us preserve this open land that is rightfully owned by all. And whose value is not measured by what it offers to humans, but by its important role in the wetland ecology for humans and wildlife: a space to observe the small amount of remaining natural environment in the Ballona Wetlands.

Warm regards,

Deborah Gregory

Deborah Gregory
Secretary, Ballona Creek Renaissance

From:	Andrew Wilder
To:	FGC
Subject:	Support for Petition #2017-002
Date:	Thursday, May 25, 2017 2:41:46 PM

Hi,

I am writing in support of Petition #2017-002, which seeks to restore parking lots within an ecological reserve area that are not being utilized for reserve-related use.

The West Los Angeles area has extremely limited natural habitat left, and the Ballona Wetlands reserve is critical to the health and well-being of the ecosystem and wildlife of the area. A proposed 3-story parking structure to replace the existing parking lot would be a huge step in the wrong direction; rather, the existing parking lot should be used solely for reserve- and related uses, such as parking for a nature center and for others who are visiting and enjoying the reserve area.

In summary:

1) Please prevent the construction of a new, three-story parking garage within the Ballona Wetlands Ecological Reserve, and,

2) Allow us to replace the existing parking lot with native habitat which will support wildlife and environmental education.

Thank you very much!

Sincerely,
Andrew Wilder
(Santa Monica, CA resident and Play Del Rey, CA stakeholder)

(424) 526-7777 • 13837 Fiji Way, Marina del Rey, CA 90292 • beaches.lacounty.gov

Caring for Your Coast

Gary Jones
Director

Kerry Silverstrom
Chief Deputy

John Kelly
Deputy Director

Brock Ladewig
Deputy Director

June 8, 2017

California Fish and Game Commission
Wildlife Resources Committee
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

ITEM 15 (A) – PROPOSAL TO ELIMINATE PARKING USE EXEMPTION FOR LOS ANGELES COUNTY AT THE BALLONA ECOLOGICAL WETLAND PRESERVE

Dear Members of the Commission,

The County of Los Angeles has enjoyed a mutually-beneficial working relationship with the California Department of Fish and Wildlife in Marina del Rey since the state purchased the properties known as the Ballona Wetlands in 2003. In August of 2005, your Commission made an amendment to Section 630 of Title 14, which states, "Existing parking areas under leases to the County of Los Angeles may be allowed unless it is determined by the department that restoration or other uses in those areas are more appropriate." That provision, and a lease agreement that the County has with the Department of Fish and Wildlife, allows the County to park vehicles on the Ballona lots that we use for our Marina del Rey and beach operations. In addition to the County's use of the lot, the Department of Fish and Wildlife also stores a trailer and assorted equipment used by one of their land managers on the property.

Due to the lack of available land in the area, these lots are critical to our operations. In addition to the rent paid by the County, the Department of Beaches and Harbors cleans the lots, maintains the lighting, conducts parking control and enforcement, and provides trash service. Additionally, on several occasions, the County has assisted the Department of Fish and Wildlife during their homeless encampment cleanup operations of the Ballona Wetlands, by providing a trash truck and work crews.

A portion of the parking lots are also used as overflow lots for the adjacent Fisherman's Village property. Fisherman's Village provides a low-cost opportunity for members of the public to get access to the coast, which is a top priority of the County and the state.

Lastly, the existing language in Title 14 already allows the Department of Fish and Wildlife to end the lease with the County if it determines there are more appropriate uses for the lots. With all of these things in mind, we respectfully request you do not

amend Title 14 and continue to allow the County to use the parking lots adjacent to the Ballona Wetlands.

Should you have any questions please contact Michael Tripp of my staff at (424) 526-7745 or mtripp@bh.lacounty.gov.

Respectfully submitted,

Michael Tripp For

Gary Jones, Director

GJ:BL:mrt

OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

June 8, 2017

California Fish and Game Commission
Wildlife Resources Committee
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

SUBJECT: Item 15 (A) – Proposal to Eliminate Parking Use Exemption for Los Angeles County at the Ballona Ecological Wetland Preserve

Dear Members of the Commission:

The Marina del Rey Sheriff's Station has been a committed strategic partner with the California Department of Fish and Wildlife in Marina del Rey since the State purchases the Ballona Wetlands in 2003. In August 2005, your Commission made an amendment to Section 630 of Title 14, which stated, "Existing parking areas under leases to the County of Los Angeles may be allowed, unless it is determined by the department that restoration or other uses in those areas are more appropriate." This provision and lease agreement allows the County to park vehicles on the Ballona lots that are used by the Los Angeles County Department of Beaches and Harbors and the Los Angeles County Sheriff's Department.

Since 2003, numerous County resources have been applied to this area, without any compensation from the State. Marina del Rey Sheriff's Station and the California Department of Fish and Wildlife have directed numerous homeless encampment sweeps in the Ballona Wetlands resulting in felony and misdemeanor arrests, discovery of a stolen bicycle chop shop, recovery of dangerous weapons and assisting many homeless individuals with getting social services.

Although this State owned parcel is not the jurisdiction of the Los Angeles County Sheriff's Department, we happily assist the California Department of Fish and Wildlife when requested. Marina del Rey Station is in constant communication with R.C. Brody, California Department of Fish and Wildlife, Land Manager-Ballona Wetlands Ecological Reserve.

Los Angeles County Sheriff's Department, Marina del Rey Sheriff's Station shares a portion of the paved parking spaces the petitioner defines. The spaces serve as the employee parking lot for station employees. The station houses 100 County employees both sworn and professional staff. The loss of this space would create an unacceptable burden. Unfortunately, due to the lack of available land in Marina del Rey, there is no other option available for the stations workforce.

In addition to the rent paid by the County, the Department of Beaches and Harbors cleans the lots, maintains the lighting, conducts parking control enforcement, and provides trash service. Also, the Los Angeles County Department of Beaches and Harbors has funded a portion of a Deputy Sheriff at the cost of $190,000 (FY 2017/2018) to assist with preservation of the Ballona Wetlands on an as needed bases. We respectfully request that you continue to allow us to use the parking lots adjacent to the Ballona Wetlands.

Sincerely,

JIM McDONNELL, SHERIFF



Captain Joseph H. Stephen
Marina del Rey Station

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR NON-MARINE, NON-REGULATORY REQUESTS RECEIVED THROUGH APR 27, 2017
Revised 06-09-2017

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

Date Received	Name of Petitioner	Subject of Request	Short Description	Staff Recommendation	FGC Decision
2/24/2017	Marko Mlikotin CA Sportfishing League	Social media	Requests FGC utilize social media to more effectively notice public hearing dates and communicate policy objectives.	REFER to FGC staff for evaluation and recommendation	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
2/25/2017	Mia Laurence	Hunting and trapping	Requests FGC outlaw hunting and trapping.	DENY; inconsistent with FGC mandates	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
3/2/2017	Jean Welch	Hunting and trapping	Requests FGC outlaw hunting and trapping of native wildlife.	DENY; inconsistent with FGC mandates	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
3/29/2017	Marilyn Jasper Public Interest Coalition Sierra Club Placer Group	Public comments	Urges FGC to develop and implement a policy defining staff's authority and criteria for incorporating public comments into meeting materials.	DENY; the FGC president is working with staff to document internal procedures related to managing public comments	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
3/30/2017	Francis Coats	Public use and access	Requests FGC consider applicable laws for navigable waters and public trust lands when adopting regulations for public use of wildlife areas and ecological reserves.	REFER to DFW and FGC legal counsel	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
4/13/2017	Christine Harris	Trapping	Requests FGC stop the trapping of wolves.	As a species listed as endangered under the California Endangered Species Act, the take of wolves is prohibited; therefore, no FGC action is required.	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
4/26/2017	George Osborn	Social media	Requests FGC add discussion on the use of social media to the agenda for a future meeting.	DENY; staff is currently evaluating the use of social media	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
4/26/2017	Kim Richard	Bat conservation plan	Requests update on the timeline for completing the bat conservation plan.	The bat conservation plan is an internal DFW management plan; therefore, no action by FGC is required. Petitioner is referred to DFW.	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
4/26/2017	Chumash Community Coalition	Committee meetings	Requests FGC videotape and live-stream all committee meetings.	DENY; Committee meetings are audio-recorded and the recording posted to the FGC website for public access. Funding for videotaping and live-streaming is not available.	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
4/26/2017	Friends of Griffith Park	Rodenticides	Requests that FGC ban rodenticides.	DENY; outside FGC authority	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**

CALIFORNIA SPORTFISHING LEAGUE

February 24, 2017

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

Dear Mr. President,

Given the commission's longstanding desire for greater government transparency and public participation, our organization would encourage the commission to utilize common social media tools.

It appears that the commission is among the few public agencies that does not utilize such tools as Facebook or Twitter to more effectively notice public hearing dates and communicate its policy objectives to those who are dependent on the outdoors for recreation and jobs.

Examples of other fishery related agencies:

Pacific Fishery Management Council
www.facebook.com/PacificFisheryManagementCouncil/

NOAA
www.facebook.com/NOAA/

As your communications team will confirm, such tools are common today, and even local government is live-streaming public hearings on Facebook to engage the public remotely and in real time. Such tools take on added importance given the geographical size of our state, and that several commission hearings are held in some of the most remote parts of the state.

Knowing that greater public input is critical to developing sound public policy, thank you for considering this request at your next scheduled public hearing.

Sincerely,

Marko Mlikotin
Executive Director

2795 E. Bidwell Street, #100-119, Folsom, CA 95630, ph. 916.936.1777
www.sportfishingconservation.org

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Fish and Game Commission
Valerie Ternini
Executive Director, Room 1320
1416 Ninth Street
Sacramento, CA 95814

February 25, 2017

Dear Ms. Ternini,

Earlier this month, I had the opportunity to substitute teach for Laura Honda at Manor Elementary School in Fairfax, California. I filled in for Ms. Honda because she was taking several of her students to the Fish and Game Department meeting to present arguments against hunting. When her students returned to class around lunch time, they presented their experience, and though they were quite proud of themselves for standing up for what they believe in, they were disappointed that the Fish and Game Commission will continue to allow hunting and trapping.

Three years ago, my own daughter was a presenter at a similar meeting. She had similar concerns as the current students have. *Hunting is wrong*. It allows humans to disregard the lives of living beings. Would you go into another city or town and trap and kill mothers and fathers because you liked their skin? Would you trap and kill moms and dads because you felt threatened even though *you* were raiding *their homeland*? Would you trap and kill children and babies because you felt they should not be allowed to grow up in their natural world?

It is beyond my understanding how the Fish and Game Department can possibly continue its support of murder. As humans we must evolve from the blindness of being okay with "dominating" other species, killing them (and often killing them cruelly), and doing whatever we want with the animals, plants, waters, and land for our own pleasure.

It is time that all humans stand up for those without voices—for the animals, the plants, the waters, and the earth—and that human beings say **ENOUGH! IT IS TIME NOW TO LIVE ALL *TOGETHER*.** Please help stop this continual murder. Please end this ongoing suffering—you have the power to bring peace. I was proud of my daughter for speaking up at your meeting three years ago, though I was very sad that nothing changed. I am proud of the students for not giving up and for speaking up again. However, I am deeply troubled that you continue to ignore the important message these students are giving you.

Please stop the murder of innocent animals. Please outlaw hunting.

Thank you very much,

Mia Laurence

From: Jean Welsh
Sent: Thursday, March 02, 2017 10:02 AM
To: FGC
Subject: STOP THE MURDER OF CALIFORNIAS WILDLIFE

From Shari Welsh

Valerie Termini
fgc@fgc.ca.gov

I am outraged by the the murder of our Californias Wildlife. I AM OUTRAGED BY THE CRUELTY INFLICTED ON CALIFORINAS WILDLIFE. Outlaw all hunting and trapping of CA's NATIVE WILDLIFE. This barbaric ecocide of NATIVE WILDLIFE whom have more right to live here than most of us. The same genocide was used on American Indians. Hunters,trappers are sick individuals and ranchers are destroying our environment and are even a cause of GLOBAL WARMING. These native animals have evolved in North America for over 5 MILLION YEARS & we want them protected;**Canis** is a genus of canidscontaining multiple extantspecies, such as wolves, dogs and coyotes. Species of this genus are distinguished by their moderate to large size, their massive, well developed skulls and dentition, long legs, and comparatively short ears and tails.[3]

Etymology

The generic name Canis means "dog" in Latin. The term "canine" comes from the adjective form, caninus ("of the dog"), from which the term canine tooth is also derived.[4] The canine family has prominent canine teeth, used for killing their prey. The word canis is cognate to the Greek word kūon (Greek: Κύων), which means "dog", as well as (less transparently) English hound.

Terminology

- Immature males or females (that is, animals that are incapable of reproduction) are referred to as puppies.[5]
- A group of puppies from the same gestation period is referred to as a litter.[6]

Taxonomy

Canini

The tribe Canini[7] (Fischer de Waldheim, 1817) is the sister group to the foxes (vulpes), and is represented today by two sub-tribes: genus Canis[8] that includes dogs, wolves, coyotes, jackals; and the genus Cerdocyonina[9] that includes the so-called foxes of South America (Crab-eating fox). The critical features that mark the Canini as a monophyletic group include: the consistent enlargement of the frontal sinus, often accompanied by the correlated loss of the depression in the dorsal surface of the postorbital process; the posterior expansion of the paroccipital process; the enlargement of the mastoid process; and the lack of lateral flare of the orbital border of the zygoma.[10] :p77

Canis

The genus Canis (Carl Linnaeus, 1758) was published in the 10th edition of Systema Naturae[2] and included the dog-like carnivores: the domestic dog, wolves, coyotes and jackals. All species within the Canis genus are phylogenetically closely related with 78 chromosomes and can potentially interbreed.[11]

Evolution

The fossil record shows that Feliforms and Caniforms emerged within the super-family Carnivoramorpha 43 million YBP.[12] The caniforms included the fox-like Leptocyon genus whose various species existed from 34 million YBP before branching 11.9 million YBP into vulpes (foxes) and canini (canines). The jackal-sized Eucyon existed in North America from 10 million YBP and by the Early Pliocene about 6-5 million YBP the coyote-like Eucyon davisi[13] invaded Eurasia. In North America it gave rise to early Canis which first appeared in the Miocene (6 million YBP) in south-western USA and Mexico. By 5 million YBP the larger Canis lepophagus appeared in the same region.[14] :p58

The canids that had emigrated from North America to Eurasia – Eucyon, Vulpes, and Nyctereutes – were small to medium-sized predators during the Late Miocene and Early Pliocene but they were not the top predators. The position of the canids would change with the arrival of Canis to become a dominant predator across the Holarctic. The wolf-sized C. chihilensis appeared in northern China in the Mid-Pliocene around 4-3 million YBP. This was followed by an explosion of Canis evolution across Eurasia in the Early Pleistocene around 1.8 million YBP in what is commonly referred to as the Wolf event. It is associated with the formation of the Mammoth steppe and continental glaciation. Canis spread to Europe in the forms of C. arnensis, C. eutruscus, and C. falconeri.[14] :p148 One study found that the diversity of the Canis group decreased by the end of the Early Pleistocene to Middle Pleistocene and was limited in Eurasia to the small wolves of the Canis mosbachensis–Canis variabilis group and the large hypercarnivorous Canis (Xenocyon) lycaonoides.[15]

Wolves, dogs and dingoes

The extant wolf-like canids

Side-striped jackal

Black-backed jackal

Dog

Gray wolf

Coyote

African golden wolf

Golden jackal

Ethiopian wolf

Dhole

African wild dog

Phylogenetic relationships between the extant wolf-like clade of canids.[16] [17] See further:Canid relationships

Wolves, dogs, and dingoes are subspecies of Canis lupus. The original referent of the English word **wolf**, the Eurasian wolf, is called C. l. lupus to distinguish it from other wolf subspecies, such as the Indian wolf (C. l. pallipes), the Arabian wolf (C. l. arabs), or the Tibetan wolf (C. l. chanco).

Some experts have suggested some subspecies of C. lupus be considered Canis species distinct from C. lupus. These include Central Asia's Himalayan wolf, and the Indian wolf,[18] [19] as well as the North America's red wolf and eastern wolf.[20]

The dingo (C. l. dingo), from Australasia, and the domestic dog (C. l. familiaris) are also considered subspecies of C. lupus, although they are not commonly referred to or thought of as "wolves".[21]

Coyotes, jackals, and wolves

The Gray wolf (C. lupus), the Ethiopian wolf (C. simensis), and the African golden wolf(C. anthus) are three of the many Canis species referred to as "wolves"; however, all of the others are now extinct and little is known about them by the general public. One of these, the extinct dire wolf (C. dirus), has gained fame from the thousands of specimens found and displayed at the Rancho La Brea Tar Pits in Los Angeles, California.

Canis species that are too small to attract the word "wolf" are called coyotes in the Americas and jackals elsewhere. Although these may not be more closely related to each other than they are to C. lupus, they are, as fellow Canis species, all more closely related to wolves and domestic dogs than they are to foxes, maned wolves, or other canids which do not belong to the genus Canis. The word "jackal" is applied to three distinct species of this group: the side-striped (C. adustus) and black-backed (C. mesomelas) jackals, found in sub-Saharan Africa, and the golden jackal (C. aureus), found across southwestern and south-central Asia, and the Balkans.

While North America has only one small-sized species, the coyote (C. latrans), it has become very widespread, moving into areas once occupied by wolves. They can be found across much of mainland Canada, in every state of the contiguous United States, all of Mexico except the Yucatán Peninsula, and the Pacific and central areas of Central America, ranging as far as western Panama.

African migration

Skulls of dire wolf (C. dirus), gray wolf (C. lupus), eastern wolf (C. lycaon), red wolf (C. rufus), coyote (C. latrans), African golden wolf (C. anthus), golden jackal (C. aureus) and black-backed jackal (C. mesomelas)

In 2015, a study of mitochondrial genome sequences and whole genome nuclear sequences of African and Eurasian canids indicated that extant wolf-like canids have colonised Africa from Eurasia at least 5 times throughout the Pliocene and Pleistocene, which is consistent with fossil evidence suggesting that much of African canid fauna diversity resulted from the immigration of Eurasian ancestors, likely coincident with Plio-Pleistocene climatic oscillations between arid and humid conditions. When comparing the African and Eurasian golden jackals, the study concluded that the African specimens represented a distinct monophyletic lineage that should be recognized as a separate species, Canis anthus (African golden wolf). According to a phylogeny derived from nuclear sequences, the Eurasian golden jackal (Canis aureus) diverged from the wolf/coyote lineage 1.9 million years ago but the African golden wolf separated 1.3 million years ago. Mitochondrial genome sequences indicated the Ethiopian wolf diverged from the wolf/coyote lineage slightly prior to that.[22] :S1

Gallery

Gray wolf (Canis lupus) (includes dog and dingo).

Eastern wolf (Canis lycaon) (often includes latrans admixture)

Red wolf (Canis rufus) (includes latrans admixture)

Coyote (Canis latrans)

Dire wolf (Canis dirus) (extinct)

African golden wolf (Canis anthus)

Golden jackal (Canis aureus)

Ethiopian wolf (Canis simensis)

Black-backed jackal (Canis mesomelas)

Side-striped jackal (Canis adustus)

See also

- List of Canis species

References

Wikispecies has information related to: **Canis**

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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 2--Public Forum: Statute Compliance

Due to an exclusion of at least two written comments from the FGC's meeting documents (Binder), even though they were submitted before the comment deadline and followed FGC's instructions, we have grave concerns regarding transparency and compliance with laws that govern public agencies.

Underlying all our public agency transparency regulations and policies, a recurring theme is, that as frustrating as it may be, efficiency is not the top priority.[1] The Bagley-Keene Act reserves "a seat at the table" for the public, (§ 11120) and that includes the right to participate in the decision-making process.

When this "exclusion" issue was brought up at the March 15, 2017, FGC tele conf meeting during public forum (Agenda item 2), a number of reasons were given for not including all comments, such as: Small staff and budget, letters that are not relevant to any agenda item, multiple form letters (often thousands) that say exactly the same thing, all of which are available for the commissioners to come in and view between meetings. We understand the need to organize and summarize thousands of form letters in the Final Initial Statement of Reasons (FISOR), and to exclude letters that are irrelevant to the agenda items.[2] However, we submit that the law does not make exceptions to compliance for staff and budget limitations.

For the March 15, 2017, meeting, the Binder was only 46 pages, with four comment letters. The two that were excluded would not have burdened staff nor have added more than 2-3 pages to the Binder. If, as some legal scholars have suggested, defamatory comments may be excluded, then the one 5-page letter that was included with three pages of disparaging nonprofit bashing, that was not relevant to the agenda item, should have been a candidate for exclusion. Yet it was included while two others that were on topic were excluded.

Thus, the reasons stated by staff and the FGC for exclusion of the two comment letters in question, which were a far cry from being form letters, are unsatisfactory, insupportable, and possibly a violation of statute(s). With all due respect to staff, that does

[1] "A Handy Guide to The Bagley-Keene Open Meeting Act 2004, California Attorney General's Office, Intro, page 2. "If efficiency were the top priority, the Legislature would create a department and then permit the department head to make decisions."

[2] There have been times when public commenters have accidentally attached the wrong document, but these are obvious mistakes, not subject to staff judgment calls.

a tremendous job in organizing the Binder and creating time-saving links, a FGC employee should never have the authority to exclude any comment submissions simply because he/she decides the comment expresses the same position as another or many others. Public trust is at stake when unknown staff members become gatekeepers of public comments and apply their own filters to exclude some comments, but not others.

Whether it's the Bagley Keene Act (§ 11125.1.), the Brown Act, or CEQA, the public has a right to see what points others have made. "Obviously, a meeting would include a gathering where members were debating issues or voting on them. But a meeting also includes situations in which the body is merely receiving information. To the extent that a body receives information under circumstances where the public is deprived of the opportunity to monitor the information provided, and either agree with it or challenge it, the open-meeting process is deficient."[3]

In general, a record includes any form of writing or oral comments. When materials are provided to a majority of the body either before or during the meeting, they must also be made available to the public without delay, unless the confidentiality of such materials is otherwise protected.[4] The FGC encourages comments and hopefully weighs all input in their decision making. If relevant, timely submitted public comments are not included in the Binder, not only may commissioners be deprived of pertinent information, but the public is deprived as well.

With the California Environmental Quality Act (CEQA), the importance of public participation as an element of the process is both declared and widely accepted. In *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929, the court emphasized that the public holds a "privileged position" in the CEQA process "based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making."[5]

"(e) This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section."[6]

We urge the FGC to develop and consistently implement a clear policy defining staff's authority and criteria for determining which public comment letters are included and/or excluded from the Binder when those comments are submitted in good faith, a timely manner, and pertain to an agenda item.

Thank you for considering our views,



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

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[3] Ibid. page 5.
[4] Ibid., page 10.
[5] CEQA, Article 13, Section 15201, Public Participation, http://resources.ca.gov/ceqa/guidelines/art13.html
[6] IBID, Sec 15204, Focus of Review

From: Francis Coats
Sent: Thursday, March 30, 2017 4:44 PM
To: FGC
Subject: Considering public rights to use navigable waters and to fish.

To the California Fish and Game Commission:
It appears that the commission overlooks generally applicable laws when adopting regulations governing public use of wildlife areas and ecological reserves. For example.
1. Sections 1528 and 1745 require the Commission to encourage multiple recreational use including boating, but the regulations severely limit access across administered lands for boating.
2. The navigable servitude law gives the public the right to be on the navigable waters including the temporarily dry banks below high water mark and there engage in lawful recreational activities, but the regulations severely limit this use.
3. Article I section 25 gives the public the right to fish on and from State owned land, but the regulations limit this use. Particularly bothersome are rules unnecessarily restricting crossing administered lands to get to navigable waters.
4. Article I section 25 also requires the reservation of the right to fish in the people upon the transfer of state-owned land, but it is not clear that the commission complies. See State v. San Luis Obispo Sportsmans' Assc. 1978 22 Cal. 3d 440.
5. At least at the Feather River Wildlife Area, DFW does not post signs identifying the area, does not mark the boundaries, and does not disclose the existence of some of the units on it website (Morse Road Unit, Marysville Unit).
6. Under the public trust doctrine, the Commission is obligated to avoid adversely affecting public trust uses whenever feasible. Where rules impair access across administered lands for access to navigable waters, the desirability of permitting access must be considered, interference must be avoided whenever feasible, this consideration must be public, and the decision making process must be documented. See San Francisco Baykeeper, Inc., v. State Lands Commission 2015.

Please consider these matters, in a public manner, and document that consideration when making decisions which may adversely affect the public's rights to access and use the navigable waters/public trust lands, and the right to fish in both navigable waters and other waters.
Francis Coats,
;

From:	Christine Lynn Harris
To:	FGC
Cc:	info@projectcoyote.org; Hoodline Tips; ABC7 7 ON YOUR SIDE Jerry Brown; Nancy Pelosi; Kalama Harris; Edwin Lee; board.of.supervisors@sfgov.org; Craig Downer; Channel 2 KTVU; KCBA NEWS
Subject:	Wolves, Wildlife, and Preservation
Date:	Thursday, April 13, 2017 2:45:21 PM

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
EMAIL: fgc@fgc.ca.gov

Hello California Fish and Game Commission,

Please stop trapping the wolves, these majestic sentient beings, our beloved wild life.
Trapping is very cruel, inhumane, and we would not want someone to do this to us, as
I am sure it is very painful and the wolves suffer; all animals suffer, just like us.
Please stop killing the wolves, they are part of the ecosystem, and have a right to life just like humans.

We must stop thinking as a human species that we are better than animals, and do anything to
them, this is not true, they are one of us, we are one of them. We must coexist with wild life, we
are encroaching on their land and food, not the other way around.

Please find it in your hearts to do the ethical and moral actions towards wild life.

"We need nature, nature does not need us." - Harrison Ford

Best Wishes,
Christine Harris

http://www.projectcoyote.org/



CDFW STAFF, **ENFORCEMENT**, **LAW ENFORCEMENT**, **PUBLIC SAFETY**

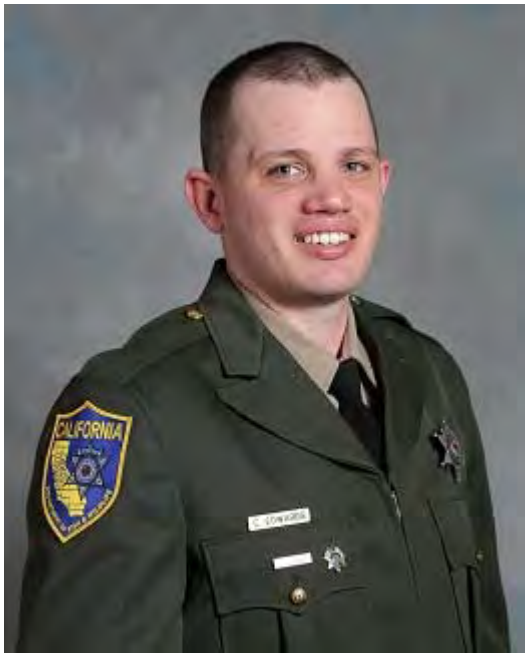
California Wildlife Officers Recognized for Special Service Acts, with Medal of Valor Awards

MAY 23, 2017 | KMACINTY

California Department of Fish and Wildlife (CDFW) officers Chad Edwards and Michael Dilts received awards today at the 2017 Governor's State Employee Medal of Valor Ceremony in Sacramento. These annual awards recognize state employees for heroic acts of bravery. Wardens Edwards and Dilts each received the "Special Service Award" (Silver Medal): *"For an act of heroism by a State employee extending above and beyond the normal call of duty or service performed at personal risk to his or her safety to save human life or State property."*

Warden Chad Edwards (Siskiyou County)

In September 2014, an arsonist ignited a brush fire on the outskirts of the town of Weed. The fire spread into town where it burned more than 150 homes and numerous commercial structures in a matter of hours. Warden Edwards heard the radio traffic regarding the fire and immediately responded to the area. He evacuated homes by transporting people in his patrol truck and flagged down other evacuees



with empty seats in their cars, and coordinated for them to shuttle people out. Working through the chaos of the actively burning areas and aerial retardant dump, Warden Edwards made trip after trip into the burning neighborhoods to rescue stranded families, senior citizens and pets. He was ultimately an integral part of the investigation that brought the arsonist to justice. Warden Edwards acted with bravery and heroism extending above and beyond the normal call of duty to save human life. Amazingly, no lives were lost in this fire, due in part to the actions of Warden Edwards.



Warden Michael Dilts (Patrol Vessel Coho, Los Angeles County)
In July 2016, Warden Dilts was patrolling in the Seal Beach area near the San Gabriel River when he was flagged down by two pedestrians who told him that a vehicle was in the river and the female driver still inside. In the front seat of the partially submerged van, Warden Dilts found a woman who was making no attempt to escape. He immediately radioed for additional officer assistance, removed and secured his heavy duty belt and entered the water. Warden Dilts swam to the sinking van, extricated the driver and, relying upon lifeguard skills from past employment, pulled her back to shore. Thanks to the quick actions and dedication of Warden Dilts, the driver was rescued and the fully submerged van was recovered from the river.

"Year after year I find myself awestruck and proud of the outstanding service and brave acts of our fine wildlife officers," said CDFW Chief of Law Enforcement David Bess. "The daily duties of our peace officers, like all others, comes with a known and certain inherent risk of danger, yet without hesitation they accept these risks and responsibilities. These awards recognize our officers who, through their selfless acts, exuded confidence in their training and preparedness to take their public service responsibilities to a level of heroism."

###

Media Contacts:
Capt. Patrick Foy (mailto:patrick.foy@wildlife.ca.gov), CDFW Law Enforcement, (916) 651-6692
Joe DeAnda (mailto:joe.deanda@calhr.ca.gov), CalHR, (916) 322-6944

LAW ENFORCEMENT **MEDAL OF VALOR** **WILDLIFE OFFICERS**

ECOSYSTEM RESTORATION, GRANTS, HABITAT CONSERVATION

CDFW Seeking Grant Proposals to Restore Habitat Impacted by Cannabis Cultivation

JUNE 5, 2017 | KMACINTY

The California Department of Fish and Wildlife (CDFW (http://www.wildlife.ca.gov/)) is now accepting proposals for habitat restoration projects within the California watersheds most impacted by unregulated cannabis cultivation.

Contingent on the Budget Act for Fiscal Year (FY) 2017-2018, a total of $1.5 million in Timber Regulation and Forest Restoration funds will be made available through CDFW's Cannabis Restoration Grant Program. The program will focus on the North Coast watersheds extending from Sonoma County to the Oregon state line, as they have been most heavily impacted by cannabis cultivation.

"Existing damage to our watersheds due to unregulated cannabis cultivation is at crisis levels in terms of threats to habitat for aquatic and wildlife species," said CDFW Director Charlton H. Bonham. "While many grow sites have been abandoned or shuttered, the infrastructure and ongoing damage remains. We are poised to initiate this critical and missing step in the process of decommissioning unwanted grow sites."

California's fish and wildlife are severely impacted by unregulated cannabis cultivation practices including unlawful water diversions for irrigation, conversion of lands, and prohibited herbicides, rodenticides and other environmental contaminants. The most impacted areas require immediate action. Assembly Bill 243 (Wood, Medical Marijuana) provides direction to CDFW to restore watersheds impacted by cannabis cultivation.

"Our beautiful, pristine North Coast forests have become havens for these rogue grow sites," said Assemblymember Jim Wood, who represents five of the county areas eligible for these grants. "These sites have been ravaged by lethal chemicals, often-banned rodenticides which are used to keep animals away, but remain in the ground and eventually run off into rivers and streams, destroying everything in their path, including endangered fish species such as coho salmon. I am grateful that the Governor and CDFW are making these funds available for this much-needed cleanup."

The FY 2017-2018 Proposal Solicitation Notice, application instructions and other information about the Restoration Grant Program are available at wildlife.ca.gov/Conservation/Watersheds/Cannabis-Restoration-Grant (https://wildlife.ca.gov/Conservation/Watersheds/Cannabis-Restoration-Grant).

Proposals must be submitted online at https://soar.resources.ca.gov/ (https://soar.resources.ca.gov/). The deadline to apply is Friday, June 30, 2017 at 4 p.m.

###

Media Contacts:
Matt Wells (mailto:matt.wells@wildlife.ca.gov), CDFW Watershed Restoration Grants Branch, (916) 445-1285
Kirsten Macintyre (mailto:kirsten.macintyre@wildlife.ca.gov), CDFW Communications, (916) 322-8988

CANNABIS **ENVIRONMENT** **GRANTS** **HABITAT RESTORATION** **MARIJUANA**

DELTA, ECOSYSTEM RESTORATION, FISHERIES, GRANTS, HABITAT CONSERVATION, PUBLIC LANDS

CDFW Now Accepting Proposals for Proposition 1 Restoration Grant Programs

MAY 26, 2017 | KMACINTY

The California Department of Fish and Wildlife (CDFW (http://www.wildlife.ca.gov/)) is now accepting proposals for ecosystem restoration and protection projects that fulfill the objectives of Proposition 1.

For Fiscal Year (FY) 2017-2018, $31 million in Proposition 1 funds will be made available through CDFW's two Proposition 1 Restoration Grant Programs. The Watershed Restoration Grant Program will fund up to $24 million in projects of statewide importance outside of the Sacramento-San Joaquin Delta, while the Delta Water Quality and Ecosystem Restoration Grant Program will fund up to $7 million in projects that specifically benefit the Delta.

"We're encouraged by the quality and scope of projects funded through Proposition 1 to date, and we look forward to another opportunity to fund new solutions to the greatest challenges facing California's ecosystems," said CDFW Director Charlton H. Bonham. "This latest grant cycle expands our focus to more watersheds in critical need, in line with the objectives of Proposition 1 and a suite of strategic plans."

The FY 2017-2018 Proposal Solicitation Notice, application instructions and other information about the Restoration Grant Programs are available at www.wildlife.ca.gov/conservation/watersheds/restoration-grants (http://www.wildlife.ca.gov/conservation/watersheds/restoration-grants).

Proposals must be submitted online at https://soar.resources.ca.gov/ (https://soar.resources.ca.gov/). The deadline to apply is Friday, July 14, 2017 at 4 p.m.

Approved projects will contribute to the objectives of California Water Action Plan and State Wildlife Action Plan, the Delta Plan, California EcoRestore and the fulfillment of CDFW's mission.

Approved by California voters in November 2014, Proposition 1 provides funds to implement the three broad objectives of the California Water Action Plan: establishing more reliable water supplies, restoring important species and habitat and creating a more resilient, sustainably managed water resources system (water supply, water quality, flood protection and environment) that can better withstand inevitable and unforeseen pressures in the coming decades.

###

Media Contacts:
Matt Wells (mailto:matt.wells@wildlife.ca.gov), CDFW Watershed Restoration Grants Branch, (916) 445-1285
Kirsten Macintyre (mailto:kirsten.macintyre@wildlife.ca.gov?subject=), CDFW Communications, (916) 804-1714

GRANT FUNDING **GRANTS** **PROPOSITION 1**

PUBLIC PARTICIPATION, **REGULATIONS**, **SALMON**

California and Oregon Governors Request Salmon Disaster Assistance

MAY 25, 2017 | AHUGHAN

California Governor Edmund G. Brown, Jr. and Oregon Governor Kate Brown sent a letter today to U.S. Secretary of Commerce Wilbur Ross requesting declaration of a catastrophic regional fishery disaster and commercial fishery failure for salmon in their states. The declaration begins the process for requesting federal aid to assist commercial salmon anglers and salmon-dependent business who continue to suffer from declining salmon populations.

Last month, the Pacific Fishery Management Council's projections for salmon in these states were dire. In the 2017 season, many miles of coastline will be closed to commercial salmon fishing and allowable catch will be greatly reduced, compounding the already significantly lower economic returns seen in 2016.

For more information about declared West Coast disasters, please see The National Oceanic and Atmospheric Administration list here: www.nmfs.noaa.gov/sfa/management/disaster/determinations/wcro.html (http://www.nmfs.noaa.gov/sfa/management/disaster/determinations/wcro.html)

READ FULL REQUEST LETTER (http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=145114)

Oregon Governor Kate Brown's news release (http://www.oregon.gov/newsroom/Pages/NewsDetail.aspx?newsid=2076)

Media Contacts:
Jordan Traverso (mailto:jordan.traverso@wildlife.ca.gov), CDFW Communications, (916) 654-9937

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Law Enforcement Division
1416 Ninth Street, Room 1326
Sacramento, CA 95814
(916) 653-4094
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

February 3, 2017

To: Prosecutor of the Year Selection Committee
From: Lieutenant Doug Barnhart and Captain Danny Stevenson
Subject: Wildlife Prosecutor of the Year

The below statement is from Lieutenant Barnhart.

I would like to take the opportunity to nominate Fresno County Deputy District Attorney (DDA) Sabrina Ashjian as Wildlife Prosecutor of the Year. DDA Ashjian has gone out of her way to be a liaison between the Department of Fish and Wildlife (DFW) and the Fresno County District Attorney's Office this past year. This is the first time in my career that I can recall a single prosecutor in Fresno County, who has taken such an active interest in DFW cases and shown such extreme passion for prosecuting environmental and wildlife resource cases.

Wildlife Officer Arthur Golden began working with DDA Ashjian in late 2015 on a wildlife trafficking case that involved the illegal selling of sport caught fish. This investigation lasted over one year, and DDA Ashjian was right there every step of the way. She was always willing to meet with us on moment's notice to go over any aspect of the case. During the year-long investigation, she provided insight on what would be needed for a successful prosecution, reviewed reports and warrants, and demonstrated her passion for protecting the wildlife resources of this State. Due to changes in the law pertaining to phone warrants, DDA Ashijan took it upon herself to learn the finer points of the new law so as to assist us to the best of her ability. DDA Ashjian has communicated the egregiousness of this case with her supervisors and other prosecutors to ensure that this case is handled appropriately throughout the prosecution process.

DDA Ashjian set up a meeting with the local Wildlife Officers in 2016, so she could meet the officers that work in Fresno County. During this meeting she went over the elements of a successful prosecution, and showed her passion and commitment of protecting the wildlife and natural resources of this State. She has even given out her personal cell phone number and often taken calls after hours to answer questions pertaining to DFW cases.

Below is from Captain Danny Stevenson.

I want to echo what Lt Barnhart has said about DDA Sabrina Ashjian. When DDA Ashjian was new to the environmental crimes unit at the Fresno DA's office I had reached out to them in reference to the handling of fish and wildlife cases. DDA Ashjian set up a meeting with her and the other DDA that handles environmental crimes, and their supervisor. Ever since we had this meeting DDA Ashjian has always been available for various consultations and even expressed interest in going on a ride along.

As explained by Lt Barnhart above, DDA Ashjian recently put together a large meeting with all the wildlife officers who work in Fresno County, three DDA's, their supervisor, and a DA investigator supervisor. The meeting was focused around our cases and educating them on wildlife officer duties, training, and our role in the law enforcement community. This meeting was productive and informative to all in attendance.

Since I have been working in the Law Enforcement Division I have never seen any DDA take on such an active role and have the interest in prosecution and drive to take on our cases as DDA Ashjian. She has been available many times in the past for various consultations via her cell phone during off hours. DDA Ashjian is tenacious in her work and is always helpful at every step; in any case we bring to her.

For these reasons, we respectfully nominate Fresno County Deputy District Attorney Sabrina Ashjian for Wildlife Prosecutor of the Year.

Respectfully Submitted,



Lieutenant Doug Barnhart



Captain Danny Stevenson

California Fish and Game Commission
Meeting Locations for 2014-2018

Month	2018 (Proposed)	2017	2016	2015	2014
January (WRC)	Santa Rosa	Redding	Sacramento (cancelled)	West Sacramento	Los Angeles
February (TC & FGC)	Sacramento	Rohnert Park	Sacramento	Sacramento	Sacramento
March (MRC)	Petaluma/Santa Rosa	San Clemente	Los Alamitos	Marina	Santa Rosa
April (FGC)	Ventura	Van Nuys	Santa Rosa	Santa Rosa	Ventura
May (WRC)	Los Alamitos	Sacramento	West Sacramento	Los Angeles	San Francisco
June (TC & FGC)	Sacramento	Smith River	Bakersfield	Mammoth Lakes	Fortuna
July (MRC)	San Clemente	Santa Rosa	Petaluma	Trinidad	Moss Landing
August (FGC)	Northern CA - TBD	Sacramento	Folsom	Fortuna	San Diego
September (WRC)	Sacramento	Riverside	Woodland	Fresno	Sacramento
October (TC & FGC)	TBD	Atascadero	Eureka	Los Angeles	Mount Shasta
November (MRC)	Sacramento	Marina	Sacramento	Ventura	Los Alamitos
December (FGC)	Los Angeles	San Diego	San Diego	San Diego	Van Nuys

California Fish and Game Commission

Staff Report on Staff Time Allocation and Accomplishments

June 9, 2017

Staff time is a tangible and invaluable asset. This report identifies where Commission staff allocated time to general activity categories (see table) and specific activities (see activities lists) during April and May 2017.

The table below summarizes time allocation across all staff classifications, though some classifications require a greater emphasis on certain categories than others. For example, advisors spend up to 30% of their time on special projects due to committee project assignments, while regulatory analysts spend up to 70% of their time on regulatory program tasks.

General Allocation

Task Category*	April Staff Time	May Staff Time
Regulatory Program	10%	11%
Commission/Committee Meetings	31%	22%
Legal Matters	3%	7%
External Affairs	9%	7%
Special Projects	8%	13%
Administration	17%	18%
Leave Time	10%	10%
Unfilled Positions	18%	16%
Total Staff Time[1]	107%	105%

** Total staff time is greater than 100% due to overtime*

Activities for April 2017

- Finished preparations for and conducted two publically-noticed meetings (Apr 13 Commission teleconference and Apr 26-27 Commission)
- Continued preparations for two publically-noticed meetings (May 24 WRC, May 24 Delta Fisheries Forum)
- Continued preparations for the May 4 Fisheries Bycatch Workgroup meeting
- Began planning and preparations for four publically-noticed meetings (June 20 Tribal Committee, June 21 North Coast Fishing Communities, June 21-22 Commission, July 13 WRC Predator Policy Workgroup)
- Conducted interviews for the associate governmental program analyst position
- On-boarded new seasonal clerk
- Participated in planning team meetings for updates to the Marine Life Management Act master plan for fisheries

Activities for May 2017

- Finished preparations for and conducted two publically-noticed meetings (May 24 WRC, May 24 Delta Fisheries Forum)
- Prepared for and conducted the May 4 Fisheries Bycatch Workgroup meeting and began preparations for the June 1 meeting
- Continued preparations for five publically-noticed meetings (June 20 Tribal Committee, June 21 North Coast Fishing Communities, June 21-22 Commission, July 13 WRC Predator Policy Workgroup, July 20 Marine Resources Committee)
- Reviewed applications for filling the associate governmental program analyst position
- Participated in the "California Ocean Litter Strategy Update Workshop" organized by the Ocean Protection Council and NOAA's Marine Debris Program in collaboration with the California Coastal Commission, Surfrider Foundation, and California Sea Grant
- Participated in the Integrated Wildlife Damage Management Workshop conducted by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service's Wildlife Services California Program
- Participated in the California Department of Fish and Wildlife Joint Leadership Team meeting
- Participated in leadership training
- Participated in planning team meetings for updates to the Marine Life Management Act master plan for fisheries
- Held spring office cleaning

*** General Allocation Categories with Sample Tasks**

Regulatory Program

- Coordination meetings with DFW to develop timetables and notices
- Review and process CESA petitions
- Prepare and file notices, re-notices, ISORs and FSORs
- Prepare administrative records
- Track and respond to public comments
- Consult, research and respond to inquiries from OAL

Commission/Committee Meetings and Support

- Research and review practices and procedures for adaptive management
- Research and compile subject-specific information
- Review and develop policies
- Develop and distribute meeting agendas and materials
- Agenda and debrief meetings
- Prepare meeting summaries and audio files
- Maintain voting records
- Develop and distribute after-meeting memos/letters
- Make travel arrangements for staff and commissioners
- Conduct onsite meeting management
- Process submitted meeting materials

- Provide commissioner support (expense claims, office hours, etc.)
- Process and analyze regulatory petitions and non-regulatory requests

Legal Matters

- Respond to Public Records Act requests
- Process appeals and accusations
- Process requests for permit transfers
- Process kelp and state water bottom leases
- Litigation

External Affairs

- Engage and educate legislators, monitor legislation
- Maintain state, federal and tribal government relations
- DFW partnership, including joint development of management plans and concepts
- Website maintenance

Special Projects

- Predator Policy Workgroup
- Fishing from piers and jetties
- Fishing Communities
- Fisheries Bycatch Workgroup
- Streamline routine regulatory actions

Administration

- Correspondence
- Purchases and payments
- Contract management
- Personnel management
- Strategic planning
- Budget development and tracking
- Health and safety oversight
- Internal processes and procedures
- Staff training and professional development

Leave Time

- Holidays
- Sick leave
- Vacation or annual leave
- Jury duty
- Bereavement
- Professional development

Unfilled

- Program Manager
- Regulatory analyst
- Legal/regulatory clerk

LTR_Info_AB1617_CoastsideFishingClub_053117.pdf

LTR_Info_AB1617_CASportfishingLeague_053117.pdf

Coastside Fishing Club
P.O. Box 5501, San Mateo, CA 94402

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 MAY 31 PM 2:10
MLS

18 May, 2017

The Honorable Richard Bloom
State Capitol
Sacramento, CA 95814

SUBJ: **AB 1617 (Bloom) Department of Fish and Wildlife.**
POSITION: **OPPOSE**

Dear Assemblymember Bloom:

The Coastside Fishing Club is an all-volunteer non-profit organization with 10,000 members dedicated to enhancing the recreational fishing experience for all Californians. We are extremely concerned about ensuring adequate, stable funding to enable the Department of Fish and Wildlife, and the Fish and Game Commission to satisfactorily address their core functions. It is essential that they be funded and staffed to the level that ensures our fish and wildlife resources are sustainably managed for the benefit and use of all Californians.

While we were hopeful that AB1617 was going to take a serious look at identifying new potential stable funding sources for the Department and the Commission, we now find the latest changes to the bill to be a major departure from that objective. Instead, it adds another unfunded mandate to the Department and Commission, further compounding their financial crisis and diverting attention and personnel away from attending to their core mission. Consequently we are forced to strongly oppose this latest development and will, if this new direction stands, actively work to defeat this misguided and troublesome bill.

Should you wish to return to the original objective of exploring new and innovative stable funding sources, we will gladly assist in that effort. Regardless, we will continue to work with the Department and Commission to explore and identify sufficient stable funding sources from among the full range of stakeholders to enable them to manage our fish and wildlife ecosystems in sustainable and productive manners for the benefit of all Californians.

Respectfully,

D L Wolford

Dan Wolford
Science Director, Coastside Fishing Club

cc: Members, Assembly Committee on Appropriations
Charleton Bonham, Director CA Department of Fish and Wildlife
Eric Sklar, President, CA Fish and Game Commission

CALIFORNIA SPORTFISHING LEAGUE

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 MAY 31 PM 2:10
MLS

May 19, 2017

The Honorable Richard Bloom
State Capitol
Sacramento, CA 95814

SUBJ: AB 1617 (Bloom) Department of Fish and Wildlife.
POSITION: OPPOSE, unless amended

Dear Assemblymember Bloom:

The California Sportfishing League (CSL), a leading advocate for California's 2.7 million anglers, is concerned about ensuring adequate, stable funding to enable the Department of Fish and Wildlife(CDFW), and the Fish and Game Commission to satisfactorily address their core functions. It is essential that they be funded and staffed to the level that ensures our fish and wildlife resources are sustainably managed for the benefit and use of all Californians. Our position is underscored by the reality that fishing license sales are a major source of funding for fishery and conservation funds, and sales have declined over 55% since 1980. CDFW is well aware of this precipitous decline, and has failed to act to prevent a death spiral of declining fishing participation and revenues. AB 1617 does nothing to address this situation.

While CSL was hopeful that AB 1617 was going to take a serious look at identifying new potential stable funding sources for the Department and the Commission, we now find the latest changes to the bill to be a major departure from that objective. Instead, it adds another unfunded mandate to the Department and Commission, further compounding their financial crisis and diverting attention and personnel away from attending to their core mission. Consequently, we are forced to strongly oppose this latest development.

Should you wish to return to the original objective of exploring new and innovative stable funding sources, the CSL will gladly assist in that effort. Regardless, CSL will continue to work with the Department and Commission to explore and identify sufficient stable funding sources from among the full range of stakeholders to enable them to manage our fish and wildlife ecosystems in sustainable and productive manners for the benefit of all Californians.

Thank you for considering our views.

Marko Mlikotin
Executive Director

cc: Members, Assembly Committee on Appropriations
Charleton H. Bonham, Director, CDFW
Eric Sklar, President, CA Fish and Game Commission

2795 E. Bidwell Street, #100-119, Folsom, CA 95630, ph. 916.936.1777
www.savefishing.com

Commissioners
Eric Sklar, President
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Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
Huntington Beach
Russell E. Burns, Member
Napa
Peter S. Silva, Member
El Cajon

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

DRAFT

June X, 2017

The Honorable Hannah Beth Jackson
California State Senate
State Capitol Room 2032
Sacramento, CA 95814

Re: Senate Bill 188

Dear Senator Jackson:

On behalf of the California Fish and Game Commission (Commission), I am writing in support of Senate Bill 188, which seeks to prohibit new or additional exploration, development, or production of oil and natural gas off the coast of California. The mission of the Commission is to ensure the long-term sustainability of California's fish and wildlife resources and any new oil or gas drilling off our coast will compromise these natural resources.

Valued at over $44.2 billion, or 2.0% of the state's gross domestic product in 2013[1], California's coast boasts some of the most productive and diverse marine ecosystems in the world. At the state level, the Commission has taken unprecedented action and enacted the world's largest, scientifically-based network of marine protected areas along our coast under the Marine Life Protection Act. Passage of SB 188 in its current form, will help to ensure that this effort was not in vain.

There are numerous other state statutes, resolutions, mandates and legislation in support of protecting California's coast and marine life from oil and gas activities. Most recently, last December, Governor Brown called on the federal government to use its authority under Section 12(a) of the Outer Continental Shelf Lands Act to permanently withdraw federal waters off the coast of California from new offshore oil and gas leasing and guarantee that future oil and gas drilling in these waters is prohibited.

Further, the California State Legislature, beginning in 1921 and repeatedly since, has passed laws that exclude offshore areas of the state from oil and gas leasing. The State

[1] National Ocean Economics Program, 2016

Lands Commission (State Lands) has had exclusive jurisdiction over the leasing of offshore state lands for oil and gas production since 1938. In December of 2016, State Lands passed a resolution supporting a ban on new drilling in federal waters offshore California. Further, State Lands opposes any attempts to modify the ban, and directed its staff to take any appropriate actions to ensure the ban remains in place.

There are 43 existing and active leases under the federal Outer Continental Shelf Lands Act in federal waters offshore California. There are no locations offshore California in the current five-year federal leasing schedule/plan, and none are proposed for the 2017-2022 federal leasing schedule/plan. Additionally, last year the Governors of Oregon, California and Washington wrote a joint letter to the federal government opposing new oil and gas leasing in federal waters off the entire West Coast for the 2017-2022 period.

California and its economy depend on a healthy, resilient and thriving ocean ecosystem. For these reasons, the Commission supports the tenants behind SB 188 and thanks you for your leadership in the effort to protect California's natural resources by taking action to ensure protection of our coastal waters as well as the communities that depend upon them.

Sincerely,

Valerie Termini
Executive Director

ec: Members, California Fish and Game Commission

California Department of Fish and Wildlife
Charlton Bonham, Director, director@wildlife.ca.gov
Susan LaGrande, Deputy Director, Legislative Affairs,
Susan.LaGrande@wildlife.ca.gov
Craig Shuman, Regional Manager, Marine Region
Craig.Shuman@wildlife.ca.gov

DRAFT

Department of Fish & Wildlife
Legislative Report
June 2017
(as of June 12, 2017)

AB 8 **(Bloom D) Mountain lions: depredation permits.**

Introduced: 12/5/2016

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 1/19/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: The California Wildlife Protection Act of 1990 establishes that the mountain lion is a specially protected mammal under the laws of this state, and makes it unlawful to take, injure, possess, transport, import, or sell a mountain lion or a product of a mountain lion. The act authorizes a person whose livestock or other property is being or has been injured, damaged, or destroyed by a mountain lion to report that fact to the Department of Fish and Wildlife and request a permit to take the mountain lion. The act requires the department or a specifically authorized animal damage control officer to immediately confirm the reported depredation by a mountain lion, and then promptly issue a permit to take the mountain lion. This bill would authorize, rather than require, the issuance of a permit under these circumstances.

AB 12 **(Cooley D) State government: administrative regulations: review.**

Introduced: 12/5/2016

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 5/26/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-A. 2 YEAR

Summary: Would require each state agency to, on or before January 1, 2020, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2021.

AB 18 **(Garcia, Eduardo D) California Clean Water, Climate, Coastal Protection, and Outdoor Access For All Act of 2018.**

Introduced: 12/5/2016

Last Amend: 2/23/2017

Status: 3/20/2017-Read third time. Urgency clause adopted. Passed. Ordered to the Senate. In Senate. Read first time. To Com. on RLS. for assignment.

Location: 3/20/2017-S. DESK

Summary: Would enact the California Clean Water, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of $3,105,000,000 pursuant to the State General Obligation Bond Law to finance a clean water, climate, coastal protection, and outdoor access for all program. This bill contains other related provisions.

AB 77 **(Fong R) Regulations: effective dates and legislative review.**

Introduced: 1/4/2017

Last Amend: 2/7/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 5/26/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-A. 2 YEAR

Summary: Would require the Office of Administrative Law to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature enacts a statute to override the regulation.

AB 424 **(McCarty D) Possession of a firearm in a school zone.**

Introduced: 2/9/2017

Last Amend: 5/11/2017

Status: 6/1/2017-Referred to Com. on PUB. S.

Location: 6/1/2017-S. PUB. S.

Summary: Would delete the authority of a school district superintendent, his or her designee, or equivalent school authority to provide written permission for a person to possess a firearm within a school zone. By expanding the scope of a crime, this bill would create a state-mandated local program. This bill would exempt from that crime the activities of a program involving shooting sports or activities that are sanctioned by a school, school district, college, university, or other governing body of the institution, as specified.

AB 425 **(Caballero D) Timber harvesting plans: exemptions: temporary roads.**

Introduced: 2/9/2017

Last Amend: 4/4/2017

Status: 6/8/2017-Referred to Com. on N.R. & W.

Location: 6/8/2017-S. N.R. & W.

Summary: The Z'berg-Nejedly Forest Practices Act of 1973 authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, including the cutting or removal of trees in compliance with existing law relating to defensible space. In this regard, the act authorizes, until January 1, 2021, the Forest Fire Prevention Pilot Project Exemption if specified conditions are met. This bill would expand the exemption to allow the construction or reconstruction of temporary roads on slopes of 40% or less if certain conditions are met, including that a registered professional forester designates temporary road locations, landing locations, associated class III watercourse crossings, unstable areas, and connected headwall swales, including convergent slopes, on specified maps.

AB 429 **(Grayson D) State water policy: water rights: use and transferability.**

Introduced: 2/13/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/13/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-A. 2 YEAR

Summary: Current law declares that the growing water needs of the state require the use of water in an efficient manner and that the efficient use of water requires certainty in the definition of property rights to the use of water and transferability of those rights. This bill would make nonsubstantive changes to those declarations.

AB 472 **(Frazier D) Water transfers: idled agricultural land: wildlife, waterfowl, and bird nesting habitat.**

Introduced: 2/13/2017

Last Amend: 3/28/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Current law requires landowners to be encouraged, when agricultural lands are being idled in order to provide water for transfer and an amount of water is determined to be made available by that idling, to cultivate or retain nonirrigated cover crops or natural vegetation to provide waterfowl,

upland game bird, and other wildlife habitat. This bill would require the department to allow nonirrigated cover crops or natural vegetation to remain on idled agricultural lands, without penalty to the landowner, unless it determines, based on peer-reviewed scientific studies or other credible scientific evidence, that an injury to another legal user of water would occur as a result of allowing those crops or vegetation to remain on those lands.

AB 474 **(Garcia, Eduardo D) Hazardous waste: spent brine solutions.**

Introduced: 2/13/2017

Status: 6/8/2017-Referred to Com. on EQ.

Location: 6/8/2017-S. E.Q.

Summary: Current law exempts from certain requirements of the Hazardous Waste Control Law wastes from the extraction, beneficiation, or processing of ores and minerals that are not subject to regulation under the federal Resource Conservation and Recovery Act of 1976, including spent brine solutions used to produce geothermal energy that meet specified requirements. This bill would exempt spent brine solutions that are byproducts of the treatment of groundwater to meet California drinking water standards from those same requirements if certain conditions are met, including that the spent brine solutions are transferred for dewatering via a closed piping system to lined surface impoundments regulated by the California regional water quality control boards.

AB 478 **(Waldron R) Sport fishing licenses: age requirement.**

Introduced: 2/13/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 5/26/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-A. 2 YEAR

Summary: Current law requires every person 16 years of age or older who takes any fish, reptile, or amphibian for any purpose other than profit to first obtain a sport fishing license for that purpose, with specified exceptions, and to have that license on his or her person or in his or her immediate possession when engaged in carrying out any activity authorized by the license. This bill would raise the age at which a person is required to obtain a sport fishing license to 18 years of age or older and would make other conforming changes.

AB 510 **(Quirk-Silva D) State property acquisition: West Coyote Hills project site.**

Introduced: 2/13/2017

Last Amend: 4/17/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Would appropriate for the 2018–19 fiscal year an unspecified sum from the General Fund to the Wildlife Conservation Board to be used for the purchase of specified property. The bill would provide that, notwithstanding specified law, this money would be available for encumbrance for 5 years after the date upon which it is first available for encumbrance.

AB 521 **(Frazier D) Hunting: elk tags: fees for residents.**

Introduced: 2/13/2017

Last Amend: 5/11/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Under current law, a hunting license grants the privilege to take birds and mammals. Current law authorizes the Department of Fish and Wildlife to issue a tag that is required in addition to a hunting license to take an elk. Current law sets the fee for an elk tag for a resident of the state at $165, as adjusted annually pursuant to a specified index. This bill would reduce the fee for a resident elk tag to $100 and would prohibit the fee from being adjusted, except pursuant to an analysis of the fee to ensure that the appropriate fee amount is charged and a recommendation to the Legislature or the Fish and Game Commission that the fee be adjusted.

AB 573 **(Bigelow R) Depredation: wild pigs: damage guidelines.**

Introduced: 2/14/2017

Last Amend: 3/23/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/23/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: Current law provides that any wild pig that is encountered while in the act of inflicting injury to, or damaging or destroying, or threatening to immediately damage or destroy, land or other property may be taken immediately by the owner or the owner's employee or agent, as specified. Current law defines "damage" for purposes of these provisions and requires the department to develop statewide guidelines to aid in determining the damage caused by wild pigs. This bill would require the guidelines to consider additional factors and would require the department to update the guidelines as needed.

AB 661 **(Mayes R) Magnesia Spring Ecological Reserve: Mirage Trail.**

Introduced: 2/14/2017

Status: 6/8/2017-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 5/10/2017-S. N.R. & W.

Summary: Current law requires, until January 1, 2018, that the Mirage Trail within the Magnesia Spring Ecological Reserve be open 9 months of the year during the months of May to January, inclusive, and closed for 3 months during the months of February to April, inclusive, to recreational hiking if the Fish and Game Commission determines that specified conditions relating to providing funding and ensuring the proper use and monitoring of the reserve are met.This bill would delete the January 1, 2018, termination date of that provision.

AB 707 **(Aguiar-Curry D) Clear Lake.**

Introduced: 2/15/2017

Last Amend: 5/26/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Would establish in the Natural Resources Agency, the Blue Ribbon Committee for the Rehabilitation of Clear Lake. The bill would require the committee to consist of specified persons, including the Secretary of the Natural Resources Agency, or his or her designee. The bill would require the committee to meet quarterly to discuss, review research, plan, and provide oversight, regarding the health of Clear Lake. The bill would require the committee to hold 2 meetings per year in the County of Lake. The bill would require the committee to provide an annual report to the Governor and the Legislature, as provided.

AB 718 **(Frazier D) Mosquito abatement and vector control districts: managed wetland habitat: memoranda of understanding.**

Introduced: 2/15/2017

Last Amend: 4/27/2017

Status: 6/8/2017-Referred to Com. on N.R. & W.

Location: 6/8/2017-S. N.R. & W.

Summary: Current law provides for the formation of mosquito abatement and vector control districts, and prescribes the powers, functions, and duties of those districts, as specified. This bill would authorize a private landowner whose property includes managed wetland habitat, as defined, located within the boundaries of a district and meets other criteria to initiate the opportunity to enter into a memorandum of understanding with the district to establish a process to implement best management practices with regard to the managed wetland habitat. To the extent that the bill imposes additional duties on a district, the bill would impose a state-mandated local program.

AB 721 **(Bigelow R) Firearms: prohibited firearms.**

Introduced: 2/15/2017

Status: 5/24/2017-In committee: Hearing postponed by committee.

Location: 5/10/2017-S. PUB. S.

Summary: Current law prohibits the manufacture, importation, sale, or possession in the state of short-barreled rifles and short-barreled shotguns, as defined. Current law authorizes certain government entities and certain peace officers to purchase and possess these firearms under certain circumstances, as specified.This bill would add district attorney's offices and peace officer members of these offices to the specified entities and persons authorized to purchase and possess these weapons under specified circumstances.

AB 748 **(Ting D) Peace officers: body-worn cameras.**

Introduced: 2/15/2017

Status: 5/24/2017-Referred to Com. on PUB. S.

Location: 5/24/2017-S. PUB. S.

Summary: Would require each department or agency that employs peace officers and that elects to require those peace officers to wear body-worn cameras to develop a policy setting forth the procedures for, and limitations on, public access to recordings taken by body-worn cameras, as specified. The bill would require the department or agency to conspicuously post the policy on its Internet Web site.

AB 816 **(Kiley R) California Environmental Protection Agency: Natural Resources Agency: Web casts of public meetings and workshops.**

Introduced: 2/15/2017

Status: 6/8/2017-Referred to Com. on N.R. & W.

Location: 6/8/2017-S. N.R. & W.

Summary: Would require that each department, board, and commission of the Natural Resources Agency, except as specified, and each department, board, and office of the California Environmental Protection Agency Web cast all onsite public meetings, in a manner that enables listeners and viewers to ask questions and provide public comment by telephone or electronic communication commensurate with those attending the meeting. The bill would require the agencies to make the recording of a Web cast available online for no less than 3 years for subsequent viewing by interested members of the public.

AB 947 **(Gallagher R) Department of Fish and Wildlife: lake or streambed alteration agreements: definitions.**

Introduced: 2/16/2017

Last Amend: 4/17/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/3/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-A. 2 YEAR

Summary: Current law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources.This bill would define "river" and "stream" for purposes of these provisions.

AB 975 **(Friedman D) Natural resources: wild and scenic rivers.**

Introduced: 2/16/2017

Last Amend: 5/4/2017

Status: 6/5/2017-Ordered to inactive file at the request of Assembly Member Friedman.

Location: 6/5/2017-A. INACTIVE FILE

Summary: Current law establishes that it is the policy of the state that certain rivers that possess extraordinary scenic, recreational, fishery, or wildlife values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state. This bill would revise that policy to specify that certain rivers that possess scenic, recreational,

fishery, wildlife, historical, cultural, geological, or other similar values shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state, and would revise the definition of “immediate environments,” and define the term “extraordinary value” for purposes of that policy.

AB 986 **(Gallagher R) Hunting and sport fishing licenses: sport fishing license duration: reduction in license fees for veterans.**

Introduced: 2/16/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 3/21/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-A. 2 YEAR

Summary: Current law requires a resident or a nonresident, 16 years of age or older, upon payment of a specified fee, to be issued a sport fishing license for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof. This bill would instead require a resident or a nonresident, 16 years of age or older, upon payment of the fee, to be issued a sport fishing license for the period of 12 consecutive months beginning on the date of issuance.

AB 1031 **(Waldron R) Personal income taxes: voluntary contributions: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.**

Introduced: 2/16/2017

Last Amend: 4/4/2017

Status: 6/1/2017-Referred to Coms. on GOV. & F. and N.R. & W.

Location: 6/1/2017-S. GOV. & F.

Summary: Would allow an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund, which would be created by this bill. The bill would require the Franchise Tax Board to revise the tax return form to include a space for the designation of contributions to the fund when another voluntary designation is removed from the form or there is space, whichever occurs first.

AB 1050 **(Allen, Travis R) California Endangered Species Act: Delta smelt.**

Introduced: 2/16/2017

Last Amend: 3/28/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/27/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species and requires the commission to add or remove species from either list if it finds, upon the receipt of sufficient scientific information, that the action is warranted. The act prohibits the taking of an endangered or threatened species, except as specified. This bill would require the commission to remove the Delta smelt from the endangered species list.

AB 1097 **(Levine D) Department of Fish and Wildlife: Significant Natural Areas Program.**

Introduced: 2/17/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/6/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: Current law requires the Department of Fish and Wildlife to administer the Significant Natural Areas Program, and requires the department, as part of its administration of the program, to maintain, expand, and keep current a data management system, designated the California Natural Diversity Database. Current law requires that data to be made available to interested parties on request.This bill would instead require that data to be made available on the department’s Internet Web site.

AB 1133 **(Dahle R) California Endangered Species Act: experimental populations.**

Introduced: 2/17/2017

Last Amend: 4/17/2017

Status: 6/8/2017-Referred to Com. on N.R. & W.

Location: 6/8/2017-S. N.R. & W.

Summary: Would provide that a person who obtains a federal enhancement of survival permit that authorizes the take of endangered or threatened species that is also listed as endangered, threatened, or candidate under CESA, in order to establish or maintain an experimental population of the species pursuant to FESA, requires no further authorization or approval under CESA for that person to take that species as identified in, and in accordance with, the enhancement of survival permit, if specified requirements are met. These provisions would remain in effect only until the effective date of an amendment to FESA that alters the requirements for issuing an enhancement of survival permit.

AB 1151 **(Gloria D) Vaquita-friendly fish and fish products.**

Introduced: 2/17/2017

Last Amend: 5/30/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Current law makes it unlawful for any person to possess, sell, offer for sale, trade, or distribute a shark fin, as defined. Current law generally makes violations of provisions relating to fish and wildlife a crime. This bill would, commencing January 1, 2019, make it unlawful to sell, offer for sale, trade, or distribute fish and fish products that are not vaquita-friendly, as defined. The bill would require the Department of Fish and Wildlife to adopt regulations on or before January 1, 2019, to enforce this prohibition and would prohibit the department from enforcing the prohibition until July 1, 2019.

AB 1196 **(Harper R) School bonds: term of bonds: furnishing and equipping classrooms.**

Introduced: 2/17/2017

Last Amend: 5/25/2017

Status: 6/7/2017-Action From ED.: Do pass.To G. & F..

Location: 6/7/2017-S. GOV. & F.

Summary: Would specify that a bond issued for projects that include the furnishing and equipping of classrooms shall have a weighted average maturity that does not exceed 120% of the average reasonably expected economic life of the furnishings and equipment. This bill contains other related provisions and other existing laws.

AB 1197 **(Limón D) Oil spill contingency plans: spill management teams.**

Introduced: 2/17/2017

Last Amend: 4/17/2017

Status: 6/8/2017-Referred to Coms. on N.R. & W. and EQ.

Location: 6/8/2017-S. N.R. & W.

Summary: Current law provides for the rating of oil spill response organizations (OSROs) by the administrator pursuant to specified provisions and requires an oil spill contingency plan to identify at least one rated OSRO for each rating level established pursuant to those provisions. This bill would no longer require an oil spill contingency plan to identify at least one rated OSRO for each rating level and would instead require the plan to identify at least one OSRO rated pursuant to those provisions, and would authorize an owner or operator to rely on its own response equipment and personnel, if they have been rated by the administrator, as specified.

AB 1228 **(Bloom D) Marine fisheries: experimental fishing permits**

Introduced: 2/17/2017

Last Amend: 4/18/2017

Status: 6/8/2017-Referred to Com. on N.R. & W.

Location: 6/8/2017-S. N.R. & W.

Summary: Would authorize the Department of Fish and Wildlife to issue experimental fishing permits for specified purposes that would authorize commercial or recreational fishing activity otherwise prohibited by the Fish and Game Code or regulations adopted pursuant to that code, subject to certain requirements, including a requirement that activities conducted under the permit be consistent with specified policies enacted as part of the Marine Life Management Act of 1998 and any applicable fishery management plan and a requirement that the permit be subject to certain department conditions.

AB 1254 **(Wood D) Production or cultivation of a controlled substance: civil and criminal penalties.**

Introduced: 2/17/2017

Last Amend: 3/21/2017

Status: 6/8/2017-Referred to Coms. on N.R. & W. and PUB. S.

Location: 6/8/2017-S. N.R. & W.

Summary: Current law makes a person found to have violated specified provisions of law generally protecting fish and wildlife, water, or other natural resources in connection with the production or cultivation of a controlled substance liable for a civil penalty in addition to any penalties imposed by any other law. With respect to a violation that occurs on land that a person owns, leases, or otherwise uses or occupies with the consent of the landowner, existing law makes each day that a violation occurs or continues to occur a separate violation. This bill would also make each day that a violation occurs or continues to occur on the specified types of public or private land or while the person was trespassing on public or private land a separate violation.

AB 1273 **(Gallagher R) California Environmental Quality Act: exemption: levee repairs.**

Introduced: 2/17/2017

Last Amend: 5/2/2017

Status: 6/8/2017-Referred to Coms. on EQ. and N.R. & W.

Location: 6/8/2017-S. E.Q.

Summary: Would, until July 1, 2023, exempt from the requirements of CEQA repairs of critical levees of the State Plan of Flood Control within an existing levee footprint to meet standards of public health and safety, except as otherwise provided in a specified regulation. The bill would require the lead agency to take certain actions regarding the repairs. This bill contains other existing laws.

AB 1282 **(Mullin D) Transportation Permitting Taskforce.**

Introduced: 2/17/2017

Last Amend: 4/4/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Would require, by April 1, 2018, the Secretary of Transportation, in consultation with the Secretary of the Natural Resources Agency, to establish a Transportation Permitting Taskforce consisting of representatives from specified state entities to develop a process for early engagement for all parties in the development of transportation projects, establish reasonable deadlines for permit approvals, and provide for greater certainty of permit approval requirements.

AB 1337 **(Patterson R) Fish and Game Commission: meetings and hearings: live broadcast.**

Introduced: 2/17/2017

Status: 5/18/2017-Referred to Com. on N.R. & W.

Location: 5/18/2017-S. N.R. & W.

Summary: Would require the Fish and Game Commission to provide a live video broadcast on its Internet Web site of every commission meeting or hearing that is open and public and every meeting or hearing conducted by the marine resources committee, wildlife resources committee, or tribal committee that is open and public.

AB 1404 **(Berman D) California Environmental Quality Act: categorical exemption: infill development.**

Introduced: 2/17/2017

Last Amend: 4/17/2017

Status: 6/8/2017-Referred to Com. on EQ.

Location: 6/8/2017-S. E.Q.

Summary: CEQA requires the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA. CEQA requires the guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA (categorical exemption). Current guidelines for the implementation of CEQA exempts from the requirements of CEQA infill development meeting certain requirements, including the requirement that the proposed development occurs within city limits. This bill would expand the above-categorical exemption to include proposed developments occurring within the unincorporated areas of a county.

AB 1420 **(Aguiar-Curry D) Water rights: small irrigation use: lake or streambed alteration agreements.**

Introduced: 2/17/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Would require the State Water Resources Control Board to give priority to adopting, on or before June 30, 2021, except as provided, general conditions that permit a registrant to store water for small irrigation use during times of high streamflow in exchange for the registrant reducing diversions during periods of low streamflow, as specified. The bill would require that the actions of the board under these provisions be deemed an action taken for the protection of the environment for purposes of specified California Environmental Quality Act guidelines, if those actions do not result in the relaxation of streamflow standards.

AB 1433 **(Wood D) Climate Adaptation and Resilience Based on Nature Act.**

Introduced: 2/17/2017

Last Amend: 4/27/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Would create the Climate Adaptation and Resilience Based on Nature Account in the Greenhouse Gas Reduction Fund and would, upon appropriation by the Legislature in the annual Budget Act, make available the moneys in the account to the Wildlife Conservation Board for grants and programs that facilitate actions to protect and improve the resilience of natural and working land systems and enhance habitat, while reducing emissions of greenhouse gases and increasing sequestration.

AB 1471 **(Kiley R) Firearms: silencers.**

Introduced: 2/17/2017

Last Amend: 5/3/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PUB. S. on 3/13/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-A. 2 YEAR

Summary: Current law generally makes it a felony for any person, firm, or corporation to possess a silencer within this state. Existing law exempts from that prohibition the sale to, purchase by, or possession by certain law enforcement agencies of a silencer for use in the discharge of their official duties, or possession by peace officers employed by those law enforcement agencies. This bill would make the crime of possessing a silencer inapplicable to the sale or other transfer in interstate or foreign commerce by registered dealers or manufacturers when the sale or other transfer is in accordance with federal law.

AB 1544 **(Dahle R) Hunting: nonlead ammunition.**

Introduced: 2/17/2017

Last Amend: 3/28/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/16/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: Current law requires the use of nonlead centerfire rifle and pistol ammunition, as determined by the Fish and Game Commission, when taking big game with a rifle or pistol, and when taking coyote, within the California condor range. Current law further requires by no later than July 1, 2019, the use of nonlead ammunition for the taking of all wildlife, including game mammals, game birds, nongame birds, and nongame mammals, with any firearm, and requires the commission to promulgate regulations by July 1, 2015, that phase in the requirements of these provisions. This bill would require the commission to temporarily suspend the latter prohibition for a specific hunting season and caliber if the commission finds that nonlead ammunition of the specific caliber is not available for any reason.

AB 1587 **(Levine D) Invasive species: dreissenid mussels.**

Introduced: 2/17/2017

Last Amend: 5/30/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Would require the Director of Fish and Wildlife, upon lifting a closure, quarantine, or restriction on a reservoir as specified where dreissenid mussels have been detected, to order the entity that owns or manages the reservoir to implement a dreissenid mussel control program to prevent the spread of dreissenid mussels within the state from conveyances exiting the reservoir. The bill would delete the immunity from liability for water supply systems as described.

AB 1608 **(Kalra D) Vibrant landscapes for California.**

Introduced: 2/17/2017

Last Amend: 5/1/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/10/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-A. 2 YEAR

Summary: Would require the Department of Conservation to develop the Vibrant Landscape Program to assist eligible applicants in the development and implementation of county and regional plans to, among other things, integrate the conservation and management of natural and working lands with other sectors to reduce the emissions of greenhouse gases and achieve other public and environmental benefits. The bill would require the department, in collaboration with the Strategic Growth Council and the State Air Resources Board, to develop guidelines and criteria for the program.

AB 1617 **(Bloom D) Department of Fish and Wildlife: Fish and Game Commission: funding: strategic vision.**

Introduced: 2/17/2017

Last Amend: 5/15/2017

Status: 6/1/2017-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 6/1/2017-S. RLS.

Summary: Current law requires the Secretary of the Natural Resources Agency to convene a committee to develop and submit to the Governor and Legislature, before July 1, 2012, a strategic vision for the Department of Fish and Wildlife and the Fish and Game Commission that addresses specified matters relating to state fish and wildlife resource management. This bill would require the Department of Fish and Wildlife, in cooperation with the above-mentioned parties and additional specified parties, to identify and propose new sources of revenue to fund the department's necessary wildlife, land, and marine conservation, restoration, and resources management and protection responsibilities.

AB 1630 **(Bloom D) Transportation: wildlife movement and barriers to passage.**

Introduced: 2/17/2017

Last Amend: 4/17/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was TRANS. on 4/4/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: Current law requires the department to seek input from representatives of other state agencies, local government, federal agencies, nongovernmental conservation organizations, landowners, agriculture, recreation, scientific entities, and industry in determining essential wildlife corridors and habitat linkages. Current law also declares that it is the policy of the state to encourage, wherever feasible and practicable, voluntary steps to protect the functioning of wildlife corridors through various means. This bill would authorize the Department of Fish and Wildlife or the Department of Transportation to pursue development of a programmatic environmental review process with appropriate state and federal regulatory agencies for wildlife connectivity-related transportation infrastructure.

AB 1660 **(Kalra D) Court reporter providers.**

Introduced: 2/17/2017

Last Amend: 5/2/2017

Status: 6/8/2017-Referred to Com. on B., P. & E.D.

Location: 6/8/2017-S. B., P. & E.D.

Summary: This bill, on and after January 1, 2019, would authorize an individual or entity to engage in the business of providing or arranging for court reporters for the transcription of court proceedings if specified conditions are met, including that an individual be licensed by the Court Reporters Board of California as a court reporter, that an entity be a shorthand reporting corporation or that the individual or entity be registered as a court reporter provider.

SB 1 **(Beall D) Transportation funding.**

Introduced: 12/5/2016

Last Amend: 4/3/2017

Status: 4/28/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 5, Statutes of 2017.

Location: 4/28/2017-S. CHAPTERED

Summary: Would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program.

SB 5 **(De León D) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018.**

Introduced: 12/5/2016

Last Amend: 5/26/2017

Status: 5/31/2017-In Assembly. Read first time. Held at Desk.

Location: 5/30/2017-A. DESK

Summary: Would enact the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of $3,500,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program. This bill contains other related provisions.

SB 22 **(Hill D) Firearms: law enforcement agencies: agency firearm accounting.**

Introduced: 12/5/2016

Last Amend: 3/28/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-S. 2 YEAR

Summary: Would require a law enforcement agency, as defined, to adopt a written procedure to account for firearms that are owned, acquired, maintained, sold, loaned, lost, stolen, or in any way possessed by that agency or by an employee of that agency if used or carried for purposes of carrying out the official duties of his or her employment, as specified. The bill would require that firearms that are lost, stolen, or otherwise disposed of be entered into the AFS. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

SB 49 **(De León D) California Environmental, Public Health, and Workers Defense Act of 2017.**

Introduced: 12/5/2016

Last Amend: 5/26/2017

Status: 5/31/2017-In Assembly. Read first time. Held at Desk.

Location: 5/30/2017-A. DESK

Summary: The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems. The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species and generally prohibits the taking of those species. The Protect California Air Act of 2003 prohibits air quality management districts and air pollution control districts from amending or revising their new source review rules or regulations to be less stringent than those rules or regulations that existed on December 30, 2002. This bill would prohibit state or local agencies from amending or revising their rules and regulations implementing the above state laws to be less stringent than the baseline federal standards, as defined, and would require specified agencies to take prescribed actions to maintain and enforce certain requirements and standards pertaining to air, water, and protected species.

SB 50 **(Allen D) Federal public lands: conveyances.**

Introduced: 12/5/2016

Last Amend: 5/26/2017

Status: 5/31/2017-In Assembly. Read first time. Held at Desk.

Location: 5/30/2017-A. DESK

Summary: Would establish, except as provided, a policy of the state to discourage conveyances of federal public lands in California from the federal government. The bill would, except as provided, specify that these conveyances are void ab initio unless the State Lands Commission is provided with the right of first refusal or the right to arrange the transfer to a 3rd party. The bill would require the commission to issue a certificate of compliance if the commission was provided with the right of first refusal or the right to arrange the transfer to a 3rd party.

SB 58 **(McGuire D) Wildlife management areas: payment of taxes and assessments.**

Introduced: 12/12/2016

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-S. 2 YEAR

Summary: Existing law regulates real property acquired and operated by the state as wildlife management areas, and authorizes the Department of Fish and Wildlife, when income is directly derived from that real property, to annually pay to the county in which the property is located an amount equal to the county taxes levied upon the property at the time it was transferred to the state. Existing law requires those payments to only be made from funds that are appropriated to the department for those purposes. This bill would, commencing with the 2018–19 fiscal year and each fiscal year thereafter, require, instead of authorize, the department to make these payments subject to appropriation by the Legislature.

SB 80 **(Wieckowski D) California Environmental Quality Act: notices.**

Introduced: 1/11/2017

Last Amend: 2/14/2017

Status: 5/18/2017-Referred to Com. on NAT. RES.

Location: 5/18/2017-A. NAT. RES.

Summary: The California Environmental Quality Act requires the lead agency to mail certain notices to persons who have filed a written request for notices. The act provides that if the agencys offer to provide the notices by email, upon filing a written request for notices, a person may request that the notices be provided to him or her by email. This bill would require the lead agency to post those notices on the agency's Internet Web site. The bill would require the agency to offer to provide those notices by email. Because this bill would increase the level of service provided by a local agency, this bill would impose a state-mandated local program.

SB 144 **(McGuire D) Fish and wildlife: steelhead trout: fishing report-restoration card.**

Introduced: 1/13/2017

Last Amend: 3/15/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Current law requires revenues from steelhead trout fishing license fees to be deposited in the Fish and Game Preservation Fund and to be available for expenditure, upon appropriation by the Legislature, to monitor, restore, or enhance steelhead trout resources consistent with specified law, and to administer the fishing report-restoration card program. This bill would extend the operation of those provisions to July 1, 2022, to be repealed as of January 1, 2023. The bill would require the department to report to the Legislature regarding the fishing report-restoration card program's projects on or before July 1, 2021.

SB 161 **(McGuire D) Fish and Game Commission: tribal committee.**

Introduced: 1/19/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Current law requires the Fish and Game Commission to form a marine resources committee and a wildlife resources committee from its membership. This bill would require the commission to form a tribal committee from its membership consisting of at least one commissioner and would require the committee to report to the commission from time to time on its activities and to make recommendations on all tribal matters considered by the commission.

SB 183 **(Lara D) Marine protected areas: Native American tribes.**

Introduced: 1/24/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was N.R. & W. on 2/2/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-S. 2 YEAR

Summary: Current law requires that any proposals for marine protected areas made after January 1, 2002, follow the guidelines set forth in the MMAIA and that specified areas and reserves be designated, deleted, or modified by the commission pursuant to the MMAIA, and the restrictions and allowable uses applicable to those areas be as set forth in the MMAIA. Current law establishes the Native American Heritage Commission and vests the commission with specified powers and duties. This bill would authorize a California Native American tribe to submit a request to the Native American Heritage Commission to approve the tribe's record of aboriginal use of a specified area of the marine environment for subsistence and cultural purposes.

SB 187 **(Berryhill R) Sport fishing licenses: duration.**

Introduced: 1/25/2017

Last Amend: 5/3/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Would require a resident or a nonresident, 16 years of age or older, upon payment of a specified fee, to be issued a sport fishing license for the period of 12 consecutive months beginning on the date specified on the license, instead of for the period of a calendar year, or the remainder thereof. The bill would require the commission to include, among the costs required to be recovered by an adjustment of the fee amount, transition costs related to the new licensing period.

SB 193 **(Cannella R) Monterey County Water Resources Agency: Lake Nacimiento and Lake San Antonio: white bass.**

Introduced: 1/30/2017

Last Amend: 6/8/2017

Status: 6/8/2017-From committee with author's amendments. Read second time and amended. Re-referred to Com. on N.R. & W.

Location: 6/8/2017-S. N.R. & W.

Summary: Current law makes it unlawful to place, plant, or cause to be placed or planted, in any of the waters of this state, any live fish, any fresh or salt water animal, or any aquatic plant, whether taken without or within the state, without first submitting it for inspection to, and securing the written permission of, the Department of Fish and Wildlife. Current law also makes it unlawful to transport or possess any live white bass, whether taken within or without the state, unless it is first submitted for inspection to, and written permission is obtained from, the department. This bill would exempt the movement of white bass between Lake Nacimiento and Lake San Antonio through the interlake underground tunnel or pipeline from the above-described provisions relating to fish and wildlife.

SB 214 **(Atkins D) San Diego River Conservancy.**

Introduced: 2/1/2017

Last Amend: 4/6/2017

Status: 5/22/2017-Referred to Com. on NAT. RES.

Location: 5/22/2017-A. NAT. RES.

Summary: The San Diego River Conservancy Act establishes the San Diego River Conservancy in the Natural Resources Agency, and prescribes the territory, membership, functions, and duties of the conservancy with regard to, among other things, the acquisition, protection, and management of public lands within the San Diego River area, as defined. This bill would specify that the powers of the conservancy include improving, developing, and preserving lands for the purpose of protecting the natural, cultural, and historical resources, and entering into a joint powers agreement, as specified.

SB 216 **(Moorlach R) Property: wild animals.**

Introduced: 2/1/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was RLS. on 2/1/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-S. 2 YEAR

Summary: Current law provides animals that are wild by nature may be the subject of ownership while those animals are living only in specified circumstances.This bill would make nonsubstantive changes to that section of law.

SB 224 **(Jackson D) California Environmental Quality Act: baseline conditions.**

Introduced: 2/2/2017

Last Amend: 4/5/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-S. 2 YEAR

Summary: Would require the Office of Planning and Research, on or after January 1, 2018, at the time of the next review of the guidelines, to prepare, develop, and transmit to the secretary proposed changes or amendments to determine the baseline physical conditions by which a lead agency determines whether a project has a significant effect on the environment. The bill would require the

office, in developing the recommendations to limit the consideration of modifications to the environment at the project site cause by certain actions. The bill would require the secretary to certify and adopt the recommended proposed changes or amendments.

SB 259 **(Wilk R) Reports.**

Introduced: 2/8/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was G.O. on 3/28/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-S. 2 YEAR

Summary: Would require a written report, as defined, submitted by any state agency or department to the Legislature, a Member of the Legislature, or any state legislative or executive body to include a signed statement by the head of the agency or department declaring that the factual contents of the written report are true, accurate, and complete to the best of his or her knowledge.

SB 287 **(Dodd D) Habitat restoration: invasive species: Phytophthora pathogens.**

Introduced: 2/9/2017

Last Amend: 3/15/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-S. 2 YEAR

Summary: Current law establishes the Department of Fish and Wildlife and sets forth the powers and duties of the department with regard to the implementation and administration of, among other things, projects and programs to protect wildlife and wildlife habitat in the state.This bill would require the department, on or before December 31, 2019, to adopt regulations to minimize the risk of Phytophthora pathogens in plant materials used for habitat restoration projects authorized, funded, or required by the state.

SB 345 **(Bradford D) Law enforcement agencies: public records.**

Introduced: 2/14/2017

Last Amend: 5/26/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Would, commencing January 1, 2019, require the Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corrections and Rehabilitation, the Department of Fish and Wildlife, the Department of Justice, the Commission on Peace Officer Standards and Training, and each local law enforcement agency to conspicuously post on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials, to the extent not prohibited by the California Public Records Act.

SB 347 **(Jackson D) State Remote Piloted Aircraft Act.**

Introduced: 2/14/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Would enact the State Remote Piloted Aircraft Act. The bill would prohibit a person from operating a remote piloted aircraft in any number of specified manners and would require any person using, operating, or renting a remote piloted aircraft and every commercial operator of a remote piloted aircraft to maintain adequate liability insurance or proof of financial responsibility, as specified.

SB 402 **(Allen D) Marine fisheries: state policy.**

Introduced: 2/15/2017

Last Amend: 5/2/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-S. 2 YEAR

Summary: Would declare that it is the policy of the state to robustly protect and enhance the significant economic, environmental, recreational, aesthetic, and educational values provided by the Pacific fisheries and would require the Department of Fish and Wildlife and Fish and Game Commission to consider this policy when revising, adopting, or establishing policies, regulations, expenditures, or grant criteria relating to the protection and management of marine fisheries. The bill would require the department and commission, to the extent feasible, to attempt to work collaboratively with the federal government and all fisheries stakeholders in furtherance of this policy.

SB 473 **(Hertzberg D) California Endangered Species Act.**

Introduced: 2/16/2017

Last Amend: 5/26/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: The California Endangered Species Act prohibits the taking of an endangered or threatened species, except in certain situations. Under the act, the Department of Fish and Wildlife may authorize the take of listed species pursuant to an incidental take permit if the take is incidental to an otherwise lawful activity, the impacts are minimized and fully mitigated, and the issuance of the permit would not jeopardize the continued existence of the species. This bill would also apply the take prohibition to public agencies.

SB 503 **(Newman D) Personal income taxes: voluntary contributions: minimum contributions: Keep Arts in Schools Voluntary Tax Contribution Fund.**

Introduced: 2/16/2017

Last Amend: 5/9/2017

Status: 5/31/2017-In Assembly. Read first time. Held at Desk.

Location: 5/30/2017-A. DESK

Summary: Current law authorizes an individual to contribute amounts in excess of his or her tax liability for the support of specified voluntary tax contribution funds. Current law generally requires that these funds equal or exceed a minimum contribution amount, which is required to be adjusted for inflation, in order for the fund to remain on the return unless otherwise subject to statutory repeal. This bill would make the minimum contribution amount requirement for the 2017 calendar year equal to $0 for any fund appearing on the return for the 2016 taxable year that has a minimum contribution amount requirement for the 2017 calendar year in order for the fund to continue to appear on the return for the 2017 taxable year.

SB 506 **(Nielsen R) Department of Fish and Wildlife: lake or streambed alteration agreements: Internet Web site.**

Introduced: 2/16/2017

Last Amend: 6/5/2017

Status: 6/5/2017-From committee with author's amendments. Read second time and amended. Re-referred to Com. on W.,P., & W.

Location: 5/18/2017-A. W.,P. & W.

Summary: Would require the Department of Fish and Wildlife, on or before December 31, 2018, and periodically thereafter, to upgrade the information on its Internet Web site regarding lake or streambed alteration agreements, to update its “Frequently Asked Questions” document and other appropriate sources of information regarding the lake and streambed alteration program, and to provide guidance on its Internet Web site to facilitate members of the public in obtaining individualized guidance regarding the lake and streambed alteration program, as specified.

SB 532 **(Dodd D) California State Safe Harbor Agreement Program Act: tricolored blackbird.**

Introduced: 2/16/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was N.R. & W. on 3/2/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-S. 2 YEAR

Summary: Would extend the California State Safe Harbor Agreement Program Act indefinitely and would exempt the approval of a safe harbor agreement covering only tricolored blackbird from CEQA. This bill contains other existing laws.

SB 580 **(Pan D) Water development projects: Sacramento-San Joaquin watersheds.**

Introduced: 2/17/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Current law adopts and authorizes federally adopted and approved projects, including a project for flood control along the American and Sacramento Rivers. The projects are authorized at an estimated cost to the state of the sum that may be appropriated by the Legislature for state participation upon the recommendation and advice of the Department of Water Resources or the Central Valley Flood Protection Board. This bill would revise the authorization for the project for flood control along the American and Sacramento Rivers as further modified by a specified report adopted by Congress.

SB 588 **(Hertzberg D) Marine resources and preservation.**

Introduced: 2/17/2017

Last Amend: 3/23/2017

Status: 5/31/2017-In Assembly. Read first time. Held at Desk.

Location: 5/30/2017-A. DESK

Summary: Would revise and recast the California Marine Resources Legacy Act to establish a similar program to allow, 2 years after the payment of startup costs, a prospective transferor, as defined, to offer and the department to accept title to an artificial reef converted from a decommissioned oil and gas platform for incorporation into the California Artificial Reef Program if similar conditions to as specified are met, except if the platform is required to be fully removed by conditions in a lease issued by the State Lands Commission. As part of the implementation of the program, the bill would require the department to revise the Artificial Reef Plan prepared pursuant to the California Artificial Reef Program.

SB 615 **(Hueso D) Salton Sea restoration.**

Introduced: 2/17/2017

Last Amend: 5/1/2017

Status: 6/6/2017-June 13 set for first hearing canceled at the request of author.

Location: 5/26/2017-A. W.,P. & W.

Summary: Would require the Natural Resources Agency, by January 1, 2018, to develop a 10-year plan to implement the memorandum of understanding between the agency and the United States Department of the Interior entered into on August 31, 2016, and its addendum, entered into on January 18, 2017, and would require the agency to address certain issues in the plan. The bill would rename the Salton Sea Restoration Act as the “John J. Benoit Salton Sea Restoration Act.” This bill contains other related provisions.

SB 667 **(Atkins D) Department of Water Resources: riverine and riparian stewardship improvements.**

Introduced: 2/17/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Current law authorizes the Director of Water Resources to establish a program of flood control and urban creek restoration, known as the Urban Streams Restoration Program, consisting of the development of the capability by the Department of Water Resources to respond to requests from local agencies and organizations for planning and design assistance for efficient and effective urban creek protection, restoration, and enhancement. This bill, upon an appropriation of funds from the Legislature, would require the department to establish a program to implement watershed-based

riverine and riparian stewardship improvements by providing technical and financial assistance in support of projects with certain benefits.

SB 701 **(Hueso D) Salton Sea Obligations Act of 2018.**

Introduced: 2/17/2017

Last Amend: 5/17/2017

Status: 6/1/2017-In Assembly. Read first time. Held at Desk.

Location: 5/31/2017-A. DESK

Summary: Would enact the Salton Sea Obligations Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in the amount of $500,000,000 pursuant to the State General Obligation Bond Law to finance a program to comply with specified state obligations relating to the Salton Sea. This bill would provide for the submission of these provisions to the voters at the November 6, 2018, statewide general election.

SB 709 **(Wiener D) Oil spill response and contingency planning.**

Introduced: 2/17/2017

Last Amend: 4/26/2017

Status: 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Location: 5/26/2017-S. 2 YEAR

Summary: Would define “nonfloating oil” for purposes of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. The bill would require the administrator, by January 1, 2020, to conduct and complete an independent scientific study on the best achievable protection of state waters from spills of nonfloating or potentially nonfloating oils, including criteria for oil spill contingency plans and oil spill response organizations (OSROs) responsible for remediating those spills. The bill would require that the scientific study evaluate the hazards and risks and potential hazards and risks that nonfloating or potentially nonfloating oils pose to natural resources and public, occupational, and environmental health and safety.

SB 710 **(Anderson R) Silencers.**

Introduced: 2/17/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PUB. S. on 3/9/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-S. 2 YEAR

Summary: Current law makes it a felony to possess a silencer in the state, punishable by imprisonment in county jail or by a fine not to exceed $10,000 or by both that fine and imprisonment. This bill would delete the felony prohibition on possession of a silencer and would authorize an individual in lawful possession of a device that will silence, suppress, or muffle the sound or natural report of a firearm when the firearm is discharged to use that device to hunt a bird, mammal, fish, reptile, or amphibian for which the individual is licensed if the firearm to which the device is attached is lawfully possessed.

SB 771 **(De León D) California Environmental Quality Act: continuing education: public employees.**

Introduced: 2/17/2017

Status: 5/31/2017-In Assembly. Read first time. Held at Desk.

Location: 5/30/2017-A. DESK

Summary: Would establish a continuing education requirement for employees of public agencies who have responsibility for overseeing compliance with the California Environmental Quality Act. Because this bill would require a public agency to ensure that this continuing education requirement is met, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

SB 809 **(Committee on Natural Resources and Water) Natural resources.**

Introduced: 3/8/2017

Last Amend: 5/4/2017

Status: 6/1/2017-Referred to Coms. on W.,P., & W. and NAT. RES.

Location: 6/1/2017-A. W.,P. & W.

Summary: The California Constitution establishes the 5-member Fish and Game Commission, with members appointed by the Governor and approved by the Senate. Existing statutory law requires the commissioners to annually elect one of their number as president and one as vice president, by a concurrent vote of at least 3 commissioners. Current law prohibits a president or vice president from serving more than 2 consecutive years. This bill would eliminate this prohibition.

For more information call:

Susan LaGrande, CDFW Deputy Director at (916) 651-6719
Julie Oltmann, CDFW Legislative Representative at (916) 653-9772

You can also find legislative information on the web at http://leginfo.legislature.ca.gov/ and follow the prompts from the ‘bill information’ link.

National Oceanic and Atmospheric Administration
U.S. Department of Commerce

U.S. had 8th warmest, 11th wettest spring on record

Slightly warmer-than-average May puts year to date at 2nd warmest

Climate | climate analyses and statistics spring

June 7, 2017 — The month of May typically signals both an ending and a beginning: The waning days of spring and then the time-honored leap into summer vacation season.



Before we throw on our bathing suits and flip flops, let's first take a look back at how last month, spring and the year to date fared in terms of the climate record:

Climate by the numbers

May

Last month, the average contiguous U.S. temperature was 60.6 degrees F — 0.4 degrees above the 20th-century average — ranking near the middle of the 123-year period of record. Parts of the West and Southeast were warmer than average with near- to below-average temperatures in parts of the Central and Eastern U.S., according to scientists from NOAA's National Centers for Environmental Information.

The average precipitation total for May was 3.31 inches, 0.40 inch above the 20th-century average and tying with 2009 as the 25th wettest on record. Above-average precipitation fell across most of the East and parts of the Rockies and Great Plains.

Spring

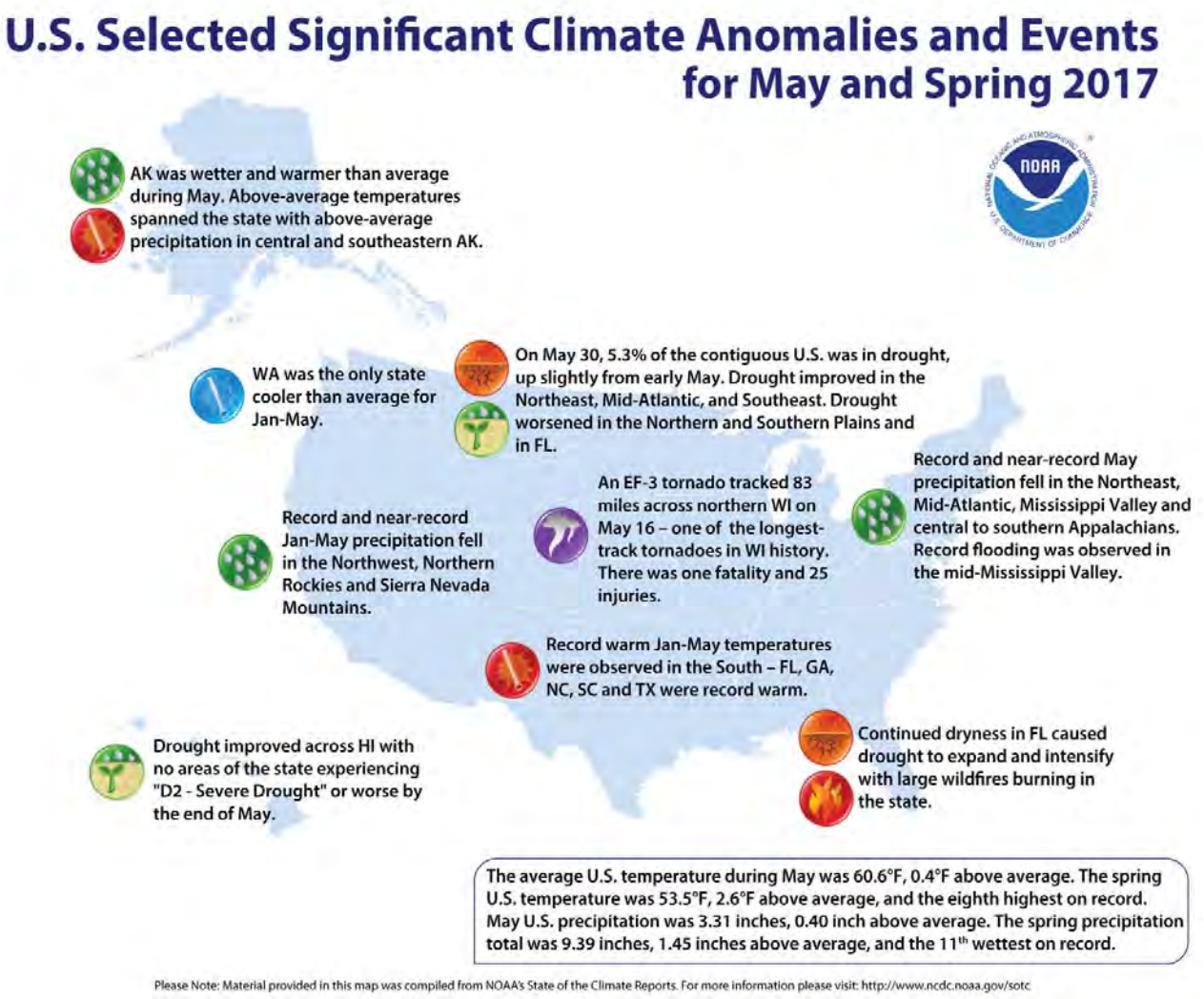
The average spring (March-May 2017) temperature across the contiguous U.S. was 53.5 degrees F, 2.6 degrees above average, making it the 8th warmest spring on record. From the Rockies to East Coast, most of the seasonal warmth occurred during the early and middle parts of spring.

The average spring precipitation total was 9.39 inches, 1.45 inches above average, making this spring the 11th wettest on record.

Year to date

The year to date (January through May 2017) average temperature for the contiguous U.S. was 47.0 degrees F, 3.7 degrees above the 20th-century average. This YTD period was the second-warmest on record for this period.

The YTD precipitation total was 14.85 inches, 2.46 inches above average, making it the third-wettest January-May on record.



A map of significant climate events that occurred in the U.S. during May and Spring 2017. (NOAA)

Other notable climate events and facts included:

- **Record rains in the U.S. East, South**: Record and near-record May precipitation fell in the Northeast, Mid-Atlantic, Mississippi Valley and central to southern Appalachians. Record flooding was observed in the mid-Mississippi Valley.
- **Florida remains tinder dry**: Continued dryness in Florida caused drought to expand and intensify, prompting large wildfires across central and northern areas of the Sunshine State.
- **A record-breaking Wisconsin tornado**: An EF-3 tornado tracked 83 miles across northern Wisconsin on May 16 resulting in one fatality and 25 injuries. This was one of the longest-track tornadoes in the state's history.
- **Continued drought relief**: On May 30, 5.3 percent of the contiguous U.S. was in drought, up slightly from early May. Drought improved in the Northeast, Mid-Atlantic and Southeast. Drought worsened in the Northern and Southern Plains and in Florida.
- **Washington State had a cool start to year**: Washington was the only state cooler than average for January to May.

- **Coastal flooding events rose markedly last year**: An update to NOAA's annual report of high-tide flooding (sometimes referred to as nuisance flooding) found that among most of the cities studied, flooding increased in 2016 by 130 percent on average since the mid-1990s and continues to accelerate.

Find **NOAA's report and download images** by visiting the NCEI website.

Media contacts

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OFFICE OF THE SECRETARY
U.S. Department of the Interior
www.doi.gov
News Release

Date: May 1, 2017
Contacts: Interior_Press@ios.doi.gov

Secretary Zinke Signs Orders Implementing America-First Offshore Energy Strategy

Directs Development of New Five-Year Outer Continental Shelf Oil and Gas Leasing Program to Spur Safe and Responsible Energy Development Offshore

HOUSTON — On the stage of the Offshore Technology Conference, flanked by men and women who work on offshore oil and gas platforms, Secretary of the Department of the Interior Ryan Zinke today signed two secretarial orders aimed at unleashing America's offshore energy potential and growing the U.S. economy. The first order implements President Trump's Executive Order signed Friday and directs the Bureau of Ocean Energy Management (BOEM) to develop a new five-year plan for oil and gas exploration in offshore waters and reconsider a number of regulations governing those activities. The second order establishes a new position – Counselor to the Secretary for Energy Policy – to coordinate the Interior Department's energy portfolio that spans nine of the Department's ten bureaus.

"Following through on the leadership established by President Trump, today's orders will help cement our Nation's position as a global energy leader and foster energy independence and security for the benefit of the American people, while ensuring that this development is safe and environmentally responsible," Secretary Zinke told industry representatives at the annual Offshore Technology Conference in Houston. "We will conduct a thorough review of the Outer Continental Shelf (OCS) for oil and gas exploration and listen to state and local stakeholders. We also will conduct a thorough review of regulations that were created with good intentions but have had harmful impacts on America's energy security."



Secretarial Order 3550 directs BOEM to immediately develop a new "Five Year Outer Continental Shelf Leasing Program" with full consideration given to leasing the OCS offshore Alaska, mid- and south-Atlantic, and the Gulf of Mexico. It also directs BOEM to work with the Department of Commerce's National Marine Fisheries Service to expedite authorization requests for seismic surveys, particularly for new or resubmitted permitting applications in the Atlantic to understand the extent of America's energy potential. The Secretary's order also directs prompt completion of the Notice to Lessees No. 2016-N01 dated September 12, 2016, and ceases all activities to promulgate the proposed "Offshore Air Quality Control, Reporting, and Compliance Rule." The order also directs BOEM and BSEE to review a host of other rules and report progress within 21 days.

"We're going to look at everything and make sure the policies are appropriate for each local community, rather than force a Washington-driven one-size-fits-all plan," said Zinke "There's no predetermined map of development, but if there are areas that are acceptable, that have resources, and states and local communities support offshore development, we could include those area in the next 5-Year Program."

As a featured speaker at the Offshore Technology Conference in Houston, TX, on Offshore Energy Policies: Harnessing the Full Potential of America’s Offshore, Zinke highlighted that OCS production currently accounts for about 18 percent of domestic crude oil and 4 percent of domestic natural gas supply. In Fiscal Year 2016, federal leasing revenues for the OCS were about $2.8 billion. By contrast, in 2008 federal leasing revenues for the OCS were nearly $18 billion dollars. "That's a drop of more than $15 billion that would otherwise go to the Treasury or toward funding important conservation programs like the Land and Water Conservation Fund and the Historic Preservation Fund," Zinke noted.

"Interior’s Bureau of Safety and Environmental Enforcement (BSEE) and Bureau of Ocean Energy Management (BOEM) will play vital roles in this expansive energy policy," Zinke noted while discussing the importance of strengthening frontline staffs to help them work closer with industry and communities. "We are committed to fuller cooperation with the offshore industry and coastal communities to expand responsible energy development while holding industry accountable to strict safety and environmental protections."

BSEE engineers work with offshore operators to carefully review and introduce new technology and ensure that operations remain safe and are conducted responsibly. BSEE inspectors conduct more than 19,000 inspections a year to ensure the safe and environmentally responsible operation of nearly 2,400 offshore oil and gas drilling and production facilities and 27,000 miles of pipeline.

Of the 1.7 billion acres on the OCS, only 16.9 million acres are leased for oil and gas development with 4.4 million of those acres (885 blocks) producing oil and gas. About 97 percent of all OCS leases are currently in the Gulf of Mexico. BOEM estimates the U.S. OCS has about 90 billion barrels of undiscovered technically recoverable oil and 327 trillion cubic feet of undiscovered, technically recoverable natural gas. The Gulf of Mexico, covering 160 million acres of the OCS, has an estimated 48.46 billion barrels of technically recoverable oil and 141.76 trillion cubic feet of technically recoverable natural gas.

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U.S. Fish & Wildlife Service
Pacific Southwest Region
California, Nevada and Klamath Basin

Illegal marijuana grow sites: A stain on public lands



Millions of acres of public lands are being overrun with illegal marijuana growing operations, resulting in degraded habitat and toxic trash that leads directly to wildlife deaths and serious threats to local water supplies. "Not only is it expensive to find and reclaim these sites, they are hazardous to our employees, the public, the environment and the wildlife that live on our refuges," said Polly Wheeler, chief of the National Wildlife Refuge System in California, Nevada and the Klamath Basin.

Credit: USFS, Region 5

By Jane Hendron
June 6, 2017

At first glance, California's 45 million acres of public lands seem like havens for recreation and wildlife. But off the beaten path, away from the maintained trails and people, there is a different story. Some of these secluded areas are being overrun with illegal marijuana growing operations, resulting in degraded habitat and toxic trash that leads directly to wildlife deaths and serious threats to local water supplies.

"Illegal marijuana grow areas really put a strain on our resources," said Polly Wheeler, chief of the National Wildlife Refuge System in California, Nevada and the Klamath Basin. "Not only is it expensive to find and reclaim these sites, they are hazardous to our employees, the public, the environment and the wildlife that live on our refuges."

The refuge system law enforcement program began tracking marijuana cultivation sites in 1997. In recent years, refuge law enforcement officers have discovered and eradicated destructive sites on Stone Lakes National Wildlife Refuge outside Elk Grove, San Luis National Wildlife Refuge near Los Banos and the Sacramento National Wildlife Refuge near Willows, California. On average, the Service discovers about three major grow sites a year in the state.



California National Guard personnel and partner agency staff remove thousands of feet of irrigation tubing from a grow site in 2014.

Credit: CalGuard Public Affairs

Grow sites are especially common in "the Emerald Triangle" – an area encompassing Humboldt, Mendocino and Trinity counties. They have been found on the Bureau of Land Management's Beauty Mountain Wilderness Study Area in Riverside County, in Shasta-Trinity National Forest, and in a designated Wilderness Area of Sequoia National Park.



To let light in for the illegal crop, growers "girdle" trees, essentially strangling the tree, causing leaves and branches to die, while concealing the marijauna plants below.

Credit: USFS, Region 5

In California, between 2011 and 2015, more than 8,000 illegal outdoor grow sites were detected and eradicated, and most of them were on federally managed land.

"Illegal marijuana grow sites have been a problem for a while, but they get worse every year," Wheeler said. "Earlier this year, we found about 15,000 plants and 1,400 pounds of trash at an illegal site on Sacramento Refuge."

Many of these marijuana cultivation sites are made up of several acres that are linked together by networks of unauthorized trails and irrigation lines.

The amount of new habitat impacted by these grows amounts to several thousand acres annually.

Typically, when one site is eradicated, another site goes up in a different spot. One of the major impacts from these operations is water diversion from streams and creeks.

Taking a Toll on the State's Natural Resources



"There were more than 26,000 plants spread among six different patches along a mile of stream ...To grow that many plants, they needed enough water to fill about 27 Olympic-sized swimming pools. And that's just one site," said Mark Higley, a biologist for the Hoopa Tribe, shown here with a juvenile Pacific fisher, whose habitat is threatened by chemicals used at illegal marijuana grow sites.

Credit: Courtesy of the Hoopa Tribe

Illegal marijuana cultivation requires water—and lots of it. Scientists estimate it takes six gallons of water per day for a single marijuana plant. When wildlife biologist Mark Higley discovered a grow site on the Hoopa Tribe's reservation in 2012, he was taken aback by the expanse.

"There were more than 26,000 plants spread among six different patches along a mile of stream that supports anadromous [salmon and steelhead] fish," Higley said. "To grow that many plants, they needed enough water to fill about 27 Olympic-sized swimming pools! And that's just one site."

In addition to the water, trash on these illegal cultivation sites is also a problem.

"Everything from tents and utensils to fuel and human waste is left out on these sites," said Rick Fleming**,** executive director of the High Sierra Volunteer Trail Crew. Fleming's trail crew is trained to clean-up these illegal sites, which can be toxic to humans and to wildlife.

In 2013, Higley and his cleanup crew were at an illegal grow site when they discovered how some growers were keeping wildlife from destroying the marijuana plants.

"Growers strung hot dogs on fish hooks to attract and kill nearby animals. While I was there, I came across a dead Pacific fisher," Higley said.

The crew collected samples of the nearby fish hooks and sent the samples in for testing.

The hooks tested positive for methomyl, a powerful, broad-spectrum insecticide that is highly toxic to humans, livestock and wildlife. Formulations with more than one percent of methomyl are considered restricted-use pesticides and are not allowed for use in households or by non-professionals.



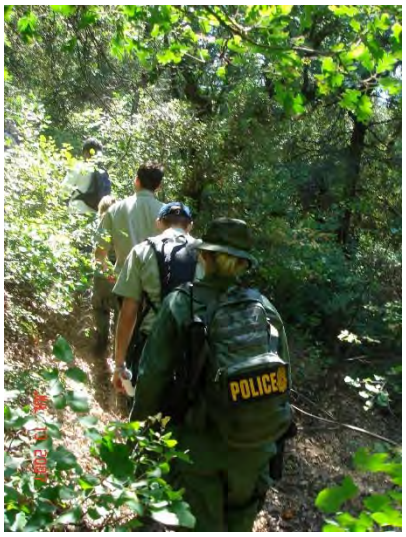
The damage done at grow sites, like this one from Lassen National Forest, is extensive. "Earlier this year, we found about 15,000 plants and 1,400 pounds of trash at an illegal site on the Sacramento Refuge," Polly Wheeler said.

Credit: USFS, Region 5

"These are dangerous chemicals, and it's alarming that some people are using them for this," Higley said.

While there is no research to quantify how these chemicals are affecting the aquatic environment, Darren Mierau, North Coast director for CalTrout, says the illegal marijuana cultivation sites are adding to the already serious issue.

"It's nearly impossible to track impacts from these illegal sites to native fish populations," Mierau said. "But we are currently at five to 10 percent of historic population levels, and this is another wound."



Many government agencies and non-governmental organizations are doing their best to combine funding, hazardous materials expertise and muscle to reclaim as many illegal grow sites as possible. Here, a clean up team is accompanied by law enforcement officers to a site in Trinity National Forest in 2015.

Credit: USFS, Region 5

The Mammoth Task of Cleanup

With the quantities of trash and hazardous chemicals at these illegal grow sites, cleanup is complicated, time consuming and costly. However, many government agencies and non-governmental organizations are doing their best to combine funding, hazardous materials expertise and muscle to reclaim as many illegal grow sites as possible.

Donna Rupp, project coordinator for the Trinity County Resource Conservation District, obtained funding for cleanup efforts through the CalRecycle Program, a program for cleaning up illegal dump sites on public or private land that is zoned for timber or agriculture. The Resource Conservation District has a core group of four to five trained employees who assist with grow site cleanups. In addition, the Watershed Research and Training Center provides additional manpower for cleanup projects.

“We work together on many projects, and this kind is important to both crews,” Rupp said.

Since 2014, the Trinity County Resource Conservation District and the Integral Ecology Research Center, led by Dr. Mourad Gabriel**,** a biologist and the center's executive director, have partnered to reclaim eight illegal grow sites. CalRecycle recently awarded the conservation district a two-year (2016-2018), $90,000 grant. The grant is split between illegal grow cleanup and other illegal dump sites. CalRecycle also provides more than $140,000 to the Coursegold Resource Conservation District for illegal grow cleanup on Sierra National Forest and private lands.

In addition to Integral Ecology’s trained staff, the High Sierra Volunteer Trail Crew has a special cadre of volunteers called the ERT – Eradication Response Team – who are certified to handle hazardous materials and provide help with cleanup efforts.

“The ERT began in 2008 because the Forest Service needed folks to help with cleanups,” Fleming said. “We work mostly in the Sierra and Sequoia National Forests, but we’ve been to Mendocino and Los Padres National Forests as well.”



“Whether you are there to conserve the fish or there to recreate, this problem conflicts equally with those goals. And we all have to do something to tackle this issue,” said biologist Dr. Mourad Gabriel, shown here helping with the clean up of an illegal marijuana grow sites in the Trinity National Forest in 2015.

Credit: USFS, Region 5

Although many individuals and groups are willing to help with reclamation activities, the scope and overall costs are overwhelming.

According to Carol Underhill, a public affairs officer for the Shasta Trinity National Forest, limited hours in a day and limited funding and staff all play a part in how much time their law enforcement employees spend at the sites after eradication and security duties are done.

Costs include: staff time for law enforcement officers needed to ensure crew safety, employee salaries, fuel, and the costs of disposing of hazardous materials. For remote sites, helicopters are sometimes needed.

However, just because a site is cleaned, does not mean it will stay that way. If the infrastructure—water lines or plant roots—remains, sites may be re-established. This is something Higley saw first-hand.

"We went back to one site a few weeks later and found an upturned bucket with a fresh bar of soap," he said. "Someone was back at work."

The Service works with other federal agencies to locate, eradicate and reclaim illegal grow sites. It costs the Service between $10,000 and $15,000 per acre to eradicate and reclaim illegal sites on refuge land.

"Reclaiming these sites is just as important as getting rid of the illegal plants, and rehabbing these areas is the most expensive part." Wheeler said.

While the various organizations continue to work together to limit habitat loss and disturbance from illegal marijuana grow sites, that's not all they are aiming to accomplish. They are hoping this issue will bring people together.

"When you bring up public lands and the legacy of contamination of our lands, both sides of the aisle can come together," said Gabriel, who continues to lead efforts to combat illegal marijauna growing on public lands. "Whether you are there to conserve the fish or there to recreate, this problem conflicts equally with those goals. And we all have to do something to tackle this issue."

Jane Hendron is the public affairs officer for the Carlsbad (California) Fish and Wildlife Office.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

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ORDER

DENNIS STURGEL VS. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ET AL

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DENNIS STURGELL, Petitioner, v. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE et al., Respondents.	No. CPF-14-514036 ORDER re PETITION FOR WRIT OF ADMINISTRATIVE MANDATE

The above matter came on for hearing on May 25, 2017 in Department 302 before the Honorable Stephen M. Murphy. John G. Young and E. Michael Linscheid appeared on behalf of petitioner; Jonathan Wiener and Barbara C. Spiegel appeared on behalf of respondents.

After reviewing the papers submitted in support of and in opposition to the petition, and hearing oral argument, the Court rules as follows:

This petition raises "pure issues of law [that] are subject to independent review." (*California Career Schools v. Department of Motor Vehicles* (2004) 120 Cal.App.4th 10, 14; *City of Patterson v. Turlock Irrigation District* (2014) 227 Cal.App.4th 484, 491 (internal citation omitted) ("Issues of statutory construction, as well as the application of that construction to a particular set of facts, are questions of law subject to independent review.")) The first issue is whether the term "land" in Fish and

Game Code section 8279.1 applies to the situation where a fisherman harvests crab in a legal area but offloads the crab in an area subject to the fair start delay in section 8279.1.

Petitioner argues that section 8279.1 is vague since it does not define "land." Petitioner points out that the legislative history shows the Legislature's concern was with the taking of crab from waters subject to the fair start provision. (Administrative Record at pp. 354, 459.) The Court agrees that "land" as used in the statute is subject to several different interpretations. In light of this ambiguity, and since violation of section 8279.1 results in mandatory forfeiture of the fisherman's Dungeness crab vessel permit, a property right, the court must strictly construe section 8279.1. (*People v. One 1986 Toyota Pickup* (1995) 31 Cal.App.4th 254, 261-262 [observing, "forfeitures are generally disfavored and any statute imposing a forfeiture of property must be strictly construed against the state"].)

Respondents argue that "land" should include crab taken legally because there could be an influx of landings in prohibited zones that could lead to long waits and wasted crab for local fishermen. But this concern is not mentioned in the legislative history. Moreover, the Department of Fish and Wildlife has not issued an interpretation that Section 8279.1 applies to the context presented here. Since the statute calls for mandatory revocation of a Dungeness crab permit and there is no evidence the statute intended to cover the situation presented here, Section 8279.1 must be read to prohibit landing crab only that were taken from ocean waters illegally.

The second issue concerns when a "landing" occurs. Petitioner argues that "landing" occurs either when the offloading process is completed or when a delivery receipt is issued. Respondents argue that "landing" occurs when the offloading process begins, in other words when the first crab is offloaded.

The evidence shows Mr. Sturgell legally took crab from Washington between January 24 and 28, 2013 and began offloading that crab in Astoria, Oregon, an area subject to the fair start delay, on January 29, 2013, approximately six hours before the "stand down" period ended. However, the delivery receipt was not issued until approximately 4:00 a.m. on January 30, 2013, after the "stand down" period ended. Strictly construing section 8279.1, the Court finds that petitioner's interpretation of "landing" is consistent with legislative intent such that "landing" occurred when the delivery receipt was issued.

Petitioner Dennis Sturgell's petition for a writ of administrative mandate is GRANTED. The Administrative Law Judge's finding that Mr. Sturgell violated section 8279.1, therefore, is not supported

by the evidence. The order of the Office of Administrative Hearings revoking Mr. Sturgell's California Dungeness crab permit shall be vacated and Mr. Sturgell's permit shall be reinstated.

The Court GRANTS respondents' request for judicial notice with regard to Exhibits D and E and DENIES respondents' request with regard to Exhibits A, B, C, F, G, H, and I.

IT IS SO ORDERED.

Dated: May 30, 2017

Stephen M. Murphy
Judge of the Superior Court

Superior Court of California
County of San Francisco

DENNIS STURGELL, Plaintiff, vs. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, ET. AL., Defendants.	Case Number: CPF-14-514036 **CERTIFICATE OF MAILING** (CCP 1013a (4))

I, Cynthia Herbert, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On June 1, 2017, I served the attached Order re: Petition for Writ of Administrative Mandate, a copy thereof in a sealed envelope, addressed as follows:

John G. Young
WILLIAMS KASTNER LAW FIRM
601 Union Street, Ste. 4100
Seattle, WA 98101

E. Michael Linscheid
Law Chambers Bldg.,
345 Franklin Street,
San Francisco, CA 94102

Jonathan Wiener
Deputy Attorney General
455 Golden Gate Avenue, Ste. 11000
San Francisco, CA 94102

and, I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

Dated: June 1, 2017

Michael Yuen, Clerk

By: C Herbert

Cynthia Herbert
Deputy Clerk

State of California
Department of Fish and Wildlife

Memorandum

Date: May 18, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Consent Item for the June 21-22, 2017 Fish and Game Commission Meeting Re: White Seabass Fishery Management Plan 2015-2016 Annual Review Report

Enclosed please find the report: "White Seabass Fishery Management Plan 2015-2016 Annual Review".

The Department of Fish and Wildlife (Department) met with the White Seabass Scientific and Constituent Advisory Panel (WSSCAP) in April 2017 to review fishery information and to consider if current management measures were providing adequate protection for the White Seabass resource. The WSSCAP reviewed the Points of Concern established in the White Seabass Fishery Management Plan, including criteria-based evaluation of the white seabass population, to determine if an overfished condition exists.

Commercial and recreational landings of White Seabass have declined in recent years; however, both fisheries showed an increase in landings for 2015-2016. For the 2015-2016 season, an overfished condition did not exist and none of the other Points of Concern were met. Thus, the Department recommends no changes to the current management of the commercial and recreational White Seabass fisheries.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at (805) 568-1246.

Enclosure

ec: Department of Fish and Wildlife

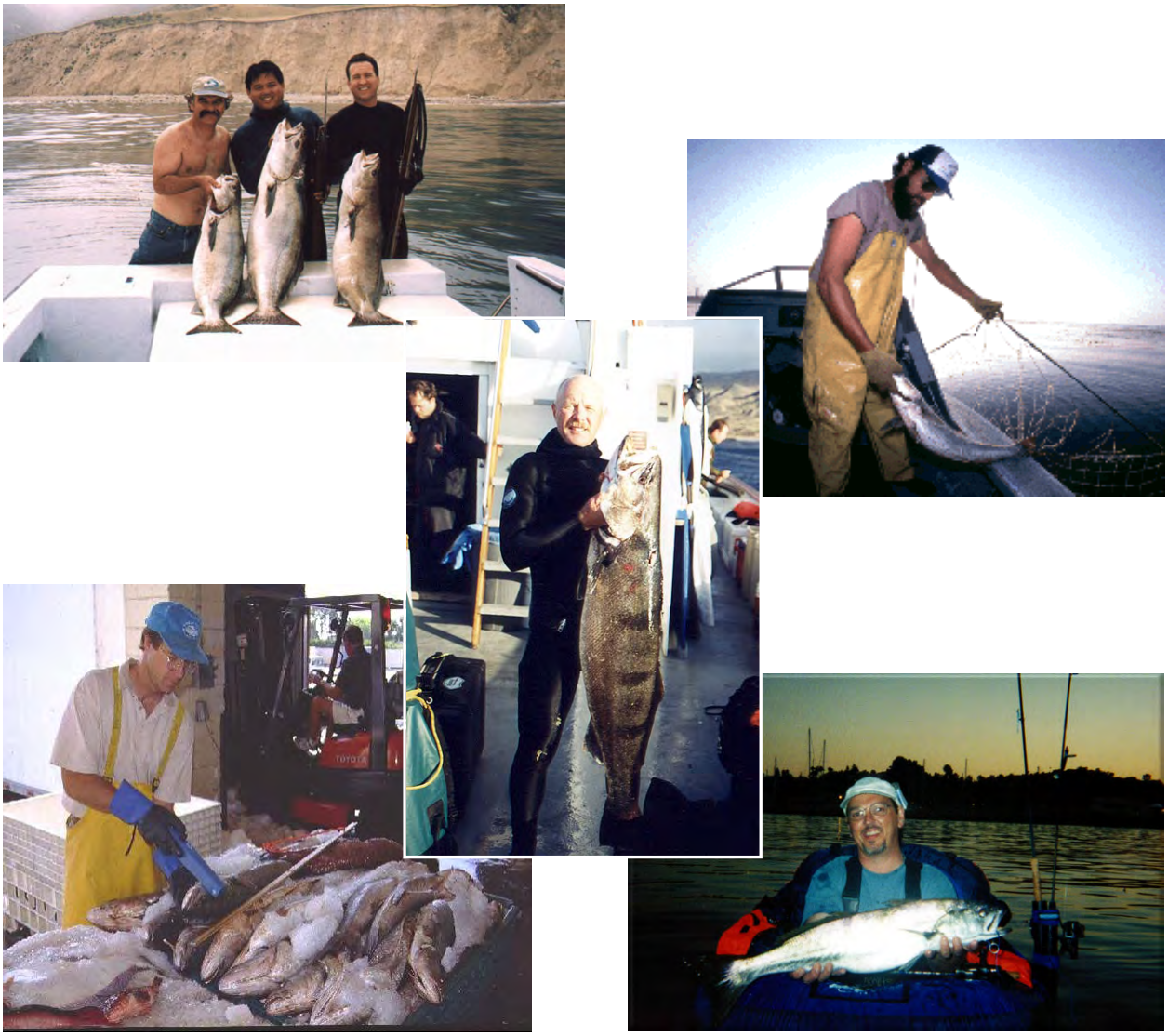
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White Seabass Fishery Management Plan
2015-2016 Annual Review



Prepared by

Department of Fish and Wildlife
Marine Region
April 2017

White Seabass Fishery Management Plan
2015-2016 Annual Review

Executive Summary

The California Fish and Game Commission (Commission) adopted the White Seabass Fishery Management Plan (WSFMP) in June 2002. The WSFMP includes a provision for annual monitoring and assessment of the white seabass fisheries. The White Seabass Scientific and Constituent Advisory Panel (WSSCAP) was established to assist the Department of Fish and Wildlife (Department) and the Commission with the review of the fishery assessments, management proposals, and plan amendments. The annual review includes fishery-dependent data (e.g., commercial and recreational landings and length frequencies), and fishery-independent data (e.g., recruitment information) if available, as well as documented changes within the social and economic structure of the recreational and commercial industries that utilize the white seabass resource within California. The review also includes information on the harvest of white seabass from Mexican waters and other relevant data. Based on the results of the annual review, in cooperation with the WSSCAP, the Department will provide management recommendations, if needed, to the Commission.

To assist the Commission in determining if management measures need to be modified or added, the WSFMP framework includes, and the Commission adopted, points of concern criteria to help determine when management measures are needed to address resource issues. The points of concern are:

1. catch is expected to exceed the current harvest guideline or quota;
2. any adverse or significant change in the biological characteristics of white seabass (age composition, size composition, age at maturity or recruitment) is discovered;
3. an overfishing condition exists or is imminent;
4. any adverse or significant change in the availability of white seabass forage or in the status of a dependent species is discovered;
5. new information on the status of white seabass is discovered;
6. an error in data or stock assessment is detected that significantly changes estimates of impacts due to current management.

The Department and WSSCAP met on April 13, 2017 to review the 2015-2016 fishery season (September 1 to August 31), and together agreed that none of the points of concern were met. Additional social and economic information, catch information from Mexico, and a recent stock assessment support this conclusion. As a result, the Department does not recommend any changes to the management of white seabass or to the WSFMP at this time.

Background

The WSSCAP annually reviews current information to evaluate the status of the white seabass resource based on points of concern adopted to implement the WSFMP, and to consider whether current management measures provide adequate protection for the resource. If a resource conservation issue is found, based on the points of concern, the WSSCAP will provide its recommendation, rationale, and analysis to the Department, which will recommend to the Commission the appropriate management measure(s) to address the issue(s).

Results

Analysis of the points of concern (Table 1) showed that none of the criteria were met in 2015-2016.

Table 1. Analysis of the points of concern.

Criteria	Analysis	Result
Catch is expected to exceed the current harvest guideline or quota.	2015-2016 total catch = 343,439 pounds; Optimum Yield = 1.2 million pounds; Total catch is below optimum yield.	No action necessary
Any adverse or significant change in the biological characteristics of white seabass (age composition, size composition, age at maturity or recruitment) is discovered.	Recreational and commercial fishery length-frequencies showed no significant change that would indicate a problem in the fishery. No new information on age composition, age at maturity, or age at recruitment.	No action necessary
An overfishing condition exists or is imminent.	See analysis in Table 2. No overall overfishing condition noted.	No action necessary
Any adverse or significant change in the availability of white seabass forage or in the status of a dependent species is discovered.	Most forage species decreased in the 15/16 season. However, WSB are opportunistic feeders and the Department and WSSCAP feel that there are other abundant prey items for WSB.	No action necessary
New information on the status of white seabass is discovered.	The Department is currently collecting samples to investigate age/length at maturity.	No action necessary
An error in data or stock assessment is detected that significantly changes estimates of impacts due to current management.	A stock assessment was completed in May 2016.	No action necessary

Point of Concern: Expectation of optimum yield being exceeded.

The Commission established a fishing season of September 1 through August 31 of the following year. The Commission also adopted an optimum yield. The optimum yield is based on a maximum sustainable yield proxy of the unfished biomass, and is currently set at 1.2 million pounds. In the 2015-2016 season, the total recreational and commercial harvest was 343,439 pounds, 29 percent of the allowable catch (Appendix A, Table 1).

Point of Concern: Changes in the biological characteristics of white seabass.

The commercial fishery continues to harvest white seabass across a wide size range (Appendix A, Figure 1). In 2015-2016, 201 fish were sampled from the commercial fishery. One hundred percent of the fish sampled were larger than the minimum size limit of 28 inches and approximately two thirds of the fish sampled were larger than 45 inches. Based on previous age-at-length information from reading otoliths and from a previously calculated weight/length relationship, those fish larger than 45 inches are likely more than 11 years old and weigh more than 30 pounds.

Sampled length frequency data for the recreational fishery are presented in Appendix A, Figure 2. Before the start of the 2009-2010 season the Department prepared and distributed a brochure targeting recreational anglers to improve compliance with the recreational minimum size limit for white seabass. In the seasons since this brochure was distributed, less than 10 percent of the fish measured were smaller than the minimum size limit of 28 inches. This is a significant improvement from the previous seasons, in which 17-19 percent of all fish measured were less than minimum legal size. This season 127 legal-sized fish were measured from the recreational fishery. Of the legal-sized fish measured from the recreational fishery approximately one half of the fish measured were larger than 40 inches total length. Based on the previously calculated weight/length relationship, those fish larger than 40 inches are likely more than 9 years old and weigh more than 24 pounds.

Point of Concern: An overfishing condition exists or is imminent.

Three criteria (Table 2), all of which must be met to establish a point of concern, determine if an overfishing condition exists or is imminent. For the commercial fishery, there must be a 20 percent decline in landings in each of two consecutive seasons compared to the prior 5-season running average. Commercial landings of white seabass (Appendix A, Table 2) totaled 247,195 pounds in the 2015-2016 season; this is a 27 percent decrease when compared to the prior 5-season running average (340,369 pounds). In the 2014-2015 season commercial landings totaled 196,521 pounds; this is a 51 percent decrease compared to the prior 5-season running average (401,469 pounds). The WSSCAP and the Department agreed that the overfishing criterion for the commercial fishery was met. However, all three criteria must be met to establish a point of concern so no action is recommended at this time.

For the recreational fishery, the overfishing criterion is defined as a 20 percent decline in each of two consecutive seasons for both the number of fish and the average weight (Appendix A, Table 3). In the recreational fishery, the number of fish caught in the 2015-2016 season increased 21 percent when compared to the previous season. The average weight of fish caught in the 2015-2016 season increased 22 percent when compared to the previous season. The WSSCAP and the Department agreed that the overfishing criterion for the recreational fishery was not met.

The final criterion for determining if an overfishing condition exists is a 30 percent decline in the recruitment index for juvenile white seabass compared to the prior 5-season running average of recruitment. The Ocean Resources Enhancement and Hatchery Program (OREHP) had routinely conducted standardized field studies four times a year (August, October, April and June) for juvenile recruitment. However, reductions in funding curtailed survey effort. The Southern California Sport Fishing Enhancement Stamp fund was insufficient to cover all of the OREHP activities as well as the gill net recruitment surveys, and consequently there was no gill net sampling between 2009 and 2011.

In October 2012 gill net sampling similar to previous surveys was reinstated. The objective of the current sampling design seeks to resume the prior gill net sampling regime but in a reduced capacity with fewer locations surveyed and a reduction in the number of nets deployed at each site.

In order for this criterion to be evaluated six consecutive years of data will need to be collected. Because six years of consecutive white seabass recruitment surveys have not been completed this criterion could not be addressed in this report.

Based on the analysis of all three overfishing criteria, the WSSCAP and the Department agreed that the overall overfishing point of concern for the fishery was not met.

Table 2. Analysis to determine if the white seabass resource is overfished (Criteria taken from Section 51.01 (b), Title 14, California Code of Regulations).		
Criteria	Analysis	Result
A 20 percent decline in the total annual commercial landings of white seabass for the past two consecutive seasons compared to the prior 5-season running average of landings, based on landing receipt data.	2015-2016 247,195 pounds = 27% decrease 5-season average = 340,369 pounds 2014-2015 196,521 pounds = 51% decrease 5-season average = 401,469 pounds	Criterion was met
A 20 percent decline in both the number of fish and the average weight of white seabass caught in the recreational fishery for the same two consecutive seasons, as determined by the best available data.	2015-2016 3,793 fish = 21% increase 23.1 pound average = 22% increase 2014-2015 3,136 fish = 67% decrease 18.9 pound average = 15% decrease	Criterion not met
A 30 percent decline in recruitment indices for juvenile white seabass compared to prior 5-season running average of recruitment, as determined by the best available data.	Criterion not analyzed	N/A

Point of Concern: Any adverse or significant change in the availability of white seabass forage or in the status of a dependent species is discovered.

Prey species (northern anchovy, jack mackerel, market squid, Pacific mackerel, and Pacific sardine) are highly mobile and their distributions are affected by oceanographic conditions. A review of white seabass forage species (Appendix A, Figures 3, 4, and 5) revealed some changes in availability.

Both Pacific mackerel and Pacific sardine have stock assessments conducted by the National Marine Fisheries Service and these stock assessments include biomass estimates. Since 2008, Pacific mackerel biomass estimates have been conducted every two years. Pacific sardine biomass estimates are conducted every year. The biomass estimates for Pacific mackerel decreased considerably in 2014 and then slightly in 2016. The Pacific sardine biomass in 2015-2016 decreased dramatically from the prior assessment, and was closed for the 2015-2016 season.

Since there are currently no biomass estimates or stock assessments for northern anchovy, jack mackerel, and market squid, commercial fishery landings were used as a proxy for their availability. Northern anchovy, jack mackerel, and market squid

availability decreased from the previous year; however, northern anchovy landings remained higher relative to the 2010-2013 seasons.

Based on the analysis of all of the prey species, the WSSCAP and the Department agreed that this point of concern was not met because of the opportunistic nature of white seabass foraging.

Other Points of Concern:

The remaining two points of concern (Table 1) consider any new information on the status of white seabass, and if any errors in data or stock assessment were found.

Currently the Department is collecting white seabass samples to assess length/age at maturity.

A new paper by E. Leung and L.G. Allen was published in 2016: "Year-class strength predicts commercial catch 11 years later for white seabass, *Atractoscion nobilis*, off southern California." California fish and Game 102(4): 175-182. The paper showed year-class strength was correlated with commercial catch 11 years later based on ages of otoliths from juveniles caught in gill nets. If this relationship holds true, the 16-17 commercial season for white seabass may be expected to decline.

A stock assessment was completed in 2016 by the Center for the Advancement of Population Assessment Methodology (CAPAM). A sex-specific statistical age-structured model using the Stock Synthesis platform was run using different growth rates for males and females. The model estimated female spawning biomass in 2015 to be 569 mt and depletion at 27%. This value is below the Pacific Fishery Management Council (PFMC) biomass target depletion of 40% and above the minimum stock size threshold (MSST) of 25% for groundfish. PFMC policy is to declare a stock overfished if current spawning biomass falls at or below 25% of the unexploited biomass. As such, the Department concludes that although the white seabass stock is above the MSST, close monitoring of the fishery needs to continue because further decline is inadvisable. For more information on the stock assessment, see: http://www.capamresearch.org/current-projects/white-seabass-stock-assessment

No errors in the current stock assessment have been found.

Additional Information

The Department has used one indicator each of some basic social and economic information to characterize the commercial fishery and provided those summaries to the WSSCAP (Appendix A, Table 4). As a social information indicator, the number of commercial vessels landing white seabass has been tracked over time. In the 2015/16 seasons the number of vessels fishing for white seabass has increased slightly. This increase in the number of vessels occurred mostly in the gill net fishery. An economic information indicator of the most frequent ex-vessel price per pound has also been tracked over time. The ex-vessel price per pound has shown a steady increase over time and has leveled off at $4.00 per pound for all gears combined for the past two seasons. No similar social or economic data are available for the recreational fleet.

Information about the take of white seabass in Mexican waters was considered by the WSSCAP. California commercial fishermen are prohibited by Mexican law to fish in the territorial seas of Mexico, and no landings of white seabass from Mexico by California commercial fishermen were reported in 2015-2016. Recreational anglers may fish in Mexico under the authority of a Mexican sport fishing license. During the 2015-2016 season, Commercial Passenger Fishing Vessel log book data reported 145 white seabass taken in Mexico, a decrease of 25 fish from the reported 170 taken in the prior season. No additional information about either the recreational or commercial catch of white seabass in Mexico is available.

Appendix A – Data Analyses

Table 1. Total catch (pounds) of white seabass, 2006/07 - 2015/16

Season	Recreational	Commercial	Total
2006/07	253,959	421,388	675,347
2007/08	150,988	653,264	804,252
2008/09	152,799	414,459	567,258
2009/10	215,071	502,021	717,092
2010/11	306,491	520,605	827,096
2011/12	259,028	406,746	665,774
2012/13	265,816	315,533	581,349
2013/14	219,116	262,441	481,557
2014/15	63,125	196,521	259,646
2015/16	96,244	247,195	343,439

Source: California Recreational Fisheries Survey extracted from the RecFIN database at http://www.recfin.org/forms/est2004.html, and California Department of Fish and Wildlife Commercial Fisheries Information System (includes commercial landing receipt and CPFV logbook data).

Table 2. Commercial white seabass landings in pounds, 2006/07 - 2015/16

Season	Pounds Landed	Prior 5-season average	Percent change from previous 5-season average
2006/07	421,388	374,126	13
2007/08	653,264	377,896	73
2008/09	414,459	411,867	1
2009/10	502,021	433,621	16
2010/11	520,605	476,487	9
2011/12	406,746	502,347	-19
2012/13	315,533	499,419	-37
2013/14	262,441	431,873	-39
2014/15	196,521	401,469	-51
2015/16	247,195	340,369	-27

Source: California Department of Fish and Wildlife Commercial Fisheries Information System (includes commercial landing receipt data).

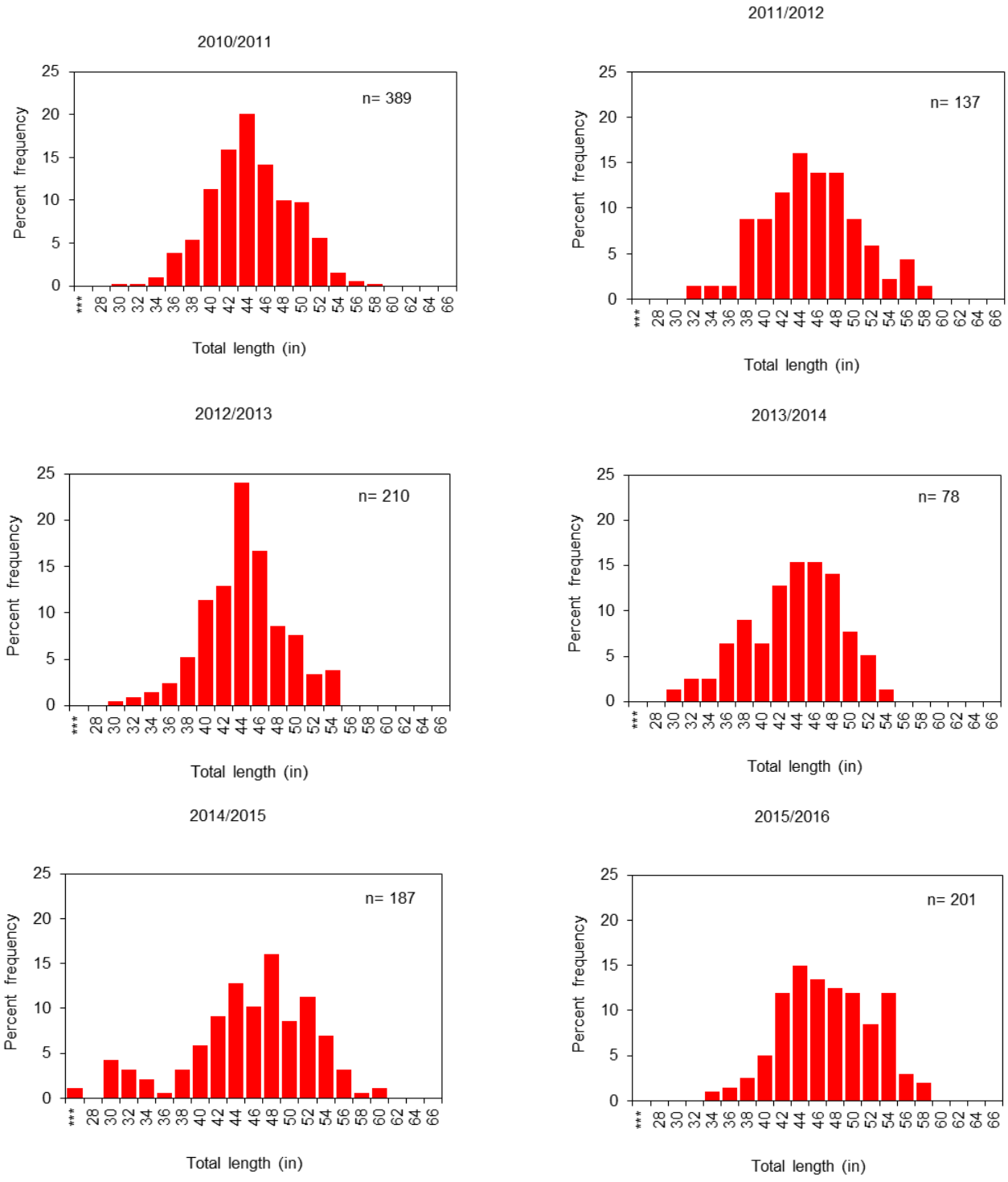
Table 3. Recreational white seabass catch, 2006/07 - 2015/16

Season	Total number of fish caught	Percent change in number of fish from prior season	Average weight in pounds	Percent change in weight from prior season
2006/07	7,261	-34	18.5	41
2007/08	7,593	5	19.3	4
2008/09	6,751	-11	19.8	3
2009/10	8,788	30	24.3	23
2010/11	12,672	44	29.1	20
2011/12	9,876	-22	26.9	-8
2012/13	10,634	8	19.3	-28
2013/14	9,567	-10	22.4	16
2014/15	3,136	-67	18.9	-15
2015/16	3,793	21	23.1	22

Source: California Recreational Fisheries Survey extracted from the RecFIN database at http://www.recfin.org/forms/est2004.html, and California Department of Fish and Wildlife Commercial Fisheries Information System (includes Commercial Passenger Fishing Vessel logbook data).

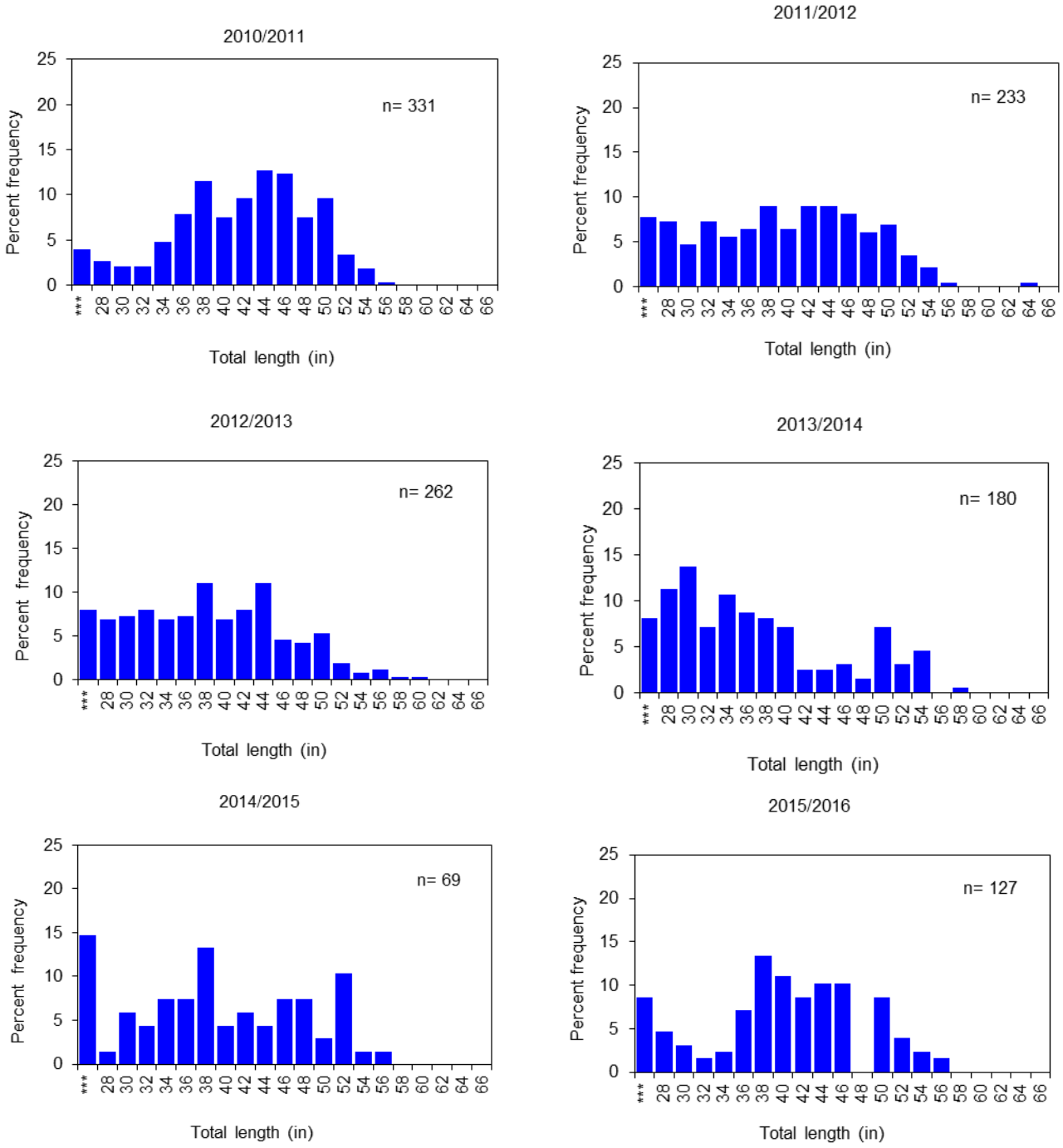
Table 4. Sociological and Economic Factors		
Season	Total number of vessels landing white seabass	Most common ex-vessel price per pound
2004/05	77	$2.50
2005/06	95	$3.00
2006/07	97	$3.00
2007/08	96	$3.50
2008/09	93	$3.50
2009/10	183	$3.50
2010/11	254	$4.00
2011/12	276	$4.00
2012/13	257	$5.00
2013/14	238	$5.50
2014/15	177	$4.00
2015/16	190	$4.00

Source: California Department of Fish and Wildlife Commercial Fisheries Information System (includes commercial landing receipt data).



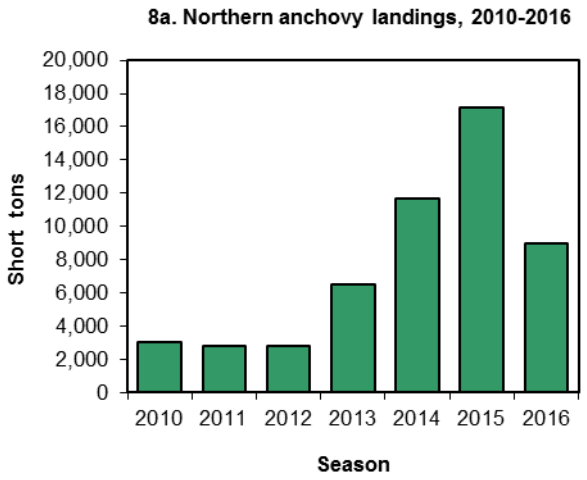
***all sub-legal fish were grouped together
Source: Department of Fish and Wildlife Market Sampling Program

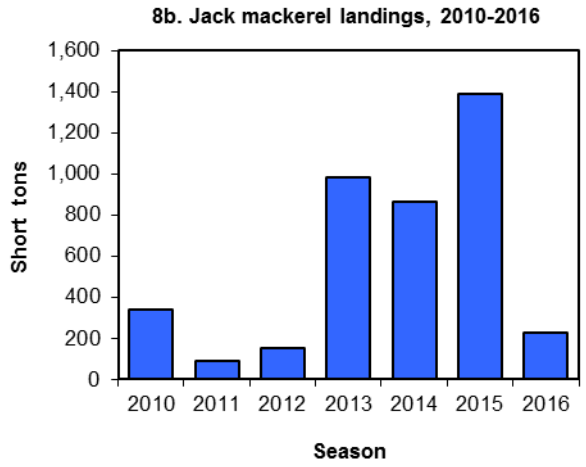
Figure 1. Commercial white seabass sampled length frequencies, 2010/11 – 2015/16.

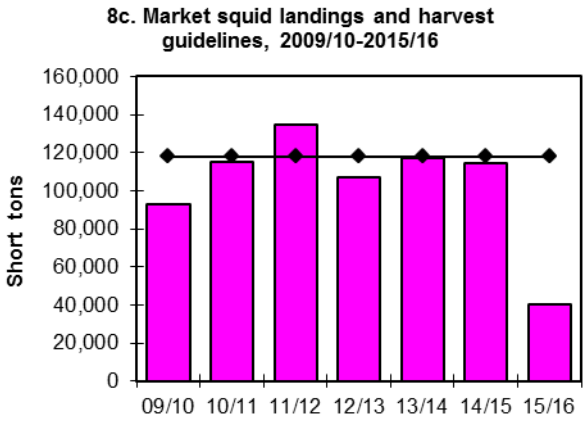


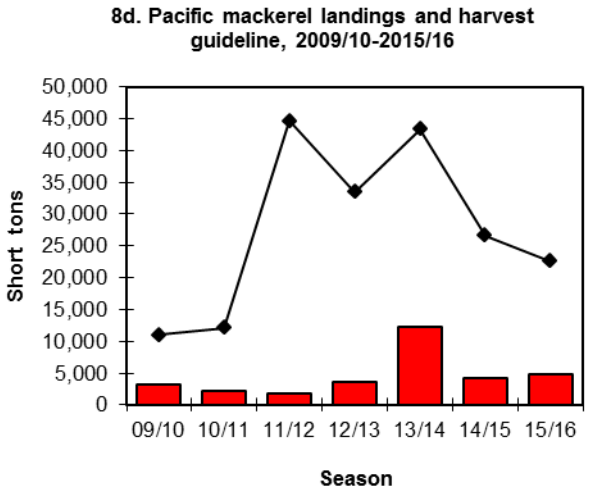
***all sub-legal fish were grouped together
Source: Sampler examined landed catch data from California Recreational Fisheries Survey extracted from the RecFIN database at http://www.recfin.org/forms/est2004.html.

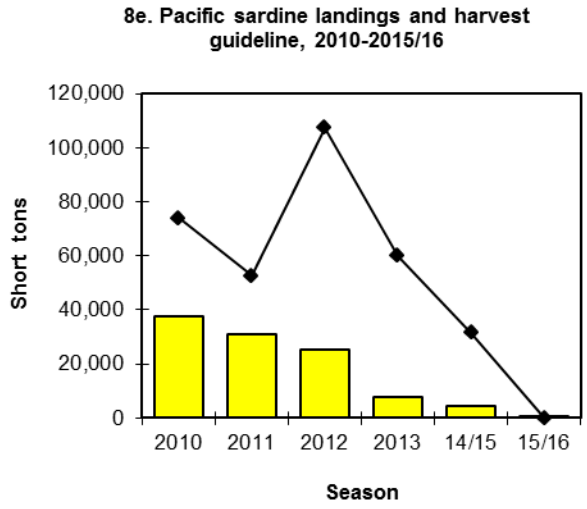
Figure 2. Recreational white seabass sampled length frequencies, 2010/11 – 2015/16.











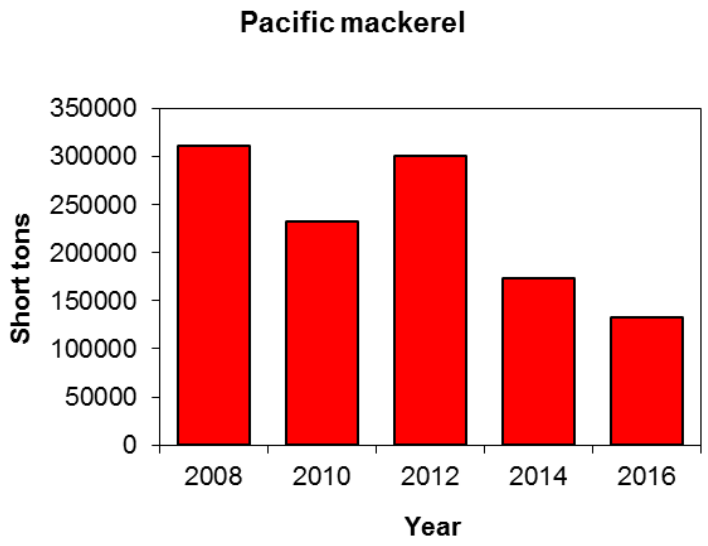
Northern anchovy and jack mackerel season is January 1 through December 31.

Market squid season is April 1 through March 31 of the following year.

Pacific mackerel and pacific sardine season is July 1 June 30 of through June 30 of the following year.

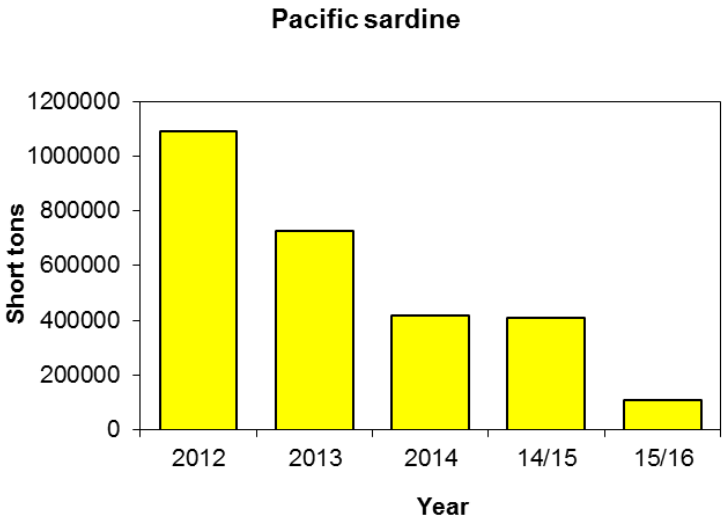
Source: California Department of Fish and Wildlife Commercial Fisheries Information System (includes commercial landing receipt and CPFV logbook data).

Figure 3. Harvest guidelines and commercial catch of white seabass forage species.



Source: Source: Pacific Fishery Management Council. 2014 CPS SAFE document and PFMC proceedings.

Figure 4. Biomass estimates for Pacific mackerel in short tons, 2008 – 2016.



Source: Source: Pacific Fishery Management Council. 2015 CPS SAFE document and PFMC proceedings.

Figure 5. Biomass estimates for Pacific sardine in short tons, 2012 – 2015/16 season. Biomass estimates were seasonal after 2013.

California Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA HALIBUT BOTTOM TRAWL VESSEL PERMIT TRANSFER APPLICATION

GENERAL PROVISIONS

Pursuant to Fish and Game Code (FGC), Section 8494(d)(3), the permit holder of a California Halibut Bottom Trawl Vessel Permit (CHBTVP), or his or her conservator or estate representative, may transfer the permit simultaneously with the vessel to a new permit holder if the following conditions are met to the satisfaction of the Fish and Game Commission (Commission):

(A) The permitholder has died, is permanently disabled, or the permitholder is at least 65 years of age and has decided to permanently retire from commercial fishing of all types; and

(B) California halibut landings contributed significantly to the record and economic income derived from the vessel, to which the CHBTVP is attached, as determined by regulations adopted by the Commission. The Commission may request information that it determines is reasonably necessary from the permitholder or his heirs or estate prior to and for the purposes of authorizing the transfer of the permit.

Permit holder must complete the application and submit the required documentation. Section 8494(d)(3) FGC. See reverse for instructions and documents required for transfer.

CURENT PERMIT HOLDER

FIRST NAME	M.I.	LAST NAME	BUSINESS NAME (If any) / JOINT OWNERS
Robert	J	Drewisch	

MAILING ADDRESS	DAY TELEPHONE *(Voluntary)*

CITY	STATE	ZIP CODE	E-MAIL ADDRESS
Santa Barbara	CA		

CHBTVP is attached to F & G BOAT #	BOAT NAME	CF/DOC#
2305	Bella Marie	265181

List all commercial fishing permits that you currently possess:	COMMERCIAL FISHING ID#
Halibut	L 31112

List all commercial fishing vessels registered with Department of Fish and Wildlife that you are full or part owner of:

F & G BOAT #	BOAT NAME	CF/DOC #
F & G BOAT #	BOAT NAME	CF/DOC #

PROPOSED NEW PERMIT HOLDER

FIRST NAME	M.I.	LAST NAME	BUSINESS NAME (If any) / JOINT OWNERS
			Santa Barbara Commercial Fish, LLC

MAILING ADDRESS	COMMERCIAL FISHING ID#	DAY TELEPHONE *(Voluntary)*
	L	

CITY	STATE	ZIP CODE	E-MAIL ADDRESS

CHECK THE APPROPRIATE BOX FOR THE TRANSFER YOU ARE APPLYING FOR.

☐ I AM 65 YEARS OF AGE OR OLDER, AGREE TO PERMANENTLY RETIRE FROM COMMERCIAL FISHING OF ALL TYPES, AND AM APPLYING TO TRANSFER TO A NEW PERMIT HOLDER.

CERTIFICATION OF PERMIT HOLDER: I hereby certify that I am the holder of a valid California Halibut Bottom Trawl Vessel Permit and that the information provided by me in connection with this application is true and accurate to the best of my knowledge. If the Commission approves this transfer, I agree to permanently retire from all commercial fishing as a necessary condition for transfer of the CHBTVP (as specified in subsection 8494(d)(3) of the FGC). I understand that I shall not participate/assist in any commercial fishing activity and that any remaining commercial fishing entitlement will not be renewed. I further understand that, in the event of making any such false statement, I will be subject to prosecution pursuant to Section 746, Title 14, of the California Code of Regulations (CCR).

APPLICANT'S SIGNATURE	DATE
X	

☒ I AM PERMANENTLY DISABLED AND APPLYING TO TRANSFER TO A NEW PERMIT HOLDER.

CERTIFICATION OF PERMIT HOLDER: I hereby certify that I am the holder of a valid California Halibut Bottom Trawl Vessel Permit and that the information provided by me in connection with this application is true and accurate to the best of my knowledge. I am permanently disabled from continuing to fish commercially, as described in the statement from my physician accompanying this application. I further understand that, in the event of making any such false statement, I will be subject to prosecution pursuant to Section 746, Title 14, of the California Code of Regulations (CCR).

APPLICANT'S SIGNATURE	DATE
X	3-16-17

☐ DEATH OF PERMIT HOLDER.

I hereby certify that I am the Executor/Executrix/Authorized Representative of _____, deceased, who was the holder of a valid California Halibut Bottom Trawl Vessel Permit immediately preceding his/her death, and that the information provided by me in connection with this application is true and accurate to the best of my knowledge. I further understand that, in the event of making any such false statement, I will be subject to prosecution pursuant to Section 746, Title 14, of the California Code of Regulations (CCR).

APPLICANT'S SIGNATURE	DATE
X	3-16-17

Family Practice Medical Group of Santa Barbara

February 22, 2017

RE: Robert Drewisch, DOB:

I have been treating Mr. Drewisch since for the following illness

As a commercial fisherman Mr. Drewisch is frequently out to sea without access to medical healthcare, which can be detrimental to his health and well being.

This put him at considerable risk for accidental injury or even death. I have advised Mr. Drewisch to desist from pursuing his former profession.

Thank you,

Fen Liang, MD

Telephone (805) 687-1505 **200 N. La Cumbre Road, Suite E Santa Barbara, CA 93110** **Fax: (877) 776-3239**

17 V

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
COMMERCIAL BOAT REGISTRATION
Valid 04/01/2017 to 03/31/2018

D-0019318940-5

Fish & Game Boat Number: FG02305

Vessel Name: BELLA MARIE

GO ID:

Coast Guard: 265181
Home Port: SANTA BARBARA HARBOR

HULL NUMBER:	YEAR BUILT: 1949
GROSS TONNAGE: 14	NET TONNAGE: 9
LENGTH: 34	BREADTH: 11
DEPTH: 5	

VESSEL OWNER:
GO ID:
STATE ID:
ROBERT JOSEPH DREWISCH

Resident: I have resided in California continuously for the past 6 months

Doc No: D-0019318940-5
Trans: 000000014689523
270523387

Outlet No: 310009-001
3/27/2017 2:44:55 PM

Item	Fee*
Comm Boat Registration (Res)	$357.00

Total: $357.00

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

Fish and Game Code Section 7881 requires owners to immediately notify the Department if vessel is lost, destroyed or sold.

Help us tackle California's lost fishing gear!
Report loss or sightings of lost recreational and commercial fishing gear. Anonymous reports accepted. Call 1-888-491-GEAR or report online: www.lostfishinggear.org

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or possess a license obtained by fraud or deceit (Fish and Game Code §§1052(b) and 1054).

X _____
Signature

NOT VALID UNLESS SIGNED

REGISTRATION MUST BE POSTED IN A CONSPICUOUS PLACE ON VESSEL AT ALL TIMES

---- End of Document D-0019318940-5 ----

17 VLE

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA HALIBUT TRAWL VESSEL PERMIT

Valid only when in possesion of a Commercial Boat Registration for the same license year.

D-0019318941-6

California Halibut Bottom Trawl
Permit Number: **BT0006**

Fish & Game Boat Number: **FG02305**

Vessel Name: **BELLA MARIE**

GO ID:

Coast Guard: 265181
Home Port: SANTA BARBARA HARBOR

VESSEL OWNER:
GO ID:
STATE ID:
ROBERT JOSEPH DREWISCH

Doc No: D-0019318941-6
Trans: 000000014689523
275523387

Outlet No: 310009-001
3/27/2017 2:44:55 PM

Item	Fee*
CA Halibut Trawl Vessel Permit	$62.32
LE Permit Type: California Halibut Bottom Trawl	
LEPermit ID: BT0006	

Total: $62.32

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or possess a license obtained by fraud or deceit (Fish and Game Code §§1052(b) and 1054).

X

Signature NOT VALID UNLESS SIGNED

THIS DOCUMENT MUST BE CARRIED ON VESSEL WHEN FISHING

----- End of Document D-0019318941-6 -----

DHS, USCG, CG-1270 (REV. 06-04)

OMB APPROVED
1625-0027

UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

CERTIFICATE OF DOCUMENTATION

VESSEL NAME	OFFICIAL NUMBER	IMO OR OTHER NUMBER	YEAR COMPLETED
BELLA MARIE	265181	NONE	1949

HAILING PORT	HULL MATERIAL	MECHANICAL PROPULSION
SANTA BARBARA CA	WOOD	YES

GROSS TONNAGE	NET TONNAGE	LENGTH	BREADTH	DEPTH
14 GRT	9 NRT	34.2	11.4	5.3

PLACE BUILT

SAN PEDRO CA

OWNERS	OPERATIONAL ENDORSEMENTS
ROBERT DREWISCH	FISHERY

MANAGING OWNER

ROBERT DREWISCH

RESTRICTIONS

NONE

ENTITLEMENTS

NONE

REMARKS

None

ISSUE DATE

APRIL 18, 2016

THIS CERTIFICATE EXPIRES

APRIL 30, 2017

Christian G. Waldhelm

ACTING DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER

PREVIOUS EDITION OBSOLETE, THIS CERTIFICATE MAY NOT BE ALTERED

DHS, USCG, CG-1270 (REV. 06-04)

OMB APPROVED
1625-0027

UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

CERTIFICATE OF DOCUMENTATION

VESSEL NAME BELLA MARIE	OFFICIAL NUMBER 265181	IMO OR OTHER NUMBER NONE	YEAR COMPLETED 1949
HAILING PORT SANTA BARBARA CA	HULL MATERIAL WOOD		MECHANICAL PROPULSION YES

GROSS TONNAGE	NET TONNAGE	LENGTH	BREADTH	DEPTH
14 GRT	9 NRT	34.2	11.4	5.3

PLACE BUILT
SAN PEDRO CA

OWNERS
ROBERT DREWISCH

OPERATIONAL ENDORSEMENTS
FISHERY

MANAGING OWNER
ROBERT DREWISCH

RESTRICTIONS
NONE

ENTITLEMENTS
NONE

REMARKS
None

ISSUE DATE
MARCH 23, 2017

THIS CERTIFICATE EXPIRES
APRIL 30, 2018

Christian H. Waldhauer
DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER

UNITED STATES COAST GUARD SEMPER PARATUS 1790

COPYRIGHT CAPTURE® ANTI-FRAUD PROTECTION

PREVIOUS EDITION OBSOLETE, THIS CERTIFICATE MAY NOT BE ALTERED

17 C

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

COMMERCIAL FISHING LICENSE

Valid 04/01/2017 to 03/31/2018

D-0019250246-9

Commercial Fishing License ID: **L31112**

GO ID:

STATE ID:

ROBERT JOSEPH DREWISCH

SEX: HAIR: EYES:

HT: WT: DOB:

Resident: I have resided in California continuously for the past 6 months

Doc No: D-0019250246-9
Trans: 000000014630503
090591537

Outlet No: 305002-001
3/17/2017 1:19:52 PM

Item	Fee*
Comm Fishing License (Res)	$143.64

Total: $143.64

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

Help us tackle California's lost fishing gear!
Report loss or sightings of lost recreational and commercial fishing gear. Anonymous reports accepted.
Call 1-888-491-GEAR or report online:
www.lostfishinggear.org

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or possess a license obtained by fraud or deceit (Fish and Game Code §§1052(b) and 1054).

X _____

Signature NOT VALID UNLESS SIGNED

LICENSE AND PHOTO IDENTIFICATION MUST BE IN IMMEDIATE POSSESSION WHILE FISHING

---- End of Document D-0019250246-9 ----

17 C

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

COMMERCIAL FISHING LICENSE

Valid 04/01/2017 to 03/31/2018

D-0019250352-7

Commercial Fishing License ID: L53125

GO ID:

STATE ID:

JUSTIN MICHAEL DREWISCH

SEX: HAIR: EYES:

HT: WT: DOB:

Resident: I have resided in California continuously for the past 6 months

Doc No: D-0019250352-7
Trans: 000000014630592
240591247

Outlet No: 305002-001
3/17/2017 1:28:03 PM

Item	Fee*
Comm Fishing License (Res)	$143.64
Golden & Ridgeback Prawn Permit	$45.10
	Total: $188.74

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

Help us tackle California's lost fishing gear!
Report loss or sightings of lost recreational and commercial fishing gear. Anonymous reports accepted. Call 1-888-491-GEAR or report online: www.lostfishinggear.org

When taking Golden or Ridgeback Prawn, licensee must maintain a Shrimp/Prawn Trawl Log.

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or possess a license obtained by fraud or deceit (Fish and Game Code §§1052(b) and 1054).

X

Signature

NOT VALID UNLESS SIGNED
LICENSE AND PHOTO IDENTIFICATION MUST BE IN IMMEDIATE POSSESSION WHILE FISHING

LLC-1	Articles of Organization of a Limited Liability Company (LLC)

201511210496

FILED
Secretary of State
State of California
APR 16 2015

This Space For Office Use Only

To form a limited liability company in California, you can fill out this form, and submit for filing along with:

- A **$70** filing fee.
- A separate, non-refundable **$15** service fee also must be included, if you **drop off** the completed form.

Important! LLCs in California may have to pay a minimum $800 yearly tax to the California Franchise Tax Board. For more information, go to https://www.ftb.ca.gov.

LLCs may not provide "professional services," as defined by California Corporations Code sections 13401(a) and 13401.3.

Note: *Before submitting the completed form*, you should consult with a private attorney for advice about your specific business needs.

For questions about this form, go to *www.sos.ca.gov/business/be/filing-tips.htm.*

LLC Name (List the proposed LLC name exactly as it is to appear on the records of the California Secretary of State.)

① Santa Barbara Commercial Fish, LLC

Proposed LLC Name

The name **must** include: LLC, L.L.C., Limited Liability Company, Limited Liability Co., Ltd. Liability Co. or Ltd. Liability Company; and **may not** include: bank, trust, trustee, incorporated, inc., corporation, or corp., insurer, or insurance company. For general entity name requirements and restrictions, go to www.sos.ca.gov/business/be/name-availability.htm.

Purpose

② The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

LLC Addresses

③ a. 410 W. Canon Perdido St. | Santa Barbara | CA | 93101

Initial Street Address of Designated Office in CA - Do not list a P.O. Box | *City (no abbreviations)* | *State* | *Zip*

b. _____

Initial Mailing Address of LLC, if different from 3a | *City (no abbreviations)* | *State* | *Zip*

Service of Process (List a California resident or a California registered corporate agent that agrees to be your initial agent to accept service of process in case your LLC is sued. You may list any adult who lives in California. You may **not** list an LLC as the agent. **Do not** list an address if the agent is a California registered corporate agent as the address for service of process is already on file.)

④ a. Dominic Regas

Agent's Name

b. _____ | CA | 93117

*Agent's Street Address (if agent is **not** a corporation) - Do not list a P.O. Box* | *City (no abbreviations)* | *State* | *Zip*

Management (Check only one.)

⑤ The LLC will be managed by:

☐ One Manager ☑ More Than One Manager ☐ All Limited Liability Company Member(s)

This form must be signed by each organizer. If you need more space, attach extra pages that are 1-sided and on standard letter-sized paper (8 1/2" x 11"). All attachments are made part of these articles of organization.

▶ _____

Organizer - Sign here

By: Cheyenne Moseley, Assistant Secretary, LegalZoom.com, Inc.

Print your name here

Make check/money order payable to: **Secretary of State**	***By Mail***	***Drop-Off***
Upon filing, we will return one (1) uncertified copy of your filed document for free, and will certify the copy upon request and payment of a $5 certification fee.	Secretary of State Business Entities, P.O. Box 944228 Sacramento, CA 94244-2280	Secretary of State 1500 11th Street., 3rd Floor Sacramento, CA 95814

NUMBER 1

ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA
APRIL 16, 2015

Santa Barbara Commercial Fish, LLC

MEMBERSHIP CERTIFICATE

This Certifies that DOMINIC REGAS *is the registered holder of* SANTA BARBARA COMMERCIAL FISH, LLC *Membership Interest(s) of the above named Company, transferable only on the books of the Company by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed and in accordance with the terms and conditions of the Articles of Organization and the Operating Agreement of the Company, as amended to the date of transfer, copies of which may be inspected and copied during normal business hours at the principal office of the Company.*

In Witness Whereof, *the said Company has caused this Certificate to be signed by its duly authorized Manager(s) or Officer(s) and its Seal to be hereunto affixed*

this TENTH *day of* MAY *A.D.* 2015



For Value Received _____ *hereby sell, assign and transfer unto* _____

_____ *Membership Interest(s) represented by the within Certificate, and do hereby irrevocably constitute and appoint*

_____ *Attorney to transfer the said Membership Interest(s) on the books of the within named Company with full power of substitution in the premises.*

Dated _____, _____.

In presence of

_____

_____

NOTICE. THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATEVER.

NUMBER 2

ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA
APRIL 16, 2015

Santa Barbara Commercial Fish, LLC

MEMBERSHIP CERTIFICATE

This Certifies that JUSTIN DREWISCH *is the registered holder of* SANTA BARBARA COMMERCIAL FISH, LLC *Membership Interest(s) of the above named Company, transferable only on the books of the Company by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed and in accordance with the terms and conditions of the Articles of Organization and the Operating Agreement of the Company, as amended to the date of transfer, copies of which may be inspected and copied during normal business hours at the principal office of the Company.*

In Witness Whereof, *the said Company has caused this Certificate to be signed by its duly authorized Manager(s) or Officer(s) and its Seal to be hereunto affixed*

this TENTH *day of* MAY *A.D.* 2015

For Value Received _____ *hereby sell, assign and transfer unto* _____

_____ *Membership Interest(s) represented by the within Certificate, and do hereby irrevocably constitute and appoint*

_____ *Attorney to transfer the said Membership Interest(s) on the books of the within named Company with full power of substitution in the premises.*

Dated _____, _____.

In presence of

_____

_____

NOTICE. *THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATEVER.*

Marine Resources Committee (MRC) 2017-18 Draft Work Plan: Scheduled topics and timeline for items referred to MRC from the California Fish and Game Commission (Updated for Jun 2017 FGC meeting)

		2017			2018
		MAR	**JUL**	NOV	MAR
Topic	**Type of Topic**	San Clemente	**Santa Rosa**	Marina	TBD
Management Plans					
MLMA Master Plan for Fisheries	Amendment	X	**X**	X / R	
Abalone FMP / ARMP Update	FMP development	X	**X**	X	X
Herring FMP Updates	FMP development	X	**X**	X	
Regulatlions					
Electronic Landings Data System	DFW project	X			
Kelp & Algae Harvest	DFW project			X	
Nearshore Fishery Structure	Referral for review	X / R			
Commercial Sea Cucumber Fishery	Referral for review	X / R			
Aquaculture Best Management Practices	DFW project		**X**	X / R	
Emerging Management Issues					
California's Fishing Communities	MRC project	X	**X**	X	X
Special Projects			`		
Fisheries Bycatch Workgroup	MRC workgroup	X	**X**	X / R	
Informational / Special Topics					
Marine Debris and Plastic Pollution	Informational		**X**		
Offshore Wind Energy (BOEM Project)	Informational	X			
Federal Drift Gillnet Fishery for Swordfish & Shark	Informational		**X**		

KEY: **X** Discussion scheduled **X/R** Recommendation developed and moved to FGC

DRAFT

April 24, 2017

Morgan Castagnola
F/V CECELIA

CALIFORNIA FISH AND GAME COMMISSION
P.O. Box 944209
Sacramento, CA 94244-2090

RECEIVED AT

APR 27 2017

COMMISSION MEETING
AGENDA ITEM 19
Morgan Castagnola

RE: Request to Agendize Halibut Trawl Permit Transfer

Dear President Sklar and Commissioners:

I am writing to you today to request that you direct the Marine Subcommittee of the Commission to review and remedy my highly unusual permit situation with respect to the California Halibut Trawl permit on my vessel, the F/V Cecelia.

The attached sheet "FALLING THROUGH THE CRACKS" explains how I, a fourth generation commercial fishermen in Santa Barbara, have had major difficulty getting the halibut trawl permit assigned to the F/V CECELIA. This is ironic in the fact that I have been the principal fisherman involved in collaborative research studies on halibut in the Santa Barbara Channel and Monterey Bay, working with the Department, NOAA Fisheries, and California Sea Grant researchers on multiple studies to assess the effects of trawl nets on the seafloor and bycatch in the fishery, since 2004. Those studies, by the way, have all indicated that this fishery is sustainable, doesn't harm the seafloor or marine ecology, and minimizes bycatch, as specified in SB 1459, the original enabling legislation for the California Halibut Trawl Permit system.

I urge the Commission and the Marine Subcommittee to review the facts in my case, understand how inexplicably complex the original permit transfer legislation was, and how it has affected by ability to conduct this fishery as I have long done, since I was a child working with my grandfather, Lawrence Castagnola in 1988.

I can be reached via cellphone at , or via email at , or at the above letterhead address, in the event the Commission or Subcommittee needs further information regarding this request.

Thank you for considering how to straighten out this mess.

Sincerely,

Morgan Castagnola

FALLING THROUGH THE CRACKS: A TYPICAL CASE

Prior to enactment of SB 1459 in 2004, Captain Morgan Castagnola, a fourth generation commercial fisherman from Santa Barbara, fished many years for halibut on his boat at the time, the Lucy L, in the California Halibut Trawl Grounds. He thus qualified for a halibut trawl permit during the first permit cycle.

Morgan Castagnola gets a halibut trawl permit on his fishing license:
The Department of Fish and Game, unaccustomed to issuing this new permit in April 2006, issued the halibut trawl permit to Morgan Castagnola, commercial fisherman, not the F/V Lucy L, the commercial fishing vessel, or the F/V Cecelia, the commercial fishing vessel. From 2007 forward, the Department issued the trawl permit only **to the qualifying vessel, not the individual commercial fisherman**.

Morgan Castagnola assumes ownership of F/V Cecelia:
In late 2005, Capt. Castagnola's uncle, Capt. Tim Castagnola, deeded the historic family fishing vessel, the Cecelia, to Capt. Morgan Castagnola. The Cecelia had also fished for California Halibut in the Trawl Grounds, qualifying for a halibut trawl permit. But because the vessel was undergoing change of ownership, Tim Castagnola did not apply for a halibut trawl permit for Cecelia in 2006-07.

Morgan Castagnola attempts renewal of his halibut permit for year two:
In the Spring of 2007, Morgan Castagnola went to the Department of Fish and Game to renew his halibut permit. This time, however, he wanted to renew it on his historic family boat, the Cecelia, since he had sold the Lucy L. to Travis Evans of Port San Luis, who also wanted to trawl for halibut.

The Lucy L, Morgan Castagnola's former boat, receives a halibut permit:
The Lucy L, recall, had sufficient landings to qualify Morgan for a halibut permit in 2006 when Morgan was issued a permit on his commercial fishing license, not on the Lucy L. or Cecelia vessel registration. Travis Evans applied for a halibut trawl permit when he bought the Lucy L, and the Department issued the Lucy L, by then owned by Travis Evans, a California halibut trawl permit, in April, 2006.

When Morgan Castagnola attempted to re-register the Cecelia in his name, the Department instructed Morgan not to do that, or a halibut permit would not be issued for 2007 because the permit is non-transferable and the Cecelia did not have a permit for 2006 (it had been issued to Morgan's commercial fishing licence, not the Cecelia). So Morgan kept the Cecelia registered in Tim Castagnola's name, per advice of the Department, which issued a 2007 renewal of California halibut trawl permit to the F/V Cecelia and not to Morgan Castagnola, commercial fisherman as it had done in 2006.

The Conundrum
So, now, the halibut trawl permit resides with the F/V Cecelia, owned by Morgan Castagnola, registered in Tim Castagnola's name. It is unclear whether or not the halibut permit now on the Cecelia is also singularly attached to Tim Castagnola, former owner, or Morgan Castagnola, current owner, and why the Department told Morgan he would lose the halibut permit if the boat was re-registered in his name.

RECEIVED AT

APR 27 2017

COMMISSION MEETING
AGENDA ITEM 19
Mike McCorkle

SEC. 2. Section 8494 is added to the Fish and Game Code, to read:
8494.

...

(d) Permits issued pursuant this section may be transferred only if at least one of the following occur:

(1) The commission adopts a restricted access program for the fishery, including, but not limited to, if necessary, a plan for reducing capacity in this fishery in a manner that is consistent with the commission's policies regarding restricted access to commercial fisheries.

1) Take data to commission illustrating decadal capacity reduction now evident, ask for declaration of halibut as a restricted access fishery.

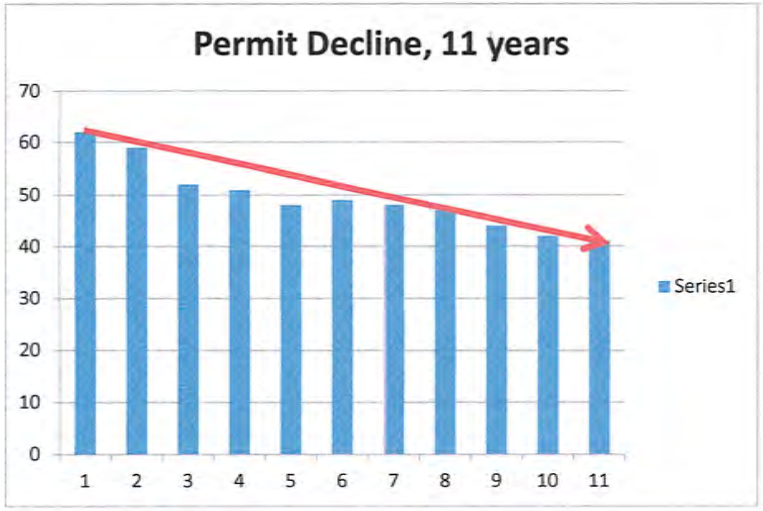
(2) Prior to the implementation of a restricted access program, the permit is transferred to another vessel owned by the same permitholder of equal or less capacity, as determined by the department based on the United States Coast Guard documentation papers, and if the originally permitted vessel was lost, stolen, destroyed, or suffered a major irreparable mechanical breakdown. The department may not issue a permit for a replacement vessel if the department determines that the originally permitted vessel was fraudulently reported as lost, stolen, destroyed, or damaged. Only the permitholder at the time of the loss, theft, destruction, or irreparable mechanical breakdown of a vessel may apply to transfer the vessel permit. Evidence that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard, or any other law enforcement agency or fire department that conducted an investigation of the loss.

(3) Prior to the implementation of a halibut trawl restricted access program, a vessel permitholder, or his or her heirs or assigns, requests to transfer the permit because of the death or permanent disability of the permitholder or the decision by the permitholder to retire from ~~fishing~~ ***trawling for California halibut*** ~~upon reaching or exceeding age 65~~, and halibut landings contributed significantly to the catch record and economic income derived from the vessel, and the permit is authorized by the department to be transferred with the vessel. The department may request information that it determines is reasonably necessary from the permitholder or his or her heirs and assigns for the purpose of verifying statements in the request prior to authorizing the transfer of the permit.

or, 2) cleanup legislation to effect the following changes in statutory language.

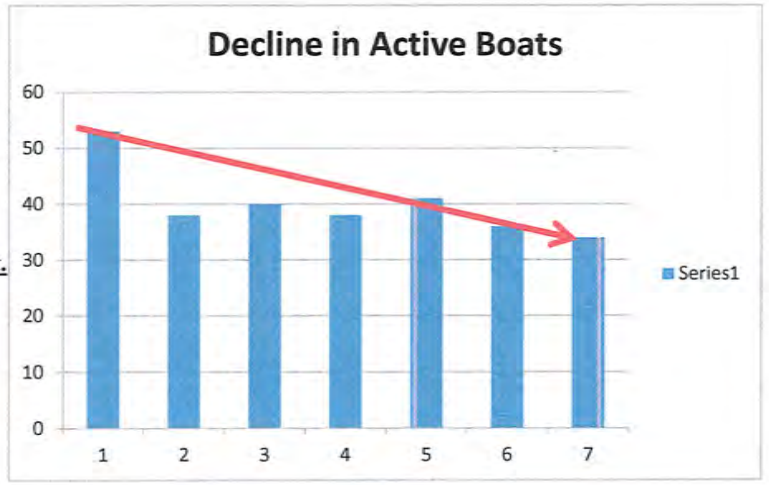
CALIFORNIA HALIBUT BOTTOM TRAWL VESSEL PERMIT

	YEAR	# PERMITS	# ACTIVE
	2000*	120	91
	2001*	125	95
	2002*	116	88
	2003*	119	90
	2004*	79	60
Ratio	2005*	74	56
17%	2006	62	53
55%	2007	59	38
30%	2008	52	40
34%	2009	51	38
17%	2010	48	41
36%	2011	49	36
41%	2012	48	34
	2013	47	
	2014	44	
Average 33%	2015	42	
	2016	41	



369 sum 2006-2012 permits
280 sum 2006-2012 active
32% average ratio

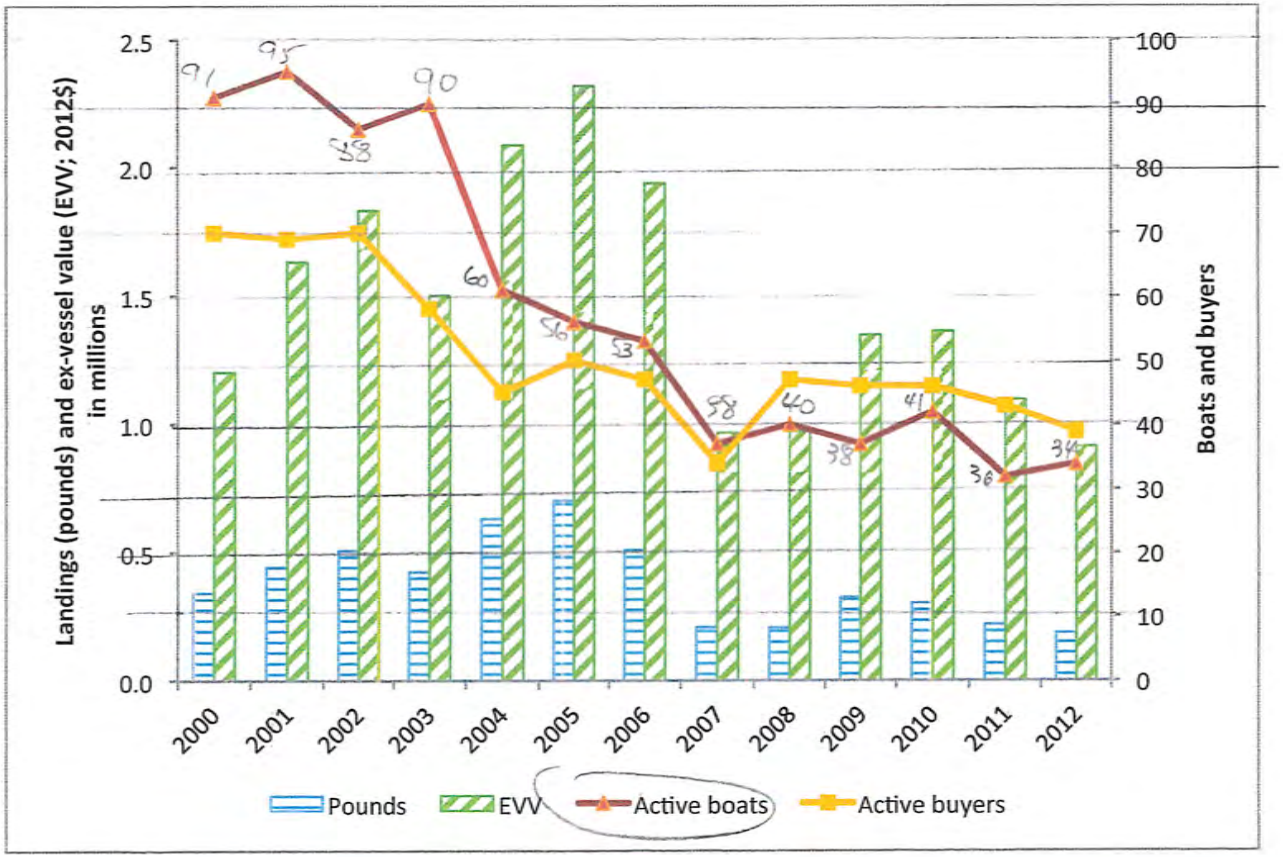
36% reduction in active boats in 7 years (2006-2012)
34% reduction in permits in 11 years (206-2016)



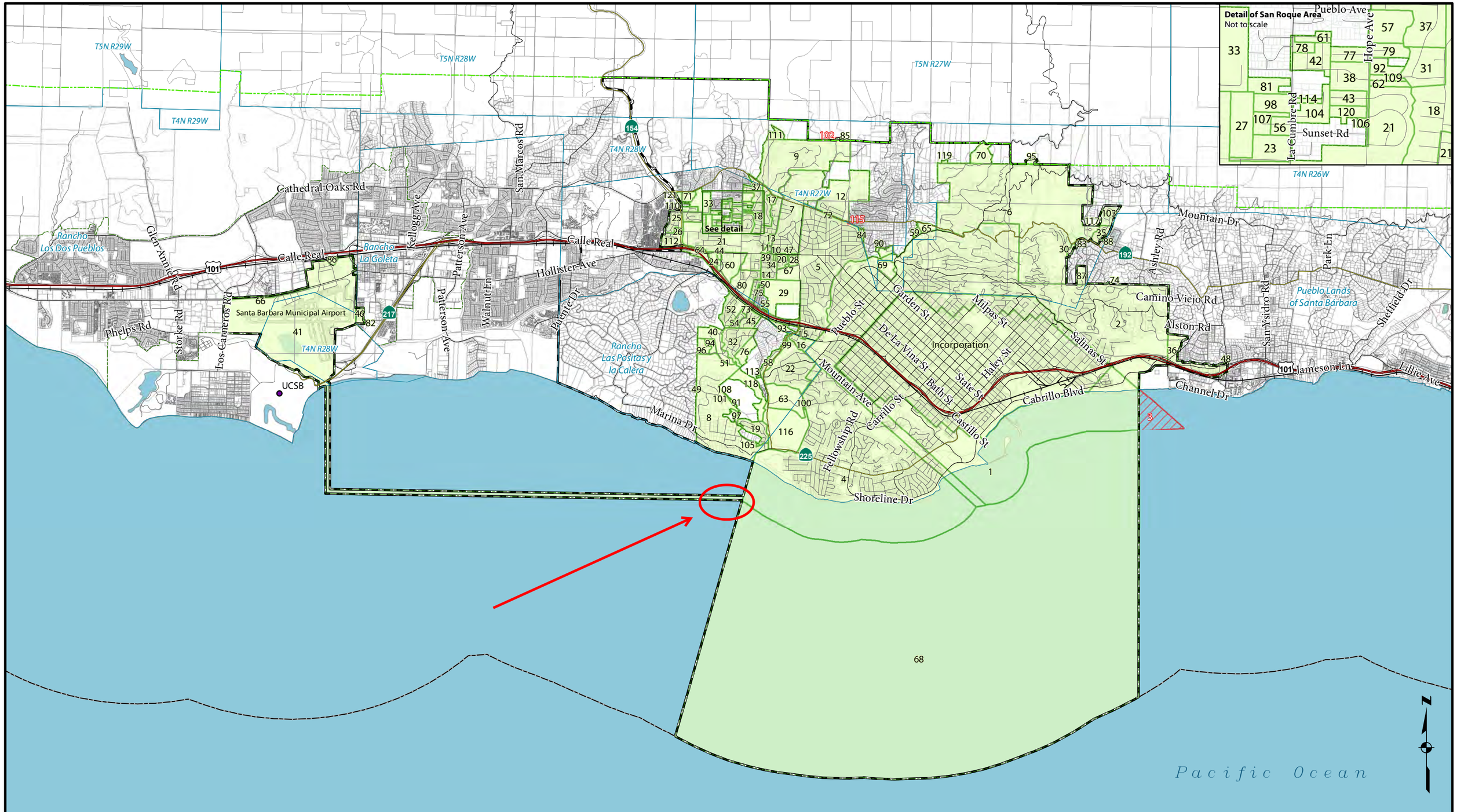
* #permits estimated via average ratio of #permits/#active from 2006 to 2012

If this permit attrition continues at the current rate, in 2026, there will only be 27 permits extant.

Trawl gear: California halibut commercial fishery activity, 2000-2012



	Long term average 2000-2012	Recent average 2010-2012	Percent difference	High year(s) (amount)	Low year(s) (amount)
Landings (lbs)	383,976	234,145	-39%	2005 (703,660)	2012 (183,172)
Ex-vessel value (2012 $)	1,475,666	1,125,122	-24%	2005 (2,319,518)	2012 (915,634)
Boats	58	36	-38%	2001 (95)	2011 (32)
Buyers	51	43	-16%	2000 (70)	2007 (34)
Trips	1,731	1,069	-38%	2002 (2,707)	2012 (752)
Price ($/lb, 2012$)	4.89	5.46	12%	2007 (5.62)	2000 (4.04)



City of Santa Barbara

Compiled by the Office of the County Surveyor on 08/05/2013. Incorporated April, 1850.
Last Action: Cieneguitas Reorganization, LAFCO 12-04, 12/6/2012. Sphere updated with no changes: 2/3/2011.
See boundary activity table at http://www.countyofsb.org/pwd/pwsurveyor.aspx?id=5118

NOTICE OF DISCLAIMER: This data is for reference only. Although every effort has been made to ensure the accuracy of information, errors and conditions originating from physical sources used to develop the database may be reflected in this data. Santa Barbara County shall not be liable for any errors, omissions, or damages that result from inappropriate use of this document. No level of accuracy is claimed for the boundary lines shown hereon and lines should not be used to obtain coordinate values, bearings or distances.

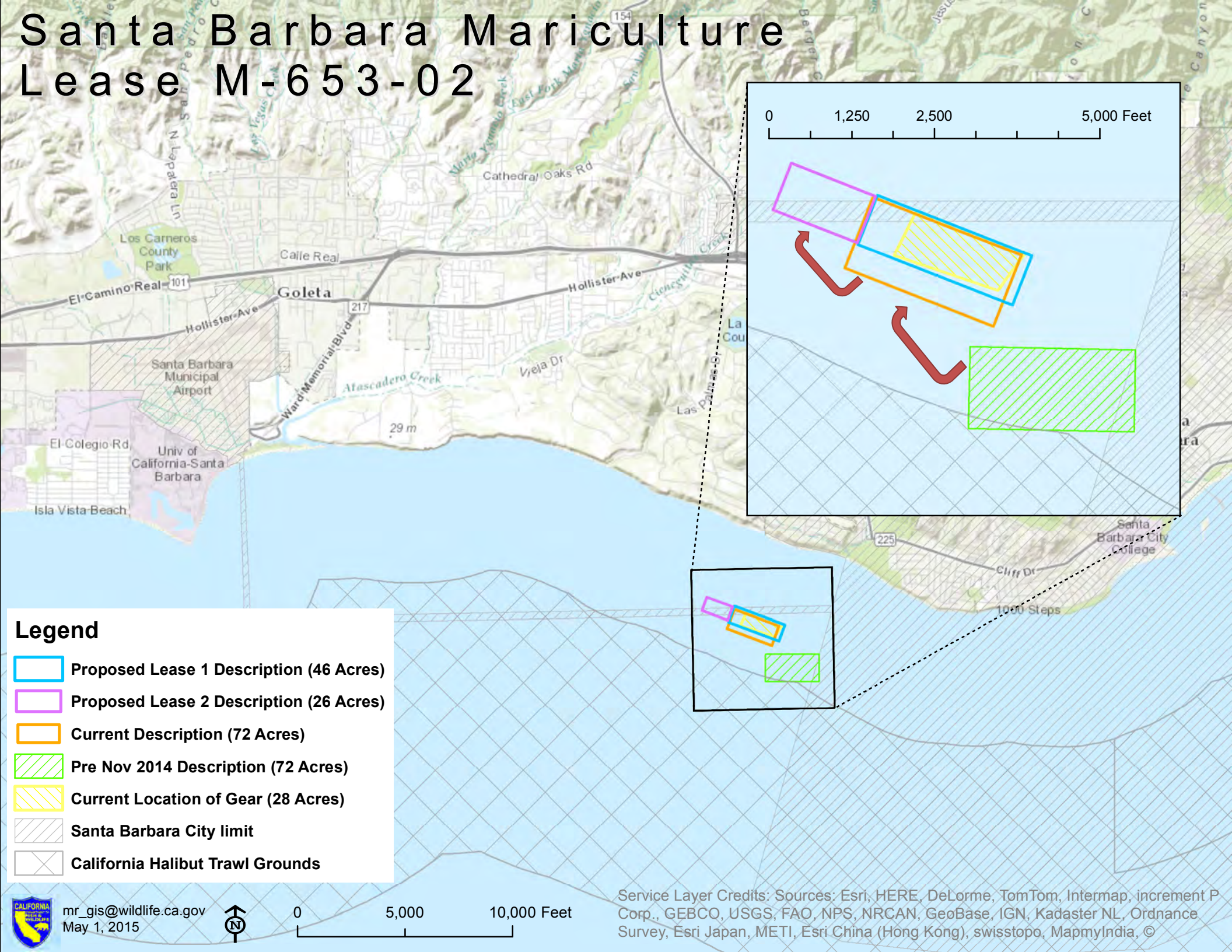
GRAPHIC SCALE
0 0.25 0.5 1 1.5
Miles

Legend

- Freeways
- Highways
- Roads
- Railroads
- Parcels
- City Boundary
- Sections
- Ranchos and Townships
- County Boundary
- Los Padres National Forest
- Sphere of Influence
- Annexation
- Incorporation
- Detachment



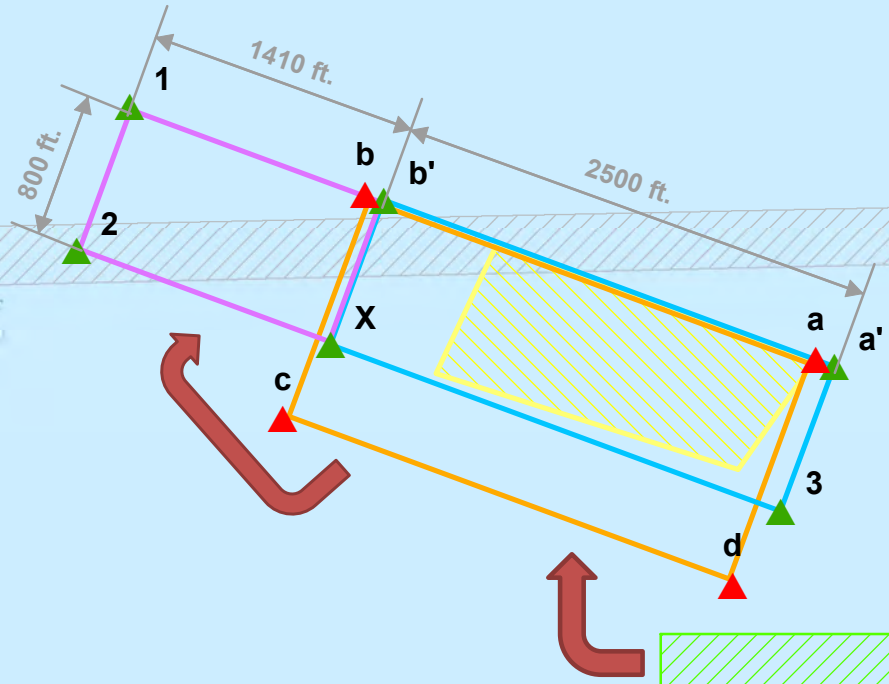
Santa Barbara Mariculture Lease M-653-02



Santa Barbara Mariculture Lease M-653-02

Legend

- Pre Nov 2014 Description (72 Acres)
- Current Location of Gear (28 Acres)
- Current Description (72 Acres)
- Proposed Lease 1 Description (46 Acres)
- Proposed Lease 2 Description (26 Acres)
- Santa Barbara City limit



Position	Latitude	Longitude
a'	34° 23' 39.231" N	119° 45' 9.832" W
a	34° 23' 39.600" N	119° 45' 10.980" W
b'	34° 23' 47.860" N	119° 45' 37.789" W
b	34° 23' 48.180" N	119° 45' 38.940" W
c	34° 23' 36.600" N	119° 45' 44.160" W
d	34° 23' 27.960" N	119° 45' 16.200" W
X	34° 23' 40.430" N	119° 45' 41.126" W
1	34° 23' 52.737" N	119° 45' 53.591" W
2	34° 23' 45.307" N	119° 45' 56.928" W
3	34° 23' 31.801" N	119° 45' 13.170" W

Map created by California Department of Fish and Wildlife, Marine Region GIS. Map is shown in the California Teale Albers NAD 83 projection. The positions listed are in geographic coordinates NAD 83.

mr_gis@wildlife.ca.gov
May 1, 2015

0 1,000 2,000 Feet

Service Layer Credits: Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, ©

653-02_Lease_Renewal 053006.doc

5-30-06
latest copy

many changes

Number M-653-02

RENEWAL OF LEASE

Made this 3rd day of November, 2005 at Santa Barbara, California by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor" and Santa Barbara Mariculture Company, hereinafter referred to as "Lessee."

WITNESSETH:

WHEREAS, Lessee failed to exercise an option to extend a prior lease agreement (also M-653-02) and said lease terminated on October 31, 1999, and

WHEREAS, Lessee did on January 1, 2001 enter into Lease M-653-02, for the purpose of cultivating rock scallops, and

WHEREAS, Lessee requested that title to Lease Agreement (No. M-653-02) be transferred to Santa Barbara Mariculture Company, and the Fish and Game Commission at its meeting on November 3, 2005, authorized the transfer of title of State Water Bottoms Lease M-653-02, from Pacific Seafood Industries, and

WHEREAS, Lessee indicated an interest in renewing a prior lease agreement and exercised that option by requesting Fish and Game Commission consideration of the request in correspondence dated March 29, 2005, and

WHEREAS, Lessee is presently a registered aquaculturist authorized to grow marine life for profit in the waters of the State of California as provided in Section 15101 of the Fish and Game Code, and

WHEREAS, Lessee expressed support for the Lessor's recommended approval of the requested lease renewal for the stipulated 5-year period at a lease rate of five ($5.00) dollars per acre, and.

WHEREAS, the Fish and Game Commission determined that a lease renewal was in the best interest of the State of California at the November 3, 2005, meeting in Santa Barbara, California and approved the renewal based on the renegotiated lease terms recommended by the Department of Fish and Game.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of payment of the monies hereinafter stated in accordance with the renegotiated terms recommended by the Lessor and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to law and in consideration of the covenants contained herein on the part of the Lessee, Lessor does hereby grant to Lessee the exclusive privilege to cultivate

approved shellfish hereon and in those certain waters of the State of California described as follows, to wit:

> All that area lying within the Santa Barbara Channel, Santa Barbara County, State of California, starting from the Santa Barbara light located at 34°23'08" North, 119°43'03" West on the Santa Barbara quadrangle, California, Santa Barbara County, 7.5 minute series, topographic, U.S. Department of the Interior, Geological Survey; southwesterly on a bearing of 256° true, 9,000 feet to the point of beginning located at coordinates 34°23'20" North, 119°45'01" West on the Goleta quadrangle, California, Santa Barbara County 7.5 minute series, topographic, U.S. Department of the Interior, Geological Survey then east 1,250 feet; then south 1,250 feet; west 2,500 feet; then north 1,250 feet; then 1,250 feet to the point of beginning.

The area described hereinbefore, containing an area of 71.74 acres more or less, comprises Aquaculture Lease M-653-02 (Appendix 1).

This lease, in accordance with provisions of Section 15400 of the Fish and Game Code, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating rock scallops (*Crassadoma gigantea*, formerly *Hinnites multirugosus*), speckled scallop (*Argopectin aequisulcatus*), Japanese bay scallop (*Patinopectin yessoensis*), Pacific oyster (*Crassostrea gigas*), Kumamoto oyster (*Crassostrea sikamea*), Manila clam (*Venerupis philippinarum*), and Mediterranean mussel (*Mytilus galloprovincialis*) in the previously designated area.

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stock, other than those obtained from State waters, must be inspected and certified before planting in compliance with Section 15201 of the Fish and Game Code, and must be planted by Lessee in a manner and at a size approved by the Lessor. A request for certification of seed stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

All scallops, oysters, clams, and mussels shall be cultured on buoyed submerged longlines, anchored to the bottom within the lease area. No other mode of operation or culture method is authorized unless Lessee shall first obtain approval thereof from the Fish and Game Commission. Only the designated species planted in the specified lease area may be taken.

The notice of intent to plant scallops, oysters, clams or mussels on the lease area shall be given to the Department of Fish and Game's, Marine Region aquaculture coordinator, P.O. Box 1560, Bodega Bay, California, 94923, telephone (707) 875-4261, or at such other place as Lessor may from time to time designate. In addition to the required ten (10) day notice, at least a 24-hour notice shall be given to the aquaculture coordinator or their designee, giving the details on where an observer can meet the

Lessee prior to planting.

This lease renewal is authorized for a term of five (5) years commencing on the 3rd day of November, 2005, and ending on the 2nd day of November, 2010, for the total rental of three hundred and fifty dollars and seventy cents ($358.70) per year, and a privilege tax on all products harvested as provided by Fish and Game Code Sections 8051, 18406.5, and 15406.7. Beginning January 1, 2006, said annual rental fee will be payable to Lessor on a calendar year basis, January 1 – December 31. If said annual rental fee is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee of its obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said fee(s) to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

Lessee expressly recognizes and acknowledges that any payments by Lessee as provided for herein are subject to the provisions of Section 15410 which states "All leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed."

In accordance with actions taken by the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby renew said lease for such consideration, specific purposes and subject to covenants, terms, conditions, reservation, restrictions and limitation as are set forth herein.

This lease is made upon the following additional terms, conditions, and covenants, to wit:

A. This lease may, at the option of Lessee, be renewed for additional periods not to exceed 25 years each. If the Lessee desires to enter into a new lease for a period commencing after expiration of the initial 5-year term, Lessee shall give notice to Lessor one (1) year prior to termination of the lease. The lease may be renewed if, during the notification period, terms for a new lease are agreed upon by Lessee and the Commission. Lessor retains the right to renegotiate terms of the lease, including annual rental rates, subject to adjustment considering changes in the Consumer Price Index and current lease rates, at the Fish and Game Commission's discretion, no more often than every five (5) years during the current renewal period.

B. Lessee shall keep records as required in accordance with Fish and Game Code Section15414 on forms to be supplied by Lessor, and shall maintain adequate

accounting records sufficient to determine monies due to Lessor by the 10th day of each month for all shellfish harvested during the preceding calendar month. Lessor reserves the right to inspect Lessee's premises, equipment and all books at any time, and Lessee's records pertaining to its cultivation on the leased premises and all shellfish taken from the leased premises.

C. The lease shall be improved at no less than the minimum rate established by Commission regulations (Section 237(i)(A) - (C), Title 14, CCR). A minimum rate of planting for shellfish other than oysters shall be negotiated for option periods. A record of seed catching activity for rock scallops and mussels will be reported in the annual proof of use statement required by Section J. Planting credit will be given for catching naturally produced seed on the lease. Off-bottom improvement rate for single seed oysters is 5,000 single seed per acre per year over the allotted acreage. The annual harvest rate for oysters shall be an average of 2,000 oysters (over one year of age) over the allotted acreage effective three years after effective date of lease. Lessor may declare this lease terminated if Lessee fails to meet these specified requirements, and if Lessee at any time, is proven to be failing in good faith, to pursue the purpose of this lease.

D. The lease shall be clearly marked at all times. Minimum marking of the lease shall include: One (1) buoy anchored on each corner of the four corners of the lease, and one (1) buoy possessing radar-reflecting capability, anchored in the center of the lease. All buoys used to define the boundaries of the lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage System Regulations (33 CFR Section 62.33 and 66.01-10). All buoys shall bear the aquaculture lease number M-653-02. Buoys marking the boundaries of the lease shall be maintained at all times. If buoys are lost, displaced, or are otherwise removed from the lease, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to termination.

E. If, at any time subsequent to the beginning date of this lease the use of long lines authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct conditions cited by Lessor. Failure to comply with the written notice shall be grounds for termination of this lease and Lessee shall, at the option of Lessor, remove all improvements located on lands covered by this lease.

As a financial guarantee of growing structure removal and/or clean-up expense in the event the lease is abandoned or otherwise terminated, Lessee shall place on deposit, pursuant to the "Escrow Agreement for Clean-up of Aquaculture Lease M-653-02, Santa Barbara Channel, California", the sum of one thousand ($1,000) dollars. Such money shall be deposited over a two-year-period, payable one-half upon entering upon the lease, and one-half upon the first anniversary of such

inception date. The escrow account shall be increased if the Fish and Game Commission determines that, if abandoned, the culture operation is likely to be more expensive to remove. The escrow account may be reduced by the Commission upon demonstration that the probable cost of removal of all improvements would be less than the deposit previously required. In its annual Proof-of Use Report, the Lessor shall advise the Commission of its best estimate of the probable cost of removal the lease operation. The escrow agreement, escrow holder, and escrow depository shall be agreed upon by the Executive Director of the Fish and Game Commission and the Lessor.

If Lessee abandons this lease without removing growing structures therefrom, the escrow deposit shall be expended to remove growing structures or otherwise clean up the lease.

In order to assure compliance with the escrow provisions of this lease, Lessee shall dedicate to the agreed upon escrow account specified in the "Escrow Agreement for Clean-up of Aquaculture Lease M-653-02, Santa Barbara Channel, California (Addendum 2)", hereby attached to and made part of this agreement, a total of five hundred dollars ($500). This amount equals one-half of the total amount, one thousand dollars ($1,000), to be deposited in the "Lease M-653-02, Santa Barbara Channel, California Escrow Account".

F. Lessee shall observe and comply with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law, including but not limited to State Water Resources Control Board, State Coastal Commission, State Lands Commission, and U.S. Army Corps of Engineers. Any other permits or licenses required by such agencies will be obtained by Lessee at his own sole cost and expense.

G. Lessee recognizes and understands in accepting this lease that his interest therein may be subject to a possible possessory interest tax that the county may impose on such interest, and that such tax payment shall not reduce any rent or royalty due the Lessor hereunder and any such tax shall be the liability of and be paid by Lessee.

H. Any modification of natural or existing features of the real property described in this lease, which are not consistent with the authorized uses under this lease are expressly prohibited without prior written consent of the Lessor.

I. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Region office, P.O. Box 1560, Bodega Bay, California 94923, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram (map) showing area, amounts, and dates planted. Such annual proof-of-use shall be submitted on or

before February 1 of each year for the previous year, January 1 -- December 31, inclusive.

J. This lease shall be canceled at any time Lessee fails to possess a valid aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code. Lessee agrees not to commit, suffer, or permit any waste on said premises or any act to be done thereon in violation of any laws or ordinances. This lease shall be subject to termination by Lessee at any time during the term hereof, by giving Lessor notice in writing at least ninety (90) days prior to the date when such termination shall become effective. In the event of such termination by Lessee, any unearned rental shall be forfeited to the Lessor.

K. This lease of State water bottoms only grants Lessee the exclusive right to cultivate marine life as described in the lease. The lease does not imply that any guarantee is given that shellfish may be grown or harvested for human consumption. The Lessor only has the statutory authority to enter into aquaculture leases (Fish and Game Code Section 15400 et. seq.). The California Department of Heath Services has the authority (Health and Safety Code Section 109875 et. seq. and 112150 et. seq.) to certify and regulate sanitary procedures followed in the harvesting, handling, processing, storage, and distribution of bivalve mollusk shellfish intended for human consumption.

Lessee must recognize that compliance by certified shellfish harvesters with the conditions and procedures set forth in the Department of Health Service's current "Management Plan for Santa Barbara Lease M-653-02, Santa Barbara Channel, California" and in the current "Contingency Plan for Marine Biotoxins in California Shellfish" is mandatory. These conditions and procedures establish classifications for certification to harvest shellfish (oysters, mussels and clams) and establish rainfall closures which may delay or prevent harvesting of cultured organisms from this lease and are a condition of the Shellfish Growing Area Certificate.

L. In addition to the conditions and restrictions herein provided for in this lease, and any right or privilege granted, conveyed or leased hereunder, shall be subject to, and Lessee agrees to comply with all applicable provisions of the California Fish and Game Code, and regulation of the Fish and Game Commission, in particular Sections 15400 - 15415, inclusive, of the Fish and Game Code, and expressly recognizes the right of the Legislature and the Fish and Game Commission to enact new laws and regulations. In the event of any conflict between the provisions of this lease and any law or regulation, the latter will control. This lease shall be deemed amended automatically upon the effective date of such conflicting law or regulation.

M. This lease is personal to the Lessee and shall not be transferred, assigned,

hypothecated or subleased, either voluntarily or by operation of law, without prior approval of the Fish and Game Commission.

N. The waiver by the Lessor of any default or breach of any term, covenant or condition shall not constitute a waiver of any other default or breach, whether of the same or any other term, covenant or condition, regardless of the Lessor's knowledge of such other defaults or breaches. The subsequent acceptance of monies hereunder by the Lessor shall not constitute a waiver of any preceding default or breach of any term, covenant or condition, other than the failure of the Lessee to pay the particular monies so accepted, regardless of the Lessor's knowledge of such preceding default or breach at the time of acceptance of such monies, nor shall acceptance of monies after termination constitute a reinstatement, extension or renewal of the agreement or revocation of any notice or other act by the Lessor. In the event of any breach by Lessee of any of the provisions hereof, other than the payment of any sum due from Lessee to Lessor hereunder, which breach is not remedied, abated and cured by Lessee within sixty (60) days after notice in writing, shall cause this lease to thereupon cease and terminate.

O. Lessee shall not assign or transfer this agreement without prior written approval. Such written approval of the assignment or transfer of lease shall be subject to any and all conditions required by the Fish and Game Commission including, without limitation by reason of the specifications herein, the altering, changing or amending of this agreement as deemed by the Commission to be in the best interest of the State.

P. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the Lessor

DEPARTMENT OF FISH AND GAME
1416 Ninth Street
Sacramento, CA 95814

To the Lessee

MR. BERNARD FRIEDMAN
SANTA BARBARA MARICULTURE COMPANY
210 Wilson Street
Santa Barbara, CA 93101

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

Q. Lessee hereby indemnifies and holds harmless the Lessor, its officers, agents and employees against any and all claims and demands of every kind and nature whatsoever arising out of or in any way connected with the use by the Lessee of said lease or the exercise of the privilege granted herein.

Q. The terms, provisions, and conditions hereof shall be binding upon and inure to the benefit of the parties and the successors, and assigns of the parties hereto.

R. The attached Nondiscrimination Clause (OCP-1) Is hereby made a part of this agreement.

Except as herein amended, all other terms of said lease agreement shall remain unchanged and in full force and effect.

IN WITNESS THEREOF, the parties hereto have caused this lease to be duly executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By: _____

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: _____
Lessor

BERNARD FRIEDMAN
SANTA BARBARA MARICULTURE COMPANY

By: _____
Lessee

Lease Timeline

Lease No: M-653-02
Company: Santa Barbara Mariculture
Owner: Bernard Friedman
Address: [redacted]
Lease Location: Open Ocean off Santa Barbara

Action	Action Start	Action Expiration	Notes
Original Lease granted to Jeff Young (under Pacific Seafood Industries)	2/15/1984	2/14/1989	
Lease transferred to SB Mariculture	11/3/2005	11/2/2010	Fish and Game Commission at its meeting on 11/3/2005 authorized the transfer of the title of Lease from Pacific Seafood Industries to Santa Barbara Mariculture Company
Commission approved 90-day extension at its 10/21/10 meeting	11/2/2010	2/1/2011	
Commission approved 180-day extension at its 12/16/10 meeting	2/1/2011	7/31/2011	
Commission approved 180-day extension at its 6/30/11 meeting	7/31/2011	1/27/2012	
Commission approved one year extension at its 8/03/11 meeting	1/27/2012	1/27/2013	
Commission approved one year extension at its 8/08/12 meeting	1/27/2013	1/27/2014	
Applicant requested re-shaping of lease, maintaining equivalent acreage.	1/27/2014	1/27/2015	Authorized 1-yr extension under same terms & conditions at 27 Jun 2013 FGC mtg
Extension requested by Dept (FGC mtg 12/9/2015) to complete admin process	1/27/2015	1/27/2016	Authorized 1-yr extension under same terms & conditions at Dec 2014 FGC mtg
Extension requested by Dept (FGC mtg 12/?/2014) to complete CEQA process with applicant.	1/27/2016	1/27/2017	Authorized 1-yr extension under same terms & conditions at Dec 2015 FGC mtg (San Diego)
Extension requested by Dept (FGC mtg 12/7/2016) to complete CEQA process with applicant.	1/27/2017	6/27/2017	Authorized 180-day extension under same terms & conditions at Dec 2016 FGC mtg (San Diego)
Extension requested by Dept (FGC mtg 6/27/2017) to complete CEQA process with applicant.	*6/27/2017*	**1/27/2018**	180-day extension requested

State of California
Department of Fish and Wildlife

Memorandum

Date: June 6, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Request for Six-Month Extension of Santa Barbara Mariculture Company State Water Bottom Lease (M-653-02)**

The Department of Fish and Wildlife (Department) requests a six-month extension of Santa Barbara Mariculture's state water bottom lease (M-653-02), which will expire June 27, 2017, in order to complete environmental review.

Background
Santa Barbara Mariculture Company (SBMC) is the current lessee of state water bottom lease M-653-02, a 72-acre area with an average water depth of 80 feet located approximately 0.75 miles from the coast of Santa Barbara.

Twenty-five of the 72 acres of the current lease area are in predominantly mussel (and some oyster) production using twelve buoyed submerged longlines. Shellfish farming has been conducted at the site of this lease since 1984. In 1996, the lease was reconfigured by its previous operator to its current 72-acre size, and in 2005 was transferred to and has since been operated by SBMC.

This leaseholder requested a change in the lease's shape that is more compatible with both the operator's long-line culture methods and the navigation of local boat traffic. The change consists of a new lease parcel providing an additional 26 acres adjacent (northwest) to the existing lease, in combination with a 26-acre reduction of the existing parcel, to create a narrower configuration and a net result of two adjacent parcels totaling 72 acres under lease.

The request to reconfigure the lease shape requires an extensive administrative and environmental review process that includes a number of steps:

1. The reconciliation of an error that existed between the previous legal (narrative) description of the lease and the actual location of gear in the water. This reconciliation was approved by the Commission (Dec 2014), and the lease is now described by GPS coordinates in degrees and minutes, with a precision of 0.001 minute.

2. Jurisdictional questions relative to the annexation of submerged tidelands by the City of Santa Barbara that overlap this lease's location have now been resolved with the City.

3. The generation and revisions of an administrative draft Initial Study to comply with the California Environmental Quality Act (CEQA) with the Fish and Game Commission as Lead Agency is near completion. The document analyzes the impacts of the full build-out of culture gear and aquaculture operations on the newly reconfigured lease, and is undergoing final revisions based on state and federal trustee agency input prior to posting for public comment (see Recommendations section below).

4. New terms and conditions for the newly reconfigured lease are also under consideration and will be incorporated into the Commission's current, standardized lease template.

Recommendations
Tribal outreach, and state and federal interagency coordination led jointly by Department and Commission staffs are being employed to refine this project's CEQA document and the interagency aquaculture permitting process, to conform with Assembly Joint Resolution 43 (Chesbro, 2014).

The draft CEQA document is undergoing revisions based on trustee agency feedback and tribal outreach pursuant to CEQA guidelines and is expected to be released for public comment in late-July 2017. Drafting of the lease renewal agreement will be completed prior to the Commission's decision meeting in October or December 2017.

The Department recommends the Commission approve a 180-day extension of lease #M-653-02 with Santa Barbara Mariculture Company under its current terms and conditions.

For additional information on this matter, please contact Randy Lovell, State Aquaculture Coordinator at 916-445-2008, or at randy.lovell@wildlife.ca.gov.

Attachments

ec: **Department of Fish and Wildlife**

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr @wildlife.ca.gov

Craig Shuman, D.Env., Manager
Marine Region (Region 7)
Craig.shuman@wildlife.ca.gov

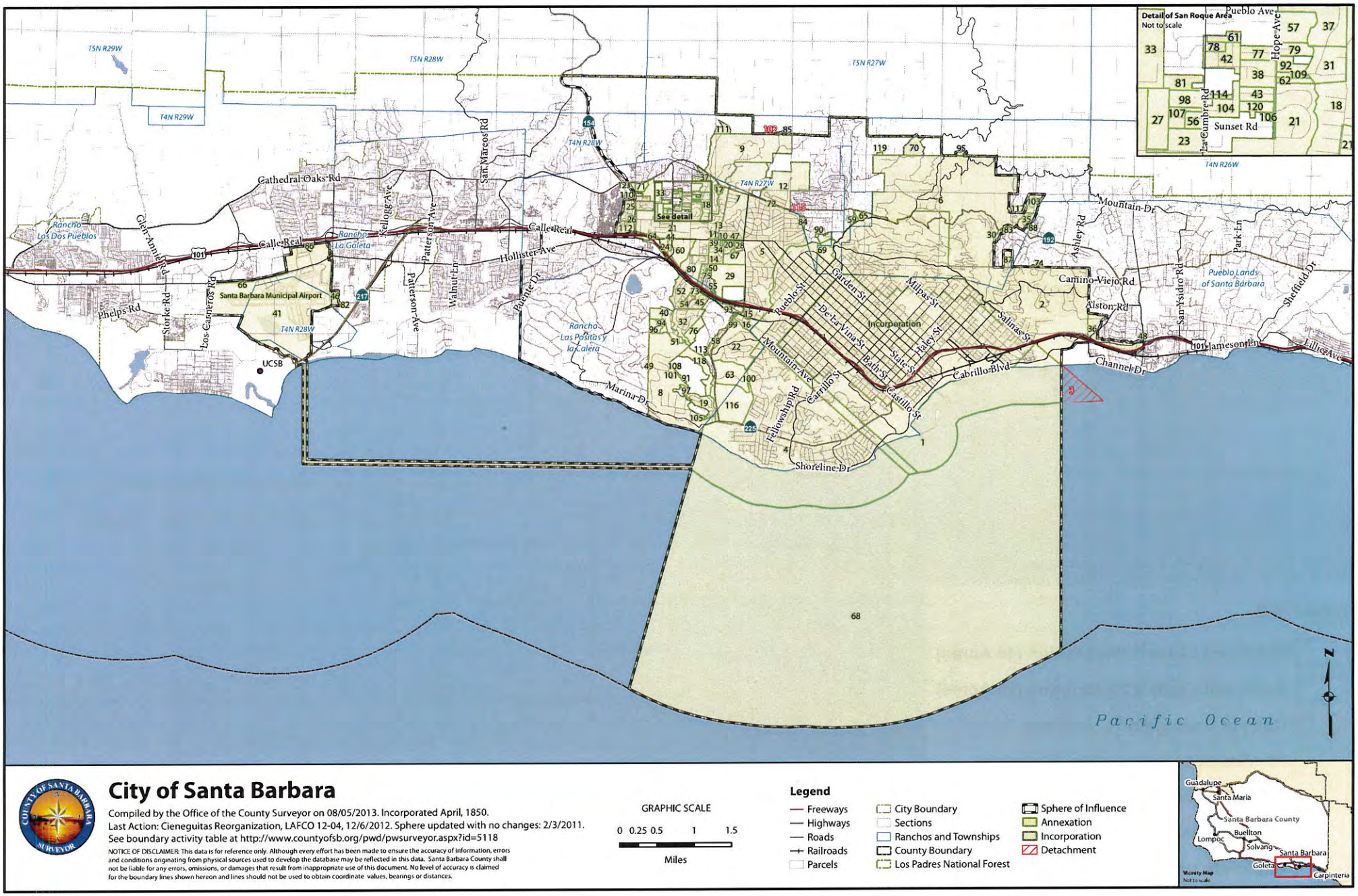
Randy Lovell,
State Aquaculture Coordinator
Randy.lovell@wildlife.ca.gov

Kirsten Ramey
Senior Environmental Scientist Supervisor
Marine Region (7)
Kirsten.Ramey@wildlife.ca.gov

Lease Timeline

Lease No: M-653-02
Company: Santa Barbara Mariculture
Owner: Bernard Friedman
Address: [redacted]
Lease Location: Open Ocean off Santa Barbara

Action	Action Start	Action Expiration	Notes
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Extension requested by Dept (FGC mtg 6/27/2017) to complete CEQA process with applicant.	*6/27/2017*	1/27/2018	180-day extension requested



City of Santa Barbara

Compiled by the Office of the County Surveyor on 08/05/2013. Incorporated April, 1850.
Last Action: Cieneguitas Reorganization, LAFCO 12-04, 12/6/2012. Sphere updated with no changes: 2/3/2011.
See boundary activity table at http://www.countyofsb.org/pwd/pwsurveyor.aspx?id=5118

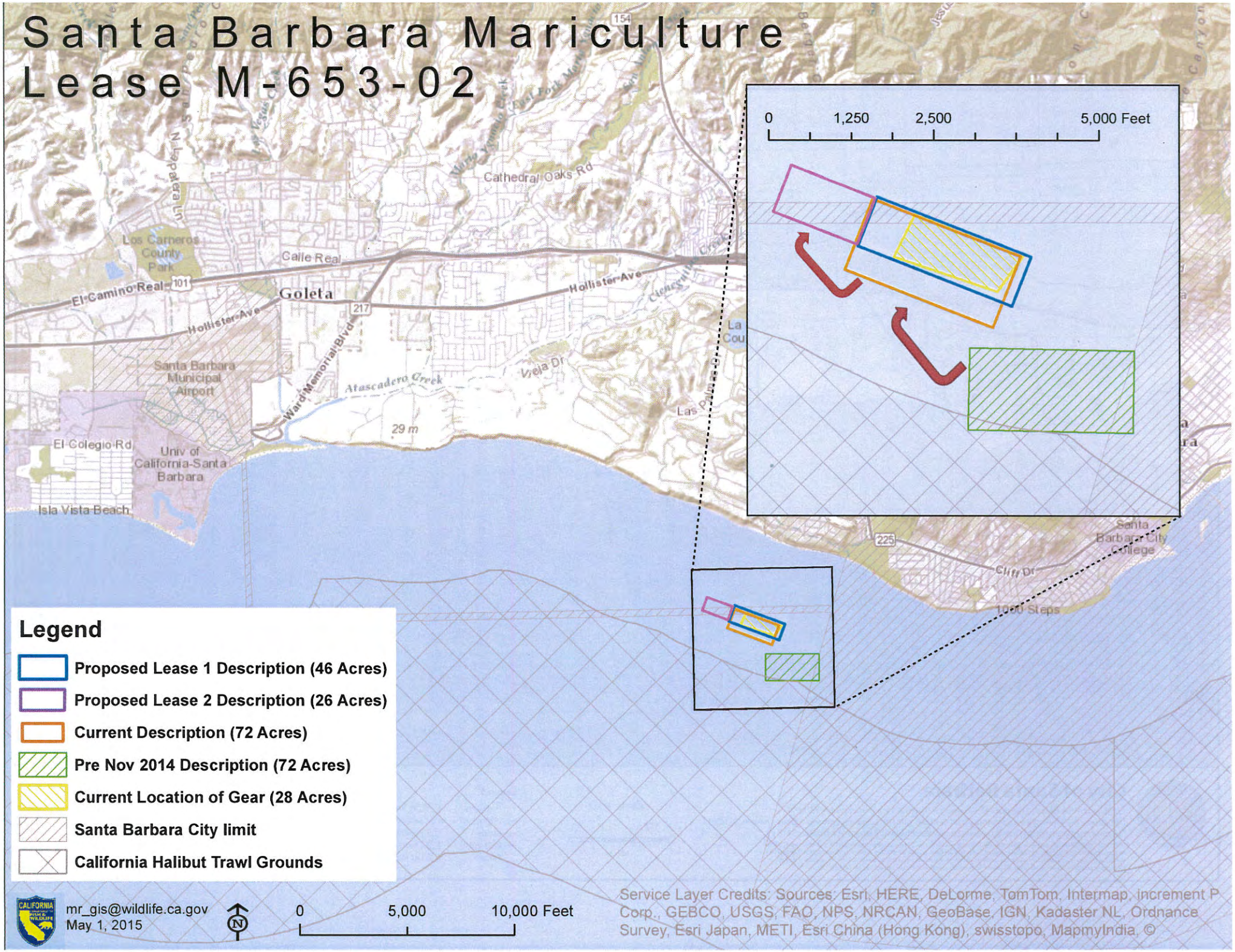
NOTICE OF DISCLAIMER: This data is for reference only. Although every effort has been made to ensure the accuracy of information, errors and conditions originating from physical sources used to develop the database may be reflected in this data. Santa Barbara County shall not be liable for any errors, omissions, or damages that result from inappropriate use of this document. No level of accuracy is claimed for the boundary lines shown hereon and lines should not be used to obtain coordinate values, bearings or distances.

GRAPHIC SCALE
0 0.25 0.5 1 1.5
Miles

Legend

- Freeways
- Highways
- Roads
- Railroads
- Parcels
- City Boundary
- Sections
- Ranchos and Townships
- County Boundary
- Los Padres National Forest
- Sphere of Influence
- Annexation
- Incorporation
- Detachment

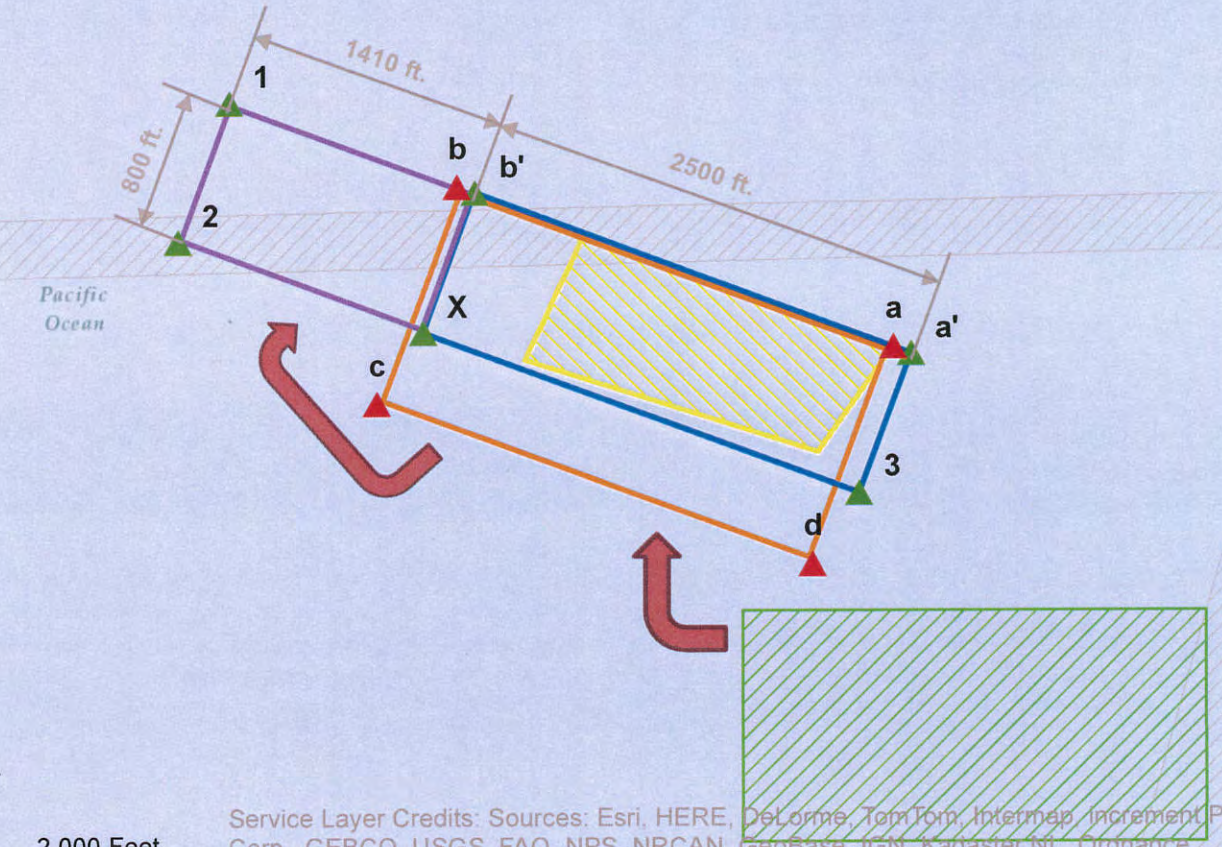
Santa Barbara Mariculture Lease M-653-02



Santa Barbara Mariculture
Lease M-653-02

Legend

- Pre Nov 2014 Description (72 Acres)
- Current Location of Gear (28 Acres)
- Current Description (72 Acres)
- Proposed Lease 1 Description (46 Acres)
- Proposed Lease 2 Description (26 Acres)
- Santa Barbara City limit



Position	Latitude	Longitude
a'	34° 23' 39.231" N	119° 45' 9.832" W
a	34° 23' 39.600" N	119° 45' 10.980" W
b'	34° 23' 47.860" N	119° 45' 37.789" W
b	34° 23' 48.180" N	119° 45' 38.940" W
c	34° 23' 36.600" N	119° 45' 44.160" W
d	34° 23' 27.960" N	119° 45' 16.200" W
X	34° 23' 40.430" N	119° 45' 41.126" W
1	34° 23' 52.737" N	119° 45' 53.591" W
2	34° 23' 45.307" N	119° 45' 56.928" W
3	34° 23' 31.801" N	119° 45' 13.170" W

Map created by California Department of Fish and Wildlife, Marine Region GIS. Map is shown in the California Teale Albers NAD 83 projection. The positions listed are in geographic coordinates NAD 83.

mr_gis@wildlife.ca.gov
May 1, 2015

0 1,000 2,000 Feet

Service Layer Credits: Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, ©

State of California
Department of Fish and Wildlife

Memorandum

Date: January 4, 2017

To: Valerie Termini,
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the February 8-9, 2017 Fish and Game Commission (Commission) Meeting Re: Request for Authorization to Publish Notice of Commission's Intent to Amend Sections 29.80 and 122, Dungeness Crab and Lobster Recreational Gear Marking and Commercial Lobster Harbor Restricted Fishing Areas**

Attached please find the Initial Statement of Reasons (ISOR), which proposes to amend Section 29.80 and Section 122, Title 14, California Code of Regulations (CCR), Re: Dungeness Crab and Lobster Recreational Gear Marking and Commercial Lobster Harbor Restricted Fishing Areas. Under current regulations, Section 29.80 governs gear restrictions for recreational crustacean fishing in California and Section 122 specifies spiny lobster permits and restricted fishing areas for commercial lobster activities.

At the October 2015 Fish and Game Commission adoption hearing for recreational crab trap regulations, the Commission received public comment identifying a discontinuity in the regulatory language as it relates to the existing provision of subsection 29.80(a)(3) and new crab trap buoy marking requirements (subsection 29.80(c)(3)). Additionally, at the June 2016 Commission adoption hearing for the California Spiny Lobster Fishery Management Plan (FMP) Implementing Regulations, the Commission received public comments identifying possible issues with the new requirement under subsection 29.80(b)(3) to mark hoop net buoys with operator GO-ID numbers for Commercial Fishing Passenger Vessels and guided operations. The Commission also received public comments during the rulemaking process for the lobster FMP implementing regulations concerning the amended restricted fishing areas for the commercial lobster fishery as specified under subsection 122(d). The California Department of Fish and Wildlife (Department) finds that the proposed changes are necessary to address concerns raised by the public to the Commission.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Senior Environmental Scientist, Tom Mason as the Department's point of contact. Mr. Mason can be reached at (562) 342-7107 or Tom.Mason@wildlife.ca.gov .

Attachment

ec: Craig Shuman, D. Env.
Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Sonke Mastrup
Environmental Program Manager
Marine Region
Sonke.Mastrup@wildlife.ca.gov

Tom Mason, Sr. Environmental Scientist
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Robert Puccinelli, Captain
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Robert.Puccinelli@wildlife.ca.gov

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

Scott Barrow, Senior Environmental
Scientist (Specialist)
Regulations Unit
Scott.Barrow@wildlife.ca.gov

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

Amend Section 29.80 and Section 122,
Title 14, California Code of Regulations
Re: Crab and Lobster Recreational Gear Marking and
Commercial Lobster Harbor Restricted Fishing Areas

I. Date of Initial Statement of Reasons: March 13, 2017

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: February 9, 2017
Location: Rohnert Park, CA

(b) Discussion Hearing: Date: April 27, 2017
Location: Van Nuys, CA

(c) Adoption Hearing: Date: June 22, 2017
Location: Smith River, 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:

In October 2015, the California Fish and Game Commission (Commission) adopted recreational crab trap regulations that included a new requirement to mark crab trap buoys (subsection 29.80(c)(3), Title 14, California Code of Regulations) starting August 1, 2016. During the adoption hearing, a representative from the recreational fishing community identified a discontinuity in the provision of subsection 29.80(a)(3) as it relates to subsection 29.80(c)(3) and subsequently requested the Commission consider a change to the regulatory language to address this issue. The Commission adopted the recreational crab trap regulations as proposed by the California Department of Fish and Wildlife (Department) at that time with the caveat that further corrective action may be needed to address the issue once the regulations have been implemented. This proposed regulatory change is necessary to allow a long-standing fishing practice of sharing gear and for consistency with subsection (c)(3) of Section 29.80 regarding crab trap buoy marking requirements.

In June 2016, the Commission adopted the California Spiny Lobster Fishery Management Plan (FMP) implementing regulations that amended and added to existing commercial and recreational lobster regulations to improve the management of the spiny lobster resource and support an orderly fishery. The regulatory amendments included changes to Section 29.80, which governs gear restrictions for recreational crustacean fishing activities in California and Section 122, which specifies commercial spiny lobster permits and commercial lobster restricted fishing areas (RFA). These regulations become effective on April 1, 2017. During the rulemaking process, the Commission received public comments identifying possible issues with the new requirement for marking hoop net buoys under Section 29.80 and restricted fishing areas for the commercial lobster fishery as specified under subsection (d) of Section 122.

To address concerns raised by the public, the Commission is proposing changes to 1) recreational gear marking requirements for hoop nets and crab traps and 2) commercial lobster restricted fishing areas as described below. In addition, other minor, non-substantive changes are proposed to subsection 29.80(a)(2) to fix a grammatical error (minor re-wording of text) and subsections 29.80(c)(2)-(c)(4) to remove the August 1, 2016, start date as these regulations are currently in effect.

Amend Section 29.80(a)(3), Title 14, CCR; Clarify Recreational Crab Trap Buoy Marking Requirements.

Under current regulations, each recreational crab trap must be marked with a buoy and the buoy must be legibly marked with the operator's GO ID number as stated on his or her fishing license (subsection 29.80(c)(3)). This requirement, however, does not consider the provision for operating another fisherman's trap with written permission (i.e., a note) from the owner of the trap (subsection 29.80(a)(3)). It is common fishing practice for a fisherman to allow other fishermen to use and service his or her crab traps that are deployed in the ocean. However, when a deployed trap is operated under written permission from the owner, the buoy may not have been marked in advance with the operator's GO ID number(s) of the person(s) now using the deployed trap (i.e., the operator). Recreational fishing constituents initially raised the issue at the October 2015 Commission meeting and sought further clarification.

The proposed amendment would modify subsection 29.80(a)(3) to exempt recreational crab fishermen from the GO ID marking requirement when working sport crab traps under the authority of written permission from the owner and clarify that written permission may be sent electronically (e.g., a text message). Operators must possess a valid note from the traps'

owner giving them permission to operate the traps, and the note must contain the GO ID number of the owner. Furthermore, the GO ID number on the note must match the GO ID number on the buoys. The proposed regulatory change is necessary to allow a long-standing fishing practice of sharing gear and for consistency with subsection (c)(3) of Section 29.80 regarding crab trap buoy marking requirements.

Amend Subsection 29.80(b)(3) and add Subsections 29.80(b)(3)(A) and 29.80(b)(3)(B), Title 14, CCR; Hoop Net Buoy Marking Requirements.

Beginning on April 1, 2017, subsection 29.80(b)(3) will require hoop nets used south of Point Arguello (except those deployed from shore or from manmade structures connected to shore) to be legibly marked with a surface buoy containing the operator's GO ID number as stated on the operator's sport fishing license or lobster report card for the purpose of minimizing gear loss and improving the accountability of hoop net use in the ocean. However, at the March 2016 Marine Resources Committee meeting, several members of the public expressed concern that the new requirement would place a potential burden on fishing guide license holders and Commercial Passenger Fishing Vessel (CPFV) operations, which take customers on fishing trips for lobster and provide hoop nets for use by their clients or passengers. The regulation as currently written would require guide license holders and CPFV operators to mark each customer's GO ID number on the hoop net buoy(s) that the customer would be operating during a trip, which would need to be repeated for each trip.

The proposed amendment would add subsection 29.80(b)(3)(A) to require the buoys of hoop nets deployed from CPFVs to be marked with the corresponding CPFV number. The proposed amendment would also add subsection 29.80(b)(3)(B) to require the buoy of hoop nets provided by licensed guides to clients for use on guided trips to be marked with the guide license number of the accompanying guide. Clients who supply and operate their own hoop nets when working with a licensed guide are still required to mark the hoop net buoys with their individual GO ID numbers as stated on their sport fishing license or lobster report card. Non-substantive amendments to section 29.80(b)(3) are also proposed to improve the section and reference the proposed new subsections. The proposed change is needed to avoid undue hardship for businesses that rely on providing their gear to customers for recreational fishing. As a practical consideration, it would be more efficient for CPFV operators and guide license holders to mark the hoop net buoys with the identification number of the CPFV, or the license number of the accompanying guide,

respectively.

Amend Subsection 122(d)(2)(B), Title 14, CCR; Dana Point Harbor Restricted Fishing Area.

Beginning on April 1, 2017, the boundary descriptions of all navigation channel restricted fishing areas (RFAs) applicable only to commercial lobster fishing will be updated to latitude and longitude coordinates in subsection 122(d)(2). The original RFA descriptions used compass headings and distances between landmarks that are outdated, as most boaters and fishermen use GPS devices for navigation. The Dana Point RFA was initially created to reduce navigational hazards due to commercial lobster gear while minimizing economic impact to the commercial fishermen.

The latitude and longitude RFA coordinates for Dana Point Harbor entrance (subsection 122(d)(2)(B)) were reviewed by the Dana Cove Commercial Fishermen's Association (DCCFA). The DCCFA found that the navigational channel, as currently defined by the RFA, does not represent traffic patterns around Dana Point Harbor. The DCCFA also found that although the coordinates for subsection 122(d)(2)(B) properly reflect the existing description, the updated RFA description included an area that has been traditionally fished by commercial lobster fishermen. The DCCFA submitted a letter (Attachment 1) to the Commission and the Department on May 16, 2016, detailing proposed modifications to the RFA for the Dana Point Harbor entrance to better reflect current harbor traffic conditions in Dana Point as well as make available traditional fishing grounds on the easterly boundary of the RFA (Figure 1).

The proposed amendment would modify the Dana Point Harbor RFA from a southerly approach (180°) to a more westerly approach (200°) to align the RFA with current traffic patterns in the harbor. This modification would open a traditional lobster fishing area, while providing a navigational channel void of commercial lobster gear for vessels entering and leaving the harbor, most of which are heading towards or returning from areas west of Dana Point.

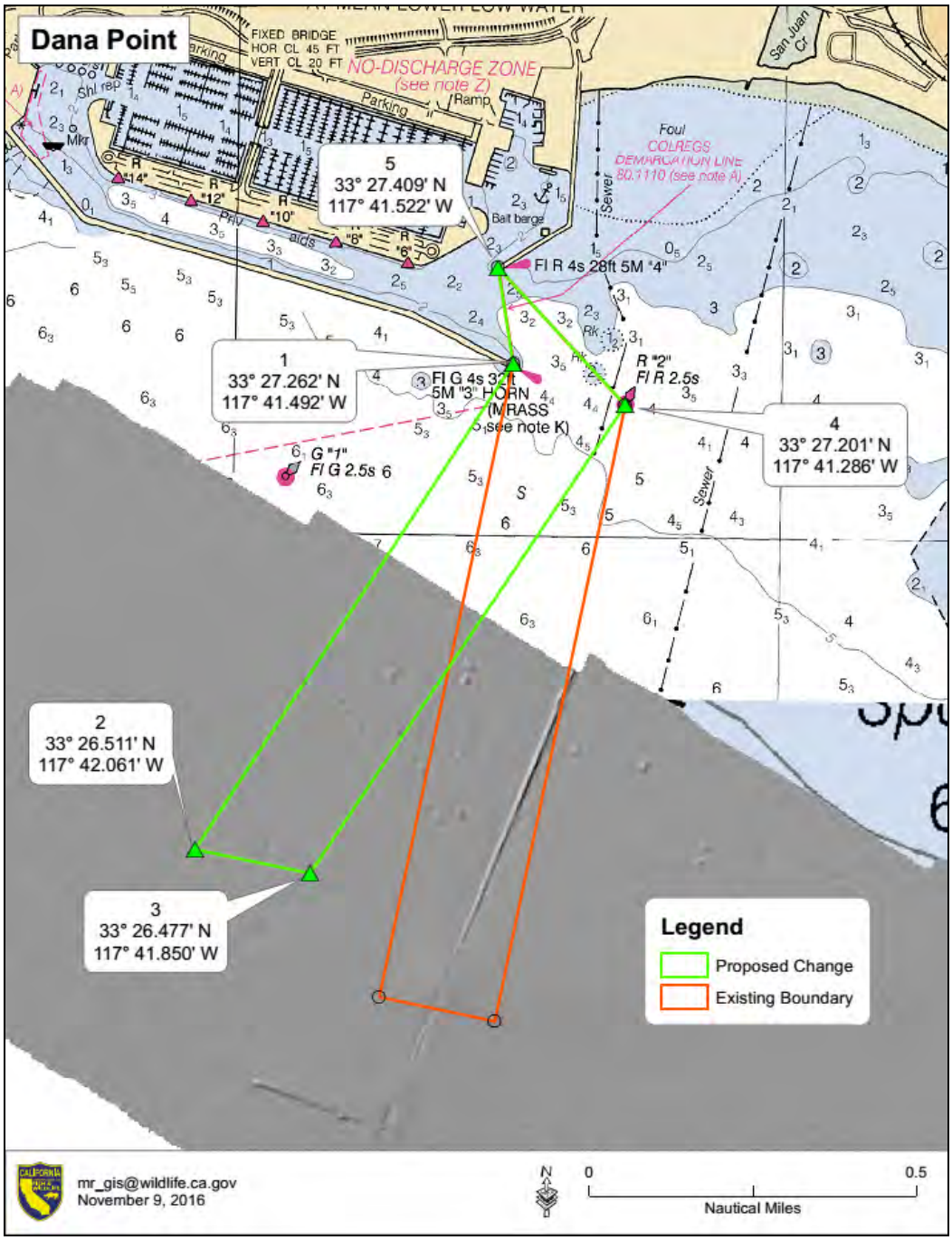


Figure 1. Proposed boundary modifications to the Dana Point Harbor entrance restricted commercial fishing area.

Add Subsection 122(d)(2)(D), Title 14, CCR; Port Hueneme Restricted Fishing Area.

On January 28, 2016, the Port of Hueneme (Port) submitted a letter (Attachment 2) to the Commission requesting the designation of a new RFA for the entirety of the Port Hueneme safety fairway as shown on NOAA Chart 18724 (Figure 2). The letter noted that the safety fairway of the Port has consistently experienced commercial gear deployment, mainly lobster gear, and the placement of commercial lobster gear within the operating areas of the Port poses a hazard to navigational safety. The Department analyzed the commercial lobster logbook data reported for fishing block 683, which encompasses the safety fairway of the Port and surrounding area (Figure 3). The data indicate that commercial lobster fishing effort (number of trap pulls) has substantially increased in block 683 since the 2005-06 lobster season (Figure 4).

The proposed amendment would designate the safety fairway of the Port as a new RFA under new subsection 122(d)(2)(D) (Figure 2). This designation is necessary to reduce the potential for commercial lobster gear fouling vessel propellers and ensure continued safety of port operations and navigation. The proposed RFA is consistent with the RFAs listed in subsection 122(d)(2) restricting the use of commercial lobster gear around harbor entrances located in Newport Beach, Dana Point, and Oceanside.

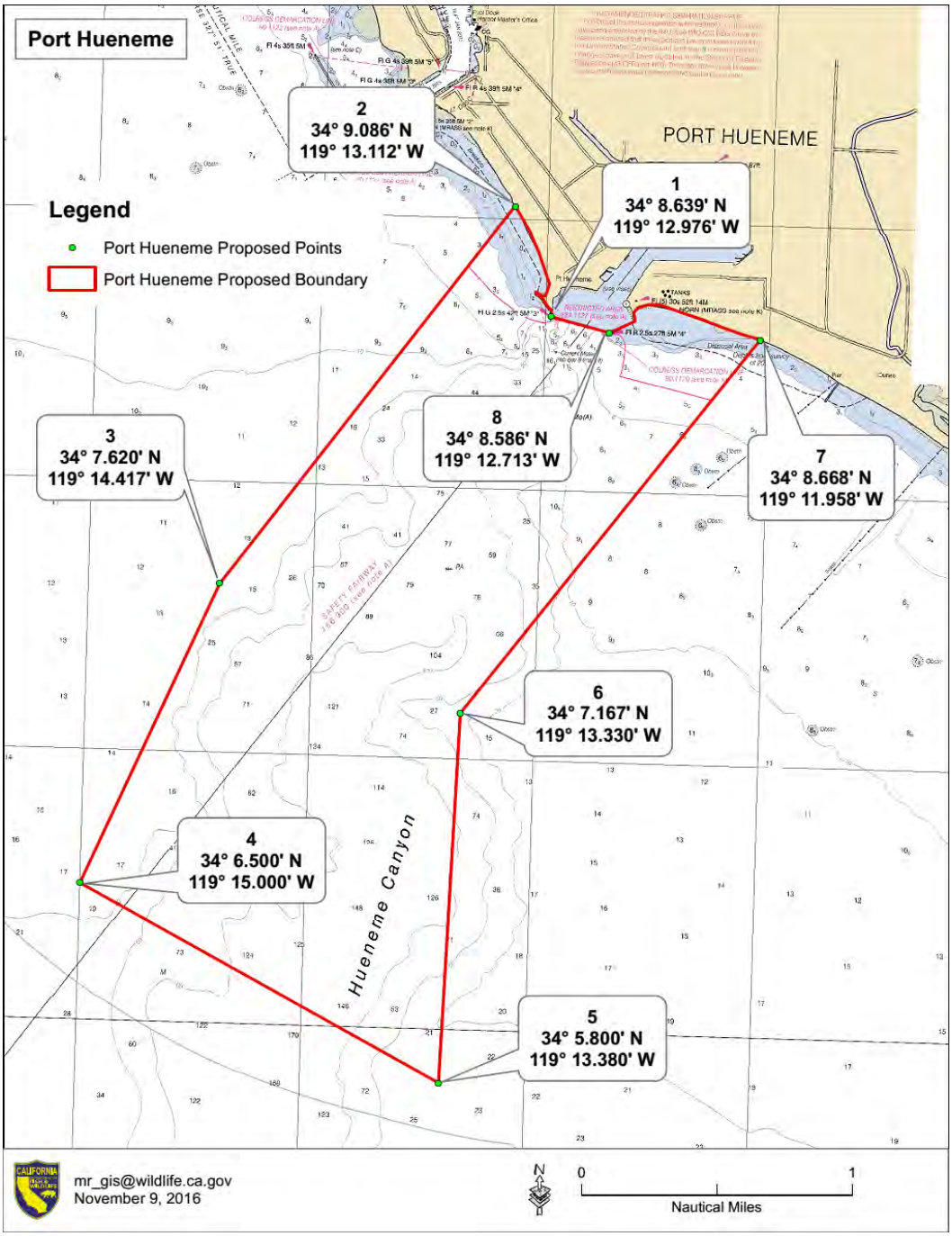


Figure 2. Proposed restricted fishing area boundary for the Port Hueneme Safety Fairway.

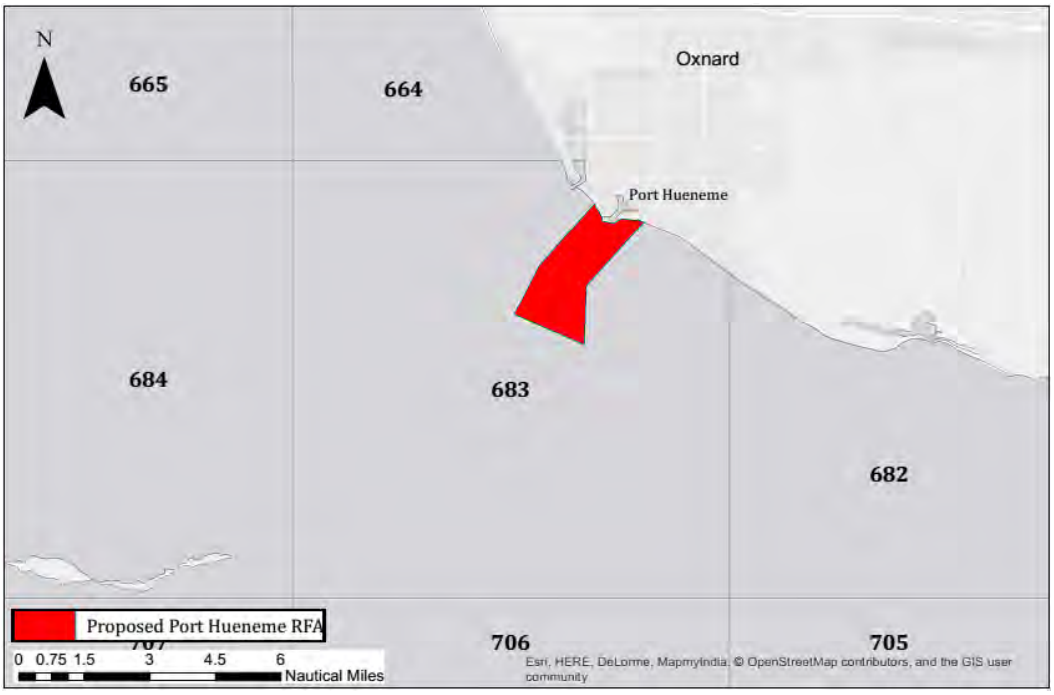


Figure 3. Map showing the extent of the proposed Port Hueneme commercial lobster restricted fishing area (RFA) relative to fishing block 683.

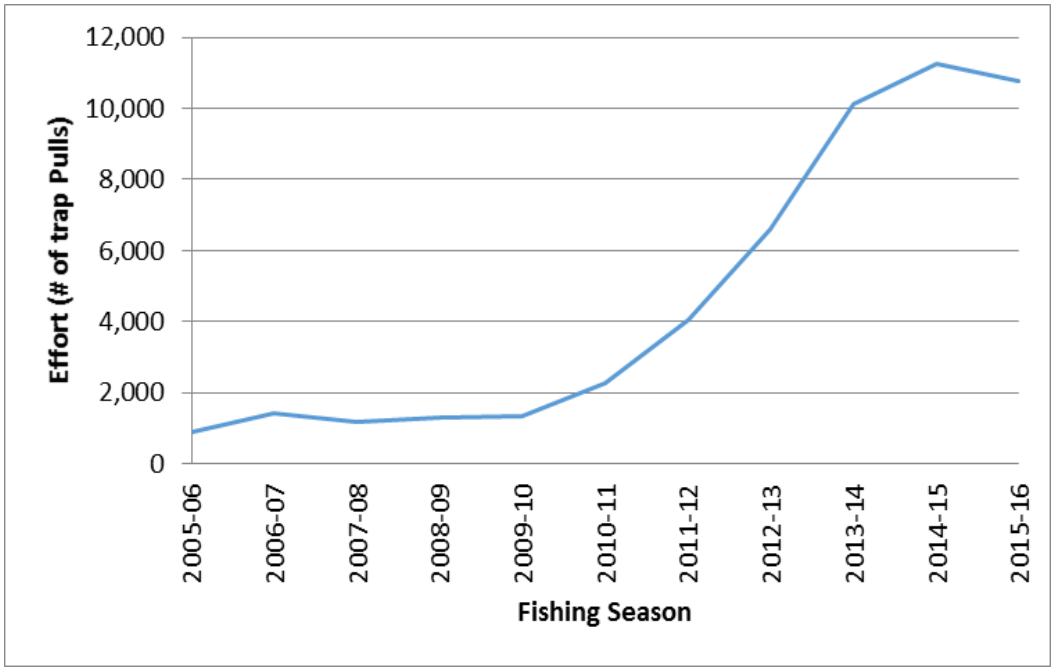


Figure 4. Commercial lobster fishing effort (trap pulls) for fishing block 683 from the 2005 – 2015 fishing seasons.

Benefit of the Proposed Regulations

It is the policy of this State that conservation and management measures for a restricted access fishery include modifications that contribute to a more orderly and sustainable fishery. (Section 7082(b), Fish and Game Code.) The proposed regulation changes are intended to provide clarification of the regulatory language concerning buoy marking requirements for hoop nets and crab traps, minimize the potential for trap gear and vessel entanglement, and improve safety in navigational channels where commercial lobster fishing currently occurs.

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

Authority: Sections 200, ~~202,~~ 205,~~ 215, 220,~~ 265, 270, 275, 1050, 7075, 7078, 8254 and 8259, Fish and Game Code. Reference: Sections 110, 200, ~~202,~~ 205, ~~206, 215 and 220,~~ 265, 270, 275, 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Attachment 1
Roger Healy, DCCFA, Letter to the Fish and Game Commission and the Department of Fish and Wildlife, May 16, 2016.

Attachment 2
John Demers, the Port of Hueneme, Letter to the Fish and Game Commission, January 28, 2016.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

January 10, 2017, Port of Hueneme District Office, California. The proposed Port Hueneme RFA was presented and discussed at an outreach meeting with commercial lobster fishing constituents and interested members of the public.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Without regulatory change, crab and lobster recreational gear marking requirements will continue to place avoidable burdens on CPFVs, guided operations, and the recreational sector in general. Commercial lobster gear will continue to pose a hazard to safe navigation in the Port Hueneme safety fairway. The Dana Point Harbor RFA will not reflect current vessel traffic patterns and will not make available fishing grounds traditionally fished by commercial lobster fishermen.

(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 because the regulatory action will not substantially increase compliance costs, is not anticipated to impact harvest quantities, and only applies to a fishery that is unique to the state of California. The commercial spiny lobster fishery extends from Point Conception in Santa Barbara County to the

U.S.-Mexico border. The recreational spiny lobster fishery covers the same range but also extends further north into San Luis Obispo County.

(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 Commission anticipates no negative impacts on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses because the proposed action will not significantly increase costs or reduce harvest quantities. The recreational gear marking changes are designed to accommodate efficient business practices without sacrificing gear accountability. The adjustment to the Dana Point Harbor RFA and proposed new Port Hueneme RFA will create an efficient safe passage for vessels entering and leaving the harbors with no expected change to lobster harvest quantities for the fishery.

(c) Cost Impacts on a Representative Private Person or Business:

The agency 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) 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, Government Code:

None.

(h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

Commercial Spiny Lobster Fishery Economic Impact
The commercial California spiny lobster fishery ranks as the fourth highest in ex-vessel value, ranging from $15 to $18 million in the last three seasons. This rank is achieved, despite having amongst the lowest harvest volume, by having generally the highest value per pound of all California fisheries. The fishery is a restricted access fishery with about 150 permits actively fished since 2008.

The average total statewide economic output is estimated at $34,477,000, based on the 2012-13 to 2014-15 seasons, supporting about 495 FTE jobs. The economic impact of the catch by each south coast county for the 2014-15 season is shown in Table 1. The commercial lobster fishery adds about $6.9 million in total value added (also called net economic output) to Santa Barbara County, $2.2 million to Ventura County, $3.4 million to Los Angeles County, $2.1 million to Orange County, and $5.1 million to San Diego County.

Table 1. Commercial Lobster Fishery Economic Impacts by County for 2014-15 Season

County (2015$)	Ex-Vessel Value (2015)	Total Lobster-Associated Employment (2015)	Employee Compensation (2015)	Total Value Added (2015)	Total Economic Output (2015)
Santa Barbara*	$ 6,527,889	188.5	$ 2,250,535	$ 6,925,470	$ 13,129,557
Ventura	$ 2,126,246	61.4	$ 733,038	$ 2,255,745	$ 4,276,523
Los Angeles	$ 3,172,293	91.6	$ 1,093,670	$ 3,365,501	$ 6,380,439
Orange	$ 2,014,218	58.1	$ 694,416	$ 2,136,894	$ 4,051,200
San Diego	$ 4,846,048	139.9	$ 1,670,709	$ 5,141,197	$ 9,746,866
California State Total	$ 18,686,694	539.5	$ 6,442,368	$ 19,824,807	$ 37,584,585

* Santa Barbara County includes Channel Islands spiny lobster catch.

The proposed modification to the Dana Point Harbor RFA to a more westerly approach would have no negative economic impacts because the realignment would result in increased access to a traditional lobster fishing area. Opening access to areas with favorable conditions may increase harvest quantities and/or decrease harvest costs.

The proposed new Port Hueneme RFA would prohibit commercial lobster fishing in approximately 3.25 square nautical miles inside fishing block 683 (Figure 3), which covers about 78 square nautical miles off the Ventura County coast. According to landing receipt data for the 2015-16 lobster season, 11 commercial fishermen landed 5,008 pounds of lobster from fishing block 683 with an ex-

vessel value of $102,000. As a whole, the fishery landed 793,861 pounds of lobster with an ex-vessel value of $15,628,167. For the 2015-16 season, block 683 accounted for 0.63 percent of the total landings and 0.65 percent of the ex-vessel value for the fishery. The 11 fishermen that made landings from block 683, obtained between 1 and 25 percent of their catch from block 683, with the majority obtaining between 1and 5 percent. However, with landing receipt data it is not possible to determine the portion of reported landings from block 683 originating from within the proposed Port Hueneme RFA. It has been reported and observed by Department personnel that only a few fisherman operate in the proposed Port Hueneme RFA. Therefore, the potential annual economic impact of the Port Hueneme RFA will likely be substantially less than the reported $102,000, because only a small portion of block 683 would be closed to commercial lobster fishing. Additionally, it is anticipated that current commercial lobster fishing activity inside the proposed Port Hueneme RFA will likely be redirected to other open areas.

The proposed regulations are designed to preserve efficient business practices without sacrificing important conservation and safety objectives.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission anticipates no negative impacts on the creation or elimination of jobs within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission anticipates no negative impacts on the creation of new businesses or the elimination of existing businesses within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission anticipates no negative impacts on the expansion of businesses currently doing businesses within the state because the proposed action is not likely to reduce harvest quantities. These actions

are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates generalized benefits to the health and welfare of California residents through the sustainable management of the spiny lobster resource. These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(e) Benefits of the Regulation to Worker Safety:

The Commission anticipates that this regulatory action will benefit worker safety by improving operational and navigational safety by decreasing the risk of commercial lobster gear fouling propellers of vessels entering and leaving Port Hueneme.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the State's environment. It is the policy of this State to ensure "the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the State" (FGC Section 7050(b)). These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(g) Other Benefits of the Regulation:

None

Informative Digest/Policy Statement Overview

Summary of Proposed Amendments

Under current regulations, Section 29.80, Title 14 of the California Code of Regulations (CCR) governs gear restrictions for recreational crustacean fishing in California and Section 122 specifies spiny lobster permits and restricted fishing areas for commercial lobster activities.

The Fish and Game Commission (Commission) proposes to amend subsections (a) and (b) of Section 29.80 concerning recreational crab trap and hoop net buoy marking, respectively. The proposed amendment to subsection 29.80(a)(3) would exempt a person from having their GO ID number on crab trap buoys when operating recreational crab traps belonging to another fisherman, provided that the fisherman operating the crab trap has written permission (i.e., a note) from the owner(s) of the traps. Written permission may be transmitted electronically (e.g., a text message) from owner to operator and is valid only if it contains the GO ID number of the owner, and that GO ID number must also be on the buoy of the trap being pulled.

In addition, an amendment to subsection 29.80(b)(3) is proposed to clarify the current hoop net buoy marking requirements. The Commission proposes to add subsection 29.80(b)(3)(A) requiring the buoys of hoop nets deployed from Commercial Passenger Fishing Vessels (CPFVs) to be marked with the corresponding CPFV number and subsection 29.80(b)(3)(B) requiring licensed guides to mark buoys with their guide license number for hoop nets provided to clients for use on trips.

The proposed action would also amend the restricted fishing areas (RFAs) specified in subsection (d)(2) of Section 122. The Commission proposes to modify the Dana Point Harbor RFA (subsection 122(d)(2)(B) from a southerly orientation to a more westerly orientation. Additionally, a new RFA for Port Hueneme is proposed in subsection 122(d)(2)(D), which would cover approximately 3.25 square nautical miles. Lobster traps would be prohibited within the proposed RFA for operational and navigational safety.

Other minor, non-substantive changes are proposed to subsection 29.80(a)(2) to fix a grammatical error (minor re-wording of text) and subsections 29.80(c)(2)-(c)(4) to remove the August 1, 2016, start date as these regulations are currently in effect.

Benefits of the Regulations

The proposed amendments related to lobster and crab gear marking would preserve accountable recreational gear use and allow the recreational sector to meet the gear marking requirements with minimal regulatory burdens. The modification to the Dana Point Harbor RFA will improve the efficiency and safety of the fairway while providing

additional commercial lobster fishing in an area that is currently restricted. The proposed Port Hueneme RFA would improve operational and navigational safety by decreasing the risk of commercial lobster gear fouling propellers as vessels enter and leave the port.

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202 and 205) as well as the power to regulate the take of lobster for commercial purposes (Fish and Game Code Section 8254). No other state agency has the authority to regulate the recreational take of marine crustaceans or the commercial take of spiny lobster.

New Regulatory Language

Section 29.80, Title 14, CCR, is amended to read:
§ 29.80. Gear Restrictions.

(a) General Provisions.

[…*No proposed changes to subsection (a)(1)*]

(2) Nets, traps or other appliances may not be ~~not~~ used except as provided in this Section.
(3) It is unlawful to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap, that belongs to another person without written permission including permission transmitted electronically, in possession from the owner of the trap. Any person with written permission from the owner of a crab trap will be in compliance with subsection (c)(3) if the written permission contains the owner's GO ID number that matches the GO ID number on the buoy of the crab trap being fished.
(b) Hoop nets may be used to take spiny lobsters and all species of crabs. Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets, as defined in (b)(1)(A) or (b)(1)(B), shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab, per vessel. The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

[…*No proposed changes to subsections (b)(1) and (b)(2)*]

(3) Hoop nets used south of Point Arguello, Santa Barbara County, shall be marked with a surface buoy. Except as provided in subsections (b)(3)(A) and (b)(3)(B), the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. This section does not apply to ~~H~~hoop nets deployed ~~from~~ by persons on shore or manmade structures connected to the shore. ~~are not required to be marked with a surface buoy.~~
(A) The surface buoy of hoop nets deployed from commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.
(B) The surface buoy of hoop nets provided by a licensed guide to clients for use on guided trips shall be legibly marked to identify the guide license number of the accompanying guide.
(c) Crab traps:

[…*No proposed changes to subsection (c)(1)*]

(2) ~~Starting August 1, 2016, crab~~Crab traps shall contain at least one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.
(3) ~~Starting August 1, 2016, every~~Every crab trap except those used under authority of subsection 29.85(a)(5) of these regulations shall be marked with a buoy. Each buoy shall be legibly marked to identify the operator's GO ID number as stated on his/her sport fishing license.
(4) ~~Starting August 1, 2016, crab~~Crab traps shall not be deployed and used in ocean waters seven days prior to the opening of the Dungeness crab season.

[…*No proposed changes to subsections (d) through (j)*]

Note: Authority cited: Sections 200, ~~202,~~ 205,~~ 215, 220,~~ 265, 270, 275, 7075 and 7078, Fish and Game Code. Reference: Sections 110, 200, ~~202,~~ 205, ~~206, 215 and 220,~~ 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

Section 122, Title 14, CCR, is amended to read:

§ 122. Spiny Lobster Permits and Restricted Areas.

[…*No proposed changes to subsections (a) through (c)*]

(d) Restricted Fishing Areas.

[…*No proposed changes to subsection (d)(1)*]

(2) No lobster traps shall be set or operated within 250 feet of the following specified navigation channels.

[…*No proposed changes to subsection (d)(2)(A)*]

(B) Dana Point Harbor entrance: This area is bounded by straight lines connecting the following points in the order listed:
~~33° 27.262’ N. lat. 117° 41.492’ W. long.;~~
~~33° 26.289’ N. lat. 117° 41.721’ W. long.;~~
~~33° 26.254’ N. lat. 117° 41.509’ W. long.;~~
~~33° 27.201’ N. lat. 117° 41.286’ W. long.;~~
~~33° 27.409’ N. lat. 117° 41.522’ W. long.; and~~
~~33° 27.262’ N. lat. 117° 41.492’ W. long.~~
33° 27.262' N. lat. 117° 41.492' W. long.;
33° 26.511' N. lat. 117° 42.061' W. long.;
33° 26.477' N. lat. 117° 41.850' W. long.;
33° 27.201' N. lat. 117° 41.286' W. long.;

33° 27.409' N. lat. 117° 41.522' W. long.; and
33° 27.262' N. lat. 117° 41.492' W. long.

[…*No proposed changes to subsection (d)(2)(C)*]

(D) Port of Hueneme entrance: This area is bounded by the mean high tide and straight lines connecting the following points in the order listed except where noted:
34° 8.639' N. lat. 119° 12.976' W. long.; thence northward along the mean high tide line onshore boundary to
34° 9.086' N. lat. 119° 13.112' W. long.;
34° 7.620' N. lat. 119° 14.417' W. long.;
34° 6.500' N. lat. 119° 15.000' W. long.;
34° 5.800' N. lat. 119° 13.380' W. long.;
34° 7.167' N. lat. 119° 13.330' W. long.;
34° 8.668' N. lat. 119° 11.958' W. long.; thence westward along the mean high tide line onshore boundary to
34° 8.586' N. lat. 119° 12.713' W. long.; and
34° 8.639' N. lat. 119° 12.976' W. long.

[…*No proposed changes to subsections (e) through (h)*]

Note: Authority cited: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, Fish and Game Code.

Greetings,

The Dana Cove Commercial Fishermen's Association DCCFA is looking for your support in our request to the Department of Fish and Wildlife DFW that would move the current "no commercial trapping" Navigational Channel from a 180 degree heading to a 200 degree heading exiting the harbor.

The DFW is currently working on the final portions of a compressive Lobster Fishery Management Plan FMP. The plan is designed to ensure the health and sustainability of the lobster resource. The regulatory portion of this plan is scheduled for DFW Commission approval in June. This regulatory package includes new proposed regulations and rewording or retooling of existing regulations.

The previous regulation defining the no commercial trapping navigational channel was put into place over 30 years ago prior to GPS and other more sophisticated electronic equipment. Through my conversations with retired Lobster Fisherman and the DFW it seems that the original channel was designed by the use of only maps. The concept was negotiated between local veteran lobster fishermen and the DFW to allow for a navigational entry and exit from Dana Pt. Harbor that was free of lobster traps/buoys and to avoid capturing any viable rocky lobster habitat that would negatively impact the local commercial lobster fishing fleet. Unfortunately the maps used to originally design the channel DO NOT show the true location of the San Juan Creek Ocean Outfall Pipeline. The DFW wants to amend the existing antiquated regulations that were confusing and unplottable with current GPS coordinates. The use of GPS waypoints greatly increases the accuracy and understanding of where the navigational boundaries lie. I took it upon myself to plot and run the proposed GPS Waypoints and found that although they seem to properly reflect the existing regulations they unfortunately transect the outfall pipeline on the easterly channel line. The pipeline is very valuable and important lobster habitat, which is fished by vitally all the commercial lobster men out of Dana Pt. Harbor. We have all fished this pipeline since its construction and the adoption of the navigational channel unaware that it was technically off limits.

Although boats entering and exiting Dana Pt. Harbor come from every direction, the majority are usually headed west. The current navigation channel is pointed 180 degrees due south. The course to the most popular boating locations out of Dana Pt., I.E. San Clemente Is.,Catalina Is.,14/209/277 banks and the coastline of Laguna Beach and Newport Harbor, are all significantly more westerly. Any negative boat/ lobster gear interactions generally take place on the edge of the westerly navigational channel boundary line.

By shifting the channels two outside GPS waypoints further west to allow for a 200 degree exit out of Dana Point Harbor we will retain our ability to legally fish the San Juan Creek Ocean Outfall. Commercial Lobster Fishermen would lose some fishing grounds on the westerly Channel line along

the jetty, but boaters would have a clearer approach in and out of the harbor from Catalina Is. and Newport Harbor. This compromise seems like a responsible solution that properly reflects the needs of all individuals out of Dana Pt. Harbor commercial and recreational.

Previously proposed GPS points;

(B) Dana Point Harbor entrance:
33 27.262'N - 117 41.492'W
33 26.289''N - 117 41.721'W
33 26.254'N - 117 41.509'W
33 27.201'N - 117 41.286'W
33 27.409'N - 117 41.522'W
33 27.262'N - 117 41.492'W

DCCFA proposed GPS points reflecting a 20 degree westerly shift in the outer two waypoints:

(B) Dana Point Harbor entrance:
33 27.262'N - 117 41.492'W
33 26.511'N - 117 42.061'W
33 26.477'N - 117 41.850'W
33 27.201'N - 117 41.286'W
33 27.409'N - 117 41.522'W
33 27.262'N - 117 41.492'W

Thank you for your time, feel free to contact me with any questions or concerns.

Rodger Healy
President DCCFA
President California Lobster and Trap Fishermen's Assoc.

To Sonke and Susan on May 16, 2016

Rodger and whom ever else this may concern:

Thanks for the update on the Nav Channel and the issues concerning our commercial fishermen. Your analysis and suggestions to change the channel heading to 200 degrees make perfect sense to me and I am in total support of your suggested changes. Please let me know how I can help to ensure the changes are actually made.

Best regards,

Brad Gross, Director
OC Dana Point Harbor

To whom it may concern,

My name is Eric Smith and I am a commercial lobster permit holder out of Dana Point. I would like to make it fully known that I support the movement of the navigational channel from 180 degrees to 200 degrees for entering and exiting the harbor. I feel that this is a fair heading and compromise for all concerned parties.
Thank you,
Eric F Smith

Rodger,

After speaking with you and hearing your proposed changes to the Navigational Channel from its current placement towards the West , I must agree that it makes more sense. This would align it with the majority of boating traffic coming and going from Dana Point Harbor.
The current Navigation Channel does not represent the current traffic patterns coming into or leaving Dana Point Harbor. Your proposed change is spot on and even lines up with the Catalina Express's daily route.

Thanks for keeping us in the loop,

Sergeant Mike Scalise
Dana Point Harbor Patrol

The Port OF Hueneme
Oxnard Harbor District

BOARD OF HARBOR COMMISSIONERS
Dr. Manuel M. Lopez President
Arlene N. Fraser Vice President
Jason T. Hodge Secretary
Jess Herrera Commissioner
Mary Anne Rooney Commissioner
PORT MANAGEMENT Mary Anne Rooney
Kristin Decas CEO & Port Director
Foreign Trade Zone #205
WORLD TRADE CENTER® OXNARD

January 28, 2016

California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Dear Commissioners,

The Port of Hueneme (Port) is formally requesting the California Fish and Game Commission (Commission) to consider and approve regulation changes that will significantly improve the safety of vessel operations in the vicinity of the Port. The justification for this request is that the placement of commercial fishing equipment within operating areas at the Port currently poses a hazard to safe navigation.

The Port has been a popular location for the placement of fishing equipment, primarily lobster traps (pots) but also other various items. These items typically contain large amounts of line that attach the trap itself to a float. If this line becomes entangled in the propulsion or steering equipment of a vessel significant damage can occur which would require lengthy and costly repairs.

More importantly, the Port has a somewhat difficult approach and a narrow entrance channel. As a part of our routine operations, we receive ocean going vessels up to 230 meters (LOA). As these vessels enter or depart, our Harbor Safety Plan requires that they receive the assistance of two tugs to ensure safe transit. If one of these tugs should experience a propulsion or steering casualty while engaged in maneuvering a vessel into or out of the harbor, a significant safety hazard would occur since that tug would be unable to continue to provide vessel assistance. The presence of these fishing devices in the vicinity of the Port greatly increases the chance that a tug will experience a mechanical casualty, and creates the possibility of a collision, allision, or grounding, with the risk of significant damage to the vessel and surrounding structures and the possibility of environmental damage from a fuel or oil leak from the damaged vessel.

To date, the Port has tried to manage the situation by working with the local fishing community. Where that has not been fully successful, the Port has taken it upon itself to move traps into safer areas. This method has proven inadequate as the traps soon return. We have spoken with local Fish and Wildlife representatives, as well as the U.S. Coast Guard, who have both advised us that they are unable to provide assistance as there is not currently an enforcement mechanism. This situation has necessitated our request for regulatory changes.

The Port
OF Hueneme
Oxnard Harbor District

To be more specific, the Port requests that the entirety of the safety fairway for the Port, as shown on NOAA chart 18724, be placed off limits for commercial fishing and fishing devices. In this manner we can ensure the continued safety of Port operations.

Should you have any questions, or require additional technical or operational information, I can be reached at JDemers@portofhueneme.org, or 805-754-0400.

Thank you for your attention to this matter.

Sincerely,

John Demers
Chief Operations Officer

jd
CC: California Department of Fish and Wildlife

State of California
Department of Fish and Wildlife

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COMMISSION

2017 JUN -8 PM 3: 15

Memorandum

Date: June 6, 2017

To: Valerie Termini, Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the June 21-22, 2017 Fish and Game Commission Meeting, Re: Crab and Lobster Recreational Gear Marking and Commercial Lobster Harbor Restricted Fishing Areas**

The attached Pre-adoption Statement of Reasons for Regulatory Action is provided for the California Fish and Game Commission's (Commission) consideration of the proposed amendments to Sections 29.80 and 122, Title 14, California Code of Regulations (CCR).

To date, Eighteen (18) comments have been received with no comments in opposition to the proposed amendments to recreational buoy marking requirements for crab traps and hoop nets in Section 29.80 or the Dana Point harbor commercial lobster restricted fishing area in subsection 122(d)(2)(B). However, of the fourteen (14) commenters that provided comments on the topic of the proposed Port Hueneme commercial lobster restricted fishing area (new subsection 122(d)(2)(D)), six (6) supported and eight (8) opposed the proposal. Since the discussion hearing on April 27, 2017, the Port's Harbor Safety Committee has hired a consultant to review and provide recommendations to the Port on the restricted fishing area proposal to help inform deliberations on the issues pertaining to the commercial lobster fishery that will be summarized in a forthcoming report. No additional regulatory changes have been made since the public notice of the Initial Statement of Reasons.

If you have any questions on this item, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, at (805) 568-1246 or Craig.Shuman@wildlife.ca.gov.

Attachments

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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-adoption Statement of Reasons)

Amend Section 29.80 and Section 122,
Title 14, California Code of Regulations
Re: Crab and Lobster Recreational Gear Marking and
Commercial Lobster Harbor Restricted Fishing Areas

I. Date of Initial Statement of Reasons: March 13, 2017

II. Date of Pre-adoption Statement of Reasons: May 18, 2017

III. Dates and Locations of Scheduled Hearings:

(a)	Notice Hearing:	Date:	February 9, 2017
		Location:	Rohnert Park, CA
(b)	Discussion Hearing:	Date:	April 27, 2017
		Location:	Van Nuys, CA
(c)	Adoption Hearing:	Date:	June 22, 2017
		Location:	Smith River, CA

IV. Description of Modification of Originally Proposed Language of Initial Statement of Reasons:

No changes have been made in the originally proposed regulatory language at this time.

At the April 27, 2017 California Fish and Game Commission (Commission) meeting, a representative from the Port of Hueneme (Port) indicated that the Port currently holds a neutral position in regard to proposed subsection 122(d)(2)(D), which would establish a new restricted fishing area (RFA) for Port Hueneme under the commercial lobster fishing regulations. The Port's Board of Harbor Commissioners had not sanctioned the petition request to add Port Hueneme as a RFA in the commercial lobster fishing regulations; therefore, the Port request that the Commission not to rely upon the January 2016 petition letter from the Port as a document for supporting the regulation change. The Port, however, supports its Harbor Safety Committee to serve as the lead for the proposal moving forward since this topic had been vetted at the committee level.

In addition to testimony from Port representatives, the Commission took public testimony on the proposed Port Hueneme RFA from lobster fishermen at the April 2017 Commission meeting. In response to concerns raised by commercial lobster fishermen during the discussion hearing, the Commission instructed the Port's Harbor Safety Committee to continue discussions with commercial lobster

fishermen to determine if a compromise could be reached on the proposed Port Hueneme RFA.

V. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

No changes have been made in the originally proposed regulatory language at this time. Pending the outcome of the negotiations between the Port and lobster fishermen, the Commission will make a final determination regarding the adoption of the Port Hueneme RFA in the commercial lobster fishing regulations.

VI. Summary of Primary Considerations Raised in Opposition and in Support:

All written and verbal comments received to date by the Commission on the proposed regulatory changes are summarized and responded to in this Pre-adopt Statement of Reasons for Regulatory Action in Table 1, Attachment A. The public comment period will close with the adoption of the proposed regulatory action at the June 22, 2017 Commission meeting.

Summary of Proposed Amendments

Under current regulations, Section 29.80, Title 14 of the California Code of Regulations (CCR) governs gear restrictions for recreational crustacean fishing in California and Section 122 specifies spiny lobster permits and restricted fishing areas for commercial lobster activities.

The Fish and Game Commission (Commission) proposes to amend subsections (a) and (b) of Section 29.80 concerning recreational crab trap and hoop net buoy marking, respectively. The proposed amendment to subsection 29.80(a)(3) would exempt a person from having their GO ID number on crab trap buoys when operating recreational crab traps belonging to another fisherman, provided that the fisherman operating the crab trap has written permission (i.e., a note) from the owner(s) of the traps. Written permission may be transmitted electronically (e.g., a text message) from owner to operator and is valid only if it contains the GO ID number of the owner, and that GO ID number must also be on the buoy of the trap being pulled.

In addition, an amendment to subsection 29.80(b)(3) is proposed to clarify the current hoop net buoy marking requirements. The Commission proposes to add subsection 29.80(b)(3)(A) requiring the buoys of hoop nets deployed from Commercial Passenger Fishing Vessels (CPFVs) to be marked with the corresponding CPFV number and subsection 29.80(b)(3)(B) requiring licensed guides to mark buoys with their guide license number for hoop nets provided to clients for use on trips.

The proposed action would also amend the restricted fishing areas (RFAs) specified in subsection (d)(2) of Section 122. The Commission proposes to modify the Dana Point Harbor RFA (subsection 122(d)(2)(B)) from a southerly orientation to a more westerly orientation. Additionally, a new RFA for Port Hueneme is proposed in subsection 122(d)(2)(D), which would cover approximately 3.25 square nautical miles. Lobster traps would be prohibited within the proposed RFA for operational and navigational safety.

Other minor, non-substantive changes are proposed to subsection 29.80(a)(2) to fix a grammatical error (minor re-wording of text) and subsections 29.80(c)(2)-(c)(4) to remove the August 1, 2016, start date as these regulations are currently in effect.

Benefits of the Regulations

The proposed amendments related to lobster and crab gear marking would preserve accountable recreational gear use and allow the recreational sector to meet the gear marking requirements with minimal regulatory burdens. The modification to the Dana Point Harbor RFA will improve the efficiency and safety of the fairway while providing additional commercial lobster fishing in an area that is currently restricted. The proposed Port Hueneme RFA would improve operational and navigational safety by decreasing the risk of commercial lobster gear fouling propellers as vessels enter and leave the port.

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202 and 205) as well as the power to regulate the take of lobster for commercial purposes (Fish and Game Code Section 8254). No other state agency has the authority to regulate the recreational take of marine crustaceans or the commercial take of spiny lobster.

UPDATE:

No changes have been made in the originally proposed regulatory language at this time.

At the April 27, 2017 Commission meeting, a representative from the Port of Hueneme (Port) indicated that the Port currently holds a neutral position in regard to proposed subsection 122(d)(2)(D), which would establish a new RFA for Port Hueneme under the commercial lobster fishing regulations. The Port's Board of Harbor Commissioners had not sanctioned the petition request to add Port Hueneme as a RFA in the commercial lobster fishing regulations; therefore, the Port request that the Commission not to rely upon the January 2016 petition letter from the Port as a document for supporting the regulation change. The Port, however, supports its Harbor Safety Committee to serve as the lead for the proposal moving forward since this topic had been vetted at the committee level.

In addition to testimony from Port representatives, the Commission took public testimony on the proposed Port Hueneme RFA from lobster fishermen at the April 2017 Commission meeting. In response to concerns raised by commercial lobster fishermen during the discussion hearing, the Commission instructed the Port's Harbor Safety Committee to continue discussions with commercial lobster fishermen to determine if a compromise could be reached on the proposed Port Hueneme RFA.

Table 1. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
1	Kat Jones, Commercial Lobster Fisherwoman, on behalf of the Ventura County Lobster Fishermen	Letters to California Fish and Game Commission (Commission) dated 2/2/17 and 4/5/17, and verbal testimony at Commission meeting on 4/27/17	Commercial Fishing Area (RFA) for Port Hueneme	a. The proposed closure for lobster fishing in Port Hueneme is unacceptable for the reasons outlined below. (1) On January 6, 2016, the Port of Hueneme (Port) and lobster fishermen had amicably agreed on a reasonable boundary line that would not restrict safe navigation or lobster fishing. (2) The boundary lines that the Port is formally proposing is beyond excessive and grossly exceeds the agreed upon boundary lines; this is an excessive abusive use of power. (3) The number of traps present in the Ventura County area will be drastically limited due to changes in lobster trap limits; this proposal would be an additional hardship on lobster fishermen. (4) The proposal singles out and only undercuts the lobster industry; it does not include near shore trappers under the National Oceanic and Atmospheric Administration (NOAA) jurisdiction, crab, recreational lobster and line fishing, squid seiners, gill nets, and others that pose equal or greater safety hazards.	Opposition noted. In response to concerns raised by commercial lobster fishermen during the April 27, 2017 discussion hearing, the Commission instructed the Port's Harbor Safety Committee to continue discussions with commercial lobster fishermen to determine if a compromise could be reached on the proposed Port Hueneme RFA. Pending the outcome of those discussions, the Commission will make a final determination regarding the adoption of the Port Hueneme RFA at the June 22, 2017 Commission meeting.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
1, continued (cont.)			Commercial Lobster RFA for Port Hueneme	b. Provide statements from commercial lobster fishermen, Greg Ewart and Evan Jones, opposing the proposed Port Hueneme RFA.	Opposition noted.
			Commercial Lobster RFA for Port Hueneme	c. Recount a March 8, 2017, meeting between the Port and commercial lobster fishermen where the Port had mistakenly attributed lobster gear in a recent fouling incident at Port Hueneme; the gear was a crab line and buoy. The Port's approach to closing off commercial lobster fishing is short sighted and will not mitigate the risks related to all fishing gear in the water outside of Port Hueneme.	See response to comment 1a.
			Commercial Lobster RFA for Port Hueneme	d. The Port had informed the lobster fishing community that it was moving forward with the Port Hueneme RFA proposal because the Commission would not re-consider the proposal for 5 years if it not addressed now.	See response to comment 1a.
2	Captain Jon Wm. Belchere, TracTide Marine Corporation	Letter to Commission dated 2/3/17	Commercial Lobster RFA for Port Hueneme	Support the proposed exclusion of lobster traps within the Safety Fairway for the approaches to the Port of Hueneme.	Support noted.
3	Charles B. Caulkins, Port of Hueneme Harbor Safety Committee	Letter to Commission dated 2/3/17	Commercial Lobster RFA for Port Hueneme	Support the proposed exclusion of lobster traps within the Safety Fairway for the approaches to the Port of Hueneme.	Support noted.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
4	Captain Eric Ireland, Port of Hueneme Pilots Association	Letter to Commission dated 2/3/17	Commercial Lobster RFA for Port Hueneme	Support the proposed exclusion of lobster traps within the Safety Fairway for the approaches to the Port of Hueneme.	Support noted.
5	Captain Wade E. Edwards	Letter to Commission dated 2/4/17	Commercial Lobster RFA for Port Hueneme	Support the proposed exclusion of lobster traps from the existing navigational safety fairway as denoted on NOAA chart 18724.	Support noted.
6	Captain Michael Fullilove, Brusco Tag and Barge Inc.	Letter to Commission dated 2/6/17	Commercial Lobster RFA for Port Hueneme	Support the proposed exclusion of lobster traps, crab traps, and fishing gear within the Safety Fairway for the approaches to the Port of Hueneme.	Support noted. The regulatory proposal currently under consideration by the Commission is the exclusion of traps under Section 122 of Title 14, California Code of Regulations (CCR) pertaining to commercial lobster fishing; the exclusion of crab traps and other fishing gear in the proposed Port Hueneme RFA is not contemplated at this time.
7	Thomas M. Cullen, Jr., California Department of Fish and Wildlife (Department) Office of Spill Prevention and Response (OSPR)	Letter to Commission dated 2/8/17	Commercial Lobster RFA for Port Hueneme	Support the proposed rulemaking effort to add Section 122(d)(2)(D) to Title 14, CCR.	Support noted.
8	Dan Wolford, Coastside Fishing Club	Letter to Commission dated 2/8/17	Recreational Crab Trap Marking Requirement	a. Support the proposed amendment to Section 29.80(a)(2) of Title 14, CCR.	Support noted.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
8, cont.			Other	b. Suggest additional clarification to Section 29.80(c) relating to required destruct devices; specifically, as a means of compliance, allowing the use of a single loop of biodegradable cotton twine in trap closures, along with a rubber strap and hook as expressed in the Section 180.2(b)(5) of the commercial regulations.	No action taken. This comment is outside the scope of this rulemaking. The use of single loop of cotton twine, rubber strap and hook is allowed; nothing in regulation prohibits it. While the legality of every potential scenario cannot be addressed, the regulations state the minimum requirement (cotton twine).
			Other	c. Believe that, similar to regulations enacted by Washington State, California's crab trap regulations should allow the use of Danielson traps without the need for unwarranted modifications.	No action taken. This comment is outside the scope of the proposed regulations. The requirement for recreational crab traps to have at least a 5-inch diameter escape opening when the destruct device corrodes or fails was directly taken from commercial regulations that specify this size. Based on a review of the Danielson Catalog obtained from their website, it appears that there are several different styles and models of crab traps that are available, and it appears that some of the crab traps available would meet California Regulations. Other crab trap models found in the Danielson catalog are popular in California, and can easily be modified to meet the needs of California Regulations.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
9	George Osborne, Coastside Fishing Club	Verbal testimony at Commission meeting on 2/9/17 and 4/27/17	Recreational Crab Trap Marking Requirement Other	a. Support proposed provisions to Title 14, Section 29.80, that would facilitate the sharing of Dungeness crab traps and, thereby, reduce the number of traps deployed. b. Would like to have the Danielson trap accepted and written into the sport fishing regulations.	Support noted. See response to comment 8c.
10	Ken Franke, Sportfishing Association of California	Letter to Commission dated 4/24/17	Commercial Lobster RFA for Port Hueneme	Recommend that the Commission take no action until meetings are held involving the local professional mariners (tugboat captains, pilots, fishing captains, and Coast Guard) to analyze the perceived problem and develop a solution. Believe that the following information is needed: • the operational needs of tugboats with regard to the proposed closed area dimensions, • clarification on whether the proposal includes Commercial Passenger Fishing Vessels, • input from professional mariners on what is the appropriate closure size, and • historical data of any collision, allusion or grounding caused by fishing equipment interactions to understand the magnitude of the problem.	Opposition noted. See response to comment 1a. The Department has no knowledge of any "collision, allusion or grounding" due to interactions from fishing gear. The Port has expressed concern about the elevated risk of lobster gear migrating into the center range line of the navigational channel and interfering with the ability of vessels to maneuver safely into the harbor and, as such, has proposed the Port Hueneme RFA as a proactive approach to promote safe navigation.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
11	Joe Exline, Recreational Lobster Fisherman	Verbal testimony at Commission meeting on 4/27/17	Recreational Lobster Buoy Marking Requirement	Thanked Department staff for bringing forward the proposal to amend the recreational lobster buoy marking requirement for Commercial Passenger Fishing Vessel operators and licensed guides.	Support noted.
12	Rodger Healy, Commercial Lobster Fisherman	Verbal testimony at Commission meeting on 4/27/17	Commercial Lobster RFA for Port Hueneme	Expressed that commercial lobster fishery has been largely impacted by area closures and, unlike the proposed scope of the Port Hueneme RFA, the current RFA closures are navigational channels. If the proposal is not a fishing closure and the concern is about safety, then there should be some consideration taken for the fishing interest in the area.	Opposition noted. See response to comment 1a.
13	Wayne Kowtow, Coastal Conservation Association of California	Verbal testimony at Commission meeting on 4/27/17	Recreational Crab and Lobster Buoy Marking Requirements and Commercial RFA for Dana Point Harbor	Thanked the Department for working with lobster fishermen on the proposed changes to the sport crab and lobster buoy marking requirements and modifications to the Dana Point RFA.	Support noted.
14	Greg Ewart, Commercial Lobster Fisherman	Verbal testimony at Commission meeting on 4/27/17	Commercial Lobster RFA for Port Hueneme	Expressed that the area impeded by the proposed Port Hueneme RFA is excessive and noted that there has not been an incident where a ship ran aground from lobster gear in Port Hueneme in the past 30 years.	Opposition noted. See response to comment 1a.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
15	Evan Jones, Commercial Lobster and Squid Fisherman	Verbal testimony at Commission meeting on 4/27/17	Commercial Lobster RFA for Port Hueneme	Expressed that the proposal not only dilutes the safety risks but also dilutes the financial impact among all fishermen; this proposal singles out lobster fishermen as a whole and does not include other fisheries that pose as much of a risk.	Opposition noted. See response to comment 1a.
16	Teresa Ewart, Sportfishing Association of California	Verbal testimony at Commission meeting on 4/27/17	Commercial Lobster RFA for Port Hueneme	Comment is similar to comment 10.	Opposition noted. See response to comment 1a.
17	Mike Conroy	Verbal testimony at Commission meeting on 4/27/17	Commercial Lobster RFA for Port Hueneme	a. Recommended that the Commission defer action on the proposed Port Hueneme RFA to allow discussions to continue between constituents and the Port. Questioned if the proposal would potentially expand to other fisheries in the area, such as squid or crab. If the proposal is directly specific for lobster, the size and scope of the proposal is an overreach.	Opposition noted. See response to comment 1a.
			Commercial Lobster RFA for Port Hueneme	b. Inquired whether there is evidence of any vessel grounding based on interactions with lobster gear; cautioned that it would be a slippery slope to start closing areas and access based upon what could happen.	See response to comment 10.

Comment #	Name, Organization	Comment Format & Date	Topic(s) Raised	Summary of Comment	Response
18	Vitaly Sviridov, Commercial Lobster Fisherman	Verbal testimony at Commission meeting on 4/27/17	Commercial Lobster RFA for Port Hueneme	a. Expressed that the proposed closure would be an additional hardship and would have a significant economic impact on lobster fishermen; about 10 percent of their income is derived from the Port Hueneme fishing area.	See response to comment 1a.
			Commercial Lobster RFA for Port Hueneme	b. Expressed that fishermen have been respectful and cooperative with the Port as well as the Department, Coast Guard, and Harbor Patrol to address issues with lobster gear and does not want the fishing area closed.	Opposition noted. See response to comment 1a.

State of California
Department of Fish and Wildlife

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CALIFORNIA
FISH AND GAME
COMMISSION

2017 JUN -8 PM 3: 15

Memorandum

Date: May 30, 2017

To: Valerie Termini,
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Notice of Exemption for Proposed Changes to Sections 29.80 and 122, Title 14, California Code of Regulations; Crab and Lobster Recreational Gear Marking and Commercial Lobster Restricted Fishing Areas**

Attached please find the Draft Notice of Exemption (NOE) to amend Sections 29.80 and 122, Title 14, California Code of Regulations (CCR) and Draft NOE to add subsection (d)(2)(D) to Section 122 of Title 14, CCR. The attached environmental documents have been prepared pursuant to Section 15062 of the California Environmental Quality Act (CEQA) Guidelines. Since the NOEs are not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on categorical exemptions for the proposed actions. Staff's analysis of the use of exemptions under CEQA is described below.

CEQA Exemptions

General Rule or "Common Sense Exemption"

According to CEQA Guidelines Section 15061(b)(3), "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed amendments to Sections 29.80 and 122 in Title 14, CCR, are administrative in nature; therefore, will not result in a direct or indirect physical change to the environment. Amendments to Section 29.80 include clarification of current crab trap and hoop net buoy marking requirements in subsections 29.80(a)(3) and 29.80(b)(3), respectively, and minor, non-substantive editorial fixes to subsections 29.80(a)(2) and 29.80(c)(2)-(c)(4). The amendment to Section 122 involves adjustments to GPS coordinates in subsection 122(d)(2)(B) to more accurately align the commercial lobster restricted fishing area (RFA) for Dana Point harbor with current traffic patterns in the harbor and traditional lobster fishing area. Since there is no possibility that these proposed changes to Sections 29.80 and 122 have the potential to have a significant adverse effect on the environment, the action is exempt from CEQA (CEQA Guidelines Section 15061(b)(3)).

Categorical Exemptions to Protect Natural Resources and the Environment

Categorically exempt projects are classes of projects that the State Resources Agency has determined not to have a significant effect on the environment; therefore, these

projects are exempt from the requirement for the preparation of environmental documents (CEQA Guidelines Section 15300, et seq.).

The review effort by Department staff pursuant to CEQA Guidelines Section 15061 lead staff to conclude that the proposed addition of subsection 122(d)(2)(D) in Title 14 of the CCR, which establishes a new commercial lobster restricted fishing area (RFA) for Port Hueneme, falls within the Class 7 and 8 categorical exemptions (CEQA Guidelines sections 15307 and 15308). These two exemptions are related to agency actions to protect natural resources and the environment. The proposed new RFA would reduce risks of vessels becoming fouled with commercial lobster gear, which can compromise a vessel's maneuverability. Compromised maneuverability has long been known as a leading cause of vessels running aground and could, in a worst-case scenario, result in an oil spill that pollutes beaches, water, and cause harm to marine natural resources. In addition, staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246.

Attachments

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

June 22, 2017

ATTACHMENT TO NOTICE OF EXEMPTION

Amend Sections 29.80 and 122, Title 14, California Code of Regulations
Crab and Lobster Recreational Gear Marking and
Commercial Lobster Restricted Fishing Area

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act with respect to the rulemaking on June 22, 2017. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the General Rule exemption contained in CEQA Guidelines Section 15061(b)(3).

Although the project does not fall within a categorical exemption, the Commission determined that it could be seen with certainty that there is no possibility that the regulations may have a significant effect on the environment. Because the proposed amendments to Sections 29.80 and 122 in Title 14 of the California Code of Regulations are administrative in nature, the Commission's adoption on these amendments will not result in a direct or indirect physical change to the environment. Amendments to Section 29.80 included clarification of current crab trap and hoop net buoy marking requirements in subsections 29.80(a)(3) and 29.80(b)(3), respectively, and minor, non-substantive editorial fixes to subsections 29.80(a)(2) and 29.80(c)(2)-(c)(4). The amendment to Section 122 involves adjustments to the existing GPS coordinates that define the boundaries of the Dana Point Harbor entrance where commercial lobster fishing is prohibited (subsection 122(d)(2)(B)), which would more accurately align the restricted fishing area with current traffic patterns in the harbor and traditional lobster fishing area. Since there is no possibility that the regulations would have a significant adverse effect on the environment, the action is exempt from CEQA.

DRAFT

State of California – Natural Resources Agency
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

June 22, 2017

ATTACHMENT TO NOTICE OF EXEMPTION

Adoption of Subsection 122(d)(2)(D), Title 14, California Code of Regulations
Port Hueneme Restricted Fishing Area

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act with respect to the proposed project on June 22, 2017. On February 9, 2017, the Commission authorized notice of its intent to add subsection 122(d)(2)(D) to Title 14 of the California Code of Regulations (CCR) that establishes a new restricted fishing area for Port Hueneme. The Commission held a public hearing on April 27, 2017 to allow all interested persons to provide comments and information to the Commission regarding this proposal. On June 22, 2017, the Commission adopted the proposed restricted fishing area for Port Hueneme.

Categorical Exemptions to Protect Natural Resources and the Environment

In compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.), the Commission adopted the regulation relying on the categorical exemptions contained in CEQA Guidelines Sections 15307 (Action by Regulatory Agencies for Protection of Natural Resources) and 15308 (Action by Regulatory Agencies for Protection of the Environment). The exemptions apply to agency actions to protect natural resources and the environment, respectively.

Port Hueneme is the only deep water commercial port between Long Beach and San Francisco Bay. As such, it experiences significant traffic from large container ships. The proliferation of lobster traps near the port entrance within the last decade poses a risk for safe navigation and port operation due to vessel entanglement. Commercial lobster traps placed within the confines of the Safety Fairway can become entangled in a vessel's propeller and thus compromise a vessel's maneuverability. Compromised maneuverability has long been known as a leading cause of vessels running aground and could, in a worst-case scenario, result in an oil spill that pollutes beaches, water, and cause harm to natural marine resources and the environment. Because the regulation is intended to reduce those risks to the environment and natural marine resources, the Commission's adoption of the regulation is an activity that is the proper subject of the Class 7 and 8 categorical exemptions under CEQA.

DRAFT

SAC SPORTFISHING ASSOCIATION OF CALIFORNIA

5000 N. Harbor Drive, Suite 100
San Diego, CA 92106
(619) 322-7421
www.californiasportfishing.org

April 24, 2017

California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Ref: Agenda Item 25 on Closure to Entrance of Port Hueneme

Dear Commissioners,

We have reviewed the request to close the entrance to Port Hueneme that is before you. It is our recommendation that the Commission take no action until meetings are held involving the local professional mariners (the tugboat captains, the pilots, the fishing captains and the Coast Guard) to analyze the perceived problem and develop a solution. We base this recommendation on the following information:

- With regard to the proposed closed area dimensions we believe input should be obtained regarding the operational needs of the tugboats.
- The specific ask of the Port is that the fairway be "placed off limits for commercial fishing and fishing devices". Clarification needs to be obtained on whether this includes the commercial passenger fishing vessels, which are licensed commercial fishing vessels.
- The Port recommendation to the Commission is to close an area roughly one mile wide near shore and 1.3 miles at the seaward entrance of the approach. This includes areas north and south of the harbor (to the beach) where no ship can transit. This seems excessive as compared to the 270-yard width of the entrance channel of San Diego Bay, which can accommodate aircraft carriers and is surrounded on both sides by sportfishing and commercial fishing activities. Input should be obtained by the professional mariners on what is appropriate.
- We contacted the Port to discuss the reason for the closure and to determine if there will be an impact on other fishing activities as well. We were informed the concern was over deep draft ships and tugboats being endangered by fishing equipment. It would help to understand if there has ever been an instance of a tugboat being unable to provide their services due to fishing equipment interaction.
- It would help the public and the Commission to understand the magnitude of the problem by providing any historical data of any "collision, allusion or grounding" caused by interaction with fishing activities.

Respectfully,

Ken Franke
President

Tiemann, Sheri@FGC

From: FGC
Sent: Monday, June 12, 2017 9:47 AM
To: Tiemann, Sheri@FGC
Subject: Fw: Signatures in support of the fisherman against the proposal Hueneme closure
Attachments: IMG_5372.JPG; IMG_5373.JPG; IMG_5374.JPG; IMG_5375.JPG; IMG_5376.JPG; IMG_5377.JPG

From:
Sent: Wednesday, May 31, 2017 5:04 PM
To: FGC
Subject: Fwd: Signatures in support of the fisherman against the proposal Hueneme closure

Sent from my iPhone

	FIRST & LAST NAME	EMERGENCY PHONE #	OFFIC ONL
1	Teresa Ewart	[redacted]	
2	BOB AIRD		
3	JIM RICKMAN		
4	Ed Guyette		
5	MANUEL LEMOS		
6	Luke FitzPatrick		
7	GARY NETTING		
8	Stefan Mosley		
9	KEN GOZZENS		
10	Ulises R Perez		
11	Mike Heck		
12	ROGER O, BIAS		
13	Gary Stanifarth		
14	RICHARD PALATO		
15	CHRIS MACAULEY		
16	Bunde		
17	Matt Halyd		
18			
19	Robert Meyer		
20	Bob Chiarelli		
21	CESAR VASPE		
22	DAVID GOSKE		
23	WALTER S. AGUIRRE		
24	MIKE KARAMIAN		
25	Manuel Ramirez		
26	CHRISTOPHER RYAN		
27	JAMES SANTISTEVAN		
28	SALVADOR DELGADO		
29	Ben Babbitt		
30	Tyson Curtis		

	FIRST & LAST NAME	EMERGENCY PHONE #	
1	Claire Jacobs	[redacted]	
2	Bruce Snider		
3	Hardy Gunawan		
4	Luis Tejeda		
5	Alvaro Jacobo		
6	MANNY GOMEZ		
7	Michael Arroyo		
8	Michael Ohler		
9	Sarah Ohler		
10	Kai Navarrette		
11	Patrick Hodges		
12	Laura Jones		
13	Peter Lee		
14	Tom Sung		
15	Ruth Barnett		
16	Eduardo Cervantes		
17	Jose Rodriguez.		
18	Michael Trix		
19	Michael K. Uno		
20	Oscar Vazquez		
21	Rebecca Patton		
22	Matthal Green		
23	WILLNE VILS		
24	MANUEL ORTIZ		
25	BERNARD BRAVO		
26	RICK MACIAS		
27	Santiago Jimenez		
28	David Ramsey		
29	ROBERT MUDGER		
30			

	FIRST & LAST NAME	EMERGENCY PHONE #
1	ALLAN OKITA	[redacted]
2	Ray Hughes	
3	Bob Causey	
4	Kelly Michon	
5	MARK JOHNSON	
6	DALE WISCHOW	
7	George Healey	
8	Stan Henrickson	
9	VANNESSA GIMEZ	
10	MIKE NICKERSON	
11	Ulises R. Perez	
12	Robert Aird	
13	GARY NETHING	
14	RAUL SOSA	
15	FRANKIE BURGOS	
16	DALE DOMENEZ	
17	Brett Anderson	
18	Carl McFarland	
19	JEFFREY WELLS	
20	Jeffery Wandick	
21	Anthony Boyd	
22	STANLEY LESTER	
23	JEFF KNOCHE	
24	FRANK AIELLO	
25	Jon Blystone	
26	Richard Wisz	
27	Raul Wisz	
28	K. Wendell	
29	R. Williams	
30		

	FIRST & LAST NAME	EMERGENCY PHONE #
1	ROBERT GRIFFIN	[redacted]
2	CURTIS WARNER	
3		
4		
5	BRIAN BARBER SR	
6	HERB WILSON	
7		
8		
9		
10		
11	TONY	
12		
13		
14		
15	TAN HOANG	
16	Keith Sanders	
17	Mike Day.	
18	Bob LUPICA	
19	Luis Tejeda	
20	Robert Knopka	
21	PAUL LOREAL	
22	Bill SUCOR	
23	Ed Bath	
24	Luther Terrell	
25	Herbert Terrell	
26	Tyrone Terrell	
27	BRENT LEE	
28	SYD COLE	
29		
30		

	FIRST & LAST NAME	[redacted] PHONE #
1	[illegible]	[redacted]
2	Debbie Pesavento	
3	Pat Balano	
4	BOB MONTUCAN	
5	SAL ROCHA	
6	Richard Wisz	
7	GARY C CROSSAN	
8	Edmund CASTRO	
9	Edmund Castro III	
10	Tom Chapparro	
11	Rick Moreno	
12	E & R Woods	
13	Bill Duma	
14	Kit A Bolin	
15	Richard Blumenberg	
16	Patrick Amber	
17	ANDREW KHA	
18	Mike Moya	
19	AMY EVERTS	
20	BRETT EVERTS	
21	D.C. TRAN	
22	Loi Hitchell	
23	Thom Nguyen	
24	Efren Camarena	
25	Javier Guzman	
26	PAUL SEMERAU	
27	Chris Semerau	
28	CRAIG JACOBS	
29	Angie Jacobs	
30	Grace Jacobs	

Kat Jones
[redacted]

Solution Proposal

RE: Port Hueneme Proposed Closure to Commercial Lobster Fishing

June 1st, 2017

Dear Fish and Wildlife Commission,

On June 1st, 2017 - Port Hueneme facilitated a presentation regarding safety upon entering and exiting The Harbor. The Port contacted a hand full of Commercial Lobster fishermen, Coast Guard, Harbor Master, a "Harbor Safety Committee" members and invited them to a presentation put together by Mott Macdonald, a consulting firm based out of Seattle, WA. *The Lobster fishermen were given 1-day notice of this meeting. 6 lobster fishermen were present.*

The intent of the meeting was to review scientific evaluations, navigation charts, navigation history, examples of other West Coast ports management of commercial fishing and safety, etc. The consultants presented a very well done, information packed power point.

The information presented was well researched, well presented - **AND DID NOT SUPPORT** the Harbor Safety Committee's proposal to close commercial lobster fishing.

The proposed closure brought by "The Port Hueneme Harbor Safety Committee" is negligent, it has wasted hours of time due to the lack of integrity, poor planning, discrimination, and short sighted fore though.

1.) The consultants presentation should have been **step #1** in the due diligence process on a safety evaluation. The Harbor Safety Committee should **never have** brought a formal proposal to Fish and Wildlife without an excessive due diligence process when asking to close fishing grounds, and requesting F&W to bare the enforcement responsibility; adding to the F&W budget deficit.

2.) The consultant's research **disqualifies** the Harbor Safety Committee's proposal - by a long shot.

3.) The Lobster fishermen should have been included in Harbor Safety Committee planning BEFORE a formal proposal was drafted. NOT after.

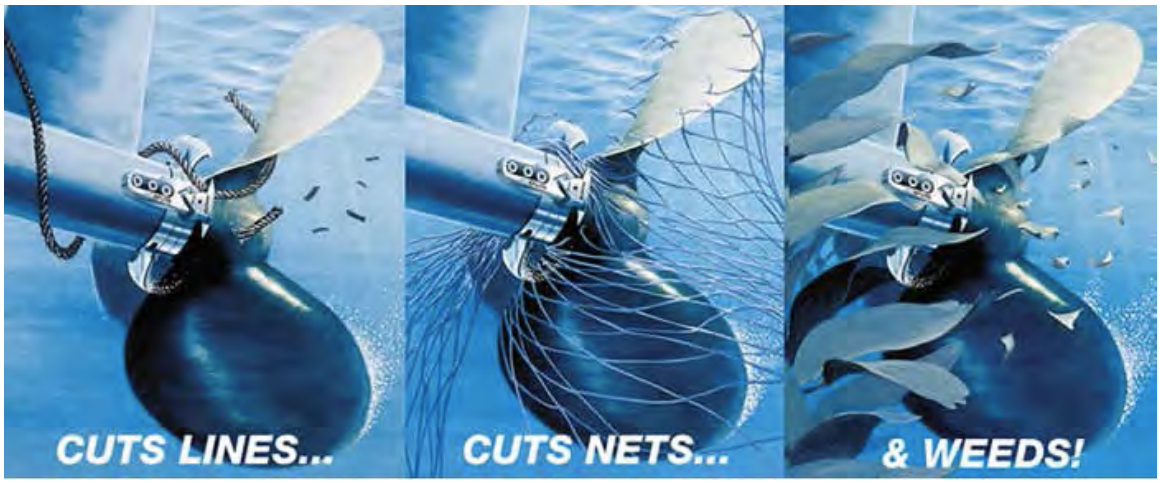
4.) The Lobster fishermen shouldn't have been targeted when all other fisheries fish that canyon excessively.

5.) The cost to change and implement new safety layers should NOT be the Lobster fishermen's financial burden; by taking away decades old fishing grounds, but in fact the beneficiaries of doing business inside The Port as this is an egress concern for massive cargo ships entering the port to conduct business.

Solution Suggestion

Spurs rope net and weed cutter- is a non-discriminatory, proactive tool that can be shaft mounted. It would cut, nets, lines, and rope in the event of an emergency situation - regardless of the fishery or the location. It's a FANTASTIC solution to the Harbor Safety Committee argument of "just incase we need to navigate this area".

The principle that enables the shaft mounted "SPURS" to cut so effectively is the "screw action" created as the propeller turns, winding lines, nets or weed directly into "SPURS" blades, instantly cutting before allowing entanglement or damage to running gear.
The SPURS cutter cuts twice with every rotation of the propeller shaft, preventing entanglement buildup.
You won't even know it's working.



-Eliminates hazardous dives to cut prop-fouling lines in the event of an emergency.
-No More costly commercial down time for repairs in the even of an emergency.
-No more possibilities to shafts or struts torn loose.
-Prevents burnt bearings, engine and transmission overload repairs.
- Cuts lines with each rotation - forward or reverse- with no loss of speed or efficiency.
- No more expensive haul-outs, dry-docking.
- No fishery is targeted.
- No Fish and Wild life enforcement.

Conclusion

Upon leaving the meeting - The Harbor Safety Committee was setting up an "emergency" meeting to change the proposal. Should the Harbor Safety Committee in fact have an emergency committee meeting, vote and pass a modification to the proposal - it's NOT in the best interest of The Port, F&W or the Lobster fishermen to pass a hasty change due to lack of appropriate research, planning, collaboration, and due diligence into what would be the BEST approach to harbor safety.

I am respectfully asking that The Fish and Wildlife Commission take NO ACTION on the Port Hueneme proposal to close commercial lobster fishing.

Again, I encourage the Hueneme Harbor Safety Committee to collaborate, explore and re-evaluate their approach and plan to see harbor safety maximized with alternate solutions.

Kindly,
Kat Jones
Lobster Fishergal.
[redacted]

June 12, 2017
Dear Commissioners

RE: Port Hueneme Proposal to Close Commercial Lobster Fishing

First of all I think this question of navigational safety should be addressed by the United States Coast Guard Marine Safety Division. One must ask why the USCG has not investigated the Port of Hueneme claim of unsafe conditions due to Lobster Traps based & recommendations from the Harbor Safety Commission.

On June 1st, 2017 - Port Hueneme facilitated a presentation regarding safety upon entering and exiting The Harbor. The Port contacted a hand full of Commercial Lobster fishermen, Coast Guard, Harbor Master, a "Harbor Safety Committee" members and invited them to a presentation put together by Mott Macdonald, a consulting firm based out of Seattle, WA. *The Lobster fishermen were given 1-day notice of this meeting. 6 lobster fishermen were present.*

The Pilot "Eric" stating a loss of propulsion a couple times after running over a lobster trap, when asked for proof it was a lobster line i.e. piece of the line, color of line, buoy number etc. I was told when they discovered it, there was just some line they did not provide line. There is No evidence showing it was Lobster fishing line. The ONLY Proof that was provided was a cell phone picture of a CRAB Buoy with line attached!
When asked by the Coast Guard Representative at the meeting if he had filled out a USCG 2692 Incident report required by law, Eric could not remember.

I would think someone who is concerned about SAFETY would document EVERY incident.

I have filed a request with the Unite States Coast Guard FOIA for tugs and deep draft vessels that filled a 2692 who lost steering, propulsion or a decrease of propulsion for the past five years.

There was also a discussion between Kristin Decas the Port CEO and "Pilot Eric" the Harbor Safety Committee member pushing this proposal. She asked him if he wanted to include the other fisheries in the proposal - he responded he want to

get this one first because it was the fastest and easiest fishery to target; then include the others after this one was passed. --- This Pilot is the same one who when the lobster fishermen offered to move the remaining traps from the targeted area in Port Hueneme , a month prior to end of season, had said not to worry about it another month wasn't going to make a difference.
The Port is presenting Safety and a Proactive Preventive Plan stating this Could Happen at any time so why take the chance of leaving the traps in any longer if safety and the environment is truly at stake?

6/6/2017
Port of Hueneme Commission meeting
Regarding Permanent or Temporary structures: The Coast Guard from the Marine Safety Santa Barbara gave his recommendation to the Captain of the Port Of Hueneme "lobster or crab trap does not meet that in intent with in of safety fairways"

The Pilot "Eric stated that he thinks the Fish & Game Commission is confused Christine Birdsey told Eric the commission appreciates the port and fisherman willingness to work it out on our own. Eric said "The ships are getting bigger and bigger". One of their own board members proposed going out an extra mile to start staging giving them extra time and space he agreed that it was a good idea BUT said it would add additional cost to the shippers.
Eric said:
"Why don't the lobster fisherman find another place to fish?"
Essentially they are trying to widen the existing fairway, to do this they would have petition the United States Coast Guard and have proof this is a Safety issue!
Marine Safety and Navigation issues fall under the jurisdiction of The United States Coast Guard.

See Attachments
1. California Constitution Declaration of rights
2. Coast Pilot
3. Coast Guard Jurisdiction Document
4. FIOA Request acknowledgment

I am respectfully asking that The Fish and Wildlife Commission take NO ACTION on the Port Hueneme proposal to close commercial lobster fishing. This proposal was prepared and presented with out facts.
They said they would work with us but don't have the time The Port Master Said they are too busy to call us but they do have time to take pictures and video of lobster traps fishing legally!
They want the all fisheries gone so they can bring in bigger ships and make bigger profits without adding to the shipper's costs!
It's not for safety it's simply greed.

Teresa Ewart
President Ventura Sportfishing Inc.
California Lobster Fisherman Trap Association Board Member
Sportfishing Association of California Board Member
Commercial Fishing Vessel Crustacean

l site: **ARTICLE I DECLARATION OF RIGHTS [SECTION 1 - SEC. 32]**
(Article 1 adopted 1879.)

Section 25.

The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken.

(Sec. 25 added Nov. 8, 1910, by A.C.A. 14. Res.Ch. 44, 1909.)

State lands includes "tidelands" and "submerged lands" which are all waters out to the 3 mile line. (Similar federal law govern 3 out to 12 miles and high seas treaties beyond that. See the second page linked above for further historical background on the Public Trust Doctrine) both navigation and fishing are protected though, so a valid safety of navigation claim could dominate. However, these are state waters public lands, and Hueneme is a man-made harbor, so fishing was there first and building the harbor created the safety of navigation issue.

Part 166–Shipping Safety Fairways

(4660) Subpart A–General

(4661) §166.100 Purpose. (4662) The purpose of these regulations is to establish and designate shipping safety fairways and fairway anchorages to provide unobstructed approaches for vessels using U.S. ports.

(4663) §166.103 Geographic coordinates. (4664) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts reference to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used. (4665) §166.105 Definitions. (4666) (a) Shipping safety fairway or fairway means a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted. Temporary underwater obstacles may be permitted under certain conditions described for specific areas in Subpart B. Aids to navigation approved by the U.S. Coast Guard may be established in a fairway. (4667) (b) Fairway anchorage means an anchorage area contiguous to and associated with a fairway, in which fixed structures may be permitted within certain spacing limitations, as described for specific areas in Subpart B. (4668) §166.110 Modification of areas. (4669) Fairways and fairway anchorages are subject to modification in accordance with 33 U.S.C. 1223(c); 92 Stat. 1473. (4670) Subpart B–Designations of Fairways and Fairway Anchorages

(4671) §166.300 Areas along the coast of California. (4672) (a) Purpose. Fairways as described in this section are established to control the erection of structures therein to provide safe vessel routes along the coast of California. (4673) (b) Designated Areas—(1) Port Hueneme Safety Fairway. An area one nautical mile in width centered on the alinement of Port Hueneme Entrance Channel and extending seaward from the 30-foot-depth curve for a distance of 1.5 nautical miles, thence turning southerly and widening to 1.5 nautical miles at the 3-mile limit, all between lines joining the following points: (4674) 34°06'30"N., 119°15'00"W. (4675) 34°07'37"N., 119°14'25"W. (4676) 34°08'49"N.,

119°13'21"W. thence generally along the 30-foot-depth curve to the seaward end of the west entrance jetty; seaward end of the east entrance jetty, thence generally along the 30-foot-depth curve to: (4677) 34°08'21"N., 119°12'15"W. (4678) 34°07'10"N., 119°13'20"W. (4679) 34°05'48"N., 119°13'23"W. (4680) (2) [Reserved]

(4681) Part 167–Offshore Traffic Separation Schemes

(4682) Subpart A–General

(4683) §167.1 Purpose. (4684) The purpose of the regulations in this part is to establish and designate traffic separation schemes and precautionary areas to provide access routes for vessels proceeding to and from U.S. ports. (4685) §167.3 Geographic coordinates. (4686) Geographic coordinates are defined using North American 1927 Datum (NAD 27) unless indicated otherwise. (4687) §167.5 Definitions. (4688) (a) Area to be avoided means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all ships or certain classes of ships. (4689) (b) Traffic separation Scheme (TSS) means a designated routing measure which is aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes. (4690) (c) Traffic lane means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary. (4691) (d) Separation zone or line means a zone or line separating the traffic lanes in which ships are proceeding in opposite or nearly opposite directions; or separating a traffic lane from the adjacent sea area; or separating traffic lanes designated for particular classes of ships proceeding in the same direction. (4692) (e) Precautionary area means a routing measure comprising an area within defined limits where ships must navigate with particular caution and within which the direction of traffic flow may be recommended. (4693) (f) Deep-water route means an internationally recognized routing measure primarily intended for use by ships that, because of their draft in relation to the available depth of water in the area concerned, require the use of such a route. (4694) (g) Two-way route means a route within defined limits inside which two-way traffic is established, aimed at providing safe passage of ships through waters where navigation is difficult or dangerous. (4695)

§167.10 Operating rules. (4696) The operator of a vessel in a TSS shall comply with Rule 10 of the International Regulations for Preventing Collision at Sea, 1972, as amended.

(4697) §167.15 Modification of schemes. (4698) (a) A traffic separation scheme or precautionary area described in this Part may be permanently amended in accordance with 33 U.S.C. 1223 (92 Stat. 1473), and with international agreements. (4699) (b) A traffic separation scheme or precautionary area in this Part may be temporarily adjusted by the Commandant of the Coast Guard in an emergency, or to accommodate operations which would create an undue hazard for vessels using the scheme or which would contravene Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972. Adjustment may be in the form of a temporary traffic lane shift, a temporary suspension of a section of the scheme, a temporary precautionary area overlaying a lane, or other appropriate measure. Adjustments will only be made where, in the judgment of the Coast Guard, there is no reasonable alternative means of conducting an operation and navigation safety will not be jeopardized by the adjustment. Notice of adjustments will be made in the appropriate Notice to Mariners and in the FEDERAL REGISTER.

Coast Guard & Maritime Transportation

The Subcommittee on Coast Guard and Maritime Transportation conducts oversight of the United States Coast Guard, the Service responsible for enforcing the Nation's laws on waters under U.S. jurisdiction and on the high seas. The Coast Guards many missions include search and rescue, illegal drug and migrant interdiction, oil spill prevention and response, maritime safety and security, maintaining aids to navigation, icebreaking, and enforcement of U.S. fisheries and marine pollution laws. The Subcommittee also has jurisdiction over regulation of ocean shipping and the merchant marine, except as it relates to national security.

In the 115th Congress, one of the Subcommittee's priorities is legislation to authorize the Coast Guard's programs and to support and strengthen the important missions of one of the Nation's five armed services. A 21st century American infrastructure and transportation network includes a vibrant and efficient maritime transportation system. A well-equipped and focused Coast Guard will be necessary to support it.

Issues and agencies under the jurisdiction of the Coast Guard and Maritime Transportation Subcommittee include:

- United States Coast Guard
- Maritime transportation safety
- Navigation, port and waterway safety
- Maritime transportation regulatory activities, including the regulation of vessels and merchant seaman
- Marine environmental protection, generally as related to vessel operations (oil and plastics pollution, invasive/aquatic nuisance species transported by vessels, international agreements concerning
- State boating safety programs
- Federal Maritime Commission and the regulation of ocean shipping
- The Jones Act (United States cabotage laws governing shipping of goods and passengers between any two points in the U.S. Exclusive Economic Zone)

transportation of oil and hazardous substances)

- Non-national security aspects of the merchant marine

From Email : efoia@uscg.mil
To Email : lobsterblues@aol.com
Cc Email :
Bcc Email :
Subject : RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2017-CGFO-02275
Email Body : Ewart, This acknowledges receipt of your June 02, 2017, Freedom of Information Act (FOIA) request to the U.S. Coast Guard (USCG). Your request was received on June 06, 2017 and has been assigned FOIA[PA] number 2017-CGFO-02275. We have queried the appropriate component of the USCG for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request. You may check the status of your request by entering FOIA[PA] request number 2017-CGFO-02275 into the following site: http://www.dhs.gov/foia-status. Request status is updated and refreshed on a nightly basis electronically. You may contact this office via telephone at 202-475-3522 or via email at EFOIA@uscg.mil if you have any further questions. Sincerely, U.S. Coast Guard FOIA/PA Office

From: [redacted]
To: FGC
Cc: [redacted]
Subject: Harbor Safety Committee Meeting Min. - Commercial Lobster Fishing Ban - Port Hueneme, CA
Date: Thursday, June 08, 2017 1:01:42 PM
Attachments: Harbor_Safety_Minutes_1-05-16_-_Special.pdf
Harbor_Safety_Minutes_11-05-15.pdf
Harbor_Safety_Minutes_05-07-15.pdf
Harbor_Safety_Minutes_2-04-16.pdf
Harbor_Safety_Minutes_5-05-16.pdf
Harbor_Safety_Minutes_6-23-16.pdf
Harbor_Safety_Minutes_11-10-16.pdf
Harbor_Safety_Minutes_02-02-17.pdf

Dear Fish and Game Commission,

The Port Hueneme Harbor Safety Committee has failed to follow The Brown Act when preparing this formal proposal brought before the Fish and Game Commission. Please see the Harbor Safety Committee minutes. For your convenience I have pulled all text related to this issue concurrent with the committee meeting date.

This information has also been sent to the Lobster Fishermen recently retained legal council.
Cox, Wootton, Lerner, Griffin & Hansen LLP

HSC Meeting - 5-7-15

An information bulletin will be sent out at the beginning of lobster season. There is no State law on books in moving traps, we will continue to look at legal requirements. Channel Islands Harbor Harbormaster mentioned they remove buoy per a code section and will provide the code section to the Committee.

HSC - 11-5-15

PUBLIC COMMUNICATIONS:

Mr. John Higgins of Ventura Harbor discussed the Safety Committee's concerns on lobster trap locations and provided a navigation code for trap removal.

1-5-2016 – Only meeting Lobster fishermen were invited to and notified of. This was the meeting that the committee proposed a line and Fishermen **agreed with** – WE NEVER heard from them again until F&G hosted the 1/10/17 meeting.

UNFINISHED BUSINESS:

Lobster Traps in the Channel Entrance

Discussion continued among the Committee of the serious safety hazard with the lobster traps being placed in the fairway and channel. The Committee discussed Code 9002 D,

Subsection 1 and procedures on how to remove and relocate the traps. Members of the Commercial Fisherman attended the meeting and extended their willingness to work with the Committee.

2-4-16 – Meeting minutes
Lobster Traps in the Channel Entrance

Mr. Demers noted a petition has been sent to California Fish and Game Commission. An application will need to be filled out to amend the code for certain areas to be off limit for commercial fishing. Prior to completion of the application, the commercial fishing community will be allowed input. Information to be added to the Harbor Safety Plan at its next revision.

5-5-16

LOBSTER TRAPS IN CHANNEL ENTRANCE
Mr. Wade Edwards noted a formal request has been submitted to keep lobster traps out of the fairway. Mr. Chuck Calkins noted the Committee will continue to work with the local community on this issue.

11-10-16

LOBSTER TRAPS IN CHANNEL ENTRANCE
Mr. John Demers noted the Fish and Game Commission is moving forward to approve to change law for traps in the fairway.

6-23-16

Committee: Mr. Edwards noted he attended the Fish and Game Commission and spoke on lobster traps in the fairway.

2-2-17

President Chuck Calkins noted we are in the public comment period for the safety fairway being updated in the charts. On January 10, 2017 (Lobster Fishermen WERE notified of and attended this meeting with F&G) California Fish and Game Commission held a public outreach meeting at the Port offices regarding consideration of a regulation change to designate the marine safety fairway off Port Hueneme (NOAA chart 18724) as a restricted fishing area for the take of lobster for commercial purposes. Mr. Wade Edwards noted the need for support letters, the first hearing will be in February and then a discussion meeting will be in April and then an adoption meeting in June. Mr. Edwards noted the lobster traps are significantly encroaching on the safety fairway. Requests have been made to relocate or remove the traps in the fairway, but there is no clear authority on who can relocate/remove

the traps. Captain Eric Ireland noted the safety fairway intent is to keep the fairway clear for approaching or departing vessels.

Kat Jones
Operations Manager
206-391-9054

Anacapa Fishing LLC
4147 Transport Ave.
Ventura, CA 93003

F/V Erin Carroll - F/V Sea Pearl - F/V Sandra Lee
F/V Alice Anne - F/V Karen Sue - F/V Stars and Stripes

The Port
OF HUENEME
Oxnard Harbor District

BOARD OF HARBOR COMMISSIONERS
Jason T. Hodge President
Mary Anne Rooney Vice President
Jess Herrera Secretary
Dr. Manuel M. Lopez Commissioner
Jess Ramirez Commissioner
PORT MANAGEMENT
Kristin Decas CEO & Port Director
Foreign Trade Zone #205
WORLD TRADE CENTER® OXNARD

June 12, 2017

California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, C A95814

Re: Proposed Port of Hueneme Restricted Fishing Area Regulations

Honorable Commissioners:

As a California special district and owner and operator of the commercial Port of Hueneme, the Oxnard Harbor District (the "District") has a long and fruitful history of working successfully with the District's customers, employees, our local community and the many maritime interests that use and rely on the Port on a daily basis.

In that capacity, the District has had a seat and a voice on the Port Hueneme Harbor Safety Committee since the Committee's inception. As the Port Director, I understand and value the collaborative process that the Committee employs to monitor and make recommendations concerning safety issues and best practices at the Port, and we at the District seek to ensure that our oversight and operation of the Port adequately take into consideration the Committee's views and recommendations.

I understand that in early 2016, the District's former Chief Operations Officer ("COO") wrote a letter to the Commission formally requesting action on the Commission's part to place off limits to commercial fishing the entirety of the Port's safety fairway. The COO, who is no longer employed by the Port, wrote that "the Port [was] request[ing]" this change. The letter was neither copied to me in my role as Port Director and CEO, nor was it shown to me for approval prior to it being sent.

I write to inform you that this particular request (in the Petition Letter) should have been made by the Harbor Safety Committee itself, not a single member. Moreover, the request was not made at the Port's request because neither the Board of Harbor Commissioners nor I had ever authorized such a request. The District understands its authority and responsibility to make such a request in the appropriate circumstances, after appropriate deliberation and consideration by District leadership, and we can assure the Commission that we will use that authority if and when conditions demand it. Finally, the District understands that the Harbor Safety Committee will be putting forth their own recommendations and communicating their own concerns directly to the Commission.

The Port
OF Hueneme
Oxnard Harbor District

I may be reached at the contact information shown below if you have any questions or if there is anything further I may provide. Thank you for your consideration.

Sincerely,

Kristin Decas
Chief Executive Officer and Port Director

HARBOR SAFETY COMMITTEE
Of The Port Hueneme Region

California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, C A95814

Re: Proposed Port of Hueneme Restricted Fishing Area Regulations

Dear Commissioners,

The Port of Hueneme Harbor Safety Committee ("HSC") would like to clarify that the petition initially requested in a letter dated January 28, 2016 (the "Petition Letter") was intended to be from the Harbor Safety Committee and not the Oxnard Harbor District - Port of Hueneme (Port). The Petition Letter was authored by Mr. John Demers, who was a member of the Harbor Safety Committee at the time. I understand that he wrote the letter on the Port's letterhead, but that he had not been authorized to do so on behalf of the Port. I write this letter to clarify, on behalf of the HSC, that the HSC is the lead party on this petition.

For further background and context: After the Fish and Game Commission meeting on April 27, 2017, and at the request of the HSC, the Oxnard Harbor District (the "District"), which owns and operates the Port, hired an independent third party to assist with technical consulting services, to review the proposed changes arising from the Petition, to conduct outreach to stakeholders, develop information from similar prototype examples and to develop a path forward that would be acceptable to both the HSC and the affected lobster fishing community. The data was presented to stakeholders on June 1, 2017, and, as a result of input from those stakeholders, proposed new restricted fishing area boundary lines were presented at a special meeting of the Harbor Safety Committee on June 6, 2017. The Harbor Safety Committee voted on a revised line, as reflected below.

Our Request:

The Port of Hueneme Harbor Safety Committee hereby requests a modification to the proposed item, "Adopt proposed changes to crab and lobster recreational gear marking, and commercial lobster harbor restricted fishing area regulations (Sections 29.80 and 122, Title 14, CCR)", being considered for adoption at the June 22, 2017 Fish and Game Commission Meeting, to revise the proposed New Regulatory Language section to read:

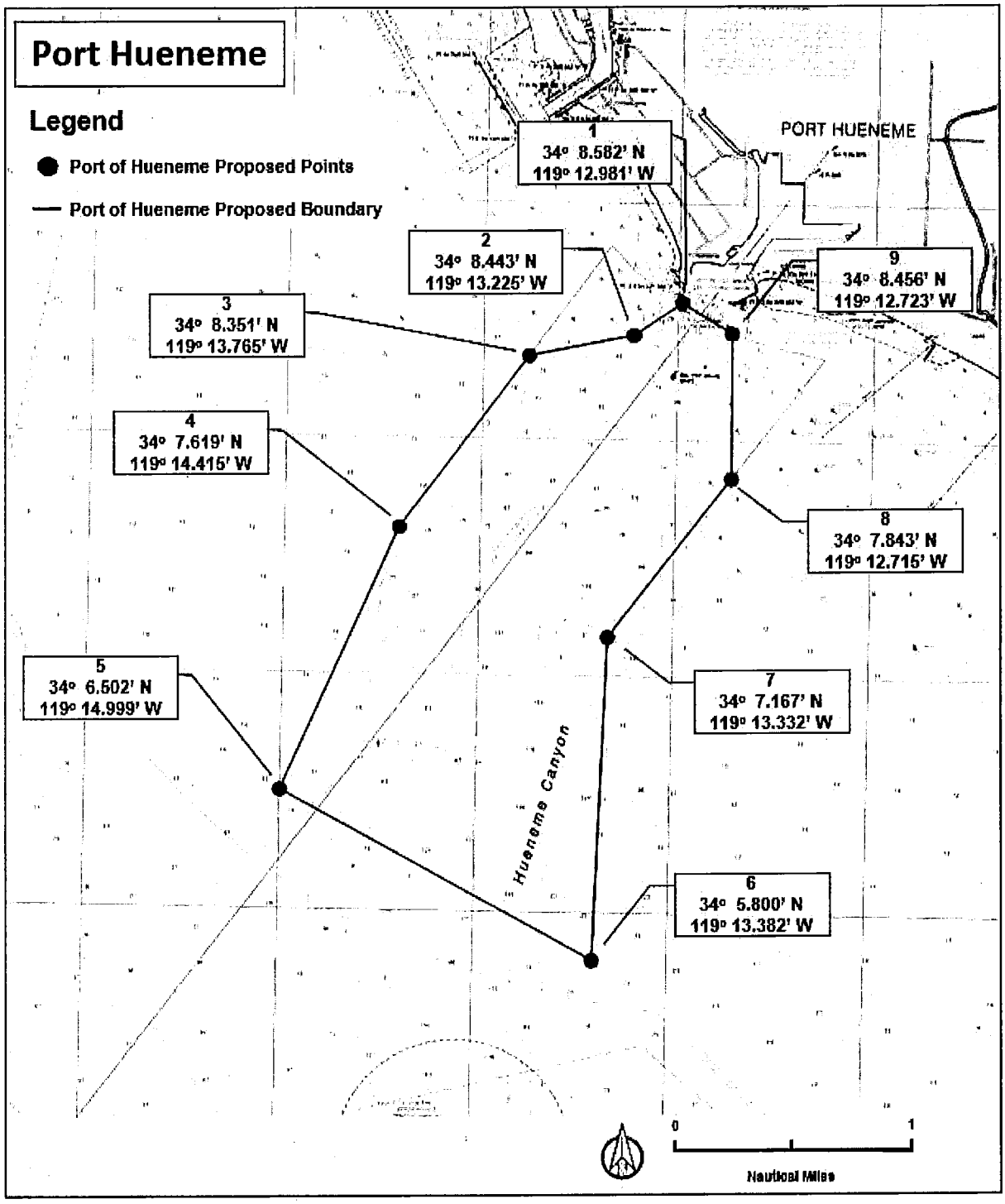
"(D) Port of Hueneme entrance: This area is bounded by straight lines connecting the following points in the order listed:

1. 34° 8.582' N. lat. 119° 12.981' W. long.;
2. 34° 8.443' N. lat. 119° 13.225' W. long.;
3. 34° 8.351' N. lat. 119° 13.765' W. long.;
4. 34° 7.619' N. lat. 119° 14.415' W. long.;
5. 34° 6.502' N. lat. 119° 14.999' W. long.;
6. 34° 5.800' N. lat. 119° 13.382' W. long.;
7. 34° 7.167' N. lat. 119° 13.332' W. long.;
8. 34° 7.843' N. lat. 119° 12.715' W. long.;
9. 34° 8.456' N. lat. 119° 12.723' W. long.

HARBOR SAFETY COMMITTEE
Of The Port Hueneme Region

[...No proposed changes to subsections (e) through (h)]

Note: Authority cited: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, Fish and Game Code."



The HSC believes this revised formulation complies with applicable laws and regulations while also ensuring the safe and efficient operation of the Port, and we would be happy to offer any additional information you might require.

Thank you for your consideration and attention to this matter.

Regards,

C.B. Caulkins

Chuck Caulkins

Port of Hueneme Harbor Safety Committee, Chair

State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND WILDLIFE
COMMISSION
2017 APR 11 AM 8:1

Memorandum

Date: April 10, 2017

To: Valerie Termini
Executive Director
Fish and Wildlife Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the April 26-27 Fish and Game Commission Meeting; Request for Authorization to Publish Notice of the Commission's Intent to Add Section 1.95, Title 14, California Code of Regulations, RE: Process for Automatic Conformance with Federal Regulations**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to add regulations to establish a Commission process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations (Section 1.95, Title 14, CCR). This will allow for discussion and adoption at the June and August 2017 Commission meetings, respectively.

For species managed under federal fishery management plans or regulations, the Commission usually takes concurrent action to conform State recreational regulations to federal regulations, which are adopted through an open and deliberative federal rulemaking process. This is done in recognition of federal jurisdiction and to ensure consistency, but this dual process is redundant and inefficient with timing mismatches between the State and federal adoption processes.

Under current State law (Fish and Game Code Section 7110), the Commission has authority to establish through regulation an automatic process to conform State recreational fishing regulations applicable in State waters (zero to three miles offshore) to federal regulations. The conforming actions implemented pursuant to the automatic process are exempt from the Administrative Procedure Act.

The proposed regulation provides for recreational regulations for salmon and Pacific halibut to be established through the automatic conformance process unless the Commission adopts regulations using the regular rulemaking process and specifically declares at the time of adoption the intent to deviate from the automatic conformance process.

A Notice of Exemption (NOE) is also attached. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on a California Environmental Quality Act (CEQA) categorical exemption for this rulemaking. The following paragraphs describe staff's analysis of use of a categorical exemption under the CEQA.

Categorical Exemptions to Protect Natural Resources and the Environment

In adopting a process for automatic conformance of State recreational regulations to federal regulations, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations describe the process through which State recreational fishing regulations will automatically conform to federal regulations for salmon and Pacific halibut in federal waters of the ocean off California.

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S. Code §1801 et seq.), the federal government exercises exclusive jurisdiction over fishery resources from 3 to 200 miles offshore. However, because these fish stocks also live in State waters, it is important to have consistent State and federal regulations (also referred to as federal rules) establishing season dates and other management measures, it is important that the State and federal regulations be effective concurrently. Consistency of regulations in adjacent waters allows for uniformity of enforcement, minimizes confusion, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain State authority over its fisheries and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

This proposed action is undertaken to assure the maintenance and enhancement of fishery resources and the marine environment. The Department has determined there are neither significant cumulative impacts of successive projects of the same type in the same place, nor is there a reasonable possibility the proposed action will have a significant effect on the environment due to unusual circumstances. Accordingly, the Department recommends that the Commission determine the proposed action to be the proper subject of the CEQA Class 7 and 8 Categorical Exemptions.

If you have any questions regarding this item, please contact Craig Martz, Regulations Unit Manager at (916) 653-4674 or Craig.Martz@wildlife.ca.gov.

Attachment

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

Add Section 1.95
Title 14, California Code of Regulations
Re: Process to Conform State Recreational Fishing Regulations to Federal Regulations

I. Date of Initial Statement of Reasons: March 22, 2017

II. Dates and Locations of Scheduled Hearings:

(a)	Notice Hearing:	Date:	April 27, 2017
		Location:	Van Nuys, CA
(b)	Discussion Hearing:	Date:	June 22, 2017
		Location:	Smith River, CA
(c)	Adoption Hearing:	Date:	August 17, 2017
		Location:	Sacramento, 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:

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S. Code §1801 et seq.), the federal government exercises exclusive jurisdiction over fishery resources from 3 to 200 miles offshore. However, because these fish stocks also live in State waters, it is important to have consistent State and federal regulations (also referred to as federal rules) establishing season dates and other management measures, and also important that the State and federal regulations be effective concurrently. Consistency of regulations in adjacent waters allows for uniformity of enforcement, minimizes confusion, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain State authority over its fisheries and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

Under current State law (Fish and Game Code Section 7110) the Commission has authority to establish through regulation an automatic process to conform State recreational fishing regulations applicable in State waters (zero to three miles offshore) to federal regulations. The

conforming actions, implemented pursuant to the automatic process are exempt from the Administrative Procedure Act [Chapter 3.5 (commencing with Section 11340) of the Government Code.]

The National Marine Fisheries Service (NMFS) adopts fishing regulations annually and may amend the regulations more often, if necessary, to implement fishery management measures adopted by the Pacific Fishery Management Council (Council). These measures include those for recreational fishing in federal waters off California.

For species managed under federal fishery management plans or regulations, the Commission has usually taken concurrent action to conform State recreational regulations to federal regulations that have been adopted through an open and deliberative federal rulemaking process, which includes a detailed review of economic impacts. Conforming State recreational regulations is done in recognition of federal jurisdiction and to ensure consistency and ease of use for constituents who are subject to both State and federal laws while fishing, or possessing sport fish. However, the dual process is redundant and inefficient, and historically the lag between federal action and conforming State action has created a period of management inconsistency and confusion. To improve regulatory efficiency, Fish and Game Code Section 7110 was enacted with the goal of reducing redundancies between State and federal rulemaking processes for these species.

Present Regulations
Current recreational fishing regulations for salmon and Pacific halibut are a conglomerate of State regulations that conform to federal regulations, and State regulations that are more restrictive than and not in conflict with federal regulations, including State regulations that cover aspects not addressed in federal regulations.

Proposed Regulation
Section 1.95, Title 14, CCR, is proposed to be added to describe the process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations.

Subsection (a) of Section 1.95, Title 14, CCR
The proposed regulation provides that recreational regulations for salmon and Pacific halibut established through the automatic conformance process shall govern unless the Commission adopts regulations using the regular rulemaking process [Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code] and specifically declares at the time of adoption the intent to deviate from the automatic conformance process.

Necessity: This provision is included to clarify that the Commission reserves its authority to adopt recreational fishing regulations for salmon and Pacific halibut pursuant to the regular rulemaking process.

Subsection (b) of Section 1.95, Title 14, CCR
Proposed subsection (b)(1) provides that there are two processes by which State recreational fishing regulations for salmon and Pacific halibut may conform to federal regulations.

Necessity: This provision is included for clarity.

Proposed subsection (b)(2) of Section 1.95 outlines the standard conformance process to be used for annual regulations or corrections to annual regulations.

Proposed subsection (b)(2)(A) provides that no later than 10 days after publication in the Federal Register of any NMFS annual regulation affecting salmon or Pacific halibut, or any correction to an annual regulation affecting such species, the Commission shall submit amended State recreational fishing regulations to the Office of Administrative Law for publication in the California Code of Regulations and shall file amended State recreational fishing regulations with the Secretary of State.

Necessity: This provision is included to ensure that State regulations conform to federal regulations.

Proposed subsection (b)(2)(B) provides that no later than 10 days after publication in the Federal Register of any NMFS annual regulation affecting salmon or Pacific halibut, or any correction to an annual regulation affecting such species, the following shall occur:

- The Department of Fish and Wildlife (Department) shall inform the public, via news release, of the Federal Register in which the applicable fishing regulations are published and the effective date of the conformed State regulations. [Subsection (b)(2)(B)1.]
- The Commission shall mail or email the Department news release to any person, group of persons or small business enterprise that has filed with the Commission a request for notice of, or the Commission believes to be interested in, recreational fishing regulations for salmon or Pacific halibut. [Subsection (b)(2)(B)2.]
- To the extent practicable, the Department shall provide information on any changes to the applicable State recreational fishing regulations through public contact, electronic notification, and online and printed publications. [Subsection (b)(2)(B)3.]

Proposed subsection (b)(2)(C) provides that an update on the conformed State recreational fishing regulations shall be included on the agenda of the next regularly-scheduled Commission meeting.

Necessity: This provision is included to ensure that the public is informed of how to access the annual federal regulation, or correction to an annual federal regulation, to which State regulations automatically conform and to ensure that the public is informed of the changes to State regulations.

Proposed subsection (b)(3) of Section 1.95 outlines the conformance process to be used for in-season changes to regulations.

Proposed subsection (b)(3)(A) provides that State recreational fishing regulations for salmon shall conform to applicable in-season changes to federal regulations and that such changes are publically noticed through the NMFS ocean salmon hotline.

Proposed subsection (b)(3)(B) provides that State recreational fishing regulations for Pacific halibut shall conform to applicable in-season changes to federal regulations and that such changes are publically noticed through the NMFS Area 2A Pacific halibut hotline.

Necessity: This provision is included to ensure that the public is informed of how to access the in-season changes to federal regulation to which State regulations automatically conform, and to ensure that the public is informed of the changes to State regulations.

Subsection (c) of Section 1.95, Title 14, CCR
This proposed subsection specifies that the effective date of State regulations conformed pursuant to the automatic conformance process will be the same as the effective date of the federal regulations.

Necessity: This provision is included to ensure that consistent State regulations are in effect concurrently with federal regulations. This provision is needed to reduce public confusion.

Subsection (d) of Section 1.95, Title 14, CCR
This proposed subsection specifies that nothing in Section 1.95 controls the adoption or validity of Commission regulations pertaining to the identified species on matters that the federal regulations do not address.

Necessity: This provision is included to clarify that the Commission reserves its authority to adopt State recreational fishing regulations for federally-managed species pursuant to the regular rulemaking process.

Existing species-specific regulations will remain in Title 14. In the future, these sections may be amended to conform to federal regulations pursuant to the process described in Section 1.95, or may be amended pursuant to the regular rulemaking process, as desired by the Commission.

Goals and Benefits of the Regulation
The proposed regulation will help reduce or eliminate the delay between federal action and conforming State action which leads to a period of management inconsistency and confusion between regulations for federal and State ocean waters. Timely conformance also eliminates the potential for a preemption issued under the Magnuson-Stevens Fishery Conservation and Act, and reduces redundant workload for the State.

The proposed regulation may result in future benefits to the environment by the timely conformance to federal regulation, resulting in the sustainable management of California's fish resources.

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

Authority: Section 7110, Fish and Game Code.

Reference: Section 7110, 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:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Status quo management of salmon and Pacific halibut resources may result in mis-alignment between State and federal regulations. The Council would continue to recommend regulations for federal waters, NMFS would continue to implement federal regulations for waters off California, and the Commission would continue to adopt the same changes to State regulations, for conformance, via regular Administrative Procedure Act rulemakings. Not adopting the proposed process for automatic conformance with federal regulations would continue to result in redundant workload to the State in order to make changes to State regulations to keep them in conformance with federal regulations.

(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 adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation prescribes a procedure the Commission may use to conform State recreational fishing regulations to federal regulations.

(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 Commission does not anticipate any impacts on the creation or elimination of jobs in California.

The Commission does not anticipate any impacts on the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

The Commission does not anticipate benefits to the health and welfare of California residents.

The Commission anticipates future benefits to the environment by the timely conformance to federal regulation, resulting in the sustainable management of California's fish resources.

The Commission does not anticipate any benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The agency 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:

The Commission expects time savings for existing staff that will permit both the Commission and Department to devote more staff resources to achieving other core mandates.

(e) 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, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, because the regulatory action does not alter existing conditions. The intent is to improve regulatory efficiency in State conformance with federal regulations.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate any significant impacts on the creation of new business or the elimination of existing businesses in California. The intent is to improve regulatory efficiency in State conformance with federal regulations. The regulatory action does not alter existing conditions.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any significant impacts on the expansion of businesses currently doing business in California. The intent is to improve regulatory efficiency in State conformance with federal regulations.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission does not anticipate benefits to the health and welfare of California residents. The intent is to improve regulatory efficiency in State conformance with federal regulations. The regulatory action does not alter existing conditions.

(e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety because this regulatory action will not impact working conditions or worker safety.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates future benefits to the environment by the timely conformance to federal regulation, resulting in the sustainable

management of California's fish resources.

(g) Other Benefits of the Regulation:

Concurrence with Federal Law:
The proposed regulations will establish an automatic process which may be used to bring State recreational fishing regulations into alignment with federal regulations.

Informative Digest/Policy Statement Overview

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S. Code §1801 et seq.), the federal government exercises exclusive jurisdiction over fishery resources from 3 to 200 miles offshore. However, because these fish stocks also live in State waters, it is important to have consistent State and federal regulations establishing season dates and other management measures, and also important that the State and federal regulations be effective concurrently. Consistency of rules in adjacent waters allows for uniformity of enforcement, minimizes confusion, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain State authority over its fisheries and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

Under current State law (Fish and Game Code Section 7110) the Fish and Game Commission (Commission) has authority to establish through regulation an automatic process to conform State recreational fishing regulations applicable in State waters (zero to three miles offshore) to federal regulations. The conforming actions implemented pursuant to the automatic process are exempt from the Administrative Procedure Act [Chapter 3.5 (commencing with Section 11340) of the Government Code].

Federal regulations may be adopted annually and may be amended more often, if necessary, and serve to implement fishery management measures adopted by the Pacific Fishery Management Council. These measures include those for recreational fishing in federal waters off California.

For species managed under federal fishery management plans or regulations, the Commission has usually taken concurrent action to conform State recreational regulations to federal regulations that have been adopted through an open and deliberative federal rulemaking process, which includes a detailed review of economic impacts. Conforming State recreational regulations is done in recognition of federal jurisdiction and to ensure consistency and ease of use for constituents who are subject to both State and federal laws while fishing, or possessing sport fish. However, the dual process is redundant and inefficient, and historically the lag between federal action and conforming State action has created a period of management inconsistency and confusion. To improve regulatory efficiency, Fish and Game Code Section 7110 was enacted with the goal of reducing redundancies between State and federal rulemaking processes for these species.

Current recreational fishing regulations for salmon and Pacific halibut are a conglomerate of State regulations that conform to federal regulations, and State regulations that are more restrictive than and not in conflict with federal regulations, including State regulations that cover aspects not addressed in federal regulations.

Proposed Regulations
Section 1.95 will be added to Title 14, CCR to describe the process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations.

The proposed regulation provides that recreational regulations for salmon and Pacific halibut established through the automatic conformance process shall govern unless the Commission adopts regulations using the regular rulemaking process [Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code] and specifically declares at the time of adoption the intent to deviate from the automatic conformance process.

The proposed regulations describe the two processes by which State recreational fishing regulations for salmon and Pacific halibut may conform to federal regulations: the standard conformance process to be used for annual regulations, or corrections to annual regulations, and the conformance process to be used for in-season changes to regulations.

The proposed regulation specifies that the effective date of State regulations conformed pursuant to the automatic conformance process will be the same as the effective date of the federal regulation.

The proposed regulation specifies that nothing in Section 1.95 controls the adoption or validity of Commission regulations pertaining to the identified species on matters that the federal regulations do not address.

Existing species-specific regulations will remain in Title 14. In the future, these sections may be amended to conform to federal regulations pursuant to the process described in Section 1.95, or may be amended pursuant to the regular rulemaking process, as desired by the Commission.

Goals and Benefits of the Regulation
The proposed regulations will help reduce or eliminate the delay between federal action and conforming State action which leads to a period of management inconsistency and confusion between regulations for federal and State ocean waters. Timely conformance also eliminates the potential for a preemption issued under the Magnuson-Stevens Fishery Conservation and Act, and reduces redundant workload for the State.

The proposed regulation may result in future benefits to the environment by the timely conformance to federal regulation, resulting in the sustainable management of California's fish resources.

Compatibility with Existing State Regulations
The proposed regulations are neither inconsistent nor incompatible with existing State

regulations. The Legislature has delegated authority to the Commission to adopt recreational fishing regulations in general (Fish and Game Code Sections 200, 205 and 265); and an automatic process to conform State recreational fishing regulations to federal regulations (Fish and Game Code Section 7110). Commission staff has searched the California Code of Regulations and has found no other State regulations related to conforming recreational fishing regulation to federal regulations.

Regulatory Language

Section 1.95 is added to read:

1.95. Process to Conform State Recreational Fishing Regulations to Federal Regulations.

(a) The commission establishes the process in subsection (b) to automatically conform state recreational fishing regulations for the fish species listed in subsections (a)(1) through (a)(2). Conforming regulations established through subsection (b) shall govern unless the commission adopts regulations for said species using the regular rulemaking process [Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code] and specifically declares at the time of adoption the intent to deviate from the automatic conformance process.

(1) Salmon as defined in Section 1.73.

(2) Pacific halibut (*Hippoglossus stenolepis*).

(b) Automatic Process to Conform State Recreational Fishing Regulations to Federal Regulations.

(1) Recreational fishing regulations for fish species listed in subsections (a)(1) through (a)(2) in state waters shall conform to applicable federal regulations enacted by the National Marine Fisheries Service by the process described in subsection (b)(2) or by the process described in subsection (b)(3).

(2) Process for Annual or Corrective Actions.

(A) No later than 10 days after publication in the Federal Register of any National Marine Fisheries Service annual regulation for the species listed in subsection (a), or any correction to an annual regulation affecting such species, the commission shall submit amended recreational fishing regulations to the Office of Administrative Law for publication in the California Code of Regulations, and shall file amended recreational fishing regulations with the Secretary of State.

(B) Notification of State Conformance Action.

No later than 10 days after publication in the Federal Register of any National Marine Fisheries Service annual regulation for the species listed in subsection (a), or any correction to an annual regulation affecting such species, the following shall occur:

1. The department shall inform the public, via news release, of the Federal Register in which the applicable fishing regulations are published and the effective date of the conformed regulations.

2. The commission shall mail or email the department news release to any person, group of persons or small business enterprise that has filed with the commission a request for notice of, or the commission believes to be interested in, recreational fishing regulations for the species listed in subsection (a).

3. To the extent practicable, the department shall provide information on any changes to applicable fishing regulations through public contact, electronic notification, and online and printed publications.

(C) An update on the conformed recreational fishing regulations for the species listed in subsection (a) shall be included on the agenda of the next regularly-scheduled commission meeting.

(3) Process for In-Season Changes.
(A) Salmon. Recreational fishing regulations for salmon in state waters shall conform to applicable in-season changes to federal regulations. Public notification of any in-season change to state salmon regulations to conform to in-season changes to federal regulations is made through the National Marine Fisheries Service ocean salmon hotline at (800) 662-9825.
(B) Pacific Halibut. Recreational fishing regulations for Pacific halibut in state waters shall conform to applicable in-season changes to federal regulations. Public notification of any in-season change to state Pacific halibut regulations to conform to in-season changes to federal regulations is made through the National Marine Fisheries Service Area 2A Pacific halibut hotline at (800) 662-9825.
(c) Effective Date. The effective date of regulations conformed pursuant to subsection (b) shall be the same as the effective date of the federal regulation.
(d) Nothing in this section controls the adoption or validity of commission regulations pertaining to the species identified in subsection (a) on matters that federal regulations do not address.

Note: Authority cited: Section 7110, Fish and Game Code. Reference: Section 7110, Fish and Game Code.

Print Form

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: N/A

From: (Public Agency): CA Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(Address)

Project Title: Section 1.95 Process for Automatic Conformance to Federal Regulations

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

This is a process through which State recreational fishing regulations will automatically conform to federal regulations for salmon and Pacific halibut in federal waters of the ocean off California

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

See attached.

DRAFT

Lead Agency
Contact Person: Valerie Termini Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: _____ Date: 8/17/2017 Title: Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

August 17, 2017

ATTACHMENT TO NOTICE OF EXEMPTION
Adoption of Process for Automatic Conformance to Federal Regulations

The California Fish and Game Commission (Commission) took final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the proposed project on August 17, 2017. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq*.), the Commission adopted the regulations relying on the categorical exemption for "Actions by Regulatory Agencies for Protection of Natural Resources" contained in CEQA Guidelines section 15307, and the categorical exemption for "Actions by Regulatory Agencies for Protection of the Environment" contained in CEQA Guidelines section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308.)

Categorical Exemptions to Protect Natural Resources and the Environment

In adopting a process for automatic conformance of State recreational regulations to federal regulations, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations describe the process through which State recreational fishing regulations will automatically conform to federal regulations for salmon and Pacific halibut in federal waters of the ocean off California.

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S. Code §1801 et seq.), the federal government exercises exclusive jurisdiction over fishery resources from 3 to 200 miles offshore. However, because these fish stocks also live in State waters, it is important to have consistent State and federal regulations (also referred to as federal rules) establishing season dates and other management measures, and also important that the State and federal regulations be effective concurrently. Consistency of regulations in adjacent waters allows for uniformity of enforcement, minimizes confusion, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain State authority over its fisheries and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

This proposed action is undertaken to assure the maintenance and enhancement of fishery resources and the marine environment. The Commission has determined there are neither significant cumulative impacts of successive projects of the same type in the same place, nor is there a reasonable possibility the proposed action will have a significant effect on the environment due to unusual circumstances. Accordingly, the Commission concludes that the proposed action is properly subject to the CEQA Class 7 and 8 Categorical Exemptions.

DRAFT

State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 JUN -5 AM 11: 10

Memorandum

Date: June 1, 2017

To: Valerie Termini, Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for June 22, 2017, Fish and Game Commission Meeting**
Re: Request to Publish Notice of Commission's Intent to Add Section 128, Commercial Take of Sea Cucumber

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publishing notice of its intent to add Section 128 to Title 14, California Code of Regulations concerning commercial take of sea cucumbers. Authorization of this request to publish notice will allow for discussion and possible adoption at the August 17 and October 12, 2017 Commission meetings, respectively.

At the March 2017 meeting of the Marine Resource Committee (MRC), the Department presented its research findings and information on the status of the warty sea cucumber commercial fishery. The results indicate a significant risk to the sustainability of this fishery. After a discussion with Department staff and constituents in attendance, the MRC recommended adding a rulemaking to the Commission's 2017 calendar to address concerns raised by the Department.

Informed by a 2014 survey of fishery participants and meetings with the fleet in March and April of this year, it has been determined that a seasonal closure for warty sea cucumber is the preferred first step for addressing sustainability concerns. Based on the results of recent research, the Department recommends a seasonal closure that includes a significant portion of the key spawning period that spans from March through July.

At this time, the Department is considering three closure options. A survey of commercial divers will be sent out in early June and the results will be presented at the June Commission meeting. The three closure options currently include:

1. From April 1 through June 30;
2. From March 1 through June 14; or,
3. From January 1 through June 14.

The Department is requesting authorization to prepare and publish an Initial Statement of Reasons (ISOR) that includes the three seasonal closure options. The ISOR and rulemaking documents to establish a closed season for the commercial take of warty sea cucumber will be available to the public for review and comment prior to the Commission's August discussion meeting.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Region Regional Manager at (805) 568-0216.

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COMMITTEE STAFF SUMMARY FOR MARCH 23, 2017

6. SEA CUCUMBER

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

Receive DFW overview of the sea cucumber fishery and potential commercial sea cucumber regulation changes.

Summary of Previous/Future Actions (N/A)

Background

DFW has been evaluating the sea cucumber fishery since approximately 2012 with the intent of bringing FGC a fishery status update and proposed regulations to better manage the fishery. MRC recently requested an update on the status of DFW's evaluation. At this meeting, DFW will present an update on the requested status of the fishery, and identify potential commercial sea cucumber regulation changes.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. DFW presentation: *Status of the California Sea Cucumber Dive Fishery*

Committee Direction/Recommendation (N/A)

Status of the California Sea Cucumber Dive Fishery



Carlos Mireles
Marine Region
Marine Resources Committee Meeting
23-March-2017

Species Fished in California

Giant Red Sea Cucumber
(*Apostichopus californicus*)
Subtidal-300 ft
Alaska to Baja



Warty Sea Cucumber
(*Apostichopus parvimensis*)
Subtidal-150 ft
Monterey to Baja



Dive Fishery

- 81 total dive permit holders

Regulations:

- Requirement to complete a daily dive logbook
- Restrictions on the number of permittees





Market and Processing

Cut/Slit Drained, Boiled, Dried (Shipped to China)







Live Whole (Domestic Market)





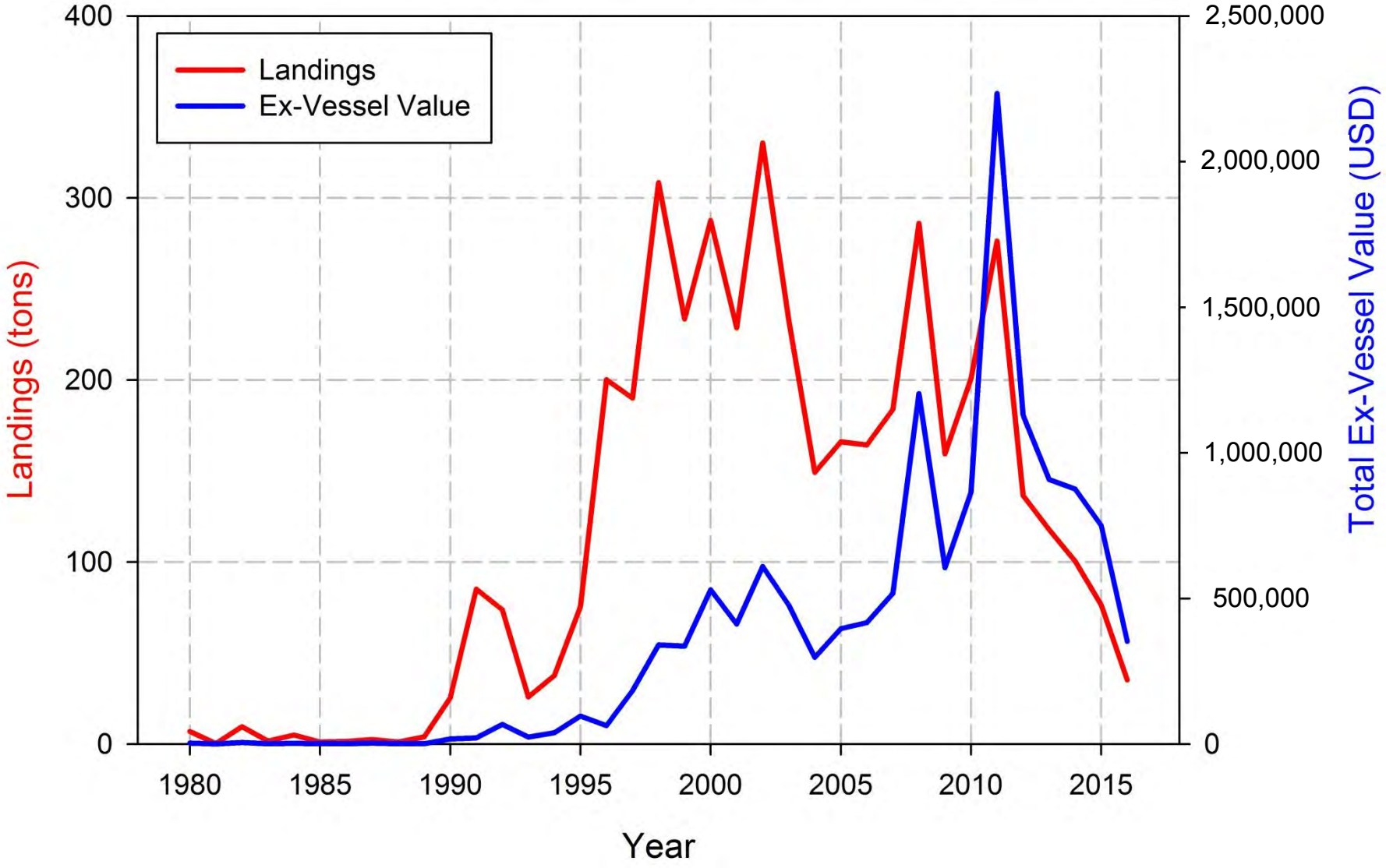


* Condition unknown when landed

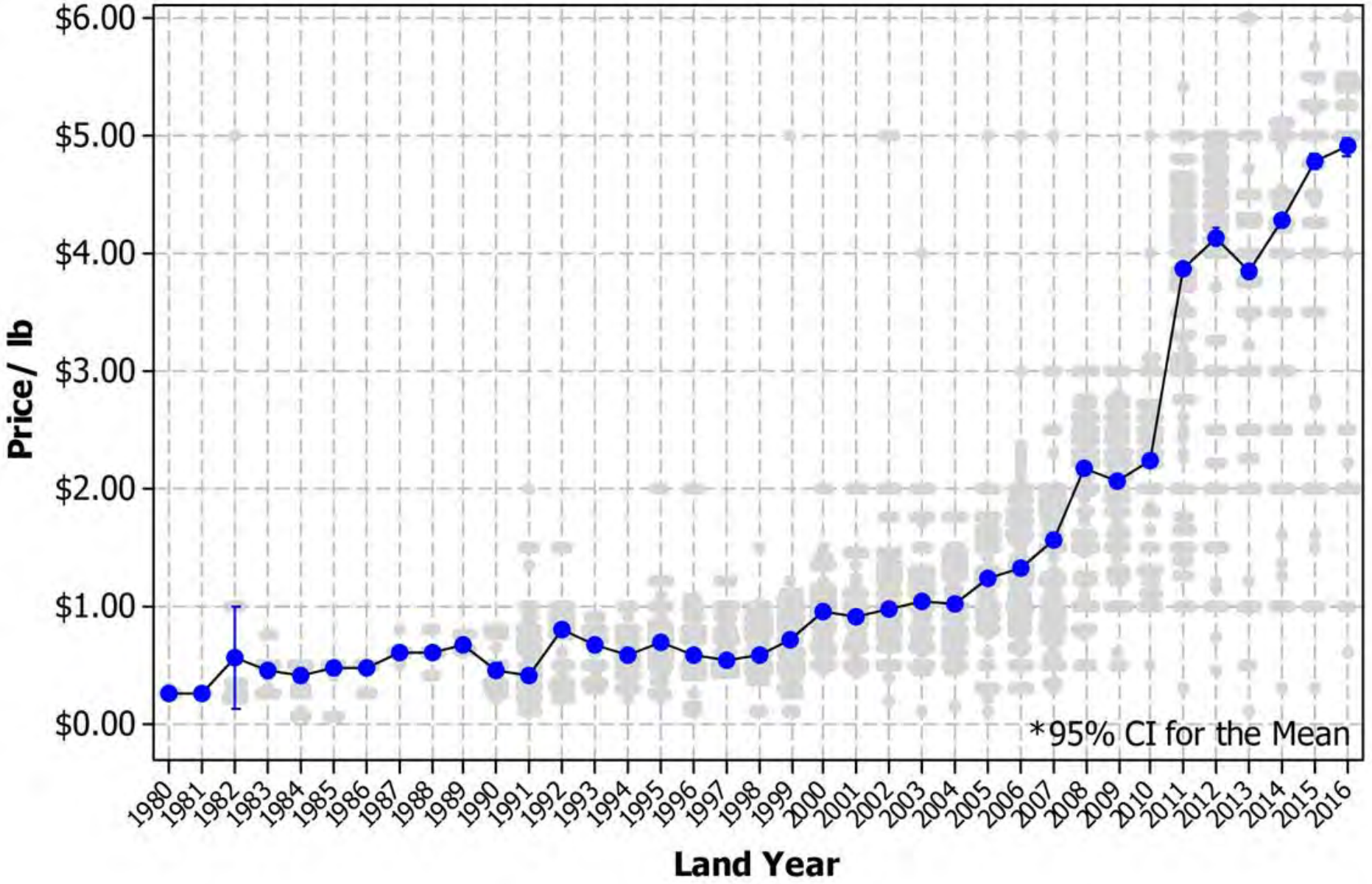
Global Sea Cucumber Market

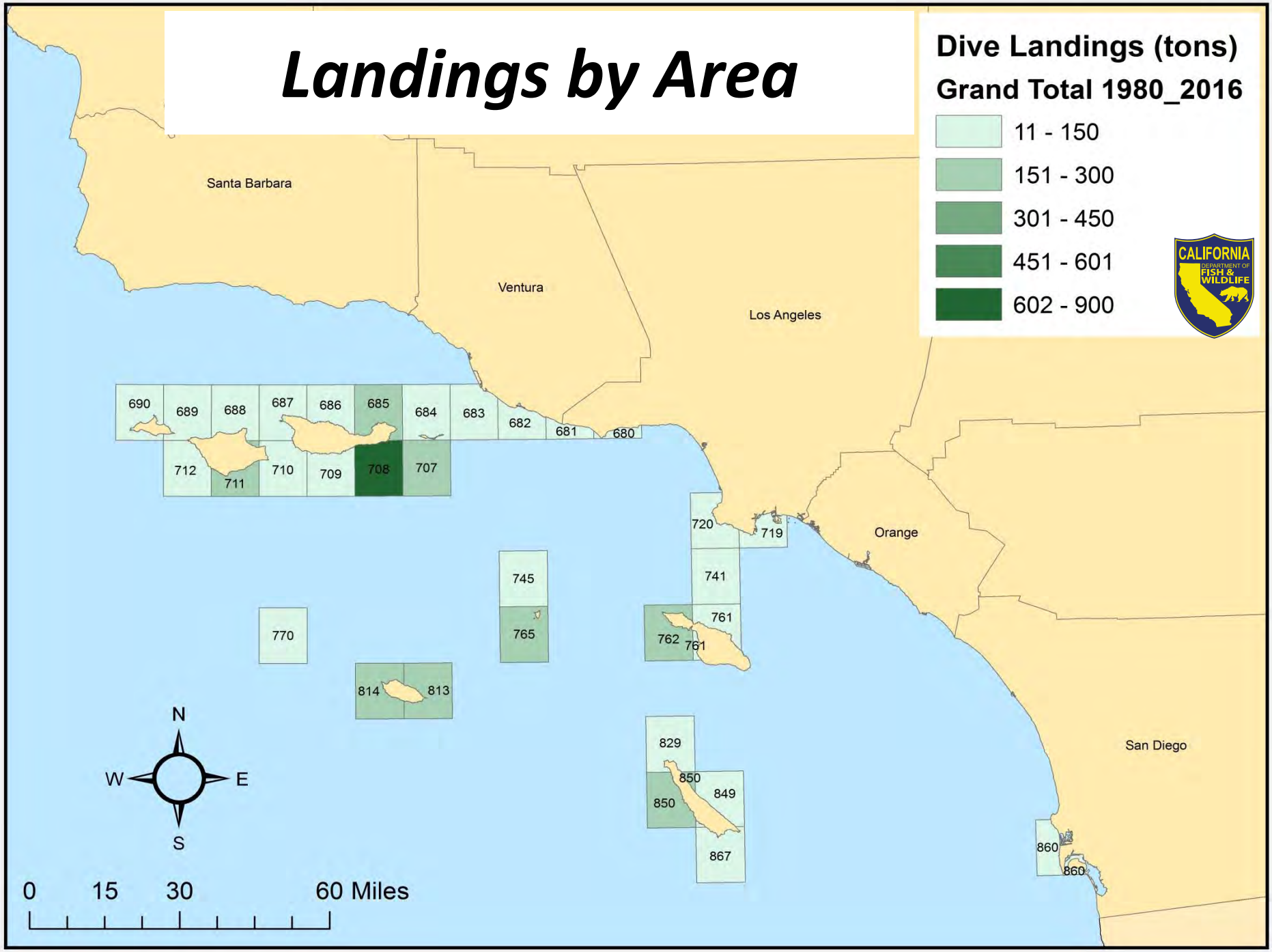


Landings and Value



Value (price/lb)




Landings by Area
Dive Landings (tons)
Grand Total 1980_2016
11 - 150
151 - 300
301 - 450
451 - 601
602 - 900
CALIFORNIA
DEPARTMENT OF
FISH & WILDLIFE
Santa Barbara
Ventura
Los Angeles
Orange
San Diego
690
689
688
687
686
685
684
683
682
681
680
712
711
710
709
708
707
720
719
741
745
765
770
761
762
761
814
813
829
850
850
849
867
860
860
N
W
E
S
0
15
30
60 Miles

Department Concerns/Questions

- Fishery shows signs of not being sustainable
  - -Current landings are trending down as value goes up
  - -Independent monitoring data show downward trend

- Are changes in seasonal commercial landings due to biological or fishery drivers? Both?

- Are sexually immature individuals being harvested?

- Data poor species with limited biological information

Dive Fishery Mail Survey

Fishery Surveys (2014):

- Q's related fishery/market dynamics, biology, management
- Mailed to 86 dive permittees
- 30 returned, 35% return rate
- Divers provided valuable feedback



California Department of Fish and Wildlife

Commercial Sea Cucumber Diver Survey

*Please return pages 3-6 by mail no later than January 15, 2014 or fax to (805) 568-1235

Dear Sea Cucumber Dive Fishery License Holder,

The California Department of Fish and Wildlife (Department) is currently analyzing landing receipts and logbook data in an effort to better understand trends in the dive and trawl fisheries for sea cucumbers. Currently, we are the only state in the US to have both an established dive and trawl fishery. In 2011, we set state records in the total number of landing receipts reporting sea cucumber (Figure 1, pg. 2), ex-vessel value (Figure 2), and tons landed (Figure 3). There was a large increase in both landings and effort in 2011, likely due to the considerable increase in average price per pound ($1.16 in 2005 vs. $3.80 in 2011)(Figure 4). This increase was then followed by a significant decline in landings a year later (2012), despite an even higher average price per pound ($4.22). The amount of dive hours reported on logbooks targeting sea cucumber has also increased significantly over the past several years, resulting in decreased CPUE. In addition, fisheries independent monitoring data demonstrate a decrease in the number of sea cucumber observed.

These findings raise concerns both within and outside the Department regarding the sustainability of the sea cucumber fishery. To better understand the fishery and current trends we want to start a dialog between Department fishery managers and sea cucumber permit holders about ideas and solutions for managing this important resource. Included is a short survey designed to help fill critical data gaps about fishing behavior, processing, and landings data. Central to this effort is the evaluation of our current management strategies and our ability to promote sustainable populations of warty and giant red sea cucumbers in order to maintain a long term, high value fishery.

The Department greatly appreciates your much valued feedback and insight when taking the time to answer the following questions. This survey should take approximately 15-30 minutes to complete. Please provide any additional comments/questions/concerns in the space provide or add extra pages if your response requires additional space. Your responses are confidential; however, the aggregated results of this survey will be shared with the industry. We are planning a similar questionnaire for the trawl fishery.

We look forward to receiving your comments.

Sincerely,

Craig Shuman, D. Env.
Marine Region Manager

- 1 -

Dive Fishery Mail Survey Key Results

Biology

- Aggregation (March-July), spawning behavior (April-July)

Fishery

- 68% of divers cut 100% of their product
- 32% of divers land some portion of catch whole (1-100%)
- Hookah only (57%), Scuba only (17%), both (26%)

Management

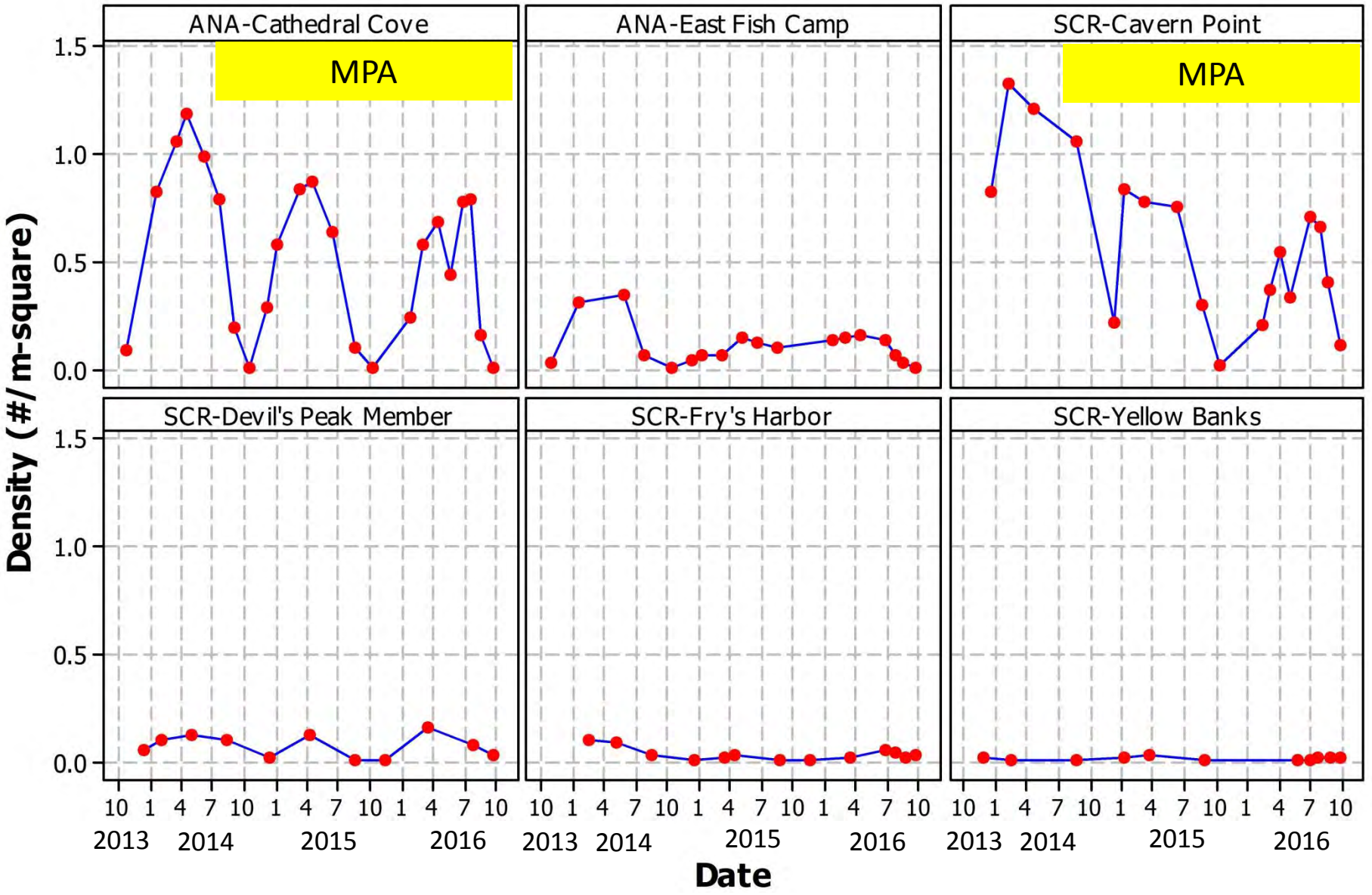
- 74% (20/27) of divers felt current regulations are not sufficient
- Seasonal closure (55%), banning scuba (26%), size limit (19%)

CDFW Dive Surveys

- 3 years (2013-2015)
- 100 m transects (1x1 m) (all existing KFM sites)
- Counted and measured (Length x Width x Height)



CDFW Dive Survey Results



Laboratory Research

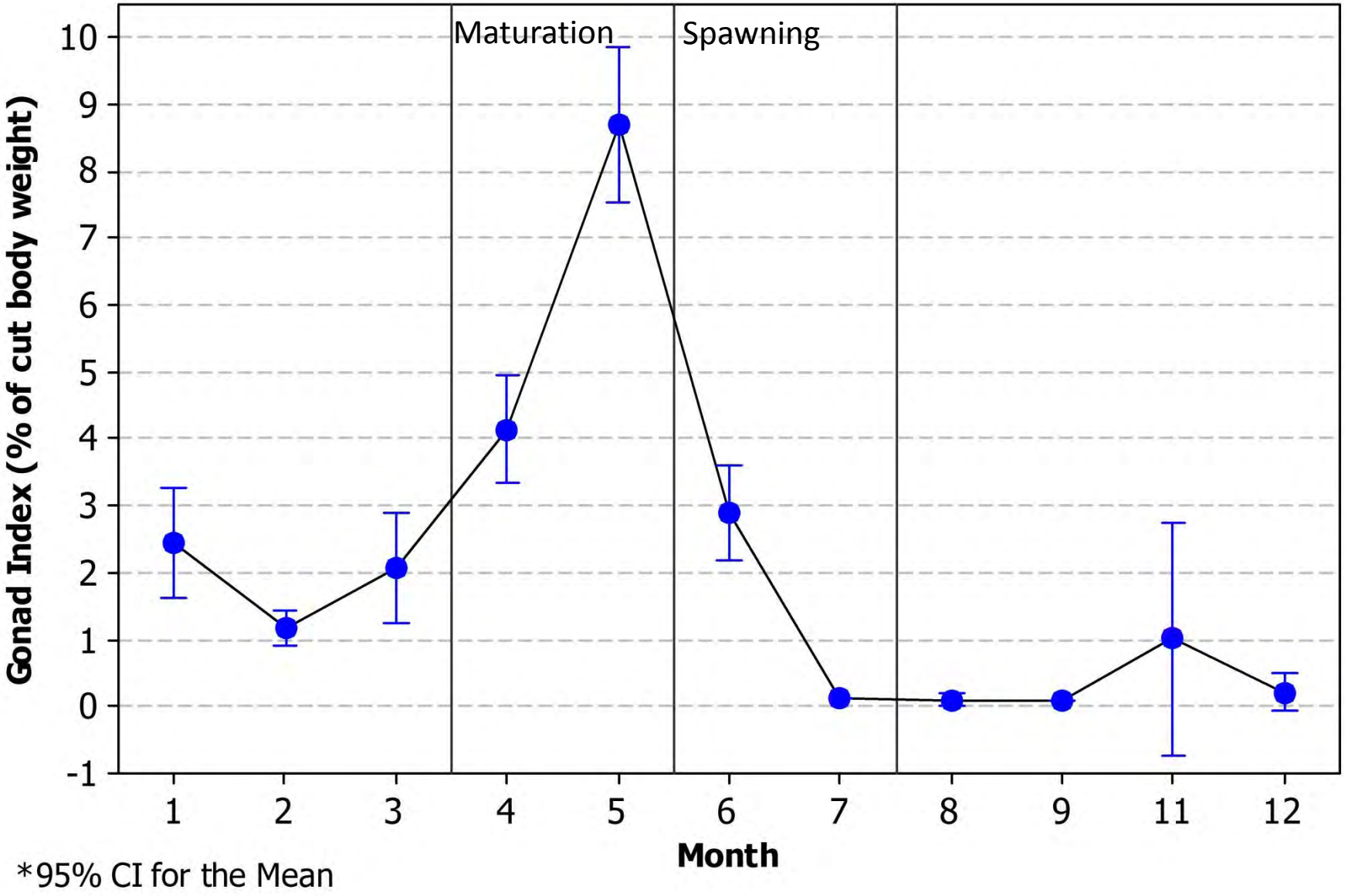
- Individuals dissected seasonally/monthly to determine:
  - -size relationships
  - -reproductive condition
  - -fecundity
  - -size at 1st sexual maturity



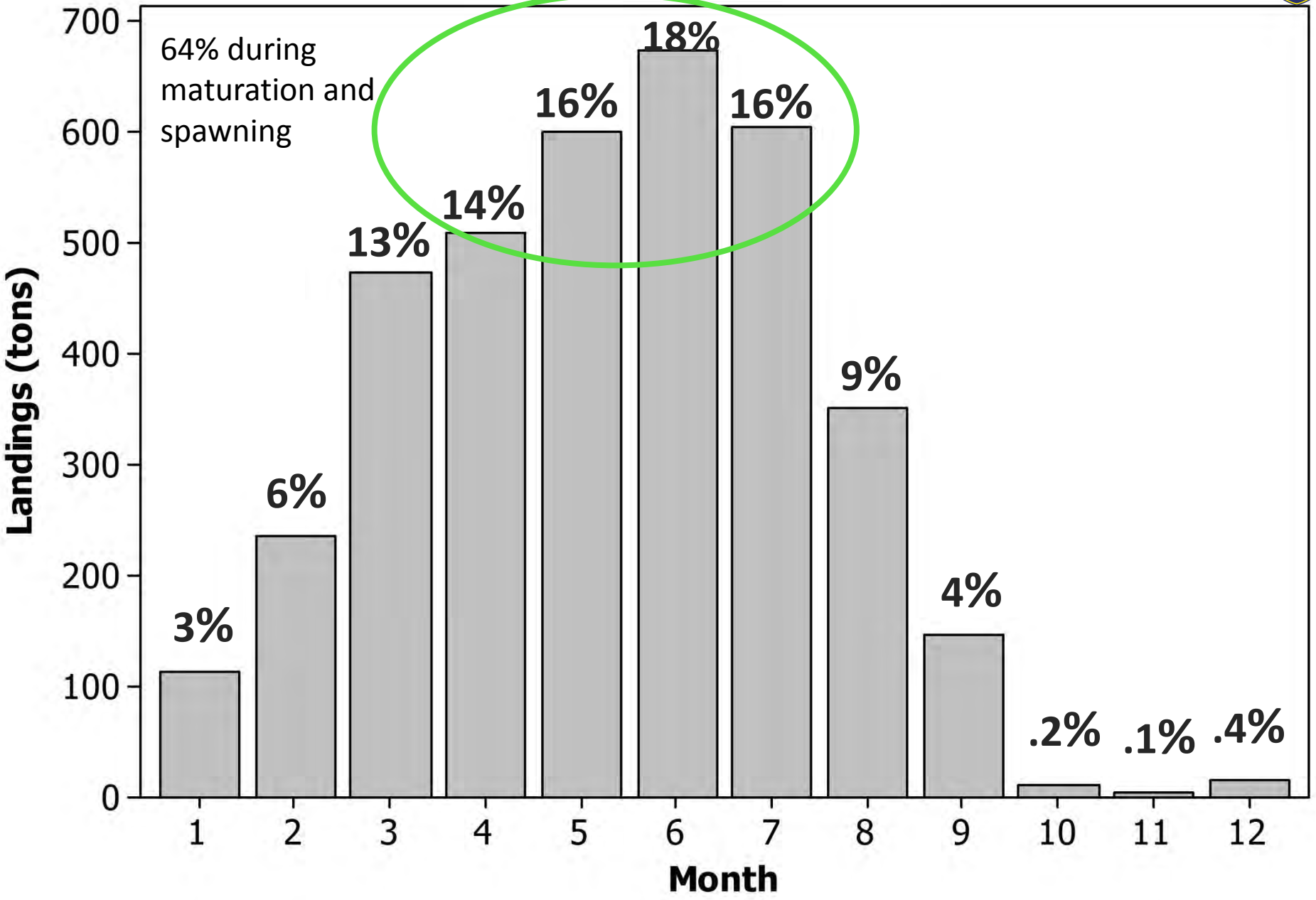




Lab Results: Reproductive Condition



Monthly Landings (1997-2015)



Key Findings

- Landings and CDFW data indicate management measures are necessary

- Reporting of landing condition essential to landings data
  - weight reduced by ~50% when processed at sea

- Management challenge: Peaks in population densities and commercial landings coincide with peaks in spawning

- MPAs provide important habitat to allow for undisturbed spawning and provide a critical tool for monitoring warty sea cucumber populations

Next Steps

- Work with the divers and processors to develop regulatory options to ensure sustainability
- Early communications with the fishery suggest a seasonal closure is preferred
- Create landing codes for whole vs cut
- Determine data gaps that need to be filled to inform potential management options
- Determine regulatory scope and timeline

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Saint Helena
Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
Huntington Beach
Russell E. Burns, Member
Napa
Peter S. Silva, Member
El Cajon

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
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MARINE RESOURCES COMMITTEE

Committee Co-Chairs: President Sklar and Commissioner Silva

March 23, 2017 Meeting Summary

The following is a summary of the meeting as prepared by staff.

Call to order

The meeting was called to order at 9:05 a.m. by Co-chair Sklar at the Holiday Inn Express, 35 Via Pico Plaza, San Clemente, California. Co-chair Sklar gave the opening remarks.

Valerie Termini introduced Fish and Game Commission (FGC) and California Department of Fish and Wildlife (DFW) staff, and outlined meeting procedures and guidelines, noting that the Committee is a non-decision making body that provides recommendations to FGC on marine items. She reminded participants that the meeting was being audio-recorded and would be posted to the FGC website. The following Committee chairs, FGC and DFW staff, and invited speakers were in attendance:

Committee Chairs

Eric Sklar	Present
Peter Silva	Present

FGC Staff

Valerie Termini	Executive Director
Elizabeth Pope	Acting Senior Environmental Scientist
Heather Benko	Sea Grant Fellow

DFW Staff

David Bess	Deputy Director and Chief, Law Enforcement Division
Mike Stefanak	Assistant Chief, Law Enforcement Division
Bob Puccinelli	Captain, Law Enforcement Division
Craig Shuman	Manager, Marine Region
Tom Barnes	Program Manager, State Managed Fisheries, Marine Region
Sonke Mastrup	Program Manager, Invertebrate Fisheries, Marine Region
Tom Mason	Senior Environmental Scientist Supervisor, Marine Region
Traci Larinto	Senior Environmental Scientist, Marine Region

Ian Taniguchi	Senior Environmental Scientist, Marine Region
Carlos Mierles	Environmental Scientist, Marine Region
Travis Tanaka	Environmental Scientist, Marine Region

Other Invited Speakers

Chris Potter	Environmental Scientist, California Ocean Science Trust (OST)
Sara Shen	Program Manager (DFW contractor), Marine Life Management Act master plan amendment process
Sarah Valencia	Program Manager (DFW contractor), Herring Fisheries Management Plan (FMP) development process

1. Approve agenda

The Committee approved the agenda without changes.

Co-chair Silva invited David Bess to present Bob Puccinelli with an award in recognition of 25 years with DFW.

2. Public forum for items not on the agenda

Pete Halmay: Made a presentation on issues and challenges facing small scale, spatially explicit, and sedentary fisheries such as sea urchin. He cited the need for additional data collection and DFW support, and recommended an apprenticeship program for new entrants and exploring a permit buyback program for those leaving the fishery.

Sara Shen: Announced a "community gathering" to discuss south coast marine protected areas (MPA) baseline information was scheduled after the MRC meeting and that a joint presentation by DFW and OST will be provided at the April 2017 FGC meeting.

George Osborn (representing California Sport Fishing League): Commented that proposed SB 234 was recently amended to require FGC to compile and report to the California State Legislature on local regulations affecting pier fishing, and requested MRC support the bill as amended. President Sklar requested that staff review the bill as amended and report to FGC on feasibility of the project at its April meeting.

Butch Powers: Commented that the nearshore fishery community in San Luis Obispo is suffering impacts from recent stormy weather. When there is a closure in March and April preceded by stormy weather, fishers are missing their quota. He requested that FGC allow fishers to fish during closed months to reach their allotted quota. A commenter expressed concern over the State's proposal for landing tax increases, and requested clarification if the nearshore permit transfer fees are associated with them. President Sklar clarified that the potential landing tax increase was part of a broader budget discussion before the Legislature on closing the budget gap, and MRC does not have direct input.

Paul Weakland: Requested DFW improve record keeping.

Tara Brock (Pew Charitable Trusts): Requested an update on the set gill net sword fish fishery be scheduled as it had been some time since the last update.

3. Staff and agency updates

(A) FGC - Climate change policy

Valerie Termini provided an update on FGC efforts to develop a policy; a draft will be available for public comment later this year.

(B) DFW - Electronic reporting for commercial fishery landing

Travis Tanaka gave a progress report on DFW implementation of electronic reporting, highlighting the proposed regulatory timeline.

DFW confirmed that there would still be a paper record for personal record keeping and that the format is the same as the current federal standard. Attendees provided general support for the transition to electronic reporting.

(C) DFW - Kelp and algae harvest

Craig Shuman provided an update on DFW's tribal outreach efforts on possible kelp and algae harvest regulatory changes, originally presented to the MRC in November 2016. He also provided a general update on a series of upcoming artificial reef scoping meetings to share perspectives, needs, and concerns around the topic.

(D) DFW - Law enforcement

David Bess provided an update on prosecution of lobster fishery violations. He highlighted the need to engage with district attorneys (DAs) to provide training on wildlife and environmental crime and process bottlenecks. Two primary issues were identified as diversion and the effects of Proposition 47, which reduces many transgressions to misdemeanors. He identified that engaging with local DAs is essential to creating a better outcomes with DA offices.

4. U.S. Bureau of Ocean Energy Management (BOEM) offshore wind stakeholder engagement

Chris Potter provided an informational overview of the offshore wind energy planning process under development through the BOEM Intergovernmental Renewable Energy Task Force. This was an information-sharing opportunity to notify the public that the process is beginning; no final projects have been proposed.

Chris Potter and FGC staff confirmed that projects would be sited in federal waters, outside FGC authority. If a future project traverses state waters with potential impacts to State-managed fisheries, FGC authority might be a more direct issue.

MRC Recommendation

MRC recommends continued MRC tracking and scheduling general updates as necessary.

5. Nearshore and deeper nearshore fishery permits

Traci Larinto provided an update on the proposed changes to the nearshore and deeper nearshore permit structure. At the November 2016 MRC meeting, DFW had three recommendations: (1) change the nearshore fishery permit transfer rate from 2-to-1 to 1-to-1; (2) make deeper nearshore permits transferable; and (3) increase transfer fees that would apply to both types of permits, within a range of $1,000 to $2,000.

Previously MRC had requested that DFW bring to the March 2017 meeting a specific transfer fee proposal. As follow-up, Ms. Larinto informed MRC that the cost analysis was still underway by DFW staff, but that the specified range still applied. She also highlighted new administrative fixes to the permit process identified since the last MRC meeting, including the process and timeline to transfer permits upon the death of a permittee.

Public Discussion

The majority of comments were in general support for the transfer structure as proposed by DFW, although one commenter opposed changes to the current $500 transfer fee. Additional clarification on proposed administrative aspects of permits in cases of permit holder death was provided.

MRC Recommendation

MRC recommends that FGC approve for inclusion in the proposed rulemaking a range of fees of $1,000-$2,000 for each permit as identified by DFW for commercial nearshore and deeper nearshore fishery permits, and include processing procedure changes as proposed by DFW. MRC supports the rulemaking scheduled to commence in June 2017.

6. Discussion of potential commercial sea cucumber regulation changes

Carlos Mireles presented DFW's evaluation of the commercial sea cucumber fishery and status of the stock, and findings that the fishery is showing a trend of significant declines. Currently the fishery may operate year-round with no closures; therefore DFW recommends that a season length be established around the spawning season of the sea cucumber. Enacting a commercial regulatory season would be an immediate step to help populations rebuild while also allowing the fishery to continue.

Public Discussion

Fishery participants confirmed that they have seen a decrease in the fishery attributed to increased year-round pressure, although not all agreed that the resource itself was in jeopardy.

Commenters expressed general support for some type of closed season or management measures to assist the population and avoid fishery collapse.
Additional discussion took place regarding scientific monitoring techniques for sea cucumber. While there was support for long-term monitoring, commenters recognized that the declines in the fishery observed by both DFW and the commercial fleet were significant enough to warrant implementation of a closed season now as an important initial step.

MRC Recommendation

MRC recommends that FGC support DFW's recommendation to schedule a rulemaking for the commercial sea cucumber fishery in 2017, with a specific regulatory timeline to be proposed by DFW at the April 2017 FGC meeting.

7. Updates on current fishery management plan (FMP) development efforts

(A) Red Abalone FMP

Sonke Mastrup presented an update on progress in development of a red abalone FMP, including a general timeline , associated California Environmental Quality Act (CEQA) review, and regulatory processes. DFW estimates that a draft management framework for the FMP will be completed in time for discussion at the July 2017 MRC meeting, and that the FMP and CEQA documents will be finalized in 2018, leading to FGC adoption and regulatory process in 2019. DFW will continue to update MRC and FGC as appropriate.

Public Discussion

Paul Weakland asked what benefit the "no fishing" policy has had on black abalone and expressed concern about the FMP process.

The MRC co-chairs both supported continued updates on the FMP progress to MRC. Sonke Mastrup offered that July MRC could be a good avenue for an update given the proximity to the abalone fishery.

MRC Direction

MRC requested an update on the FMP at the July 2017 MRC in Santa Rosa.

(B) Pacific Herring FMP

Sarah Valencia provided an update on the progress of the FMP including how and why specific stakeholder comments were addressed in the FMP.

Public Discussion

One general comment of support was provided for the Pacific Herring FMP as an apparent successful model for FMP implementation, and support was expressed for

the decision to not include round haul gear in the fishery.

(C) Marine Life Management Act master plan for fisheries (MLMA Master Plan) and discussion on stakeholder engagement

Craig Shuman provided an update and overview of stakeholder engagement processes, DFW outreach efforts, and products developed as part of information-gathering projects. This included discussion on DFW testing of an outreach decision support tool (DST) developed by Kerns & West and the Center for Ocean Solutions that identifies potential outreach methods based on audience needs and required scope. DFW staff tested the tool and found it re-affirmed approaches already utilized by DFW and does not anticipate employing it as a MLMA Master Plan tool.

Public Discussion

Comments were made that the selection of management approaches should consider cost when looking at a data set or management structure, including priority, timeline, and "how-to" for DFW actions.

Co-chair Sklar and Craig Shuman both supported outreach as valuable within the MLMA amendment process but that outreach and management efforts need to be at appropriate scale and level of funding in order to make informed decisions about management strategies.

8. Marine Resources Committee special projects

(A) Fisheries Bycatch Workgroup

Elizabeth Pope reported on Fisheries Bycatch Workgroup (BWG) progress toward completing its work plan and future meeting schedule. BWG had a teleconference meeting on March 17, 2017, during which members supported alignment of work products with the MLMA Master Plan amendment process, with a final BWG product by late 2018. BWG members supported FGC staff commitment to integrate member comments in the work plan and provide a version for review before the next meeting, targeted for April or May.

Public Discussion

A BWG member expressed support for BWG focus on aligning products with the MLMA Master Plan amendment timeline, but also supported looking at existing statutes and policies and an assessment of bycatch data. While BWG does not have capacity to do the data assessment, it should be able to provide recommendations for consideration.

Co-chair Sklar supported the continued efforts of BWG and alignment with the MLMA Master Plan timeframe.

(B) Fishing Communities

Heather Benko reported that regional fishing communities meetings were being

developed for spring/summer 2017. She presented two options for scheduling: (1) to have a sequential series of meetings along the coast in one short time frame, or (2) schedule meetings to align with the existing FGC 2017 schedule.

Co-chair Sklar suggested a hybrid method for meeting planning, to maximize staff and public participation by aligning meetings with the existing FGC and MRC schedule where possible, and scheduling separate meetings where smaller ports are farther apart (e.g., along the north coast).

MRC Direction

Directed staff to schedule fishing communities meetings, commencing in late spring/early summer 2017.

9. Future agenda items

(A) Review work plan, agenda topics, and timeline

Following discussion, MRC recommended that staff explore scheduling a sea cucumber fishery update, best management practices for aquaculture leases, and possible BOEM project update for the July MRC meeting.

(B) Potential new agenda topics for Commission consideration

Based on request under Item 2 public forum,MRC recommends that an informational overview of the federal process related to the drift gill net swordfish fishery be added to the MRC work plan for July 2017.

The meeting adjourned at 2:30 p.m.

State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 MAY -8 AM 10:3

Memorandum

Date: May 1, 2017

To: Valerie Termini
Executive Director
Fish and Wildlife Commission

From: Charlton H. Bonham
Director

Subject: **Agenda item for the June 21-22, Fish and Game Commission Meeting**
Re: Request to Publish Notice of the Commission's Intent to Amend Sections 150, 150.02, 150.03, and 705, Title 14, California Code of Regulations (CCR), Nearshore Permits Transferability

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to consider amending existing regulations for the commercial nearshore fishery (Sections 150, 150.02, 150.03, and 705, Title 14, CCR).

The Department is proposing to ease transfer requirements for the Nearshore Fishery Permit and to allow permit transfers for the Deeper Nearshore Species Fishery Permit. The Department is also proposing administrative changes to clarify the permit transfer and appeal processes.

A Notice of Exemption (NOE) is also attached. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on a California Environmental Quality Act (CEQA) categorical exemption for the proposed regulations.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Senior Environmental Specialist, Traci Larinto as the Department's point of contact. Ms. Larinto can be reached at (562) 355-7061 or Traci.Larinto@Wildlfe.ca.gov.

Enclosure

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

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

Amend Subsections (b), (e), (g), (m), and (n) of Section 150;
Subsections (d) and (j) of Section 150.02;
Subsections (c), (d) and (h) of Section 150.03; and
Subsection (b) of Section 705, Title 14, California Code of Regulations
Re: Nearshore Fishery Permit, Nearshore Fishery Permit Gear Endorsements, and Deeper Nearshore Species Fishery Permit Transferability

I. Date of Initial Statement of Reasons: April 3, 2017

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: June 22, 2017
Location: Smith River

(b) Discussion Hearing: Date: August 17, 2017
Location: Sacramento

(c) Adoption Hearing: Date: October 12, 2017
Location: Atascadero

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

In 1998, the Legislature created the Nearshore Fishery Permit for the take of cabezon; California scorpionfish; California sheephead; kelp and rock greenlings; and, black-and-yellow, China, gopher, grass and kelp rockfishes. In 2003, the Fish and Game Commission (Commission) established a regional restricted access program allowing take with hook-and-line and dip net (used while diving) gears; trap gear is allowed with a Nearshore Fishery Permit Gear Endorsement. Additionally, 20-year commercial fishers could qualify for a non-transferable permit. Permit transfers are allowed as long as the new entrant purchased two permits, agreed to retire one and fish the other permit if the transfer was approved. Gear endorsement transfers are allowed when the new entrant has a valid permit for the same regional management area. Permit holders only need to purchase one gear endorsement as they are transferable one-for-one. The transfer fees for Nearshore Fishery Permits and gear endorsements

DRAFT

are $500 and $75, respectively. Notarized letters are used to apply for permit transfers.

In 2003, the Commission established the Deeper Nearshore Species Fishery Permit for the take of black, blue, brown, calico, copper, olive, quillback and treefish rockfishes, amid concerns over increasing effort by those that did not qualify for a Nearshore Fishery Permit. The Deeper Nearshore Species Fishery Permit is a statewide permit without gear restrictions, and is nontransferable.

Between 2003 and 2016, the number of Nearshore Fishery Permits decreased from 220 to 141 due to permit transfers and nonrenewal; and, the Deeper Nearshore Species Fishery Permits decreased from 281 to 180 due to nonrenewal. Overall the nearshore fishery has seen a 35 percent decline in the number of permits. In 2015, the Department of Fish and Wildlife (Department) surveyed nearshore permittees and found that majority (96 percent) supported making the Deeper Nearshore Species Fishery Permit transferable, and while not asked directly, many expressed support for making the Nearshore Fishery Permit transferable on a one-for-one basis. Additionally, in the last several years the Department and the Commission have heard from many fishers about the need to provide for Deeper Nearshore Species Fishery Permit transfers as well as change the Nearshore Fishery Permit transfer provisions.

For the Nearshore Fishery Permit, it has become quite difficult to obtain two permits for the same region that the new entrant wants to fish in. Additionally, the inability to transfer a Deeper Nearshore Species Fishery Permit impacts fishers wanting to enter the fishery, as well as those that want to retire. Finally, the nearshore and deeper nearshore species are frequently caught together and fishers with only one permit and not the other have to discard species that they do not have a permit for.

Changing transfer rules for both nearshore permits will allow new entrants into the fishery, and allow permittees to retire or leave the fishery and either recoup something for their investment or pass their permit along to a family member. It will also make it easier for those with one permit to obtain the other permit, reducing discards.

Unless specified, all section references in this document are for the regulations in Title 14, California Code of Regulations.

Amend Subsection 150(b): Permittees can only hold one permit

Proposed Changes – one permit per person
Current regulations state that a person will receive only one Nearshore

Fishery Permit for use in only one regional management area during initial issuance. This regulation change would clarify that Nearshore Fishery Permit holders can only have one permit, regardless of the regional management area, at any time.

Necessity/Rationale
The proposed change would clarify the Commission's and Department's intent that a person cannot hold more than one Nearshore Fishery Permit, regardless of the regional management area stated on the permit. This is supported by state trip limits for cabezon, sheephead and greenlings as well as federal trip limits for rockfishes and California scorpionfish that are based on the individual's commercial fishing license identification number, such that having additional permits would not allow for the taking of more than one trip limit per person.

Amend Subsection 150(e)(5): Initial Qualification for 20-year California Commercial Fishermen

Proposed changes – death of non-transferable Nearshore Fishery Permit holder
This subsection will be deleted and added to subsection (g) permit transfers, procedures and timeline to keep all transfer provisions together.

Amend Subsection 150(g): Permit Transfer, Procedures, and Timeline

Table 1. Summary of proposed changes to Subsection 150(g).

Current Subsection Number	Regulation Subject	Proposed Subsection Number
150(g)(1)(A)	2-for-1 transfers; Transferee conditions	150(g)(2), 150(g)(5), 150(g)(6)
150(g)(1)(B-D)	Transfer paperwork (notarized letter)	150(g)(4)
150(g)(1)(E)	Former permit holder cannot take nearshore fish species	Proposed to be repealed
150(g)(2)	Commission can prescribe other transfer provisions	Proposed to be repealed
150(g)(3) and 150(g)(4)	Transfer provisions and paperwork after permittees death	150(g)(3) and 150(g)(4)
150(g)(5)	Exempt permit transfer from two-for-one requirements in the case of the estate of the deceased transferring to the deceased's family member	Proposed to be repealed

Proposed Changes – Current two-for-one transfer provisions
Fish and Game Code Section 7857(j) states that a commercial license, permit or endorsement is nontransferable unless otherwise provided in

Fish and Game Code. Proposed subsection 150(g)(1) would make this section inoperable under authority provided in the Nearshore Fishery Management Act, Fish and Game Code Section 8587.1(b).

Subsection 150(g)(1)(A) currently allows Nearshore Fishery Permit transfers on a two-for-one basis, with one permit being surrendered to the Department for cancellation at the time of the transfer, if the number of Nearshore Fishery Permits in a regional management area exceeds the capacity goal. This subsection is proposed to be repealed and replaced by Subsection 150(g)(2), which would prescribe one-for-one permit transfers and require that the transfer be for the same regional management area on the permit.

Necessity/Rationale

In 2003, 220 Nearshore Fishery Permits were issued and over the next thirteen years 41 Nearshore Fishery Permits were transferred (with an additional 41 Nearshore Fishery Permits retired) and 35 Nearshore Fishery Permits were not renewed. Of the 35 Nearshore Fishery Permits that were not renewed, 25 Nearshore Fishery Permits were transferable and could have been sold but weren't. The remaining 10 Nearshore Fishery Permits that were not renewed were nontransferable. In 2016, 144 Nearshore Fishery Permits were issued for an attrition rate of 35 percent.

The proposed regulation change would change the Nearshore Fishery Permit transfer requirements from two-for-one, whereby the new entrant has to purchase two permits, agreed to retire one and fish the other permit if the transfer was approved, to one-for-one. While each region remains above its capacity goal, great progress has been made towards reaching the capacity goals. Additionally, the capacity goals are outdated. In 2002, only one nearshore species had been assessed (black rockfish in 1999) and total allowable catches were developed using a precautionary approach that was based on 50 percent of historic catch. Trip limits were derived from the commercial allocation based on the total allowable catches. Since then, over half of the nearshore species have been assessed (Table 2), resulting in increased total allowable catches and increased trip limits (Table 3), in most cases, such that the established capacity goals are no longer applicable.

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Table 2. List of nearshore species and year the stock was assessed.

Species	Assessment year
Deeper Nearshore Rockfish	
Black rockfish	2015, 2007, 2003, 1999
Blue rockfish	2007
Brown rockfish	2013
Calico rockfish	
Copper rockfish	2013
Olive rockfish	
Quillback rockfish	
Treefish	
Shallow Nearshore Rockfish	
Black-and-yellow rockfish	
China rockfish	2015
Gopher rockfish	2005
Grass rockfish	
Kelp rockfish	
Other Nearshore Fishery Permit species	
Cabezon	2009, 2005, 2003
California scorpionfish	2004
California sheephead	2004
Kelp greenling	2015, 2005
Rock greenling	

Table 3. Nearshore species trip limits for 2003 and 2017.

Minor Nearshore Rockfish, North of 40°10' N lat. Includes shallow and deeper rockfish combined. Numbers in parentheses are rockfish other than black rockfish.						
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	3000 (900)	3000 (900)	3000 (900)	4000 (1200)	4000 (1200)	4000 (1200)
2017	8500 (1200)	7000 (1200)	7000 (1200)	7000 (1200)	7000 (1200)	7000 (1200)
Deeper Nearshore Rockfish , South of 40°10' N lat.						
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	200	Closed	200	500	300	200
2017	1000	Closed	1000	1000	1000	1000
Shallow Nearshore Rockfish, South of 40°10' N lat.						
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	200	Closed	400	400	300	200
2017	1200	Closed	1200	1200	1200	1200
Cabezon						
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	100	Closed	1000	1000	400	100
2017	300	Closed	500	500	500	300
California scorpionfish						
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	300	Closed	300	400	400	300
2017	1500	Closed	1500	1500	1500	1500
California sheephead						
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	2000	Closed	2400	2400	2400	2400
2017	2000	Closed	2400	2400	2400	2400

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Table 3. Nearshore species trip limits for 2003 and 2017.

			Greenlings			
	Jan-Feb	Mar-Apr	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec
2003	25	Closed	25	25	25	25
2017	150	Closed	200	200	200	150

Additionally, the nearshore fishery has been successfully managed using a combination of bimonthly trip limits and depth restrictions. Department staff monitor the catch of nearshore species inseason and recommend changes to trip limits as needed. As a result, the commercial nearshore fishery has not closed early since 2005. Finally, analysis of Nearshore Fishery Permit transfers and fishing activity before and after the transfer reveals half of the new permittees actually fished less than one of the previous owners. This would indicate that fishing effort will only moderately increase, and any increases could be managed by adjusting the bimonthly trip limits.

Proposed changes – Transfer paperwork
Current regulations in Subsection 150(g)(1)(B-D) require a notarized letter from buyer and sellers stating the conditions of the transfer, describe completion of the transfer after payment of fees and review by the Department, and if the person holds a nontransferable Nearshore Fishery Permit, that permit shall be surrendered to the Department. These subsections are proposed to be repealed and replaced with subsections 150(g)(4) and 150(g)(6). Subsection 150(g)(4) would change the notarized letters to a notarized application, specify the effective date is the date of written notification by the Department of approval of the transfer, and that the permit is valid for the remainder of the permit year. Subsection 150(g)(6) would require the transferee to surrender their nontransferable Nearshore Fishery Permit to the Department when they receive the transferable permit.

Necessity/Rationale
The proposed regulation requires a notarized transfer application to formalize the transfer process and collect accurate information from the permit holder and the proposed permit holder in the place of a notarized letter for each transfer.

Proposed changes – Former permit holder cannot take nearshore fish species
Subsection 150(g)(1)(E) states that the former permit holder cannot take nearshore species once the permit transfer is completed unless otherwise permitted by law. This subsection is proposed to be repealed as it is redundant.

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Proposed changes – Commission can prescribe other transfer provisions

Subsection (150)(g)(2) allows the Commission to prescribe other transfer criteria should the number of Nearshore Fishery Permits fall below the capacity goal. This subsection is proposed to be repealed because it is redundant, as the Commission retains the ability to change regulations. Additionally, with permit transfers changing to a one-for-one basis there is little need to change transfer requirements.

Proposed changes – Permit transfers after the death of the permit holder

Subsections (150)(g)(3) and 150(g)(4) describe the conditions for transfer of a Nearshore Fishery Permit by the estate of the deceased permit holder, allowing for transfer within one year of the death, and requires a notarized letter detailing the conditions of the transfer. These provisions will be included in subsections 150(g)(3) and 150(g)(4). The new Subsection 150(g)(3) requires that the estate of the deceased permit holder to temporarily relinquish the permit to the Department until the transfer is completed, but allows the estate to renew the permit to keep it current. Additionally, it will allow two years for the transfer to take place instead of the current one year. Instead of having a separate subsection to deal with transfer paperwork for the deceased permit holder's estate, it will be included in Subsection 150(g)(4).

Necessity/Rationale

This amendment is necessary because it is unlawful for the estate to allow another commercial fisherman to fish the permit and therefore is required to temporarily relinquish the permit to the Department until the permit transfer can take place. Additionally, changing the amount of time allowed, from one to two years, to transfer permits will give the estate more time to try to find a buyer for the permit. Finally, requiring a notarized application will allow for collection of information from the permit holder and the proposed permit holder in the place of a notarized letter for each transfer.

Proposed changes – Delay transfer pending final resolution of pending action

Subsection 150(g)(5) will be added stating that the transfer shall be deferred pending final resolution of any criminal, civil, and/or administrative action involving the current permit holder that could affect the status of the permit. This will prevent a permit from being transferred in an effort to avoid a suspension or revocation of a permit.

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Proposed changes – death of non-transferable Nearshore Fishery Permit holder
Currently, Subsection 150(e)(5) states that a non-transferable Nearshore Fishery Permit becomes null and void upon the death of the individual to whom the permit was issued. The proposed change will move the requirement to Subsection 150(g)(7) and will add a requirement that the estate shall immediately surrender the permit to the Department.

Necessity/Rationale
This amendment is necessary because it is unlawful for the estate to allow another commercial fisherman to fish the permit and therefore is required to surrender the permit to the Department. The proposed regulations are consistent with current regulations for lobster operator permits (Section 122(c)(5)). This subsection was previously Subsection 150(e)(5) under initial qualification for 20-year fishermen, and is being moved to the permit transfers subsection for clarity.

Amend Subsection 150(m)(3): Transfer Appeals
Currently, the appeals process is a two-step process with the Department reviewing the appeal based on the fisher's request. If the Department denies the appeal, then the permittee has 60 days to appeal to the Commission in writing. The changes to Subsection 150(m)(3) would reduce the appeals to a one-step process via a written request to the Commission for an appeal of the Department's denial of a Nearshore Fishery Permit transfer within 60 calendar days of the date of the Department's denial.

Amend Subsection 150(n): Fees
Current regulations stipulate that the Department shall charge a nonrefundable fee for each permit transfer, and that if more than one permit is required for the transfer only one fee will be charged. The proposed change would be to delete the reference to more than one permit required to transfer to be consistent with the new transfer provisions.

Add Subsection 150.02(j): Permit transfers, procedures and timelines
Current regulations provide for a permit with annual renewal, initial qualifying criteria from 2003, annual renewal requirements, and a control date for a future restricted access program. Current regulations do not provide for transfer of Deeper Nearshore Species Fishery Permits. Subsection 150.02(j) would be added making all Deeper Nearshore Species Fishery Permits transferable on a one-for-one basis; allowing

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transfers after the death of the permit holder with a two year time limit, providing the estate temporarily relinquishes the permit to the department until the transfer can be completed; requiring a notarized application be submitted along with payment of nonrefundable transfer fee; specifying that the effective date is the date of written notice of approval by the Department; deferring permit transfers until final resolution of any pending action against the current permit holder that could affect the status of the permit; and allowing the person denied transfer to appeal any denial to the Commission within 60 days of the Department's denial.

Necessity/Rationale
In 2003, 281 Deeper Nearshore Species Fishery Permits were issued, capping participation in this fishery. Over the last thirteen years, 101 Deeper Nearshore Species Fishery Permits have not been renewed for a 36 percent attrition rate. However, the permittees are ageing with over half the participants over 50 years of age. Other fishers would like to get into the fishery while many of the permittees would like to retire or leave the fishery.

The proposed regulation would allow all Deeper Nearshore Species Fishery Permit holders to transfer their permit to a licensed California commercial fisherman on a one-for-one basis. This would allow existing Deeper Nearshore Species Fishery Permit holders to retire and pass on their permit to a family member or business partner, or sell to a new entrant. Attrition will likely continue to occur but at a slower pace. While effort in the Deeper Nearshore Species Fishery Permit fishery may increase with new entrants, Department staff monitor the catch of Deeper Nearshore Species Fishery Permit species inseason to ensure that catch limits are not exceeded and recommend changes to trip limits as needed.

Additionally, while many fishers (86 in 2016-17) hold both a Nearshore Fishery Permit and a Deeper Nearshore Species Fishery Permit, there are many with only one permit (58 Nearshore Fishery Permit and 98 Deeper Nearshore Species Fishery Permit in 2016-17). These permittees sometimes catch species that require the other permit to land, thus these fish have to be discarded. Easing transfer rules for both permits will make it easier for those with just one permit (Nearshore Fishery Permit or Deeper Nearshore Species Fishery Permit) to purchase the other permit, thus reducing regulatory discards.

Amend Subsection 150.02(d): Fees for Deeper Nearshore Species Fishery Permit Transfers
Current regulations provide for an annual permit fee for a Deeper Nearshore Species Fishery Permit, but there are no fees for the transfer of

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these permits. This change would add a fee as specified in Subsection 705(b) for the transfer of a Deeper Nearshore Species Fishery Permit. See below for additional discussion of permit transfer fees.

Amend Subsection 150.03(c)(5): Death of the non-transferable Nearshore Fishery Gear Endorsement holder

Currently, a non-transferable Nearshore Fishery Gear Endorsement becomes null and void upon the death of the individual to whom the permit was issued. The proposed amendment will move this requirement to subsection 150.03(d)(6) and add that the estate shall immediately surrender the gear endorsement to the Department.

Necessity/Rationale

This amendment is necessary because it is unlawful for the estate to fish with the gear endorsement and therefore is required to surrender the gear endorsement to the Department. The proposed regulations are consistent with the proposed regulations for Nearshore Fishery Permits and the current regulations for lobster operator permits (Section 122(c)(5)).

Amend Subsection 150.03(d): Transfer of Nearshore Fishery Gear Endorsements

Current regulations allow for transfer of Nearshore Fishery Gear Endorsements on a one-for-one basis and require a notarized letter from buyer and seller. The proposed changes include changing from a notarized letter to a notarized application, specifying that the effective date is the date of written notification by the Department of approval of the transfer, allowing the estate of a deceased transferable Nearshore Fishery Gear Endorsement holder up to two years to complete a transfer, providing that the estate temporarily relinquish the permit to the department until the transfer can be made; and, streamlining the appeals process when denied a gear endorsement transfer.

Necessity/Rationale

These changes are necessary to mirror the changes to the Nearshore Fishery Permit transfer rules, since fishers are required to have a Nearshore Fishery Permit in order to have a Nearshore Fishery Gear Endorsement. Most of the time, the Nearshore Fishery Permit and Nearshore Fishery Gear Endorsement are transferred to the same person. Having different rules for the permit and the gear endorsement would be confusing for both the person transferring and the person trying to purchase the permit and gear endorsement.

Amend Subsection 150.03(h)(3): Nearshore Fishery Gear Endorsement Transfer Appeals

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Currently, the appeals process is a two-step process with the Department reviewing the appeal based on the fisher's request. If the Department denies the appeal, then the permittee has 60 days to appeal to the Commission in writing. The changes to Subsection 150.03(h)(3) would reduce the appeals to a one-step process via a written request to the Commission for an appeal of the Department's denial of a Nearshore Fishery Gear Endorsement transfer within 60 calendar days of the date of the Department's denial.

Amend Subsection 705(b): Transfer Fees

Current regulations provide for a Nearshore Fishery Permit transfer fee of $500. There are no provisions for a transfer fee for a Deeper Nearshore Species Fishery Permit. The proposed change would increase the Nearshore Fishery Permit transfer fee to a range of $1,000 to $2,500, and establish a permit transfer fee for the Deeper Nearshore Species Fishery Permit of a range of $1,000 to $2,500. Additionally, the proposed changes would incorporate the transfer application into the regulations.

Necessity/Rationale

The proposed fees for the transfer of a Nearshore Fishery Permit and Deeper Nearshore Species Fishery Permit were set based on a fiscal analyses completed by the Department to recover costs incurred by the Department pursuant to FGC sections 1050 and 8587.1. This transfer fee will cover the administrative costs of the permit, costs to review the applications and to execute approved transfer requests, as well help offset the increased costs to monitor and track nearshore fishery performance and make management adjustments.

The Nearshore Fishery Permit And Nearshore Fishery Gear Endorsement Transfer Application (DFW 1045) will replace the notarized letters that currently are submitted by the permit holders and transferee to apply for a transfer. The Deeper Nearshore Species Fishery Permit Transfer Application (DFW 1048) is new and will standardize the transfer request process. These transfer applications will need to be reviewed and approved by the Department and require the permit holder's signature "under penalty of perjury" that the information submitted is accurate; both DFW 1045 and DFW 1048 must also be notarized.

Commercial fishing is a highly regulated activity involving the take of public trust resources. Effective administration, management, and enforcement of marine fisheries require accurate information about the resources and those who participate in their take. Penal Code Section 115 makes it a crime to knowingly file a forged document with a government office in the state. Fish and Game Code Section 1054 makes it unlawful to

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submit any false, inaccurate, or otherwise misleading information on any application or other document presented to the Department for the purpose of obtaining a license, permit, tag or other entitlements and allows the Department to require such applicants to show proof of the statements or facts required for obtaining such license or permit. California Code of Civil Procedure Section 2015.5 provides that such statements or facts may be supported by an unsworn declaration in writing of such an applicant which recites that it is certified or declared to be true under penalty of perjury. By requiring such certification on its forms, the Department notifies the applicants of his/her legal duty while establishing his/her knowledge of such duty. Requiring that the signature of the applicant be notarized on both DFW 1045 and DFW 1048 helps minimize the potential for fraud.

Other Changes

Additional minor changes are proposed to correct grammatical errors and remove section references to Title 14, CCR, to improve clarity and standardize regulatory format.

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

Authority: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code.
Reference: Sections 713, 1050, 7071, 7850, 7852.2, 7857, 7858, 8043, 8046, 8102, 8585.5, 8587, 8587.1, 8588, 8589.5 and 8589.7, 9001 and 9001.5, 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:

Marine Resources Committee Meeting, November 15, 2016, Los Alamitos, CA

Marine Resources Committee Meeting, March 23, 2017, Oceanside, CA

The Notice, Discussion and Adoption meetings are being held in three of the four nearshore fishery permit regions and the two Marine Resources Committee meetings were held in the fourth nearshore permit region giving permittees ample opportunity to provide comment.

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IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

An alternative would be to convert one or both nearshore fisheries to open access. This is not desirable as it would likely result in a significant increase in effort, and possibly push the fishery to unsustainable levels. It is also unfair to the fishermen who did not originally qualify for a permit and have sold or given away their gear. It also creates ill will and a lack of trust between the department and the industry. A California fishery that was restricted has never been converted back to open access before. Restriction adds value to a permit, and has been has been shown to increase fishermen's sense of ownership and respect for the resource.

Another alternative would be to limit the number of Deeper Nearshore Species Fishery Permit transfers annually. This is not desirable because it would be difficult to develop a system that would fairly address those that were not allowed to complete the transfer process because the number of transfers had been reached for the year. This could also cause the permit holder to lose the opportunity to sell his permit as the other party may not want to wait to try again the following year. Additionally, this would increase the permit transfer fee to cover the additional costs to manage a permit transfer lottery system.

(b) No Change Alternative:

If the proposed regulations are not adopted, it will continue to be very difficult for new members to enter the fishery as participants retire or shift focus to other fisheries. It will also be difficult for permittees to pass their permits along to family members or business partners. In addition, fishermen with only one of the permits will still have to discard fish for which they do not have a permit.

(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.

(d) Description of Reasonable Alternatives That Would Lessen Adverse

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Impact on Small Business:

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 to ease transfer requirements for Nearshore Fishery Permits and to allow transferable Deeper Nearshore Species Fishery Permits would allow new members to enter the fishery. This is needed to maintain a viable nearshore fishery in California, resulting in a positive economic impact for participants and small businesses.

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 because the proposed changes are not expected to reduce the number of fishermen active in the fishery, nor the number of trips or harvest quantities.

(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 Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed changes are not expected to reduce the number of

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fishermen active in the fishery, nor the number of trips or harvest quantities..

The Commission does not anticipate any benefits to the health and welfare of California residents, worker safety, or the environment.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission anticipates cost impacts ranging from $1,000 to $2,500 per permit transfer 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:

The Department anticipates revenue in the range of $4,200 - $63,000 annually to recover the costs of administering one to fifteen for each nearshore and deeper nearshore permit transfers per year. The proposed action is not anticipated to affect any other State Agency or Federal Funding to the State.

(e) 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, Government Code: None

(h) Effect on Housing Costs: None

VII. Economic Impact Assessment:

Currently (2016) there are about 238 Nearshore Fishery Permits and Deeper Nearshore Species Fishery Permits in use. The numbers of nearshore and deeper nearshore permits have declined by 35 percent from 2003 to 2016. About 80 nearshore permits were dropped due to nonrenewal and permit transfers. Deeper Nearshore Species Fisheries Permits have also dropped by about 100 permits due to nonrenewal.

A 2015 Department survey found that 96 percent of Nearshore permittees expressed support for making the Deeper Nearshore Species Fishery Permit transferable. Many permittees also added that they support making the Nearshore Fishery Permit transferable on a one-for-one basis since for the

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Nearshore Fishery Permit, it has become quite difficult to obtain two permits for the same region. The existing inability to transfer a Deeper Nearshore Species Fishery Permit impacts fishers wanting to enter the fishery, as well as those that want to retire. Another environmental and economic impact should be lessened as these nearshore species are frequently caught together and fishers with only one permit and not the other have to discard species that they do not have a permit for.

Changing transfer rules for both nearshore permits will allow new entrants into the fishery, and allow permittees to retire or leave the fishery and either recoup something for their investment or pass their permit along to a family member or business partner. It will also make it easier for those with one permit to obtain the other permit, reducing discards. Fishing effort may increase only moderately, and any potential increases would be limited by the bimonthly trip limits.

The proposed regulations to ease transfer requirements for Nearshore Fishery Permits and to allow transferable Deeper Nearshore Species Fishery Permits would allow new members to enter the fishery. This is needed to maintain a viable nearshore fishery in California, and is anticipated to result in positive economic impacts for participants and businesses.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate any adverse impacts on the creation or elimination of jobs within the State because the proposed changes are not expected to reduce the number of fishermen active in the fishery, nor the number of trips or harvest quantities. The proposed regulations to ease transfer requirements for Nearshore Fishery Permits and to allow transferable Deeper Nearshore Species Fishery Permits would allow new members to enter the fishery which may result in a gradual increase in harvest.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission anticipates a positive impact on the creation of new businesses with permit transferability. The Commission does not anticipate any impacts on the elimination of existing businesses within the State because the proposed changes are not expected to reduce the number of fishermen active in the fishery, nor the number of trips or harvest quantities.

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(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any impacts on the expansion of businesses currently doing business within the State because the proposed changes are not expected to reduce the number of fishermen active in the fishery, nor the number of trips or harvest quantities.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission does not anticipate any benefits to the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the environment with improved fisheries management and decreased regulatory discards.

(g) Other Benefits of the Regulation: None.

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Informative Digest/Policy Statement Overview

Under current regulations (Section 150), only persons with a Nearshore Fishery Permit are allowed to take nearshore species (cabezon; California scorpionfish; California sheephead; kelp and rock greenlings; and, black-and-yellow, China, gopher, grass and kelp rockfishes). Transfer of Nearshore Fishery Permits is allowed on a two-for-one basis with the new permittee purchasing two permits, agreeing to retire one permit and fish using the other. The number of permits has declined 35 percent in the past 13 years and it's become very difficult to find two permits for sale in the same regional management area. The proposed regulations would change permit transfers to one-for-one making it easier for new permittees to get into the fishery as well as current permittees to retire. Additionally, the proposed regulations would standardize the transfer paperwork by changing from notarized letters from permit holders to a notarized application provided by the Department. The following is a summary of the changes proposed for Sections 150:

- Clarify that Nearshore Fishery Permit holders can only have one permit, regardless of the management area, at any time (Subsection 150(b))
- Add a requirement that the estate of a non-transferable Nearshore Fishery Permit shall immediately surrender the permit to the Department (Subsection 150(e)(5))
- Revise permit transfers (Subsection 150(g)(1-7)):
    - Allow for permit transfers on a one-for-one basis,
    - Change the paperwork from notarized letters to a notarized application,
    - Allow the estate of a deceased permittee two years to transfer the permit,
    - Require that the estate temporarily relinquish the permit until the transfer can be made, and
    - Delay the transfer pending resolution of any criminal, civil and/or administrative action involving the current permittee.
- Change the process for appealing denial of a transfer from a two-step process to a one-step process (Subsection 150(m)(3)) whereby the person denied a transfer can appeal directly to the Commission within 60 calendar days of the Department's denial.

Under current regulations (Section 150.02), only persons who held a valid Deeper Nearshore Species Fishery Permit (for the take of black, blue, brown, calico, copper, olive, quillback and treefish rockfishes) during the immediately preceding permit year are eligible to obtain a permit for the following permit year. This has resulted in a permit

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moratorium that prohibits any new entrants into the fishery. The proposed regulation would allow new individuals to enter the fishery by obtaining a permit from an existing permit holder. Additionally, the proposed regulations would require completion of a notarized transfer application. The following is a summary of the changes proposed for Section 150.02:

- Establish permit transfer provisions (Subsection 150.02(j)):
  - Establish that all Deeper Nearshore Species Fishery Permits are transferable,
  - Establish a notarized application for the permit transfer,
  - Allow the estate of a deceased permittee two years to transfer the permit,
  - Require that the estate temporarily relinquish the permit until the transfer can be made, and
  - Delay the transfer pending resolution of any criminal, civil and/or administrative action involving the current permittee.
- Establish a permit transfer fee as specified in Section 705 (Subsection 150.03(d))

Current regulations (Section 150.03) allow persons with a Nearshore Fishery Permit to use trap gear with a Nearshore Fishery Gear Endorsement, which is transferable on a one-for-one basis. The proposed regulations would change the permit transfer requirement from notarized letters from the permit holder to a notarized application provided by the Department. The following is a summary of the changes proposed for Sections 150.0:

- Move the subsection 150.03(c)(5) requirement that a non-transferable Nearshore Fishery Gear Endorsement become null and void upon the death of the individual to holds the permit and propose to add that the estate of a non-transferable Nearshore Fishery Gear Endorsement holder shall immediately surrender the permit to the Department to Subsection 150.03(d)(6)
- Revise permit transfers (Subsection 150.03(d)) to:
  - Change the paperwork from notarized letters to a notarized application,
  - Allow the estate of a deceased permittee two years to transfer the gear endorsement,
  - Require that the estate temporarily relinquish the gear endorsement until the transfer can be made, and

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- Delay the transfer pending resolution of any criminal, civil and/or administrative action involving the current permittee.

- Change the process for appealing denial of a transfer from a two-step process to a one-step process (Subsection 150.03(h)(3)) whereby the person denied a transfer can appeal directly to the Commission within 60 calendar days of the Department's denial.

Current regulations (Section 705) establish a Nearshore Fishery Permit Transfer Fee of $500. The proposed regulations would increase the permit transfer fee to a range of $1,000 to $2,500 and also establish a transfer fee in the range of $1,000 to $2,500 for the Deeper Nearshore Species Fishery Permit. The proposed regulations would also include reference to the proposed Nearshore Fishery Permit and Nearshore Fishery Trap Endorsement Transfer Application (DFW 1045) and the proposed Deeper Nearshore Species Fishery Permit Transfer Application (DFW 1048).

Additional minor changes are proposed to correct grammatical errors and remove section references to Title 14, CCR, to improve clarity and standardize regulatory format.

The proposed regulatory action will benefit fishermen, processors, and the State's economy by maintaining a healthy sustainable fishery, and ensuring future harvestable nearshore populations.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the commercial take of nearshore species (Section 8587.1, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to the commercial take of nearshore fish stocks.

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Regulatory Language

Section 150, Title 14, CCR is amended as follows:

§ 150. Nearshore Fishery Restricted Access Program.

[…*No proposed changes to subsection (a)*]

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04~~, Title 14, CCR~~ to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area and cannot hold a valid permit for more than one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003-2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

[…*No proposed changes to subsections (c) through (d)*]

(e) Initial Qualification for 20-year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non-Transferable Nearshore Fishery Permit for one regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:
(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in any one calendar year between January 1, 1994 and December 31, 1999.
(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04~~, Title 14, CCR~~.
(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non-Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in the North Coast Region only.
(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in any one calendar year between January 1, 1994 and December 31, 1999.
(A) landings used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04~~, Title 14, CCR~~.

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(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated Non-Transferable North-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in the North-Central Coast Region only.
(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in any one calendar year between January 1, 1994 and December 31, 1999.
(A) landings used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04~~, Title 14, CCR~~.
(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non-Transferable South-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in the South-Central Coast Region only.
(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01~~,~~ ~~Title 14, CCR,~~ in any one calendar year between January 1, 1994 and December 31, 1999.
(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04~~, Title 14, CCR~~.
(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non-Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in the South Coast Region only.
~~(5) A non-transferable Nearshore Fishery Permit shall become null and void upon the death of the permit holder.~~

[…*No proposed changes to subsection (f)*]

(g) Permit Transfers, Procedures and Timelines.
~~(1) If the combined total of transferable and non-transferable Nearshore Fishery permits in a regional management area is greater than the capacity goal for that regional management area on or after April 1, 2003, the following provisions for permit transfers are in effect:~~
~~(A) A Nearshore Fishery Permit issued pursuant to this section may be voluntarily transferred by the permittee, if the transferee (person to whom the permit is to be issued) has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR. Until the number of permits in a regional management area equals or falls below the capacity goal for that regional management area, a permit may only be transferred if one additional transferable permit for the same regional management area is surrendered to the department for cancellation at the same time the application for the transfer is submitted to the department.~~
~~(B) A Nearshore Fishery Permit may be transferred pursuant to this section to a person only if that person holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850 and submits to the department a notarized letter from each of the~~

~~permittees described in subdivision (A), that each includes a statement identifying the person to whom the Nearshore Fishery Permit is to be transferred and setting forth the conditions of the transfer.~~
~~(C) Application for transfer of a Nearshore Fishery Permit, in the form of a notarized letter, shall be submitted to the department by the transferee.~~
~~(D) Upon determining that the transferee of the Nearshore Fishery Permit is qualified to receive a Nearshore Fishery Permit and upon payment of all permit and transfer fees, the department shall issue a Nearshore Fishery Permit for that regional management area to the transferee that is valid for the remainder of the then current fishing season. At the time the permit transfer is complete the additional transferable Nearshore Fishery Permit is required to be surrendered by the transferee pursuant to subsection (g)(1)(A). If the transferee holds a Non-Transferable Nearshore Fishery Permit, that permit shall be cancelled.~~
~~(E) After the transfer of a person's Nearshore Fishery Permit, the former permit holder may not take, possess, transfer, or sell any nearshore fish stocks as described in Section 150.01, Title 14, CCR, for commercial purposes unless otherwise permitted by law.~~
~~(2) Should the combined total of transferable and non-transferable Nearshore Fishery Permits in a regional management area fall below the capacity goal, the commission may prescribe criteria for the transfer of permits or the issuance of additional permits pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.~~
~~(3) A transferable Nearshore Fishery Permit issued pursuant to this section may be transferred to the estate of a permittee who has died only for the purpose of transferring the Nearshore Fishery Permit to another person.~~
~~(A) Such transfer may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.~~
~~(B) The estate is responsible for any permit renewal fees under subsection (n) of this Section or Section 150.03, Title 14, CCR.~~
~~(4) The Nearshore Fishery Permit in the estate of a deceased permittee may be transferred to any person who meets all of the following qualifications:~~
~~(A) The person, at that time, holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850.~~
~~(B) The person has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks.~~
~~(C) The transfer of the permit is subject to subsection (g)(1) and (2) above.~~
~~(5) A Nearshore Fishery Permit in the estate of a deceased permittee that is transferred to an immediate family member (spouse, child, grandchild, parent, or sibling) or to a partner as described in Fish and Game Code Section 8102 is exempt from the requirements in subsection (g)(1) and (2) above.~~
(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial nearshore fishery.

(2) A person with a valid transferable nearshore fishery permit that has not been suspended or revoked may transfer his/her permit to a licensed California commercial fisherman. The permit shall be transferred for use in the same regional management area listed on the permit.
(3) Upon the death of a person with a valid transferable nearshore fishery permit, that person's estate shall immediately, temporarily relinquish the permit to the department's License and Revenue Branch. The estate may renew the permit as provided for in this section if needed to keep the permit valid. The estate of the decedent may transfer the permit pursuant to this section no later than two (2) years from the date of death of the permit holder as listed on the death certificate.
(4) The permit holder or the estate of the deceased permit holder shall submit the notarized transfer application and the nonrefundable permit transfer fee specified in Section 705 for each permit transfer. The transfer shall take effect on the date on the written notice of approval of the application given to the transferee by the department. The nearshore fishery permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.
(5) An application for a transfer of a nearshore fishery permit shall be deferred when the current permit holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the permit.
(6) If a transferable nearshore fishery permit is transferred to a person with a valid non-transferable nearshore fishery permit, the non-transferable nearshore fishery permit shall become null and void and the permit shall be immediately surrendered to the department's License and Revenue Branch.
(7) Upon the death of a person with a valid non-transferable nearshore fishery permit, the permit shall become null and void and the estate shall immediately surrender the permit to the department's License and Revenue Branch.

[…*No proposed changes to subsections (h) through (l)*]

(m) Appeals.
(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.
(2) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.
(3) ~~Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.~~Any person who is denied transfer of a transferable nearshore fishery permit may submit a written request for an appeal to the commission within 60 calendar days of the date of the department's denial.

(n) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit under the restricted access program shall be as follows:
(1) The department shall charge an annual fee for each transferable Nearshore Fishery Permit as specified in Section 705.
(2) The department shall charge an annual fee for each Non-Transferable Nearshore Fishery Permit as specified in Section 705.
(3) The department shall charge a non-refundable fee for each permit transfer as specified in Section 705. ~~If more than one permit is required for the transfer, the fee specified in Section 705 shall be charged.~~

[…*No proposed changes to subsection (o)*]

Note: Authority cited: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code. Reference: Sections 713, 1050, 7071, 7850, 7852.2, 7857, 7858, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Section 150.02, Title 14, CCR is amended as follows:

§ 150.02. Deeper Nearshore Species Fishery Permits; Control Date for Other Nearshore Species. ~~Control Dates for Other Nearshore Species; Permits to Commercially Take Deeper Nearshore Fish Species.~~

[…*No proposed changes to subsections (a) through (c)*]

(d) Fees.
(A) The fee for a deeper nearshore species fishery permit is specified in Section 705.
(B) The nonrefundable fee to transfer a deeper nearshore species fishery permit is specified in Section 705.

[…*No proposed changes to subsections (e) through (i)*]

(j) Permit Transfers, Procedures, and Timelines.
(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial deeper nearshore fishery.
(2) Upon the effective date of these regulations, each person possessing a valid deeper nearshore species fishery permit that has not been suspended or revoked shall have his or her permit designated by the department as a transferable deeper nearshore species fishery permit.

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(3) A person with a valid transferable deeper nearshore species fishery permit that has not been suspended or revoked may transfer his/her permit to a licensed California commercial fisherman.
(4) Upon the death of a person with a valid transferable deeper nearshore species fishery permit, the estate of a person with a valid transferable deeper nearshore species fishery permit shall immediately temporarily relinquish the permit to the department's License and Revenue Branch. The estate may renew the permit as provided for in this section if needed to keep the permit valid. The estate of the decedent may transfer the permit pursuant to this section no later than two (2) years from the date of death of the permit holder as listed on the death certificate.
(5) The permit holder or the estate of the deceased permit holder shall submit the notarized transfer application and the nonrefundable permit transfer fee specified in Section 705 for each permit transfer. The transfer shall take effect on the date of the written notice of approval of the application given to the transferee by the department. The deeper nearshore species fishery permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.
(6) An application for a transfer of a deeper nearshore species fishery permit shall be deferred when the current permit holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the permit.
(7) Any applicant who is denied transfer of a deeper nearshore species fishery permit may submit a written request for an appeal to the commission within 60 calendar days of the date of the department's denial.
Note: Authority cited: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7071, 7852.2, 7857, 7858, 8585.5 and 8587.1, Fish and Game Code.

Section 150.03, Title 14, CCR is amended as follows:

§ 150.03. Nearshore Fishery Gear Endorsement Program.

[…*No proposed changes to subsections (a) through (b)*]

(c) Qualifications for Gear Endorsement. A transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 transferable Nearshore Fishery Permit, issued pursuant to Section 150~~, Title 14, CCR,~~ for a specific regional management area as defined in Section 52.04~~, Title 14, CCR~~. A non-transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 non-transferable Nearshore Fishery Permit, issued pursuant to Section 150~~, Title 14, CCR~~, for a specific regional management area as defined in Section 52.04~~, Title 14, CCR~~. The following qualifying criteria shall be used to determine eligibility for either a transferable or non-transferable trap endorsement:
(1) North Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in addition to gear authorized under Section 150(l)~~, Title 14, CCR~~. A trap

endorsement shall be attached to the North Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:
(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and
(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ between January 1, 1994 and October 20, 2000 that were taken with trap gear.
(C) landings of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04~~, Title 14, CCR,~~ as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.
(2) North-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in addition to gear authorized under Section 150(l)~~, Title 14, CCR~~. A trap endorsement shall be attached to the North-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:
(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and
(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ between January 1, 1994 and October 20, 2000 that were taken with trap gear.
(C) landings of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04~~, Title 14, CCR,~~ as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.
(3) South-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in addition to gear authorized under Section 150(l)~~, Title 14, CCR~~. A trap endorsement shall be attached to the South-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the requirements of either (A), or (B) and (C) below:
(A) has a valid 2002-2003 finfish trap permit that has not be suspended or revoked, or
(B) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in each of 3 calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.
(C) landings of nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04~~, Title 14, CCR,~~ as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

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(4) South Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01~~, Title 14, CCR,~~ in addition to gear authorized under Section 150(l)~~, Title 14, CCR~~. A trap endorsement shall be attached to the South Coast Region Nearshore Fishery Permit issued to a person who has a valid 2002-2003 finfish trap permit that has not been suspended or revoked.
~~(5) A non-transferable trap endorsement issued under this Section shall become null and void upon the death of the permit holder.~~

(d) ~~Transfer of Nearshore Fishery Permit Gear Endorsements. The transfer of a Nearshore Fishery Permit gear endorsement is subject to the provisions of Section 150(g), Title 14, CCR. Only one Nearshore Fishery Permit gear endorsement is required to transfer the gear endorsement to a new permittee~~Gear Endorsement Transfers, Procedures, and Timelines.
(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial nearshore fishery.
(2) A person with a valid transferable nearshore fishery gear endorsement that has not been suspended or revoked may transfer his/her nearshore fishery gear endorsement to a licensed California commercial fisherman with a valid Nearshore Fishery Permit for the same regional management area. The nearshore fishery gear endorsement shall be transferred for use in the same regional management area listed on the nearshore fishery gear endorsement.
(3) Upon the death of a person with a valid transferable nearshore fishery gear endorsement, the estate of a person with a valid transferable nearshore fishery gear endorsement shall immediately, temporarily relinquish the nearshore fishery gear endorsement to the department's License and Revenue Branch. The estate may renew the nearshore fishery gear endorsement as provided for in this section if needed to keep the nearshore fishery gear endorsement valid. The estate of the decedent may transfer the nearshore fishery gear endorsement pursuant to this section no later than two years from the date of death of the nearshore fishery gear endorsement holder as listed on the death certificate.
(4) The nearshore fishery gear endorsement holder or the estate of the deceased nearshore fishery gear endorsement holder shall submit the notarized transfer application and the nonrefundable nearshore fishery gear endorsement transfer fee specified in Section 705 for each gear endorsement transfer. The transfer shall take effect on the date of the written notice of approval of the application given to the transferee by the department. The nearshore fishery gear endorsement shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.
(5) An application for a transfer of a nearshore fishery gear endorsement shall be deferred when the current nearshore fishery gear endorsement holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the nearshore fishery gear endorsement.

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(6) Upon the death of a person with a valid non-transferable nearshore fishery gear endorsement, the nearshore fishery gear endorsement shall become null and void and the estate shall immediately surrender the nearshore fishery gear endorsement to the department's License and Revenue Branch.

[…*No proposed changes to subsections (e) through (g*]

(h) Appeals.
(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.
(2) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.
(3) ~~Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.~~ Any applicant who is denied transfer of a transferable nearshore fishery gear endorsement may submit a written request for an appeal to the commission within 60 calendar days of the date of the department's denial.

[…*No proposed changes to subsections (i) through (k)*]

Note: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7852.2, 8046, 8589.5, 8589.7, 9001 and 9001.5, Fish and Game Code.

Subsection 705(b), Title 14, CCR is amended as follows:

§ 705 Commercial Fishing Applications, Permits, Tags and Fees.

Fees (US$)

[…*No proposed change to subsection (a)*]

(b) Transfer, Upgrade, or Change of Ownership

[…*No proposed changes to subsections (b)(1) through (b)(4)*]

(5) Nearshore Fishery Permit And Nearshore Fishery Trap Endorsement Transfer Application DFW 1045 (New 4/2017), incorporated by reference herein.

(A) Nearshore Fishery Permit Transfer	~~500~~[1,000.00-2,500.00]
~~(6)~~(B) Nearshore Fishery Trap Endorsement Transfer	75.00

(6) Deeper Nearshore Species Fishery Permit Transfer Application DFW 1048 (New 4/2017) incorporated by reference herein.

(A) Deeper Nearshore Species Fishery Permit Transfer	[1,000.00-2,500.00]

[*…No proposed changes to subsections (b)(7) through (b)(11), (c) and (d)*]

NOTE: Authority cited: Sections 713 and 1050, Fish and Game Code. Reference: Sections 713 and 1050, Fish and Game Code.

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State of California
Department of Fish and Wildlife

Memorandum

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CALIFORNIA
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COMMISSION
2017 MAY 26 AM 11:26

Date: May 18, 2017

To: Valerie Termini
Executive Director
Fish and Wildlife Commission

From: Charlton H. Bonham
Director

Subject: **Agenda item for the June 21-22, Fish and Game Commission Meeting**
Re: Request to Publish Notice of the Commission's Intent to Add Section 197, Title 14, California Code of Regulations (CCR), Commercial Fisheries Landing Requirements

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to consider adding regulations for activities associated with commercial fisheries landings and electronic reporting (Section 197, Title 14, CCR).

The Department is proposing these regulations since no regulations exist and activities are currently governed by statutes alone. In addition, the Department is transitioning from a paper-based reporting system to electronic reporting and these regulations will guide that transition. The Department is working closely with the Pacific States Marine Fisheries Commission (PSMFC) to streamline and integrate state electronic reporting with the PSMFC electronic reporting system currently in use in Washington, Oregon and California for certain federally-managed fisheries. This will allow fish receivers to use one system to meet both federal and state reporting requirements and will transition all state fisheries landings to electronic reporting.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Environmental Program Manager, Katie Perry as the Department's point of contact. Ms. Perry can be reached at (916) 445-6456 or Katie.Perry@Wildlfe.ca.gov.

Enclosures

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

Add Section 197
Title 14, California Code of Regulations
Re: Commercial Fisheries Landing Requirements

I. Date of Initial Statement of Reasons: April 27, 2017

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: June 22, 2017
Location: Smith River, CA

(b) Discussion/Adoption Hearing: Date: October 12, 2017
Location: Atascadero, 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:

The purpose of the addition of Section 197 is the management of activities associated with commercial fisheries landings and the reporting of these landings. A “landing” is generally characterized as the transfer or offloading of fish from a vessel for the purpose of selling or delivering those fish to a licensed fish receiver. The proposed regulations are necessary to manage this transaction and to clarify the applicable statutes for the participants and law enforcement. To date, there are no regulations guiding this activity. Statutes authorizing commercial fisheries licenses and landing taxes are found in Article 7 and Article 7.5 of Fish and Game Code. Commercial fish receivers are engaged in business for profit and are required to be licensed and to report all landing receipt records on a form furnished by the Department of Fish and Wildlife (Department) pursuant to Fish and Game Code sections 8043 and 8047. In addition, Fish and Game Code subsection 1050(b) authorizes the Fish and Game Commission (Commission) to determine the forms to be used for commercial fisheries entitlements.

The proposed regulations implement a transition from the current paper-based reporting system to electronic forms via a new electronic reporting system for commercial fisheries landings.

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Transitioning from paper landing receipts to electronic fish tickets, as the electronic forms are known, is appropriate at this time as advances in computer and Internet technology and the use of electronic devices by many businesses, including the fishing industry, is widespread. It is necessary that the Department update its processes, including proposing regulations to ensure the benefits of switching from paper landing receipts to electronic fish tickets are realized. Benefits to commercial fishermen, fish receivers and the Department include:

1. Time savings and reduced costs to the Department by reducing the amount of time and money spent designing, printing, packaging and mailing landing receipts to the fish businesses.

2. Transition of Department data entry staff to other priority tasks associated with landings data as data entry of paper forms is eliminated.

3. Ease of record storage and maintenance of electronic records by the Department.

4. Built-in checks and validations in electronic fish tickets will result in more accurate fisheries data on which the Department and the Commission can base management decisions.

5. Use of electronic fish tickets will result in more timely submission of fisheries data for both management and law enforcement.

6. Electronic fish tickets will provide for ease of information storage, data manipulation for research, production for legal reasons and information sharing with other fishery management agencies and law enforcement.

7. Availability of landing data and reporting tools for fish receivers.

8. Provides consistency with federal regulations for certain fisheries that also require electronic reporting via the same web-based application.

Landing receipts are legal documents that are completed and submitted to the Department by licensed fish businesses in California to document the fish they purchase from fishermen and the price paid. The Department uses the data for verification of quarterly taxes paid to the Department and for resource assessment, including the development of fishery management plans for ensuring the sustainable use of marine resources. While statute specifies the information contained on the landing receipt, it also allows for other information the Department may prescribe (Fish and Game Code subsection 8043(b)). The proposed regulations include all the information required on the landing receipt including the additional items.

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In some instances, fish must be transported from the point of landing to a fish receiver where the purchase of the fish occurs. In the event that a licensed fish receiver is not available to document the fish landing, a fish transportation receipt is required to transport these fish to a fish receiver to maintain a legal chain-of-custody (Fish and Game Code Section 8047). While statute specifies the information required on the transportation receipt (Fish and Game Code subsection 8047(d)(10), the information is included in the proposed regulations for completeness and allows the commercial fishermen and fish receivers to find the information in one place. In addition, the proposed regulations describe the additional items for inclusion on the fish transportation receipt when it is used as a dock ticket.

There are currently 17 different paper landing receipt forms, many of which have been used for decades to comply with reporting requirements specified in statute. Each landing receipt is used for a fishery, gear type, and/or area specific to California. There is one fish transportation receipt form, currently in paper format.

The electronic fish tickets will be submitted to the Department through the federal, web-based *E-Tix* system maintained by Pacific States Marine Fisheries Commission (PSMFC). The Department will continue to be the legal custodian of California landing receipt records. *E-Tix* has been a federal requirement for the individual fishing quota groundfish trawl fishery since its inception in 2011 and was expanded to include all sablefish landings as of January 1, 2017. Oregon has adopted *E-Tix* for all fisheries on a voluntary basis and Washington is working towards this as well. The Department's goal is to phase out the use of paper landing receipts and transition to electronic fish tickets using the PSMFC *E-Tix* application for data entry. This eliminates the issue of duplicate electronic reporting systems and provides consistency between federal and State agency reporting requirements. As the functional equivalent of a landing receipt, the electronic fish ticket also constitutes a weighmaster certificate for purposes of California Business and Professions Code Section 12713.

These regulations will provide for a phase-in period for all landing receipts to be submitted electronically via the *E-Tix* system. A phase-in period of 6 months to three years was estimated to be sufficient time to allow fish receivers to transition to electronic reporting. Based on a survey conducted by the Department in December 2016, approximately 74 percent of survey participants (223 responded) preferred a phase-in period of six months to one year to mandate the use of electronic fish tickets, while less than 23 percent of the survey participants preferred a longer phase-in period of up to three years. Phasing in the requirement to use electronic fish tickets is a reasonable approach to implementing a new reporting system, since there will likely be some receivers that need to purchase the hardware, obtain access to the Internet, and learn how to use a new Internet-capable device. The Department has determined that a one year phase-in period to fully adapt to a new system is reasonable and not

burdensome. These regulations are necessary to define the phase-in period and allow sufficient time for participants to fully comply with the requirement to use the *E-Tix* system.

PROPOSED REGULATIONS

Subsection 197(a) Definitions.

This subsection defines specific terms used within the proposed regulations. The definitions are necessary for three interrelated reasons:

1. To clarify to the public how those terms are used on the forms and regulations.

2. To clarify to the public and improve consistency within Department programs overseeing the fisheries using the landing receipts.

3. To clarify to the public the terms and language that make the regulations legally enforceable.

Certain terms and their definitions are consistent with terms and definitions used in federal regulations for electronic reporting (i.e., electronic fish ticket, functional, submit, record, dock ticket). Since these proposed regulations specify the use of the same electronic reporting system, this consistency will avoid confusion for the fish receiver.

Subsection 197(b) Landing receipts; form and contents.

This subsection describes the landing receipt forms that the Department prepares and issues to the fish receivers. It identifies the information to be included on the forms as specified in statute (Fish and Game Code subsection 8043(b)) and includes additional information required by the Department. Information from statute is repeated in the proposed regulations so that all information can be obtained in one place for the ease of the fish receivers. The additional information includes port of landing, condition of fish, use of fish, number of fish, permit number, signatures and note pad area. Port of landing provides information on where the fish are landed and is used in analyses of fishing catch and effort. It is also important information for economic analyses. Condition identifies how the fish are prepared prior to obtaining an accurate weight that is recorded on the landing receipt form. This is needed to compute the correct landing taxes pursuant to Fish and Game Code Section 8042. The information on the use of fish is needed to determine the end use of the fish (e.g., human food, animal food, bait, etc.). Number of fish is needed for certain species for which the number of individuals is needed for management purposes (i.e., salmon and lobster). Signatures of the commercial fisherman and fish receiver verify that each have reviewed and approved the accuracy of the information

contained on the landing receipt. The note pad area is used by fish receivers for their own purposes and for certain required information such as for rock crab used as bait (subsection 125.1(d), Title 14, CCR).

Subsection 197(c) Fish transportation receipts.

This subsection is necessary to clarify reporting requirements when a commercial fisherman or his designee transports fish from the point of first landing to a receiver who buys the fish and completes a landing receipt or electronic fish ticket. Transportation receipts are used to record key data (e.g., species caught, location catch occurred, poundage landed, etc.) and is a legal chain-of-custody document to ensure that the fish offloaded are the fish that are sold or delivered to the fish receiver. This subsection also describes how a fish transportation receipt may be used as a dock ticket for recording the information to be included in an electronic fish ticket. The term “dock ticket” is used in federal regulations and is used in these regulations to maintain consistent terminology and avoid confusion. Using a fish transportation receipt as a dock ticket has been accepted by the federal government for use in California to allow fish receivers to comply with recently enacted federal requirements. These require a paper record of the landing when an electronic fish ticket cannot be submitted immediately, such as when fish are being transferred from point of landing to the fish receiver or when fish are offloaded after hours. This regulation will authorize the use of a fish transportation receipt as a dock ticket, including additional items to be recorded, and eliminates unnecessary duplicative record keeping by commercial fishermen and fish receivers.

Subsection 197(d) Landing receipts and fish transportation receipts.

This subsection describes the use of sequentially numbered paper landing receipts and fish transportation receipts; the handling of voided landing receipts and fish transportation receipts; the return of unused landing receipts or fish transportation receipts and the delivery, distribution and retention of copies of both landing receipts and fish transportation receipts.

Subsection 197(e) Electronic fish tickets; implementation and required information.

This subsection is necessary to describe the timing of the transition from paper landing receipts to electronic fish tickets. It clarifies that during the phase-in period of one year fish receivers must use either a paper landing receipt or an electronic fish ticket, but not both. Once a fish receiver switches to electronic reporting they will no longer submit a paper landing receipt. This avoids duplication of data entry and allows fish receivers to meet both state and federal reporting requirements in one step for those who receive fish species that are also federally managed. This subsection identifies the date by which all fish

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landings must be reported using electronic fish tickets. The proposed phase-in period of one year will give fish receivers sufficient time to comply with the requirement to switch from paper landing receipts to electronic fish tickets. This subsection also describes the information contained in the electronic fish tickets, the same information that is required on the paper landing receipts.

This subsection also describes the responsibilities of the fish receiver to use and maintain hardware and software that meets the requirements for submitting electronic fish tickets. The fish receiver must ensure Internet accessibility in a sufficient state to completely and effectively submit the electronic fish ticket. The proposed regulations also include procedures to follow in case of a power outage or device failure that could restrict access to *E-Tix*, including that the landing must be submitted to the *E-tix* system within 24 hours of landing the fish. Access to *E-Tix* is available from any Internet-capable device such as personal computers (desktops or laptops), tablets, or mobile devices. Additionally, a printer is required so that printed copies of the electronic fish tickets can be made for distribution to the commercial fisherman and the fish receiver.

Subsection 197(f) Electronic fish tickets; reporting and submission requirements.

This subsection specifies when an electronic fish ticket or dock ticket is completed, the review of the information prior to submission, the parties who sign the electronic fish ticket or dock ticket prior to submittal, and includes the process for retaining paper copies. All landing information must be recorded immediately either on the electronic fish ticket, or on a dock ticket should the *E-Tix* system not be accessible at the time of landing. In either case, an electronic fish ticket must be submitted within 24 hours of the landing. Fish receivers and state and federal fisheries managers benefit from timely landings information. The 24-hour time frame has been adopted in federal regulations for landings of federally managed species (Code of Federal Regulations Section 660.113(b)(4)(ii)(C)(6), Section 660.213(e)(2)(ii) and Section 660.313(f)(2)(ii)). The same time period is included in these proposed regulations for consistency since fish businesses will be using the same web-based application.

The dock ticket must include the same information as an electronic fish ticket and must also include the electronic fish ticket number. Receivers with limited to no Internet access at the docks must first obtain the electronic fish ticket number by going through the *E-Tix* system at their home, place of business or other Internet-capable location before they head to the dock to buy fish. This is consistent with federal regulations.

Subsection 197(g) Electronic fish tickets; waiver of submission requirements.

This subsection is necessary to allow for waivers of submission requirements in the event that a fish receiver is unable to submit an electronic fish ticket due to

circumstances beyond the control of the fish receiver. The proposed regulations describe the process by which a fish receiver submits a request to the Department for a waiver including the reason for the request and identifies where to submit the request. The Department will either issue or deny the waiver request, and if granted, may include conditions such as the time period for submitting paper landing receipts, or any other criteria the Department deems necessary. The waiver must be made available to the Department for inspection when conducting business under the terms of the waiver. This subsection specifies that a paper landing receipt must be sent to the Department within 24 hours of the landing following the instructions in the waiver. The use of a waiver under certain circumstances is consistent with federal regulations.

Subsection 197(h) Retention of electronic fish tickets and dock tickets.

This subsection specifies that electronic fish tickets and dock tickets must be retained for a period of four years and must be made available for inspection at any time by the Department. This is consistent with statutes governing the retention of paper landing receipts.

Subsection 197(i) Electronic fish ticket revisions.

This subsection specifies that final data must be submitted in an electronic fish ticket, but that an exception allows a correction after submission in the event there are data errors found on the fish ticket.

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

Authority Cited: Sections 1050(b)), 8043, 8046, and 8047, Fish and Game Code.
Reference: Sections 1050(b), 8033, 8033.5, 8037, 8031, 8032, 8033, 8033.1, 8033.5, 8034, 8035, 8040, 8043, 8045, 8046, 8046.1, and 8047, Fish and Game Code; 50 CFR 660.113, 50 CFR 660.213 and 50 CFR 660.313.

(c) Specific Technology or Equipment Required by Regulatory Change:

The proposed regulations will require accessibility to Internet enabled devices, such as a mobile device, tablet, or computer. Transitioning from paper landing receipts to electronic fish tickets, as the electronic forms are known, is appropriate at this time as advances in computer and Internet technology and the use of electronic devices by many businesses, including the fishing industry, is widespread. Electronic reporting will improve the Department's ability to meet management needs of commercial fisheries by obtaining more accurate and timely data. However, the mandate to report landings electronically will be phased in over time so this is expected to reduce the burden on the regulated public by giving them time to find ways to

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access Internet enabled devices.

(d) Identification of Reports or Documents Supporting Regulation Change: None

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

The Department's Marine Region sent out a notice and survey via an insert in the commercial license renewal packet to 1,135 fish businesses in November 2016. However, of these businesses, the Department was targeting the approximate 560 fish receivers that submitted a landing receipt between 2011 and 2015. The insert included two items: advance notification that planning was underway for this rulemaking and a survey. The survey was designed to query a fish receiver's access to the Internet and their ability or preference to comply with the mandate by offering a suite of time frames to phase in the mandatory electronic submissions.

The Department received 223 responses, with the majority of responders (83 percent) reporting Internet availability at their place of business, and 89 percent reporting Internet availability at home. Just over 7 percent of the respondents reported no Internet access at work or at home. Of the 223 fish receivers that responded to the survey, the majority (approximately 74 percent) preferred a phase in period of up to a year to mandate the use of electronic reporting.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Alternative 1: Three-year phase in period.

This alternative would allow for a three year phase in period where fish receivers can use either paper landing receipts or electronic fish tickets after the effective date of these regulations. After this date, all fish receivers will be mandated to use electronic fish tickets through the online system known as *E-Tix*. Paper fish transportation receipts would still be required to transport fish. No other modifications to the proposed regulations are included in this alternative.

Results from the survey distributed to commercial fish receivers revealed that few participants felt they needed three years or longer to comply with the mandatory requirement to use the electronic fish ticket system. Due to the fact that the system is already in use by some federal fisheries, and that the majority of survey participants felt they could comply within a year of implementation, waiting more years than necessary to mandate the use would be unnecessary. It would add additional burden on the Department, due to the need to have staff to key in the fisheries data from the paper

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landing receipts. Therefore, the more time that passes, the more costs the Department incurs to handle paper landing receipts.

Alternative 2: Consideration of Performance Standards.

This alternative would create a performance standard of 24-hour reporting using existing paper-based system. This would require that fish receivers mail in their paper landing receipts within 24 hours of the landing to ensure that the landing data is received in a timely fashion.

This alternative would place a greater burden on fish receivers to ensure that landing receipts are mailed in daily. It would also pose a cost burden to the Department which currently pays for the postage to mail in those landing receipts as well as the cost of printing the envelopes. The Department would also still have staff overhead costs for entering and editing landing receipts. While changing from twice a month to daily submission of paper landing receipts will reduce the time lag, there would still be delays due to mailing in the landing receipts and the time needed to edit and enter the landing receipts. This alternative also conflicts the requirement in Fish and Game Code section 8046(a) that landing receipts be delivered to the Department on or before the 16th or last day of the month.

(b) No Change Alternative:

If the new regulations are not adopted, fish receivers will continue to use paper landing receipts and fish transportation receipts to record their activities as required in Fish and Game Code and submission of data will remain twice a month. For many fish receivers this will mean complying with two separate reporting systems, an electronic one for the National Marine Fisheries Service and a paper one for the Department. The Department would continue to incur the costs associated with preparing, printing and mailing landing receipts and envelopes to fish receivers and entering the data manually.

(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.

(d) Description of Reasonable Alternatives that would lessen adverse impact on small business:

No alternatives were identified by or brought to the attention of Commission

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staff that would lessen the adverse impact on small businesses and be equally effective in implementing the proposed time- and cost-saving electronic reporting method. The Department has determined that a one year phase-in period to fully comply with the requirement to use the *E-Tix* system is reasonable and not burdensome.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulations 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 electronic application can be used on any Internet capable device, including personal computer, mobile device, or tablet. Such devices are common tools used to conduct business, so there should be minimal expense to an individual commercial fisherman who sells fish to persons not licensed as fish receivers and to fish businesses. If a commercial fisherman or fish business needs to maintain and/or upgrade their device or Internet connection, that will be their responsibility and they may incur some costs. Internet browsers can be downloaded onto an existing Internet-capable device free of charge (e.g., Google Chrome, Mozilla Firefox). The costs of purchasing an Internet-capable mobile device (e.g., cell phone) may range from free of charge with commitment to a service contract to several hundred dollars depending on the mobile device and service plan. The cost of a tablet ranges from $50 to $400. The cost of purchasing a computer starts at about $200 for a basic model. The costs of an internet service provider vary depending on whether or not a phone is purchased, but generally runs about $90 per month without any promotions. Offsetting these potential costs are the benefits to fish receivers with improved timeliness of catch data and ability by the Department to manage the fisheries. In addition, eliminating the requirement to complete paper receipts and for some to complete electronic

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fish tickets for both state and federally managed species at one time is a benefit. Finally, such expenditures are tax deductible business expenses.

(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 Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California. The Department does not anticipate any benefits to the health and welfare of California residents or worker safety. The Department anticipates benefits to the environment in the sustainable management of commercial fisheries.

(c) Cost Impacts on a Representative Private Person or Business:

See (a) above.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The *E-Tix* is a federal application, and is owned and maintained by PSMFC. Therefore, the expense to the Department for implementation should be nominal. The cost savings by not printing landing receipt books, providing return reply envelopes, and postage would be significant. The average cost to the Department for printing, providing prepaid envelops and return postage averages about $100,000 per year. Additional cost savings would occur for the State due to the cessation of manually entering the fish ticket information into a data management system from the paper receipts.

(e) 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 Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None

VII. Economic Impact Assessment:
The proposed regulations will revise procedures currently in place to report commercial landings.

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(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The proposed action will not affect the creation or elimination of jobs in the State because the proposed regulations only revise procedures currently in use by commercial fishermen and fish businesses. These changes are not expected to increase the time spent to complete a landing receipt and will not change the volume of economic activity. This change is administrative in nature and will not impact the volume of fishing activity or the purchasing of fish.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulations are not anticipated to result in the elimination of existing businesses in the State, nor spur the creation of new businesses because the proposed regulations only revise procedures currently in use by commercial fishermen and fish businesses. These changes are not expected to increase the time spent to complete landing receipts and will not change the volume of economic activity. This change is administrative in nature and will not impact the volume of fishing activity or the purchasing of fish.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed regulations are not anticipated to result in the expansion of businesses currently doing business in the State because the proposed regulations only revise procedures currently in place. These changes are not expected to increase the time spend to complete a landing receipt and will not change the volume of economic activity. This change is administrative in nature and will not impact the volume of fishing activity or the purchasing of fish.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Department anticipates generalized benefits to the health and welfare of California residents through the improved reporting of commercial landings data. The proposed regulations are intended to modernize reporting procedures and guide the transition from paper reporting to electronic reporting of commercial landings. The proposed regulations provide administrative clarity that should help to fulfill the goals set forth in the Marine Life Management Act (MLMA) of 1999 (Fish and Game Code Section 7050 et seq.).

(e) Benefits of the Regulation to Worker Safety:

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The proposed regulations represent a neutral effect, offering neither benefits nor detriment to worker safety in the State.

(f) Benefits of the Regulation to the State's Environment:

The proposed regulations are consistent with the goals set forth in the MLMA; “to allow and encourage only those activities and uses of marine living resources that are sustainable and manage marine living resources on the basis of the best available scientific information and other relevant information on which to base management decisions (Fish and Game Code subsection 7050(b)). The Department anticipates benefits to the environment in the sustainable management of the commercial fisheries resources. The proposed regulations further support the MLMA which requires that “conservation and management programs prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats" (Fish and Game Code subsection 7055(b); see also subsections 7056(b) and (c)).

(g) Other Benefits of the Regulation:

The use of current information technology and web-based applications rather than paper-based reporting systems is consistent with the State of California’s ‘Going Green’ initiative and the Department’s policies to reduce the state’s environmental footprint.

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Informative Digest/Policy Statement Overview

The purpose of the addition of Section 197, Commercial Fisheries Landing Requirements, is the management of activities associated with commercial fisheries landings and the reporting of these landings. A “landing” is generally characterized as the transfer or offloading of fish from a vessel for the purpose of selling or delivering those fish to a licensed fish receiver. The proposed regulations are necessary to manage this transaction and to clarify the applicable statutes for the participants and law enforcement. To date, there are no regulations guiding this activity. Statutes authorizing commercial fisheries licenses and landing taxes are found in Article 7 and Article 7.5 of Fish and Game Code. Commercial fish receivers are engaged in business for profit and are required to be licensed and to report all landing receipt records on a form furnished by the Department of Fish and Wildlife (Department) pursuant to Fish and Game Code sections 8043 and 8047. In addition, Fish and Game Code subsection 1050(b) authorizes the Fish and Game Commission (Commission) to determine the forms to be used for commercial fisheries entitlements.

The proposed regulations implement a transition from the current paper-based reporting system to electronic forms via a new electronic reporting system for commercial fisheries landings.

Transitioning from paper landing receipts to electronic fish tickets, as the electronic forms are known, is appropriate at this time as advances in computer and Internet technology and the use of electronic devices by many businesses, including the fishing industry, is widespread. It is necessary that the Department update its processes, including proposing regulations to ensure the benefits of switching from paper landing receipts to electronic fish tickets are realized.

The electronic fish tickets will be submitted to the Department through the federal, web-based *E-Tix* system maintained by Pacific States Marine Fisheries Commission (PSMFC). *E-Tix* has been a federal requirement for the individual fishing quota groundfish trawl fishery since its inception in 2011. Oregon has adopted *E-Tix* for all fisheries on a voluntary basis and Washington is working towards this as well. The Department’s goal is to phase out the use of paper landing receipts and transition to electronic fish tickets using the PSMFC *E-Tix* application for data entry. This eliminates the issue of duplicate electronic reporting systems and provides consistency between federal and State agencies.

These regulations will provide for a phase in period of one year for all landing receipts to be submitted electronically via the *E-Tix* system. Phasing in the mandate to use electronic fish tickets is a reasonable approach to implementing a new reporting structure, since there will be a portion of the buyers or receivers that will have an adjustment period which will include a learning curve to learn the electronic program, and provides time for those that do not have access to the Internet or Internet capable devices to obtain access.

PROPOSED REGULATIONS

- Defines specific terms used within the proposed regulations.
- Includes information included on a paper landing receipt, fish transportation receipt and electronic fish ticket.
- Includes information on the transition from paper landing receipts to electronic fish tickets via the web-based application known as *E-Tix*, including the phase-in period until full implementation of electronic reporting. During the phase-in period either paper landing receipts or electronic fish tickets can be used, but not both.
- Includes procedures on fish transportation receipts from the point of landing to the fish receiver who buys the fish and fills out a paper landing receipt or electronic fish ticket.
- Describes the hardware and software requirements to fill out electronic fish tickets, the requirements to ensure Internet accessibility in a sufficient state to completely and effectively submit the electronic fish ticket, as well as what to do in case of a power outage or device failure that could restrict access to the *E-Tix* system.
- Provides details on when the electronic fish ticket should be submitted - specifically within 24 hours of the landing, who should review and verify the information by providing signatures prior to submission, and includes the process for retaining copies of the receipt to verify the signatories.
- Allows fish receivers to request a waiver from electronic reporting when circumstances exist that prevent a fish receiver from reporting landings via *E-Tix* and provides details on how to obtain a waiver from the Department.
- Ensures that submitted electronic fish tickets can be revised after submission in the event that data errors are found on the receipt.

BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulatory action will benefit fishermen, fish receivers, the State's economy, and the environment by maintaining healthy and sustainable commercial fisheries. Specific benefits include:

1. Time savings and reduced costs to the Department by reducing the amount of time and money spent designing, printing, packaging and mailing landing receipts to the fish businesses.

2. Transition of Department data entry staff to other priority tasks associated with landings data as data entry of paper forms is eliminated.

3. Ease of record storage and maintenance of electronic records by the Department.

4. Built-in checks and validations in electronic fish tickets will result in more accurate fisheries data on which the Department and the Commission can base management decisions.

5. Use of electronic fish tickets will result in more timely submission of fisheries data for both management and law enforcement.

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6. Electronic fish tickets will provide for ease of information storage, data manipulation for research, production for legal reasons and information sharing with other fishery management agencies and law enforcement.

7. Availability of landing data and reporting tools for fish receivers.

8. Provides consistency with federal regulations for certain fisheries that also require electronic reporting via the same web-based application.

CONSISTENCY WITH STATE REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and statutes and has found no other State regulations related to the completion of landing receipt records and no other State agency with authority to promulgate regulations concerning landing receipt records.

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Regulatory Text

Section 197, Commercial Fisheries Landings and Receipts, is hereby added to Title 14, California Code of Regulations:

Section 197. Commercial Fisheries Landing Requirements.

(a) Definitions. The following definitions apply to this section:
(1) “Commercial fisherman” has the same meaning as found in Fish and Game Code Section 8040.
(2) “Dock ticket” means written documentation that is legible and in English, for landing data as described in subsection (e)(3) of these regulations, and is used when submission of the electronic fish ticket cannot be performed immediately upon landing.
(3) “Electronic fish ticket" means a web-based form that is used to send landing data to the department via the Pacific States Marine Fisheries Commission. The web-based form is accessed at https://etix.psmfc.org.
(4) “Fish business” has the same meaning as found in Fish and Game Code section 8032.
(5) “Fish receiver” has the same meaning as found in Fish and Game Code Section 8033.
(6) “Fish transportation receipt” means a paper form provided by the department for recording commercial catch that is transported from the point of first landing to a fish receiver.
(7) “Functional” means that the software and hardware requirements are met and submission to Pacific States Marine Fisheries Commission can be executed effectively by the equipment.
(8) “Land” or “Landing” means to begin transfer of fish, offloading fish, or to offload fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing.
(9) “Landing receipt" means a paper form provided by the department for recording the sale or delivery of commercial catch.
(10) “Record” means the action of documenting electronic fish ticket information on a dock ticket.
(11) “Submit” means to transmit via a web-based form final electronic fish ticket information.
(b) Landing receipts; form and contents. The department prepares and issues upon request landing receipt forms.
(1) Landing receipts shall be completed at the time of the receipt, purchase, or transfer of fish, whichever occurs first and shall include the following information:
(A) Accurate weight of the species;
(B) Common name of the fish species received;
(C) Date of the receipt;
(D) Department origin block number where the fish were caught;
(E) Department registration number of the vessel and name of the vessel;

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(F) Name of the fish business and fish business license identification number;
(G) Name of the fisherman and the fisherman's commercial fishing license identification number;
(H) Number of individual fish, as applicable;
(I) Price paid; and
(J) Type of gear used.
(2) Additional information the department requires includes:
(A) Port of landing;
(B) Condition of the fish, as applicable;
(C) Use of the fish, as applicable;
(D) Fishery permit number, as applicable;
(E) Note pad area that may be used by the fish receiver at their discretion; and
(F) Signatures of the fisherman and the fish receiver.
(c) Fish transportation receipts; form and contents. The department prepares and issues on request fish transportation receipt forms.
(1) A commercial fisherman or his designee shall fill out a fish transportation receipt to transport fish to a licensed fish receiver, unless he is licensed as a fish receiver or acting under the authority of a fisherman's retail license.
(2) Fish transportation receipts shall be completed at the time of the receipt, purchase, or transfer of fish, whichever occurs first, and shall contain the following information:
(A) Accurate weight of the species;
(B) Common name of the fish species received;
(C) Date of the receipt;
(D) Department origin block number where the fish were caught;
(E) Department registration number of the vessel and name of the vessel;
(F) Name of the fish business and fish business license identification number;
(G) Name of the fisherman and the fisherman's commercial fishing license identification number;
(H) Port of landing.
(I) Name of the person transporting the fish;
(J) Corresponding landing receipt number or electronic fish ticket number issued by the fish business to the commercial fisherman; and
(K) Signature of the fisherman authorizing transportation.
(3) To use a fish transportation receipt as a dock ticket, the following information shall be added to the information contained in subsection (c)(2):
(A) Fishery permit number, as applicable; and
(B) Signature of the fish receiver.
(d) Landing receipts and fish transportation receipts.
(1) All numbered landing receipts and fish transportation receipts shall be completed sequentially.
(2) Any voided landing receipt or fish transportation receipt shall have the word "VOID" written across the face of the receipt and shall be submitted to the department with all other completed landing receipts.

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(3) A fisherman or fish receiver who is no longer conducting business shall return all unused landing receipts or fish transportation receipts and receipt books to the department immediately upon terminating the business.
(4) The delivery, distribution and retention of copies of landing receipts is described in Fish and Game Code Sections 8046 and 8046.1.
(5) The delivery, distribution and retention of fish transportation receipts is described in Fish and Game Code Section 8047.
(e) Electronic fish tickets; implementation and required information.
(1) Beginning on July 1, 2018 any fish receiver or fisherman with a fisherman's retail license shall record the landing information as provided herein using either a paper landing receipt or an electronic fish ticket, but not both.
(2) Beginning on July 1, 2019 electronic fish tickets shall be the sole method of submitting the information as provided herein.
(3) Electronic fish tickets or dock tickets shall be completed at the time of the receipt, purchase, or transfer of fish, whichever occurs first, and shall contain the following information:
(A) Accurate weight of the species;
(B) Common name of the fish species received;
(C) Date of the receipt;
(D) Department origin block number where the fish were caught;
(E) Department registration number of the vessel and name of the vessel;
(F) Name of the fish business and fish business license identification number;
(G) Name of the fisherman and the fisherman's commercial fishing license identification number;
(H) Number of individual fish, as applicable;
(I) Price paid;
(J) Type of gear used;
(K) Port of landing;
(L) Condition of the fish, as applicable;
(M) Use of the fish, as applicable;
(N) Fishery permit number, as applicable;
(O) Note pad area that may be used by the fish receiver at their discretion; and
(P) Signatures of the fisherman and the fish receiver; and
(Q) Transportation receipt number, as applicable.
(4) To complete and submit an electronic fish ticket a fish receiver shall meet the following hardware and software requirements:
(A) A personal computer system, tablet, mobile device, or other device that has software (e.g. web browser) capable of submitting information over the Internet, such that submission to the department via the Pacific States Marine Fisheries Commission can be executed effectively; and
(B) A printer capable of printing copies of the electronic fish tickets submitted via a personal computer system, tablet, or mobile device.
(5) The fish receiver is responsible for:

DRAFT

(A) Maintaining Internet access sufficient to access the web-based interface and submit completed electronic fish tickets; and
(B) Insuring that all hardware and software required under this subsection are fully operational and functional whenever they receive, purchase, or transfer fish species for which an electronic fish ticket is required.
(C) In the event of an internet outage or failure of the device it is the responsibility of the fish receiver to record the landing on a dock ticket pursuant to subsection (f)(3) of these regulations. The electronic fish ticket shall be submitted within 24 hours of the landing, except as provided in subsection (g).
(f) Electronic fish tickets; reporting and submission requirements.
(1) At the time of the landing the fish receiver shall either immediately complete an electronic fish ticket or record on a dock ticket the information that will be used to complete the electronic fish ticket for submission within 24 hours.
(2) If the landing information is entered on an electronic fish ticket the following is required prior to submittal:
(A) The information shall be reviewed by the commercial fisherman or the person who transported the fish;
(B) After review, the fish receiver and the commercial fisherman or the person who transported the fish shall sign a printed hard copy of the electronic fish ticket documenting that both have verified the accuracy of the information contained therein; and
(C) The fish receiver shall keep the original paper hard copy and provide a copy to the commercial fisherman.
(3) If the landing information is recorded on a dock ticket for later submission as an electronic fish ticket, the following is required:
(A) The electronic fish ticket number, which can be generated remotely via any device with a web browser and internet connection prior to the landing;
(B) The information shall be reviewed by the commercial fisherman or the person who transported the fish;
(C) After review, the fish receiver and the commercial fisherman or the person who transported the fish shall sign the dock ticket documenting that both have verified the accuracy of the information contained therein; and
(D) The fish receiver shall keep the original paper hard copy and provide a copy to the commercial fisherman.
(E) The electronic fish ticket shall be submitted within 24 hours of the landing.
(g) Electronic fish tickets; waiver of submission requirements.
(1) Under a temporary waiver granted by the department, a fish receiver may submit electronic fish ticket information on paper when there are circumstances beyond the control of the fish receiver resulting in their inability to submit landing data using the electronic fish ticket system.
(2) A request for a waiver has been submitted in writing to the department's Marine Region, Regional Manager, c/o Marine Fisheries Statistical Unit, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, or via facsimile at 562-342-7137, or via email at ElectronicFishTicket@wildlife.ca.gov. The waiver shall include:

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(A) Reason the fish receiver cannot comply with the electronic submission requirements,
(B) The name of the person making the request and their position within the company,
(C) The name of the fish business and fish business identification number,
(D) The physical address, phone number, and facsimile number or email address, as applicable, of the fish receiver, and
(E) The proposed time period for the waiver to be in effect.
(3) The department may request other related information prior to granting or denying the waiver.
(4) The waiver may include conditions such as the time period for submitting paper receipts, or any other criteria the department deems necessary.
(5) The fish receiver shall immediately make available a copy of the waiver approved by the department for inspection by the department when conducting business under the terms of the waiver.
(6) Fish receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets shall submit on paper the same data as is required on electronic fish tickets, pursuant to subsection (e)(3) of these regulations, within 24 hours of the date of landing during the period that the waiver is in effect. Paper fish tickets shall be sent to the department according to the instructions provided in the waiver.
(h) Retention of electronic fish tickets and dock tickets.
(1) The commercial fisherman and the fish receiver shall keep a copy of the electronic fish ticket and dock ticket, as applicable for a period of four years and shall make them available for inspection at any time by the department.
(i) Electronic fish ticket revisions.
(1) Electronic fish tickets shall to be used for the submission of final data.
(2) In the event that a data error is found, electronic fish ticket submissions shall be revised by resubmitting the revised form electronically.

Note: Authority cited: Sections 1050(b), 8046, 8046.1, and 8047, Fish and Game Code. Reference: Sections 8031, 8032, 8033, 8033.1, 8034, 8035, 8040, 8043, 8045, and 8047, Fish and Game Code. Title 50, Sections 660.113, 660.213 and 660.313, Code of Federal Regulations.

DRAFT

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DECLARATION OF FISHERY CLOSURE EXTENSION
DUE TO A PUBLIC HEALTH THREAT
CAUSED BY ELEVATED LEVELS OF DOMOIC ACID IN ROCK CRABS
Pursuant to Fish and Game Code Section 5523, I find and declare that

I.

On November 8, 2016, the state Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the California Department of Public Health (CDPH), recommended to CDFW to close the commercial rock crab fishery north of Pigeon Point, San Mateo County due to elevated levels of the neurotoxin Domoic Acid in rock crab tissue samples. Subsequently, CDFW Director Charlton H. Bonham submitted to the Office of Administrative Law an emergency rulemaking to close the commercial rock crab fishery north of Pigeon Point. The recreational fishery for rock crab remained open statewide with a warning from CDPH to recreational anglers to avoid consuming the viscera of rock crab caught in the closure area.

II.

Following the recommendation of state health agencies, the CDFW Director, under new authority granted by Fish and Game Code Section 5523, announced on February 10, 2017 that the open area of the commercial rock crab fishery had been extended northward to Bodega Bay, Sonoma County (38° 18' N. Lat.).

III.

The emergency commercial rock crab fishery closure for the area north of Bodega Bay is due to expire on May 16, 2017, and state public health agencies are not expected to recommend opening the commercial rock crab fishery at that time.

IV.

THEREFORE, under the authority granted by FG Code Section 5523, I am continuing the commercial rock crab fishery closure until I am notified by the public health agency directors named above, that a health hazard with regard to rock crabs no longer exists.

Charlton H. Bonham, Director

May 16, 2017
Date/Time

Conserving California's Wildlife Since 1870

State of California
Department of Fish and Wildlife

Memorandum

Date: May 15, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the June 21-22, 2017 Fish and Game Commission Meeting - Notification and request for public discussion of commercial rock crab fishery closure extension pursuant to Fish and Game Code section 5523**

The California Department of Fish and Wildlife (Department) would like to notify the Fish and Game Commission (Commission) of the Director's order to extend the commercial rock crab fishery closure under authority of Fish and Game Code section 5523(a)(2), due to human health risk.

On November 8, 2016, the state Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the California Department of Public Health (CDPH), recommended that the Department close the commercial rock crab fishery north of Pigeon Point, San Mateo County due to elevated levels of the neurotoxin Domoic Acid in rock crab tissue samples. Subsequently, the Department submitted to the Office of Administrative Law an emergency rulemaking to close the commercial rock crab fishery north of Pigeon Point. The recreational fishery for rock crab remained open statewide with a warning from CDPH to recreational anglers to avoid consuming the viscera of rock crab caught in the closure area. The emergency commercial rock crab fishery closure for the area north of Bodega Bay to the Oregon border is due to expire on May 16, 2017, and state public health agencies are not expected to recommend opening the fishery at that time. Therefore, the Director is extending the closure until such a time as the health agencies recommend opening the fishery.

Pursuant to Fish and Game Code section 5523(a)(2), I am requesting the Commission schedule a public discussion item of this closure at its June meeting.

If you have any questions or need additional information, please contact Sonke Mastrup, Environmental Program Manager, Marine Region, at (916)799-0398, or Sonke.Mastrup@wildlife.ca.gov.

ec: Department of Fish and Wildlife

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

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

Scott Barrow, Senior Environmental Scientist
Regulations Unit
Scott.Barrow@wildlife.ca.gov

State of California
Department of Fish and Wildlife

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COMMISSION
2017 MAY 26 AM 11:2

Memorandum

Date: May 23, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the June 21-22, 2017 Fish and Game Commission Meeting - Request to Amend Section 29.15, Title 14, CCR**

The California Department of Fish and Wildlife (Department) would like to update the Fish and Game Commission (Commission) on its recommendation regarding the 2018 recreational abalone fishery season. The 2016 season saw continued declines in key fishery indicators resulting in the Department recommending emergency action to reduce fishing pressure in 2017. On December 7, 2016, the Commission took emergency action to change the regulations by reducing the annual limit from 18 to 12 (except for Sonoma County, which remains at 9) and reducing the months open to fishing from 7 to 5 by closing April and November. The emergency regulations became effective in April and will expire the end of September.

The Department does not possess any information indicating that conditions have improved. Therefore, the Department recommends the Commission schedule at its August meeting consideration of readoption of the emergency regulation for 2017 and notice of its intent to amend regulations to make the 2017 regulations effective for the 2018 fishery season.

If you have any questions or need additional information, please contact Sonke Mastrup, Environmental Program Manager, Marine Region, at (916) 799-0398, or Sonke.Mastrup@wildlife.ca.gov.

ec: **Department of Fish and Wildlife**

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env.
Regional Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

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

Scott Barrow
Senior Environmental Scientist
Regulations Unit
Scott.Barrow@wildlife.ca.gov

Fw: Request for emergency closure of Abalone harvest in Mendocino County

FGC

Tue 6/6/2017 10:40 AM

To:FGC <FGC@fgc.ca.gov>;

From: guil dye <[redacted]>
Sent: Monday, June 5, 2017 4:00 PM
To: FGC
Subject: Request for emergency closure of Abalone harvest in Mendocino County

The following is a letter I have written to Senator McGuire. As similar letter was sent to Assemblyman Wood.

Subject: Ecological crisis on our coast. Very Urgent.

Dear Senator McGuire,

The abalone fishery in your district, particularly Mendocino County is in serious trouble. There has been a die off of kelp and at the same time a huge increase in the harvest. The abalone are starving and greatly diminished in size but foraging in the open for the last kelp to feed on. They are unusually vulnerable, plainly visible with no kelp to hide under. At the same time record numbers of divers/pickers from the bay area have descended on our local access points, partly because of preserve area closures south of us. Literally hundreds of visiting harvesters were counted this weekend during three days of minus tides. Most likely took their three abalone home. Roadsides were packed with vehicles where we observed them from the Navarro River to Fort Bragg. From our house overlooking Jug Handle cove, we counted well over a hundred divers daily where in the past it was unusual to see more than a couple dozen.

I have taken the liberty of emailing you some photos from my phone under separate cover. One shot shows bare kelp stalks and bleached rocks where there should be a forest.

This is the second year with minimal kelp growth and overwhelming numbers of harvesters coming from out of the area. The majority are now known to take the abalone and immediately go home leaving little or no contribution to the economy.

After all the cost and efforts at law enforce, research, preservation, curtailed seasons etc, it appears that this sport fishery will be devastated by this season's end unless emergency measures are taken. The local economy and culture will suffer.

It is very plain, clear and obvious that Department of Fish and Wildlife should be given the mandate to close the fishery until the kelp growth returns to normal. The abundant small purple urchins are being blamed for eating the kelp but there are no known ways to stop that. There are cycles in nature that humans can either magnify or reduce. California has wasted many fishery resources by mismanagement. Closing abalone harvest temporarily is a responsible way to save this one before it is too late.

Do you know if Fish and Wildlife Department is addressing this situation? Is there any awareness of what will probably be the end of this unique and valuable resource of your district in California? Are you concerned about it?

Sincerely,

Guilford Dye,

President, Broadcasting Corporation of Mendocino County, KWine and Max Radio, Ukiah.

I shall send a separate email with the photos.

photos of abalone harvest during low tide event Mendocino County

guil dye < >

Mon 6/5/2017 4:07 PM

To:FGC <FGC@fgc.ca.gov>;

Cc:Weseloh, Tom <Tom.Weseloh@sen.ca.gov>; konstantin karpov < >; frank merritt < >; jack mason < >; Larry Falk < >;

Begin forwarded message:

From: Guil Dye <
Date: May 30, 2017 at 3:37:28 PM PDT
To: senator.maguire@senate.ca.gov
Cc:

Sent from my U.S. Cellular® Smartphone



Begin forwarded message:

From: Guil Dye < >
Date: May 30, 2017 at 3:35:58 PM PDT
To: senator.maguire@senate.ca.gov,

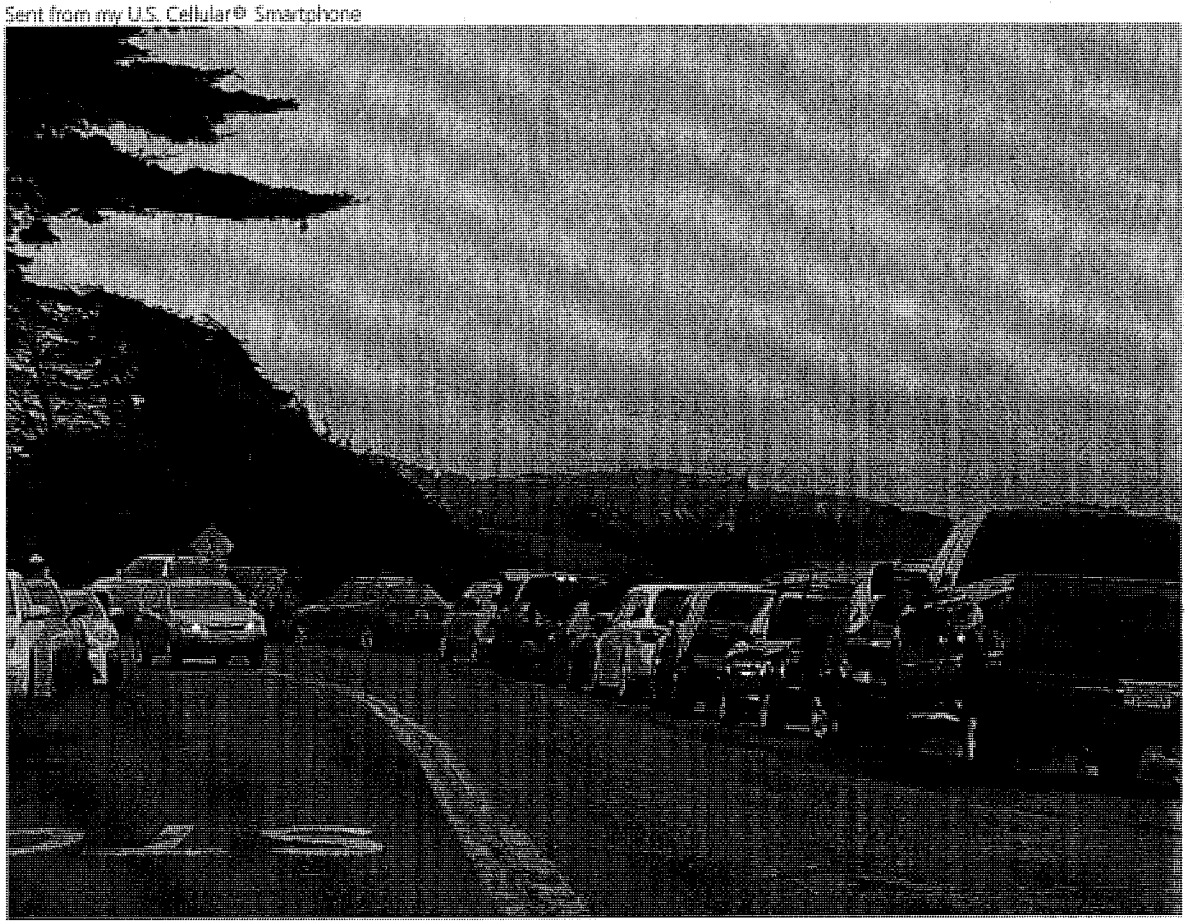
Sent from my U.S. Cellular® Smartphone



Begin forwarded message:

From: Guil Dye < >
Date: May 30, 2017 at 3:35:00 PM PDT
To: senator.maguire@senate.ca.gov
Cc:

Sent from my U.S. Cellular® Smartphone



Begin forwarded message:

From: Guil Dye
Date: May 30, 2017 at 3:39:10 PM PDT
To: senator.maguire@senate.ca.gov,

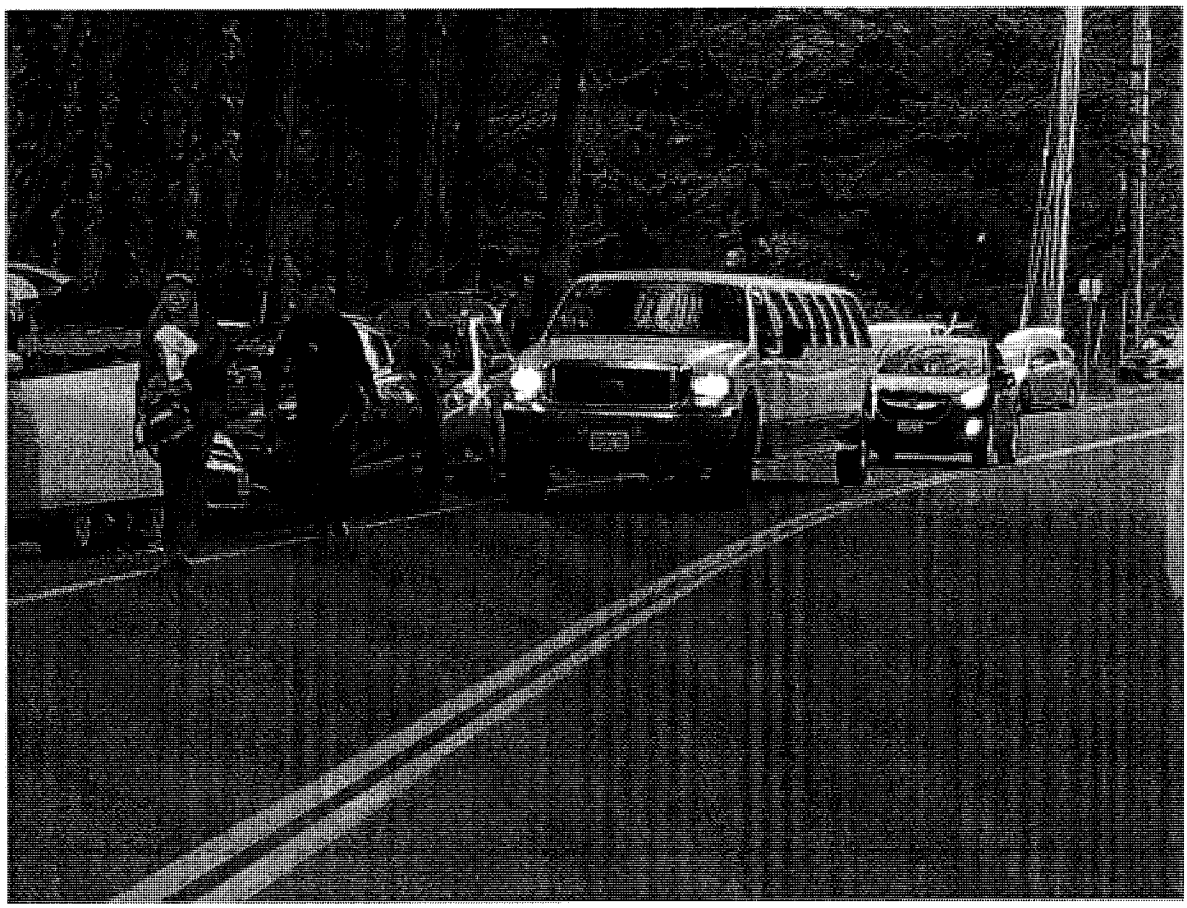
Sent from my U.S. Cellular® Smartphone



Begin forwarded message:

From: Guil Dye <
Date: May 30, 2017 at 3:38:11 PM PDT
To: senator.maguire@senate.ca.gov,

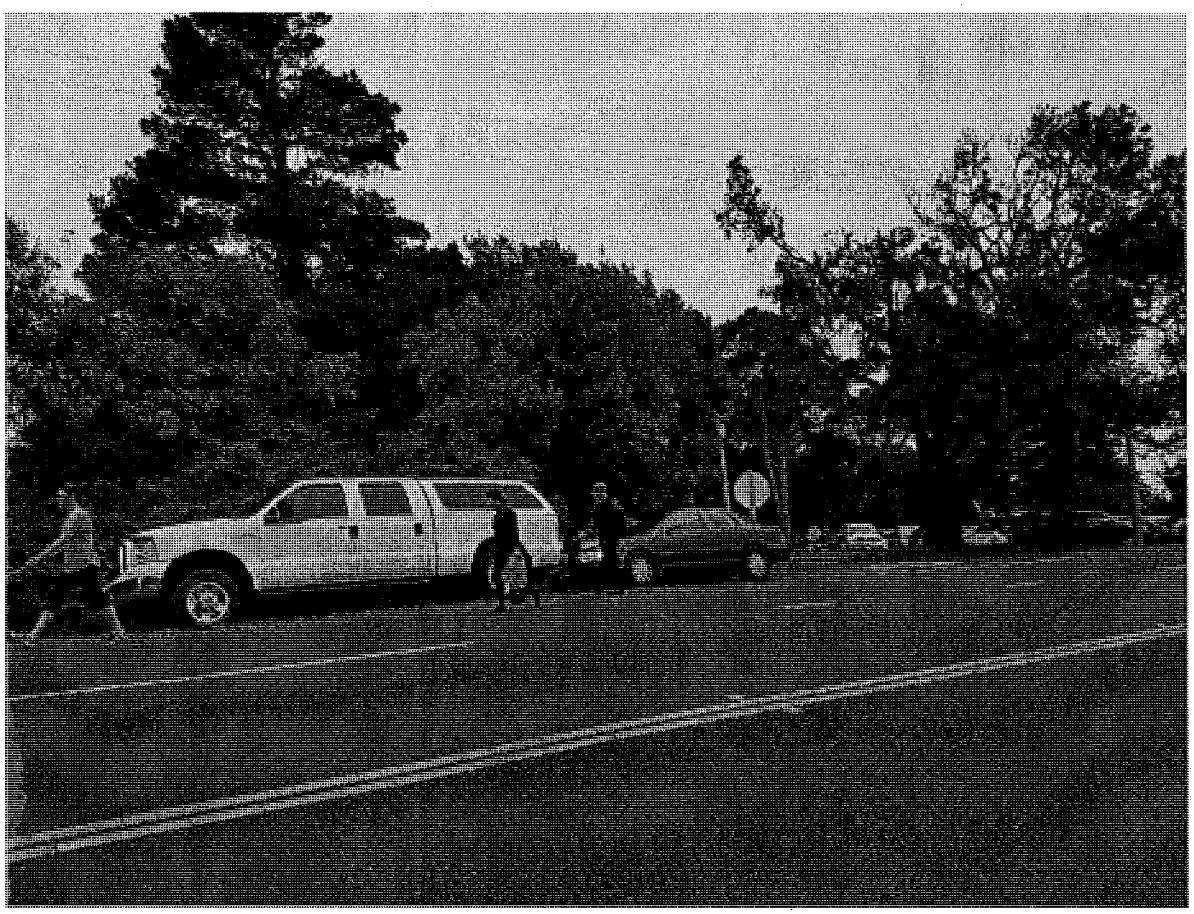
Sent from my U.S. Cellular® Smartphone



Begin forwarded message:

From: Guil Dye <[redacted]>
Date: May 30, 2017 at 3:36:41 PM PDT
To: senator.maguire@senate.ca.gov, [redacted]

Sent from my U.S. Cellular® Smartphone



From: Chad Swimmer [redacted]
Sent: Tuesday, June 6, 2017 3:33:18 PM
To: FGC
Subject: Comments on Ocean and Abalone Health in the Fort Bragg Area

To Whom It May Concern--
I am a Fort Bragg resident who has been diving the Mendocino Coast since 1986. It has been painful and depressing watching the decline of our ocean ecosystem, but what I saw last week was, to me the worst of all. I dove the North side of Caspar Bay, a spot I hadn't been to in two years. Below the intertidal zone, it was a wasteland. It was high tide, so I was only able to reach to about 15 feet below the low tide range, but aside from the intertidal kelp, it was a wasteland. Aside from the thousands of purple urchins, there was very little life. The rocks were scraped clean of even the kelp roots. There were few live abalone, but many shells. Apart from abalone, there were a few perch, but hardly any other creatures, this in an area of unbelievable diversity even just a couple years ago. I did take two abalone, but when I went to clean them, something strange happened. Their lips came off in my hands, their muscles like jelly. I have never seen such a thing. Needless to say, I did not eat them. I should have brought them straight to CDFW, but I was kind of shell-shocked. Now it's too late.
Chad Swimmer, [redacted]

Commissioners
Eric Sklar, President
Saint Helena
Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
Huntington Beach
Russell E. Burns, Member
Napa
Peter S. Silva, Member
Chula Vista

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 1, 2017

Dayna Bochco, Chair
Members
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Chair Bochco and members of the California Coastal Commission:

I am writing on behalf of the California Fish and Game Commission (FGC) to offer comments for consideration on proposed desalination projects in general, and the Huntington Beach proposal specifically.

With California in its fifth year of drought, seawater desalination has been proposed as one solution to the water needs of California communities. FGC understands the need to explore new and alternative measures to meet resource demands in a sustainable manner, and recognizes that seawater desalination has the potential to be a valuable tool in California's water supply portfolio. At the same time, the seawater desalination process also has the potential for significant detrimental impacts to California's marine ecosystems. Thus, FGC would like to emphasize that seawater desalination projects must be considered and analyzed carefully, and ultimately designed in a way to avoid or minimize adverse effects in the marine environment to the greatest extent possible.

FGC also recognizes that climate variability, and an increased need for alternative resource uses, are issues facing all resource management agencies, and that balancing the needs of human populations in the face of uncertain resource availability can be a difficult task. The mission of FGC is to ensure the long-term sustainability of fish and wildlife in California. Furthermore, in an effort to preserve marine ecosystem functions and complement species-specific management, FGC adopted the nation's first coast-wide network of marine protected areas (MPAs), as you are aware. In place since 2012, California's globally significant MPA network was created to help ensure that the natural diversity, marine ecosystem functions, and marine natural heritage of the state were protected while also helping to improve recreational, educational and study opportunities.[1] FGC, with the California Department of Fish and Wildlife as the lead implementing agency, has invested significant time and resources to ensure that the

[1] Marine Life Protection Act, Fish and Game Code § 2853(b)

MPAs are managed in a manner consistent with stakeholder intent and legislative guidance, and ensuring the system of MPAs functions as a robust network.

It is the understanding of FGC that there are at least nine active proposals for seawater desalination plants along the California coast that would join the ten existing plants[2], some in close proximity to MPAs. FGC seeks to strengthen the shared commitment of our partner coastal management agencies to help maximize MPA network functionality by considering actions that subject the MPA network to minimal human disturbance. FGC valued the opportunity to work closely with the California Coastal Commission and its staff during the MPA planning process and would like to acknowledge the commission's continued leadership in upholding standards for marine protection, specifically its role as a key member of the MPA Statewide Leadership Team convened by the Ocean Protection Council. Therefore, FGC supports efforts to reduce impacts to marine resources by evaluating potential project impacts to individual MPAs, the MPA network as a whole, and site-specific marine resources during permitting and decision-making processes. As such, we urge the commission to require that proposals for seawater desalination facilities avoid or minimize impacts to MPAs and all marine resources through best available siting, design, and technology.

Minimizing impacts through thoughtful design is consistent with the State Water Resources Control Board's recently adopted Ocean Plan Amendment, which requires desalination plants to use the best available site, design, technology and mitigation measures feasible to minimize intake and mortality of marine life *and identifies subsurface intakes as the preferred technology.* [3] Additionally, the board's policy contains requirements for protecting MPAs, including a prohibition on harmful intake and discharge structures *within* MPAs and a directive to site discharge and surface intakes at sufficient distances to minimize water quality and marine life impacts to protected areas.

Impacts to marine life from seawater desalination can be avoided through current technology such as subsurface intakes, which pull in ocean water through pipes beneath the seafloor rather than through an open pipe in the water column. This subsurface technology eliminates impacts to marine life from being impinged on an intake screen or entrained in the source water from an open ocean intake, impacts that can result in significant injury and death of marine species. Unfortunately, the policy also provides flexibility for alternative intake and disposal methods, with greater impacts to marine life, if it can be demonstrated that preferred technologies are infeasible.

FGC urges that, due to potential impacts to marine resources, open ocean intakes be avoided. While new desalination projects with open ocean intakes will not be permitted within MPAs, facilities with open ocean intakes *near* MPAs can have direct impact on marine resources through incidental take and the reduction of critical larval connectivity

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[2] http://pacinst.org/publication/key-issues-in-seawater-desalination-proposed-facilities/

[3] State Water Resources Control Board, Final Staff Report and Final Desalination Amendment, including the Final Substitute Environmental Documentation. Adopted on May 6, 2015. Available at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2015/rs2015_0033_sr_apx.pdf

between MPAs as marine life is pulled into the plant and removed from the ecosystem. Impacts from open ocean intake have the potential to undermine the ability of our MPAs to function as a network, weakening the science-based framework on which they were created and potentially their ability to generate expected long-term benefits.

With desalination facilities poised for your consideration, it is critical to uphold the protection within California's MPA network, and to preserve the state's significant investment in the resilience of our ocean. Seawater desalination can be a tool in our water supply portfolio, but it must be analyzed carefully and designed in a way to avoid or minimize adverse effects to the greatest extent possible. Siting these facilities away from MPAs (and other sensitive habitats and species) and requiring the use of subsurface intakes will help ensure California's ocean ecosystems are sustained for the long-term.

We urge you to require precautionary design, siting and technology for the Huntington Beach desalination plant and any future seawater desalination proposals along the California coastline.

Sincerely,

Eric Sklar on behalf of
President

cc: John Ainsworth, Acting Executive Director, California Coastal Commission
Members, California Fish and Game Commission
Felicia Marcus, Chair, State Water Resources Control Board
John Corbett, Executive Officer, and members, North Coast Regional Water Quality Control Board
Terry Young, PhD, Chair and members, San Francisco Bay Regional Water Quality Control Board
Dr. Jean Pierre Wolff, Chair and members, Central Coast Reginal Water Quality Control Board
Irma Munoz, Chair and members, Los Angeles Reginal Water Quality Control Board
William Ruh, Chair and members, Santa Ana Regional Water Quality Control Board
Henry Abarbanel, Chair and members, San Diego Regional Water Quality Control Board

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a Poseidon Water company

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COMMISSION

2017 MAY 16 PM 3:42

MLS

May 9, 2017

Mr. Eric Sklar
President
California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814

SUBJECT: Huntington Beach Desalination Project

Dear President Sklar:

I am writing in response to your February 1, 2017 letter to the California Coastal Commission regarding the proposed Huntington Beach Desalination Project ("Project"). A copy of your letter was recently provided to us by the State Water Resources Control Board staff on May 4, 2017.

Poseidon supports the California Fish and Game Commission's mission to ensure the long-term sustainability of fish and wildlife. Our Carlsbad Desalination Plant, the state's first and only large-scale seawater desalination plant, has successfully produced over 20 billion gallons of drinking water since starting commercial operation in December 2015 while operating in accordance with applicable state and federal environmental laws and regulations. The Carlsbad project includes the restoration of 66 acres of wetlands in south San Diego Bay, an endeavor undertaken in cooperation with the U.S. Fish and Wildlife Service that will measurably enhance fish and wildlife habitat. In addition, with the adjacent Encina Power Station scheduled to decommission its cooling water system soon, Poseidon is poised to serve as the long-term steward for the resource-rich Agua Hedionda Lagoon, 300 acres of sensitive and vital coastal wetlands.

Based on the comments in your February 1, 2017 letter I want to make sure the Fish and Game Commission and its staff are correctly informed about our proposed Huntington Project and its relationship to the state's Marine Protected Areas (MPAs) and the Commission's effort to preserve marine ecosystem functions and oversee species-specific management.

The proposed Project has been in the state's permitting process since 2002. Over the past fifteen years the Project has successfully obtained permits and environmental approvals from the City of Huntington Beach, the Santa Ana Regional Water Quality Control Board ("Regional Board") and the California State Lands Commission ("SLC"). These environmental approvals include the Project's Subsequent Environmental Impact Report ("SEIR") (State Clearinghouse No. 200151092) certified by the City of Huntington Beach on September 7, 2010 and subsequently relied upon by the SLC and Regional Board for the agency's respective approvals of the Project.

Poseidon Surfside
17011 Beach Blvd., Suite 900 Huntington Beach, California 92647 Phone: (714) 596-7946 Fax: (714) 596-7947
www.poseidonwater.com

More recently, the proposed Project description has evolved and been amended to demonstrate compliance with the requirements of the California State Water Resources Control Board's Seawater Desalination Ocean Plan Amendment ("Desalination Amendment"). Poseidon's proposed Huntington Beach Project will be the first large-scale desalination facility in the world to deploy 1mm (1/25th inch) slot width wedgewire intake screens with a through-screen water velocity of less than 0.5 feet per second in an open-ocean setting. The plant will also include state-of-the-art brine diffuser technology that will ensure that the salinity level in the plant's seawater discharge meets the Desalination Amendment's stringent new receiving water quality requirements. These technologies will minimize the intake and mortality of all forms of marine life. Because of these technology enhancements the Project's long-term, stand-alone operation will continue to provide 50 MGD of drinking water but only require an average annual volume of source water of approximately 106 MGD, or 30% less water than the 152 MGD analyzed in the City of Huntington Beach's 2010 SEIR.

The current proposed Project description was informed, in large part, by the outcome of a site-specific assessment of the feasibility of subsurface seawater intake technologies. Between 2014-15, at the direction of the Coastal Commission, the Coastal Commission staff and Poseidon jointly convened an Independent Scientific & Technical Advisory Panel ("ISTAP") to reach a scientifically justified and independent assessment of the feasibility of subsurface seawater intake systems. During the two-year process, which included public participation, the ISTAP evaluated nine different subsurface intake technologies and different project scales (i.e., product water production capacities) ranging from a plant capable of producing 12.5 MGD to 100 MGD of drinking water. Based on the application of the Coastal Act's and Desalination Amendment's definition of feasibility, the ISTAP concluded that eight (8) of the nine (9) subsurface intake technologies – including all beach well technologies - were technically infeasible, and a the ninth (9^{th}) technology – a seafloor infiltration gallery - was not economically viable at the Huntington Beach location within a reasonable time frame. To our knowledge, the Commission's ISTAP process is the most comprehensive, independent evaluation of the site-specific feasibility of subsurface seawater intake technologies ever conducted.

Your February 1, 2017 letter characterized the feasibility standards in the Desalination Amendment as providing "unfortunate" technology flexibility; however, the requirement that a project be feasible is codified in state law - both the Coastal Act and California Water Code – with the Water Code requirement recently being affirmed by the California courts (*Surfrider Foundation v. the California Regional Water Quality Control Board, San Diego Region, Fourth District Court of Appeal case No. Do60382.),* which in turn helped inform the development of the Desalination Amendment.

The Fish and Game Commission's concern about the potential effects screened seawater intakes could have on the state network of MPAs is understood; however, the proposed Project's intake and discharge structures are not located within or nearby any MPA. The

nearest Area of Special Biological Significance is located more than nine (9) miles southeast and down current. The nearest MPA is the Bolsa Chica State Marine Conservation Area, which is approximately 4.3 miles northwest.

Any concerns to the state's MPAs should be based on Project and site-specific facts. A key marine life finding in the Project's EIR on this point states:

> *Impacts on marine organisms due to the potential entrainment resulting from the project are relatively small, and would not substantially reduce populations of affected species, or affect the ability of the affected species to sustain their populations. Therefore, entrainment impacts would be less than significant.*

This CEQA finding is supported by site-specific information, empirical data and statistical analysis including:

- **The intake area does not have any environmentally sensitive habitats such as eelgrass beds, surfgrass, rocky shores, or kelp beds;**

- **No larvae of threatened or endangered species are anticipated to be entrained;**

- **Potential entrainment of larval species of commercial or recreational value will be extremely rare;**

- **Operation of the desalination facility may entrain 0.02% of the larva in the source water and at risk of entrainment, meaning only 2 out of every 10,000-at-risk larval are anticipated to be entrained.**

It's important to note these potential impacts do not take into consideration that the 1mm wedgewire screens will reduce entrainment and eliminate impingement of larger marine life (e.g., seals, sea lions, sea turtles, and adult fish like Kelp Bass and California Sheephead). The entrainment reducing potential of the wedgewire screens is a function of slot size relative to organism size, the behavior of organisms near the screen, and ambient hydrodynamics. The influence of organism behavior (swimming ability) and ambient hydrodynamics are documented by the 2010 Santa Cruz Water District pilot study https://www.youtube.com/watch?v=bSEmJZmJRMU.

In 2015, at the request of the Coastal Commission staff, Poseidon specifically analyzed the relationship between the proposed Project's ocean intake and the state's networks of MPAs. Tenera Environmental issued a report entitled *"Assessment of Entrainment Effects Due To The Proposed Huntington Beach Desalination Facility On State Marine Protected Areas"* which concludes that 91% of larvae estimated to be entrained by the proposed Project are from fish that are not associated with the kelp and rocky reef habitat inside the Southern California coastal MPA reserve network. Of the remaining 9% associated with kelp and

rocky reef habitats, the report's ocean currents model concludes that the probability is, at most, 1.0% (or 0.09% of the total larvae potentially at risk of entrainment) of that larvae from inside one of these MPAs could be transported into the vicinity of the Project and subject to entrainment. The results of the ocean current modeling suggest that the more likely source of the larvae from fishes associated with kelp and rocky reef habitat in the vicinity of the Project's intake and discharge is from the rocky habitat formed by Los Angeles/Long Beach Harbor Complex, which is not a protected area and is closer to the proposed Project's intake than any of the kelp and rocky reef coastal MPAs. Therefore, the location of the Project at the proposed site ensures that there is little or no likelihood the Project's potential entrainment could negatively affect an MPA or any "network" of ocean MPAs. Again, this analysis did not include any consideration of the entrainment minimizing effects of the 1 mm wedge wire screens. California Department of Fish and Wildlife were briefed and provided copies of this study in December of 2015 and over the past fifteen-plus months there have not been any questions or comments.

Tenera 2015 found that four of the nine MPAs within 80 km (50 mi) up coast or down coast of the HBDP intake are protected tidal embayments or estuaries (e.g., Bolsa Chica) and do not contain kelp and rocky reef habitat. Marine larvae spawned from within these MPAs are subject to high levels of natural mortality because there is no suitable adult habitat for these larval fishes to settle on along the open coast. The Project intake is in an area not directly adjacent to the opening to any of these MPAs where tidal action might have some possibility of transporting larvae back into the embayment from which they were spawned. It is extremely unlikely larvae originating from embayment MPAs that are potentially entrained at the intake would have contributed to the adult population in the absence of entrainment and therefore entrainment of these larvae is extremely unlikely to result in any impacts to the adult populations of these fishes inside the embayment MPAs.

Nonetheless, in 2016, at the request of the Regional Board staff, Poseidon augmented the 2015 Tenera Environmental report with a species-specific marine life biological assessment conducted by HDR and MBC entitled *"Huntington Beach Desalination Facility: Intake Location Entrainment Analysis."*

The HDR/MBC report was prepared, in part, to address concerns about potential impacts to Bolsa Chica and non-open-ocean, rocky-reef MPA species and whether moving the proposed screened intake location farther offshore would reduce marine life effects. The HDR/MBC report concluded:

- **Only four (4) of the twenty (20) most abundant taxa occurring in plankton samples taken offshore of Huntington Beach are documented to occur in the Bolsa Chica Ecological Reserve;**

- **The current intake location entrained the fewest fish taxa and lowest density of those taxa that the California South Coast Region Marine Protected Area Network was expected to protect and enhance;**

- **Adverse impacts to fish taxa that the South Coast Region Marine Protected Area Network was designed to protect will increase by moving the intake farther offshore of Huntington Beach.**

Finally, despite the Project's CEQA determination that the marine life effects are anticipated to be insignificant, the Coastal Act and State Water Code require mitigation for unavoidable marine life impacts, no matter how ecologically insignificant. Based on guidance provided by the Desalination Amendment, Poseidon has calculated the Project's necessary compensatory mitigation, and based on input from the SLC staff we have proposed a Marine Life Mitigation Plan that involves the maintenance of the tidal influence of Bolsa Chica to ensure the long-term preservation of the 1,500-acre Bolsa Chica Ecological Reserve, the largest saltwater marsh between Monterey Bay and the Tijuana River Estuary.

In closing, we want to take this opportunity to propose a meeting with the Fish and Game Commission and its staff to address any questions you may have about the Huntington Beach Project. In the meantime, the studies and reports referenced above are part of the Regional Board application administrative record and copies can be provided to you at your request.

Sincerely,

Scott Maloni
Vice President, Poseidon Water

cc: Nancy McFadden, Executive Secretary Office of Governor Edmond G. Brown Jr.
Felicia Marcus, Chair State Water Resources Control Board
Dayna Bochco, Chair California Coastal Commission
Lt. Governor Gavin Newsom, Chair State Lands Commission
Kurt Bertchold, Executive Officer Santa Ana Regional Water Board
Valerie Termini, Executive Director CA Fish and Game Commission

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR PENDING MARINE PETITIONS FOR REGULATION CHANGE REFERRED FOR REVIEW, FOR FGC ACTION
Revised 06-09-2017

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

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

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	Staff Recommendation	FGC Decision
N/A	7/14/2014 8/6/2014 - meeting	Mike McCorkle, Southern California Trawlers Association	Ridgeback Prawn incidental take allowance	T14, Sec. 120.12	Request to reinstate incidental take allowance (50 lb) for ridgeback prawn in state trawl fisheries, which was removed in 2008 in error during regulation clean-up to remove all spot prawn trawling provisions following spot prawn trawl gear ban.	**Staff Update (for 6/21-22, 2017 FGC meeting):** GRANT; staff reviewed regulatory history and concurs that the incidental take allowance was removed without cause. In addition, DFW evaluated any potential risk to the ridgeback prawn stock from reinstating the provision by analyzing catch history; DFW and FGC staff concur that the analysis does not indicate resource concerns associated with the incidental take provision.	Referred to FGC marine advisor on 10/8/2014 for evaluation and recommendation. **ACTION:** Scheduled 6/21-22/2017
2015-006	11/24/2015	Dennis Thibeault	Rockport Rocks	632(b)(17), T14	Remove special closure regulations for Rockport Rocks due to private ownership of rocks.	**DFW Update (on 4/27/17):** GRANT; findings confirm that rocks comprising Rockport Rocks are privately owned and that removing the special closure regulations is warranted **Staff Update (for 6/21-22, 2017 FGC meeting):** GRANT; for consideration in rulemaking, and encourage petitioner to conduct education and outreach and explore best management practices to protect nesting and roosting seabirds from disturbance, consistent with the special closure intent.	Referred on 2/11/2016 to DFW for evaluation and recommendation. **ACTION:** Scheduled 6/21-22/2017
2016-013	6/22/2016	April Wakeman, The Sportfishing Conservancy	Use of cast nets	28.80, T14	Permit use of cast nets south of Point Conception for consistency in all state marine waters.	**DFW Update (on 4/27/17):** DENY; concerns over grunion and gear - more information gathering is needed before expanding opportunity to a new geographic region **Staff Update (for 6/21-22, 2017 FGC meeting):** DENY; request that petitioner work with DFW to identify information needs and/or constraints.	REFER on 8/24/2016 to DFW for evaluation. **ACTION:** Scheduled 6/21-22/2017

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

2015-006
Tracking Number: ~~(Click here to enter text.)~~

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Dennis Thibeault, Vice President Forestry, Mendocino Redwood Company, LLC
   Address: P.O. Box 996/ 850 Kunzler Ranch Road, Ukiah, CA 95482
   Telephone number: 707-463-5112
   Email address: dthibeault@mendoco.com

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: California Fish & Game Code § 1580; California Fish & Game Code § 2855; California Public Resources Code § 36600, 36700 , 36725[(a),(e)]

3. **Overview (Required)** - Summarize the proposed changes to regulations: Remove special closure regulations for Rockport Rocks in 14 CCR § 632 (b)(17)

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: The above-mentioned special closure was enacted on a parcel private property owned by Mendocino Redwood Company, LLC (MRC). The special closure as currently written prohibits complete access to this parcel of land from March 1 to August 31. MRC was never informed—neither verbally nor in writing—by the California Department of Fish and Wildlife or the North Coast Regional Stakeholders Group about including Rockport Rocks in a special closure when formally proposed in 2010. Evidence from historical documents establishing the North Coast Marine Protected Area (MPA) indicate that the designation of Rockport Rocks as a special closure area was an unintentional error because it was mistakenly assumed to be a part of the Coastal National Monument managed by the Bureau of Land Management. The CDFW is also on record stating that MPAs "will not affect private property rights" and that the "MPA designation process must take into account existing California State Lands Commission leases, California Fish and Game Commission state water bottom and kelp leases, tide and submerged lands grants, private tidelands, and any other legal entitlements." Overall, had these facts been disclosed during the MLPA process, this area would have been removed from the original proposal prior to the Commission's vote on the matter.

SECTION II: Optional Information

5. Date of Petition: November 17, 2015

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☒ Other, please specify: Special Closure Area for

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): 14 CCR § 632 (b)(17)

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: As soon as possible; the designation of Rockport Rocks special closure area was an unintentional error as all the facts of ownership were neither made available to the CDFW nor the Commission during the special closure designation process.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Supplementary information including a cover letter substantiating MRC's case is attached to this petition.

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: Designation of Rockport Rocks as a special closure is a potential encumbrance to MRC being able to sell the parcel or sell a conservation easement to an interested party.

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: 11/24/15

Meeting date for FGC consideration: Receive 12/9/15, Action 2/10/16

FGC action:
☐ Denied by FGC
☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change

Allweather Wood™ Humboldt Redwood™ Mendocino

November 23, 2015

Mr. Jack Baylis, President
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Dear Mr. Baylis

We have recently been made aware a parcel of our property, referred to as "Rockport Rocks," was included in a special closure area during the Marine Life Protection Act (MLPA) designation process. Unfortunately this occurred without any type of notification to us from the California Department of Fish and Wildlife (CDFW) or the North Coast Regional Stakeholders Group (NCRSG). MRC's ownership of Rockport Rocks (aka "Sea Lion Rock") is well-established by a patent, grant deed, and numerous historical documents and photographs spanning nearly a century and are available upon request.

This special closure, 14 CCR § 632(b)(17), inhibits our private property rights and our ability to enjoy our property. We provide limited public access to Rockport Beach and the beach is visited and enjoyed by hundreds of employees, family and friends every year. The seasonal closure, which goes from March 1 to August 31, effectively prohibits access to this parcel of land by the property owner, and potentially limits recreational and educational activities (e.g., fishing, abalone diving, kayaking, kelp harvesting, bird watching, tidepooling, etc.) in nearshore waters historically enjoyed by visitors to Rockport Beach.

The public nature of the special closure has also created a potential encumbrance to MRC's ability to sell the parcel or negotiate a conservation easement with an interested party should it ever decide to do so. In 2011, the Bureau of Land Management (BLM) and the United States Fish and Wildlife Service indicated interest in acquiring Rockport Rocks for conservation purposes in the Report "Potential Murre Restoration Projects Northern California".

Our investigation into this matter leads us to conclude that the inclusion of MRC property in a special closure was done in error. First, documents for the MLPA process suggest that the CDFW and the NCRSG assumed that Rockport Rocks were part of the publically owned California Coastal National Monument system administered by the BLM. Secondly, the CDFW stated in a memorandum dated 1/31/08 from John Ugoretz to the MLPA Stakeholder Group that MPAs "will not affect private property rights" and that the "MPA designation process must take into account existing California State Lands Commission leases, California Fish and Game Commission state water bottom and kelp leases, tide and submerged lands grants, private tidelands, and any other legal entitlements". In fact, the Vizcaino Rocks special closure, located 0.6 miles to the south of Rockport Rocks, clearly embodies this philosophy as it has a modified boundary that extends 300' from only the seaward side of the rock, presumably because a buffer around the entire rock would overlap with a private beach owned by the Save-the-Redwoods League.

We conclude had CDFW, NCRSG, or the Commission known MRC was the owner of Rockport Rocks, this special closure would not have been included in the final rulemaking package that was eventually adopted. Based on the facts presented here, we kindly request that the Commission remove the special closure regulations on Rockport Rocks.

If you have any questions, would like documentation of the above statements or would like to discuss the matter further, please give me a call at (707) 463-5112 or email me at dthibeault@mendoco.com.

Sincerely,

Dennis Thibeault
Vice President Forestry

ABOUT MRC

Mendocino Redwood Company (MRC) was created in 1998 from lands purchased in Mendocino and Sonoma counties with the publicly declared mission to be good stewards of the forest and at the same time run a successful business. We have made significant progress in that regard:

1. *Adopting policies to make MRCs forestlands FSC certified (since November 2000);*
2. *Adding more than 1 billion board feet of redwood and Douglas fir trees by lowering the rate of harvest;*
3. *Defining of old growth down to the level of an individual tree, along with implementation of a policy to protect all individual old growth trees across our property;*
4. *Elimination of traditional clear cutting from our property;*
5. *Long term investments to improve habitat for fish across the property by controlling or holding back more than 1 million cubic yards of sediment (more than 100,000 dump trucks of dirt) from the coastal streams flowing through our forest;*
6. *Removal of more than 36 long time fish barriers, increasing fish bearing streams by more than 20 miles.*
7. *Operating as an open and transparent business; including an open invitation to take interested individuals anywhere in the forest;*
8. *Completing a substantial rebuild of our Ukiah sawmill, assuring that Mendocino County will have infrastructure in the processing of wood products for many years to come; and*
9. *Employing about 300 skilled employees in Mendocino County earning family-level wages and benefits.*

State of California
Department of Fish and Wildlife

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2017 APR 19 AM 9:21

Memorandum

Date: April 11, 2017

To: Valerie Termini
Executive Director
California Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Petition #2015-006: Remove Regulations for Rockport Rocks Special Closure**

On February 10, 2016 the California Fish and Game Commission (Commission) reviewed a petition from the Mendocino Redwood Company, LLC to remove the Rockport Rocks Special Closure located offshore of Mendocino County. During the Marine Life Protection Act Initiative Process for the designation of Marine Protected Areas (MPAs), Special Closures were used as a management tool to protect sea bird rookeries and marine mammal haul-out sites by restricting ocean-based access to these areas. Information on the use of MPAs on private lands was provided to the North Central Coast Regional Stakeholder Group by the Department of Fish and Wildlife (Department) in a memo dated January 31, 2008.

The North Coast Regional Stakeholders Group proposed the Rockport Rocks Special Closure during the MLPA Initiative process. The proposal was adopted by the Commission in June 2012 and implemented into regulations December 2012. The Rockport Rocks Special Closure seasonally protects more than 2,500 breeding and nesting seabirds, including Black Oystercatcher, Brandt's Cormorant, Common Murre, Pelagic Cormorant, Pigeon Guillemot, Rhinoceros Auklet, and Western Gull. It is also linked with the Vizcaino Rock Special Closure which as a complex protects 11,500 breeding seabirds.

The Mendocino Redwood Company supported their petition with their historical documents and the Department's memo dated January 31, 2008. They believe these documents demonstrate their private ownership of the parcel of land that is encompassed by the Rockport Rocks Special Closure. The Commission referred the petition to the Department for evaluation and recommendation.

The Department's Marine Region and Office of General Counsel began review of the petition and associated documents late February 2016. After reviewing the historical documents submitted by the Mendocino Redwood Company, Department documents, and existing laws and regulations associated with the Special Closure, it was clear that consultation with the California State Lands Commission (SLC) was needed to determine whether the submerged lands around the Special Closure were sovereign lands of the State of California. Department staff contacted SLC in May 2016 and again in September 2016, provided the historical documents, and requested their input. SLC responded with the following information in October 2016:

- *The Rockport Rocks are located within lands the State did not acquire or patent and are federal lands patented by the U.S. as SCRIP Patent, Serial No, 999436, Dated 4/1/1927 (Lots 5,6, & 7, Sec. 23 and Lot 5, Sec. 26, T22N, R18W, MDM). The Pacific Ocean surrounding these rocks (islands) is within ungranted sovereign land.*

Given the information received from SLC, and the potential overlap with the federal Coastal National Monuments, the Department contacted the Bureau of Land Management's (BLM), California office in November 2016 to determine whether the rocks or adjacent submerged lands were under federal jurisdiction. BLM reviewed the historical documents submitted by the Mendocino Redwood Company and provided the following information in December 2016:

- *Our State Office has confirmed that the BLM patented the islands in 1927.*

The patent on the islands in 1927 deeded ownership of the islands to the Mendocino Redwood Company. As a result of the Department's analysis, in conjunction with the state and federal agencies with potential jurisdiction over sovereign lands, the Department concludes that the Mendocino Redwood Company is in private ownership of Rockport Rocks. Given this finding, the Department recommends the Rockport Rocks Special Closure be removed from regulation.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, at (805) 568-1246.

Attachment

ec: Craig Shuman, D. Env., Region Manager
Marine Region
Craig.Shuman@wildlife.ca.gov

Mike Stefanak, Assistant Chief
Law Enforcement Division
Mike.Stefanak@wildlife.ca.gov

Becky Ota, Program Manager
Marine Region
Becky.Ota@wildlife.ca.gov

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COMMISSION
2017 APR 10 AM 9:2F

State of California

Memorandum

Date: January 31, 2008

To: Marine Life Protection Act North Central Coast Regional Stakeholder Group

From: **John Ugoretz**
Department of Fish and Game

Subject: **Private Land Ownership and Marine Protected Areas**

As the North Central Coast Marine Life Protection Act process develops, three questions have been posed concerning private land ownership and marine protected areas (MPAs). The Department of Fish and Game (Department) is providing these general responses to help respond to the issues.

1. **Will MPAs change existing property ownership?** No. The MLPA is an ecosystem-based conservation and management act for public trust resources that does nothing to affect private property rights. MPAs only exist seaward of the mean high tide line[1], so the potential for overlap with other property interests is very limited. If such overlap occurs, the MPA designation process must take into account existing California State Lands Commission leases, California Fish and Game Commission state water bottom and kelp leases, tide and submerged lands grants, private tidelands, and any other legal entitlements. The state marine reserve prohibition on "other activities that upset the natural ecological functions of the area" is limited to activities within the authority of the Fish and Game Commission[2].

2. **How would MPAs affect access from private properties?** The MLPA does not change any existing authority governing how an MPA may be accessed through adjacent private property[3]. In any case, no Department employee, agent, or licensee has a special right or privilege to knowingly enter private land without either the consent of the owner or a warrant[4]. This provision does not apply in cases of an emergency or for law enforcement. However, ownership of adjacent property does not confer any special right or privilege of access to an MPA or resources within an MPA. Conversely, the MLPA in no way diminishes the right of adjacent property owners to exclude the public from accessing an MPA through their land.

[1] Fish and Game Code §2852(c).
[2] Fish and Game Code §2852(d).
[3] As a practical matter, management and enforcement activities would ordinarily be undertaken by boat.
[4] Fish and Game Code §857.

With regard to access from sea, the general regulation for State MPAs is that transit across or through an MPA is allowed[5]. While access may be restricted in special cases, this would only occur where a specific resource concern warrants such restriction and where the restriction has been reviewed in public process.

3. **How will marine stewardship be addressed along private properties if MPAs are established there?** Resource stewardship under the MLPA is no different than in any other fish and game context, particularly when Department-managed areas lie adjacent to private lands. It is well-settled that fish and wildlife are public trust resources, and the Department retains jurisdiction over these resources even when they are on private property[6]. The conditions under which the Department may enter onto private lands in the exercise of that jurisdiction are statutorily defined. The MLPA additionally encourages public participation in the management of MPAs, and this includes cooperation with adjacent landowners through the regional planning process[7].

cc: Secretary Mike Chrisman, California Resources Agency
President Richard Rogers, California Fish and Game Commission
Executive Director John Carlson, California Fish and Game Commission
MLPA Blue Ribbon Task Force
MLPA Initiative staff
MLPA Master Plan Science Advisory Team
MLPA Statewide Interests Group

[5] Title 14, California Code of Regulations, §632(a)(8)
[6] Fish and Game Code §§ 711.7(a), 1802.
[7] Fish and Game Code §§ 2853(c)(4); 2855(c)(4).

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

2016-013

Tracking Number: (Click here to enter text.)

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

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: April Wakeman, The Sportfishing Conservancy
   Address: 200 Nieto Avenue, Suite 207, Long Beach, CA 90803
   Telephone number: (714) 686-6548
   Email address: aprilwakeman@gmail.com

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Regulation requested to be amended: Title 14 Section 28.80 Authority: Pursuant to Fish and Game Code section 200, power is "delegated to the commission…to regulate the taking or possession of birds, mammals, fish, amphibian, and reptiles…"

3. **Overview (Required)** - Summarize the proposed changes to regulations: Regulations provide that cast nets may only be used north of Point Conception and specify certain species that may be taken by cast net by recreational anglers. We request that: cast nets be allowed in all state marine waters.

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: There appears to be no rationale for the distinction between using cast nets north or south of Point Conception. While we anticipate use of cast nets to be mostly limited to private boaters, cast nets are appropriate for only certain species. We request that regulatory authority be expanded to cover all of these species. At this time commercial bait boats generally use massive seine nets to harvest these same species. The cast net impact would be limited as currently recreational fishermen would acquire [though not as easily] the same bait by fishing sabiki rigs, squid jigs, brailles, dip nets, or by purchase from the bait haulers.

SECTION II: Optional Information

5. **Date of Petition: June 23, 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):28.80 *Dip nets of any size and baited hoop nets not greater than 36 inches in diameter may be used to take herring, Pacific staghorn sculpin, shiner surfperch, surf smelt, topsmelt, anchovies, shrimp and squid. ~~Hawaiian-type throw nets may be used north of Point Conception to take such species.~~*
   ☐ 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: There should be no or minor cost to DFW and would reduce costs of anglers south of Point Conception. Should the department incur costs in implementing this regulation a license stamp similar to the 2nd Rod Stamp could be used to cover those costs.

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:

RECEIVED AT

JUN 22 2016

COMMISSION MEETING
AGENDA ITEM 2

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

Tracking Number

Date petitioner was notified of receipt of petition and pending action: July 6, 2016

Meeting date for FGC consideration: August 24-25, 2016

FGC action:

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

State of California
Department of Fish and Wildlife

M e m o r a n d u m

Date: April 3, 2017

To: Valerie Termini,
Executive Director
Fish and Game Commission

From: Craig Shuman, D. Env.
Marine Regional Manager

Subject: Regulatory Petition to change Section 28.80., Title 14 CCR, Dip Nets and Hawaiian type Throw Nets

Summary
The Department of Fish and Wildlife (Department) has reviewed the above-referenced petition and recommends denial of the petition at this time. As explained below, there are several unanswered questions that would need to be addressed prior to expansion of the requested gear to all state waters. In addition, the Department, with support of the Fish and Game Commission (Commission), has committed to delaying all non-essential marine fisheries regulatory packages until after the Marine Life Management Act (MLMA) Master Plan Amendment process has been completed.

Background
In June 2016, a petition was filed with the Commission requesting a change be made to the existing sport fishing regulation Section 28.80, Title 14 California Code of Regulations (CCR), with the intent to allow the use of throw nets in all state marine waters. The regulation currently restricts the use of throw nets south of Point Conception, as well as restricting the species that may be taken north of Point Conception:

- **Title 14 CCR, § 28.80. Dip Nets and Hawaiian Type Throw Nets:** Dip nets of any size and baited hoop nets not greater than 36 inches in diameter may be used to take herring, Pacific staghorn sculpin, shiner surfperch, surf smelt, topsmelt, anchovies, shrimp and squid. Hawaiian type throw nets may be used north of Point Conception to take such species.

The petition proposes to strike the language in the last sentence of the current regulation, “Hawaiian type throw nets may be used north of Point Conception to take such species”, to allow the use of throw nets in all state marine waters.

Department Evaluation
The original basis for prohibiting throw (cast) nets in marine waters south of Point Conception was to protect Grunion, which is much more common in the area (1993 Ocean Sport Fishing Regulations CEQA, pgs. 2-10,-11). Despite brief local concentrations during spawning runs, Grunion are not an abundant species.

Although no formal stock analyses have been undertaken, the population north of Los Angeles County is considered to be extremely limited. The majority of the population occurs along the coast of Los Angeles (including Santa Catalina Island), Orange, and San Diego counties. It is estimated that California contains 95 percent or more of the entire global habitat range for this species. Recent studies monitoring Grunion and long term trends in run strength indicate that Grunion have declined overall since 2011, with individual beaches showing the same pattern (Dr. Karen Martin, Pepperdine University, Comments for State Wildlife Action Plan 2015 Update, personal comm. 2015.).

Information is lacking on whether this gear type would improve fishing efficiency as implied by the petition, or create new fishing pressure on species that could be negatively impacted by increased incidental fishing mortality. The indiscriminate nature of throw nets to take any species that become entangled raises concerns of poaching and/or overfishing of vulnerable or managed species, intentional or not. In addition, improperly discarded or lost throw nets can create entanglement issues for seabirds, marine mammals, and non-target species. For example, after major spawning events for herring, cast nets are frequently observed by Department staff to be hung up and discarded on rocks, pier pilings, and other structures.

A number of potential uncertainties would need to be addressed to properly evaluate this petition. Research is needed on the susceptibility of potential target species, and the degree of potential bycatch, including from lost fishing gear. Acquiring this information represents a new workload at a time when the current priority for the Department's Marine Region is to amend the MLMA Master Plan. Consequently, the Department does not have the staff resources to conduct new investigations to address the uncertainties associated with this petition. After the amended Master Plan is adopted, the Department would be supportive of exploring opportunities to collaborate with the petitioners on ways to obtain the needed information should this effort be deemed to be a high priority.

Thank you for the opportunity to provide the Department's perspective on this petition. If you have any questions or need additional information, please contact Tom Barnes in the Department's Marine Region by telephone at 858-467-4233, or via e-mail at Tom.Barnes@wildlife.ca.gov

ec: Tom Barnes, Environmental Program Manager
Marine Region
Tom.Barnes@wildlife.ca.gov

Marci Yaremko, Environmental Program Manager
Marine Region
Marci.Yaremko@wildlife.ca.gov

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR MARINE NON-REGULATORY REQUESTS RECEIVED THROUGH APRIL 27, 2017
Revised 06-09-2017

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

Date Received	Name of Petitioner	Subject of Request	Short Description	Staff Recommendation	FGC Decision
2/26/2017	Cynthia Harland	Aquaculture leases	(1) Urges FGC not to approve any new aquaculture leases in Tomales Bay until "legacy trash and debris" from oyster farming are cleaned up. (2) Requests that DFW and FGC clean up marine debris in Tomales Bay.	(1) DENY; staff is currently evaluating options to address the "legacy debris" issue; (2) DENY; this request goes beyond debris associated with aquaculture leases and is outside FGC authority, and staff is developing best management practices to address aquaculture lease debris	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
3/23/2017	Mike Wright	Aquaculture leases	Opposes possible FGC approval of new aquaculture lease application for Tomales Bay received in Feb 2017.	DENY; the formal review process necessary to inform such a decision needs to be completed before the request can be considered	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**
4/13/2017	Mike Lynes and Anna Weinstein Audubon California	Aquaculture leases, Marine spatial planning	Urges FGC to: (1) require a spatial planning process for Tomales Bay before evaluating or approving new or expanded aquaculture; (2) not issue any new or expanded aquaculture leases unless and until a maximum, permanent footprint and location for aquaculture is identified and adopted by FGC; (3) adopt a motion to request staff to work with partner agencies to initiate a marine spatial planning exercise and identify siting alternatives; (4) direct staff to reach out to OST, OPC, or other candidates to undertake marine spatial planning; and (5) requests that FGC add a discussion on topic to 2017 MRC meeting agenda.	(1) DENY; Fish and Game Code Section 15008 provides a mechanism for a framework to consider existing and potential commercial aquaculture operations in coastal areas through a programmatic environmental impact report, if money is available; the money is not currently available; (2) DENY; a permanent, maximum footprint and location would be inconsistent with potential adaptive management needs, including changing ocean conditions, and onsideration of siting for new lease area applications can be accomplished through mandatory environmental review purusant to California Environmental Quality Act, which considers cumulative impacts; (3) – (4) DENY; request infeasible at this time given other staff obligations.; (5) GRANT; add as topic to the aquaculture discussion scheduled for the July 2017 MRC meeting	**RECEIPT: 4/26-27/2017** **ACTION: Scheduled 6/21-22/2017**

From:	Cynthia Harland
To:	FGC
Subject:	New oyster leases on Tomales Bay
Date:	Sunday, February 26, 2017 12:07:19 PM

Dear Ms. Termini,

We live in Marshall, CA on Tomales Bay. We would like to register our opposition to any new oyster farming leases until the Oyster Farming Legacy trash and debris is cleaned up. It's a disgrace that the beauty of this unique natural gift is significantly degraded by the past and current practices of oyster, clam, and mussel cultivation. Over 140 years of aquaculture have left a disturbing, disgraceful legacy in Tomales Bay.

It makes sense that before any new leases are approved, the California Fish & Game Commission and the California Department of Fish & Wildlife should clean up the tons of debris littering the Bay.

Sincerely,
Cynthia & John Harland

From:	Mike Wright
To:	diane.Windham@noaa.gov; Lovell, Randy@Wildlife; FGC
Subject:	Fwd: New shellfish lease application on Tomales Bay
Date:	Thursday, March 23, 2017 10:34:43 PM

Hi,

My name is Michael Wright and I am emailing you with concerns about the proposed shellfish lease on the north end of Tomales Bay.
First, I would like to talk about the current leases on the bay. While I do enjoy some of the oysters grown by Hog island oyster co, I don't like them enough to let more of the bay be turned into leases for private individuals to profit from. This water / land is protected for ALL people by the public trust doctrine. It is also protected for animals too. Not just one person or family should be able to profit from the lands bounty at the expense of the rest of the public.

1st main concern
My wife and I are avid paddlers. Tomales Bay is an amazing place for kayaking and general boat enjoyment.That is, until you paddle around the areas where the oyster farms are. The areas where the oyster farms are located are also some of the safest and best weather and tide protected areas for boaters to explore.The mess left behind from abandoned and current operations are not pleasant and very destructive. There is trash everywhere. But with that said, I can somewhat over look this because on the north side of Toms point all the way to Dillon beach, there are beautiful, natural beaches clear of any shellfish operations for the public's enjoyment. Well this is exactly the area where the new lease is being proposed. Please.....don't allow one individuals money making operation, spoil this part of the bay for the rest of us.If you have ever boated the shoreline where the current leases are, you will find difficult, dangerous and unpleasant conditions.

Next thought....the fish and wildlife.
Tomales Bay is a delicate ecosystem. What makes Tomales bay very cool and appealing to wildlife is the eel grass beds. Many animals rely on these to survive. As a matter of fact, the Tomales bay eel-grass beds are so delicate, much of the northern part of the bay is a no anchor zone for boats. This is to protect the remaining eel grass in the bay. If you look at where the new lease is proposed, these are some of the last few eel grass beds left in the bay. Allow this lease and the eel grass is gone. If the public is not allowed to anchor their boats, how does it make sense to let someone do as they please with the sea floor. Just take a trip to the bay and see what the floor of the bay is like around the oyster leases. Its baron, polluted and is altered from its natural state. Not to mention that the gentleman wants to grow geoduck clams on the lease. This is even more destructive than the oyster farming.That totally destroys the area where geoduck farming takes place.

Last very important reason that ties into the last point,

Pacific Black Brant.....Tomales bay plays host to thousands of brant every year. I love watching and hunting these birds. The reason they come to Tomales bay????? Eel Grass!!!!!!! There are only a few places left in California where enough eel grass grows for the Brant to feed on. Tomales bay is one of them. Few Brant hang out in the area south of toms point where the current oyster leases are. Thousands hang

out to the north of toms point. Put new oyster leases there and kill the remaining eel grass? The brant disappear.

Final thought, more people would be harmed by the new lease than there are people who would benefit form it.

Who benefits from the lease...the owner and the family.

Who benefits from not allowing it....

Boaters, hunters, bird watchers,campers, fisherman, nature lovers, outdoor enthusiast, photographers, plants, and animals.

Please submit my objection to the new lease to whom it my concern.

I would like to be notified when upcoming Fish & Game Commission meetings will occur so that you could attend or at least submit this letter. Can any of you give me a heads up when the meetings will happen?

Thanks,
Michael Wright

Audubon CALIFORNIA

April 13, 2017

Re: Lease application for shellfish aquaculture in Tomales Bay

Mr. Craig Shuman
Director, Marine Region, California Department of Fish and Wildlife

Ms. Valerie Termini
Executive Director, California Fish and Game Commission

Ms. Susan Ashcraft,
Marine Advisor, California Fish and Game Commission

Dear Mr. Shuman, Ms. Ashcraft and Ms. Termini,

We write in regard to a new application for an approximately 45-acre lease for oyster and geoduck farming in Tomales Bay included in the California Fish & Game Commission's consent calendar for its February 2017 meeting.[1] We appreciate the thoughtful manner in which the Commission has addressed aquaculture permits in the past and urge the Commission to require a deliberate, fact-based planning process be implemented for Tomales Bay before any new or expanded aquaculture programs are permitted.

Tomales Bay's intertidal and subtidal areas have extraordinary resource values for birds, commercial fish and herring. In sum, the bay is too important for an ad hoc approach to aquaculture permitting that may undermine the Commission's public trust obligations for protection of natural resources, special status species, and recreation. Therefore, we oppose the Commission approving any new aquaculture lease in Tomales Bay unless and until a maximum, permanent footprint and location for aquaculture is identified and adopted by the Commission. Toward that end, we constructively suggest that at its April meeting the Commission take the following steps:

- Adopt a motion to request staff to work with partner agencies to initiate a marine spatial planning exercise to identify a set of aquaculture siting alternatives for the Commission to consider at a later meeting;
- Note that applications for new or expanded aquaculture will be evaluated following the completion of that spatial planning exercise;
- Task staff with immediately reaching out to entities that would be good candidates for the marine spatial planning exercise, e.g. the Ocean Science Trust and/or Ocean Protection Council; and

[1] http://www.fgc.ca.gov/meetings/2017/Feb/exhibits/SS_0209_Item_27_SAShellfish.pdf

- Include a discussion of this issue at the 2017 meeting of the Marine Resources Committee with the goal of providing recommendations for the full Commission.

We appreciate the Commission and Department's work to ensure existing aquaculture leases avoid farming within 10 feet of eelgrass – protecting this vital and rare habitat - and your work conducted in collaboration with local stakeholders to remediate issues associated with abandoned debris.

However, in regard specifically to birds, known impacts of these farming operations to birds in the bay include avoidance of farmed areas by most shorebirds[2], and disturbance to waterbirds and Pacific black brant[3], a California Species of Special Concern, from vessel traffic associated with farm operations. Any new lease application must consider impacts to birds from disturbance and habitat loss or degradation.

Tomales Bay's importance was recognized in 2002 by the **International Ramsar Convention,** which designated the site as a "Wetland of International Significance." There are only 37 Ramsar sites in the United States.[4] Tomales Bay is a **Global Important Bird Area** and of all the Pt. Reyes wetlands, it consistently supports the highest numbers of wintering and migrant waterbirds. Up to 20,000 shorebirds spend the winter, and an unknown additional number use the bay during migration in the spring and fall. Surveys have documented exceptionally large numbers of bufflehead and brant, which represent 12% and 31%, respectively, of statewide wintering populations.[5]

Remaining intertidal wetlands such as those in Tomales Bay are critical for birds. Over 90% of California's historical two million hectares of wetlands has been lost. Stralberg et al. (2011)[6] found in California "estuarine habitats including eelgrass, tidal flats and tidal marsh are the most limited in spatial extent, yet support the highest densities of shorebirds and waterbirds." The study's lead author recently confirmed that these habitats can be considered the highest priority for protection from further loss of even small acreages from habitat degradation and conversion, and disturbance.

Black brant are showing signs of stress at the population level[7,8], and dramatic decreases in eelgrass areal extent in important brant migratory areas including Morro Bay and San Quintin Bay highlight the importance of evaluating the cumulative impacts to this species from any new farm development.[9,10,11] Brant and other waterbirds using Tomales Bay, such as canvasback, teal, and northern pintail, are important recreational species for California's recreational hunting community.

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[2] Kelley, J., J. Evens, R. Stallcup, and D. Wimpfheiner. 1996. Effects of aquaculture on habitat use by wintering shorebirds in Tomales Bay, California. California Fish and Game 82(4): 160-174.

[3] Kelley, J. and J. Evens. 2013. Boating Disturbance to Waterbirds in California Estuaries. ACR Technical Report 89-12-6

[4] https://www.fws.gov/international/wildlife-without-borders/ramsar-wetlands-convention.html

[5] Important Bird Areas in California. National Audubon Society. http://netapp.audubon.org/iba/Reports/161

[6] Stralberg. R. Cameron, M. Reynolds, C. Hickey, K. Klausmeyer, S. Busby, L. Stenzel, D. Shuford, G. Page. 2011. Identifying habitat conservation priorities and gaps for migratory shorebirds and waterfowl in California. Biodiversity Conservation 20: 19-40

7 Summary Opinion and Recommendations for Pacific Flyway Brant Management. 13 December 2016. Aaron Christ, Biometrician, USFWS Maritime National Wildlife Refuge, Alaska Region ; Josh Dooley, Wildlife Biologist, USFWS Migratory Bird Management, Headquarters Region ; David Koons, Associate Professor, Department of Wildland Resources, Utah State University; Jim Leafloor, Biologist, Canadian Wildlife Service, Environment Canada

[8] Leach, A. et al. 2017. Survival and recovery rates of Black Brant from arctic and subarctic breeding areas. *The Journal of Wildlife Management*. In review.

[9] Merkel & Associates. 2014. San Francisco Bay Eelgrass Inventory. Report for the National Marine Fisheries Service. Santa Rosa

[10] Simancas, J.E. 2013. Assessment of the quality eelgrass habitat for black brant, Branta bernicla nigricans, during the non-breeding season of San Quintin, Baja California, Mexico. Master's Thesis. CICESE, Ensenada, Baja California

[11] Pacific Watershed Associates. 2015. Preliminary Eelgrass (*Zostera marina*) Mapping and Habitat Characterization, North Humboldt Bay, California. For: Humboldt Bay Harbor, Recreation, and Conservation District Mariculture Pre-Permitting Project, Eureka, California. Pg. 14.

In regard to shorebirds, intertidal mudflats are critical for shorebirds on the Pacific Flyway, and the new lease application overlaps with a key foraging areas in the bay. Kelly (2001) studied shorebirds during the winter only (excluding spring and fall migration, for which there are no readily available published studies) and found that the "northeast shoreline from Sand Point north to Vincent's Landing also supported relatively high abundances of several species." Kelly (2001) also notes that "foraging and roosting shorebirds at the northern end of the bay are vulnerable to direct disturbance from concentrated recreational use." This site-specific information speaks to the importance of a spatial planning process to avoid further degrading or making unavailable feeding and resting habitat to shorebirds.

Key threats to shorebirds include disturbance and habitat loss in wintering and migration areas on the Pacific Flyway. The **2017 Pacific Americas Shorebird Conservation Strategy**[12], a collaboration among numerous binational agencies, academic institutions, and NGOs, notes "the habitats used by shorebirds have been altered dramatically in the last century across the Western Hemisphere and indeed around the world (Hassan *et al.* 2005). Human disturbance is recognized as a key threat in shorebird conservation and recovery plans, as well as in many published studies (see Brown *et al.* 2001; NFWF 2015), and received a high overall threat rating in this Strategy. Human disturbance does not typically destroy habitat but causes disruption to breeding and nonbreeding shorebirds. This, in turn, can have consequences on reproductive success and survivorship (Gill 2007). Shorebirds can exhibit the inability to gain weight and build fat reserves required for long-distance migration because of exclusion, interrupted access or changes in timing of access to food resources or roosting locations (Lafferty 2001)."

The Plan further notes that "even small losses in the extent or quality of available feeding habitat for shorebirds could result in proportionally greater decreases in some wintering shorebird populations," and identifies the high priority to "protect, maintain, restore and enhance breeding habitats for species of highest conservation concern and at sites of high nonbreeding shorebird concentrations."

We thank you for your consideration of this issue, and we look forward to Commission, Department and partner agency action toward ensuring protection of birds and other natural resource protection in Tomales Bay.

Sincerely,

Michael Lynes

Mike Lynes
Director of Public Policy

Anna Weinstein

Anna Weinstein
Marine Program Director

[12] Senner, S. E., B. A. Andres and H. R. Gates (Eds.). 2016. Pacific Americas shorebird conservation strategy. National Audubon Society, New York, New York, USA. Available at: http://www.shorebirdplan.org.

CALIFORNIA FISH AND GAME COMMISSION

DRAFT Resolution Supporting the Federal Prohibition on New Offshore Oil and Gas Leasing in Federal Waters Offshore California

Revised June 13, 2017

WHEREAS, the mission of the California Fish and Game Commission is, on behalf of California citizens, to ensure the long-term sustainability of California's fish and wildlife resources; and

WHEREAS, the California coast and its waters is home to an abundance of diverse fish and wildlife, including numerous rare, threatened and endangered species, as well as sensitive habitats upon which they depend; and

WHEREAS, the California Fish and Game Commission adopted the nation's first scientifically based network of marine protected areas along the California coastline, which was created to help ensure that the natural resources, marine ecosystem functions, and marine natural heritage of the state are protected for current and future generations; and

WHEREAS, hundreds of millions of California residents and visitors appreciate the state's ocean and coast for a myriad of reasons, including supporting commercial and recreational fishing, recreation, exploration, relaxation, sustenance, and enjoyment of its iconic natural beauty; and

WHEREAS, there has been no new offshore oil and gas lease in California since the 1969 blowout of a well in federal waters, offshore Santa Barbara County, that spilled millions of gallons of crude oil into the ocean and onto the beaches, fouling the coastline and representing the largest oil spill in waters offshore California; and

WHEREAS, as recently as May 2015, California experienced another oil spill during which a pipeline ruptured near Refugio State Beach in Santa Barbara County, releasing thousands of gallons of crude oil into the Pacific Ocean and creating a nine-mile oil slick along the coast; and

WHEREAS, beginning in 1921, and many times since, the California State Legislature enacted laws that withdrew certain offshore areas from oil and gas leasing, and by 1989 the state's offshore oil and gas leasing moratorium was in place; and

WHEREAS, in 1994, the California State Legislature made findings in Assembly Bill 2444 (Chapter 970, Statutes of 1994) that offshore oil and gas production in certain areas of state waters poses an unacceptably high risk of damage and disruption to the marine environment; and

WHEREAS, with passage of the same bill, the California State Legislature and governor created the California Coastal Sanctuary for all of the state's unleased waters subject to tidal influence, where new oil and gas leases are prohibited unless specific conditions are met during an energy crisis

DRAFT

WHEREAS, Section 18 of the Outer Continental Shelf Lands Act (43 U.S. Code [U.S.C.] 1331 et seq.) requires the preparation of a nationwide offshore oil and gas leasing program that sets a five-year schedule of lease sales implemented by the Bureau of Ocean Energy Management within the U.S. Department of the Interior; and

WHEREAS, consistent with the principles of Section 18 and the resulting, regionally-tailored leasing strategy, the current exclusion of the Pacific Outer Continental Shelf from new oil and gas development is consistent with the long-standing interests of Pacific Coast states, as framed in the 2006 Agreement on Ocean Health adopted by the governors of California, Washington, and Oregon; and

WHEREAS, the Bureau of Ocean Energy Management recently released a final 2017-2022 leasing program that continues the moratorium on oil and gas leasing in the undeveloped areas of the Pacific Outer Continental Shelf; and

WHEREAS, Governor Jerry Brown, along with previous California governors, has united with the governors of Oregon and Washington in a commitment to develop robust renewable energy sources to reduce dependence on fossil fuel and help reach carbon emission goals; and

WHEREAS, burning fossil fuels exacerbates global climate change, which increasingly impacts the sustainability of marine and terrestrial ecosystems, including fish and wildlife, in California and beyond; and

WHEREAS, there are renewed calls for opening offshore areas to drilling and for lifting moratoriums on energy production in federal areas, which could lead to more oil spills and increased dependence of fossil fuels; and

WHEREAS, the California Fish and Game Commission considers new oil and gas development offshore California to be a threat to environmental health, including our marine ecosystems, fisheries and wildlife; and

WHEREAS, the California Fish and Game Commission also considers new oil and gas development offshore California to be a threat to the economy, given that California sustains more than $18 billion in recreation and tourism that depends upon a healthy ocean and coast; now, therefore,

BE IT RESOLVED that the California Fish and Game Commission strongly and unequivocally supports the current federal prohibition on new oil or gas drilling in federal waters offshore California, opposes attempts to modify the prohibition, and will consider any appropriate actions to maintain the prohibition; and, finally,

BE IT RESOLVED that the California Fish and Game Commission will transmit copies of this resolution to the president and vice president of the United States, to the governor of California, to the majority and minority leaders of the United States Senate, to the speaker and minority leader of the United States House of Representatives, to each senator and representative from California in the Congress of the United States, to the secretary of the United States Department of the Interior, to the director of the Bureau of Ocean Energy Management, and to each member of the California State Legislature.

DRAFT

Dated June 22, 2017

Eric Sklar, President	**Jacqueline Hostler-Carmesin, Vice President**
Anthony C. Williams, Member	**Russell E. Burns, Member**
Peter S. Silva, Member	**Valerie Termini, Executive Director**

DRAFT

Pink Shrimp Update

California Fish & Game Commission

June 22, 2017

Sonke Mastrup

California Department of Fish & Wildlife



Outline

- Capacity review
- Management improvements
- State waters easement



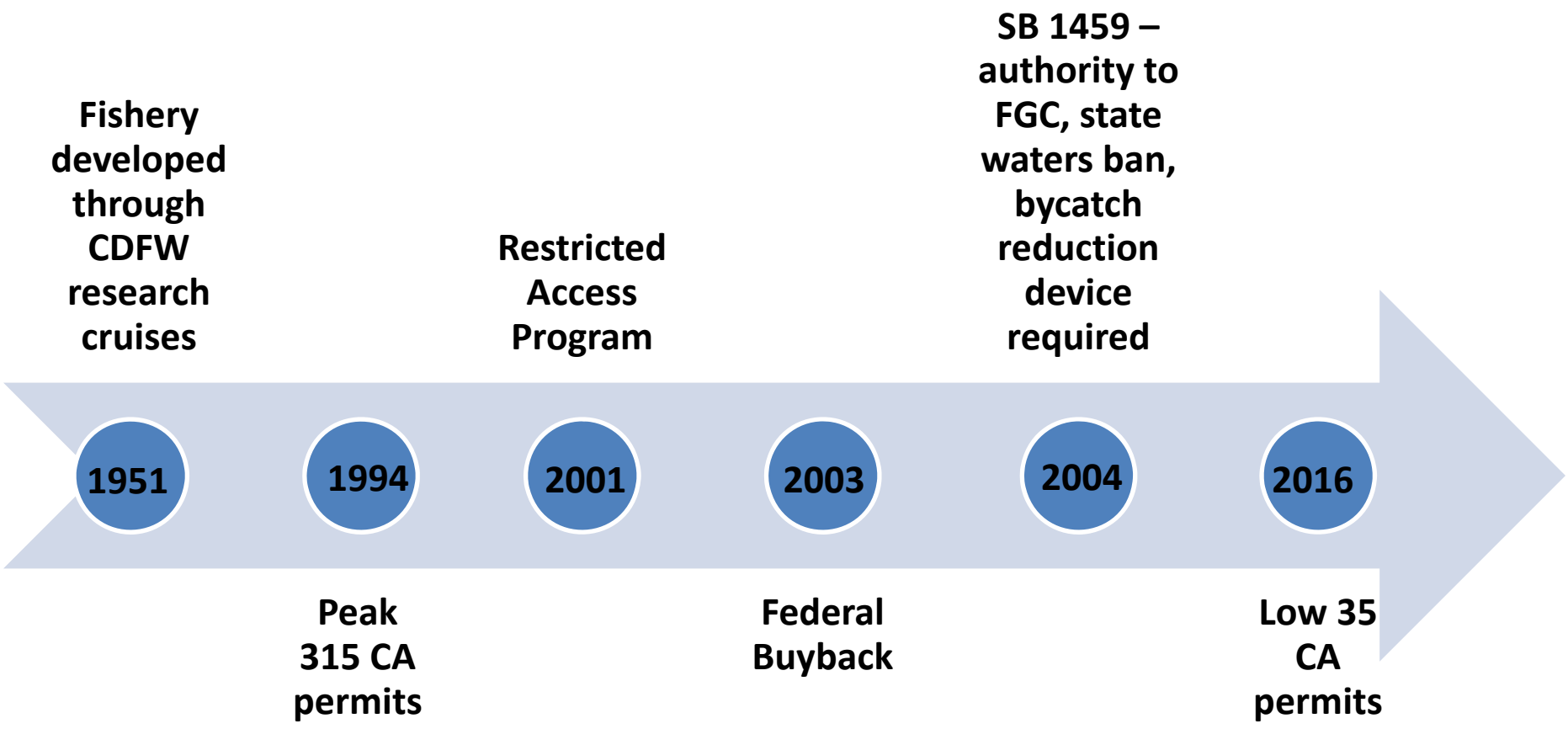
CA Code of Regulations, Title 14

120.2 (h) Capacity Goal.

(1) The department shall evaluate the capacity goal every three years…regarding issuance of new permits.

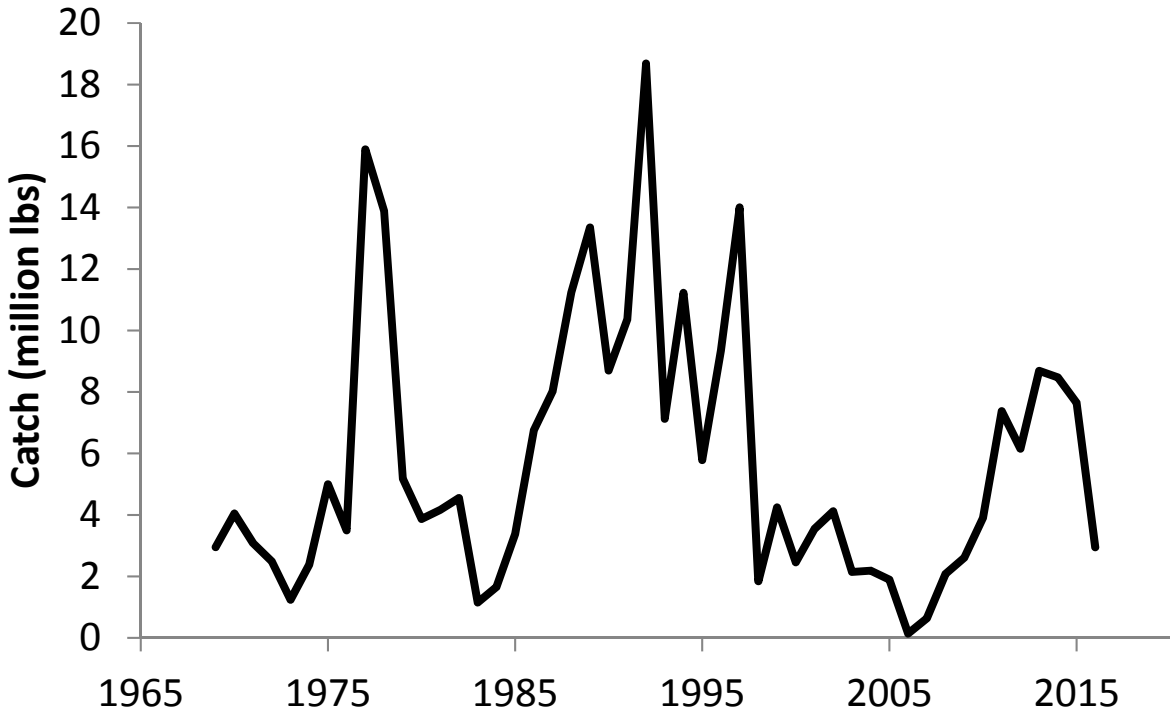
(2) The capacity goal for transferable permits shall be a range from 75 up…

Fishery History

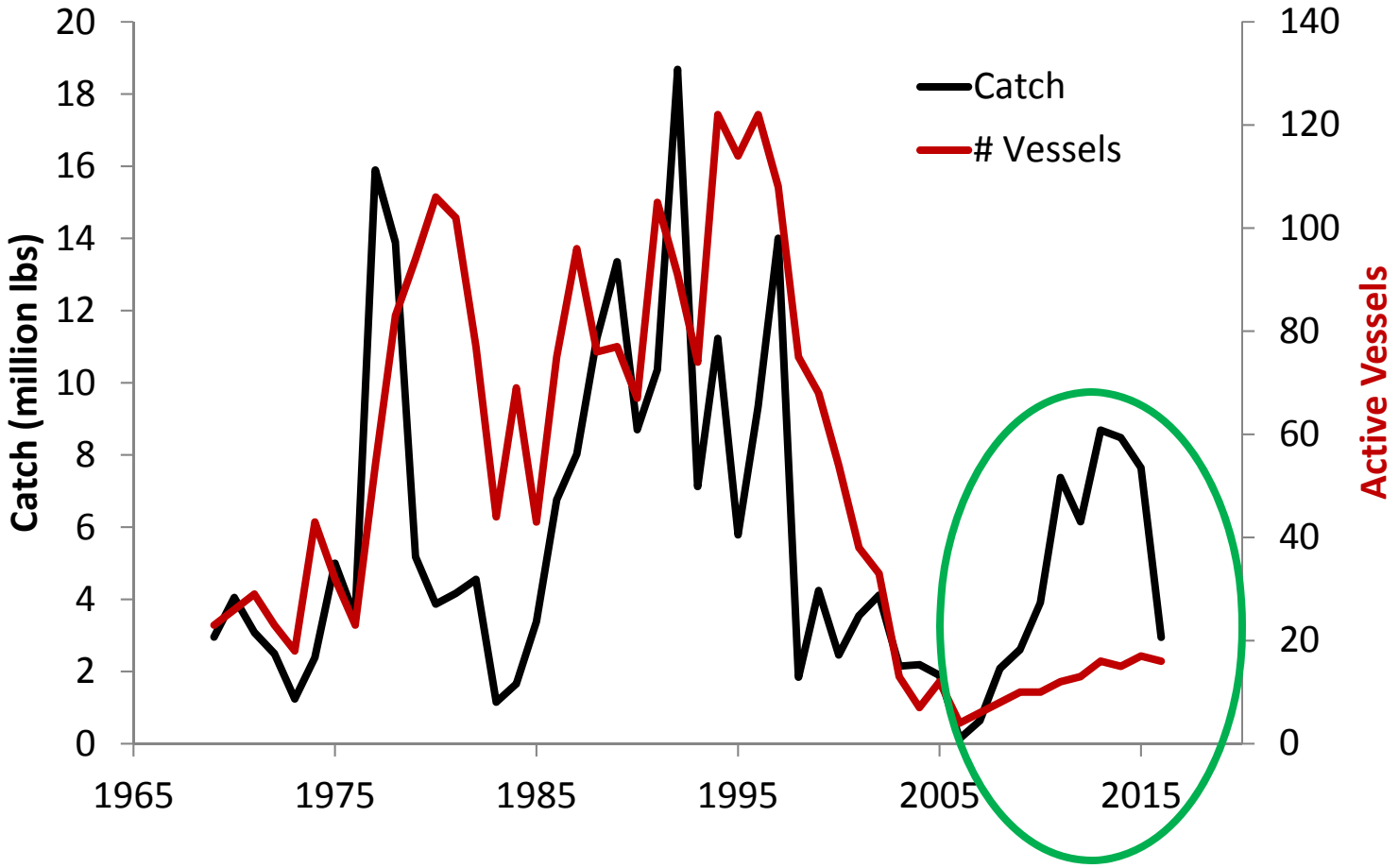


Biological Sustainability

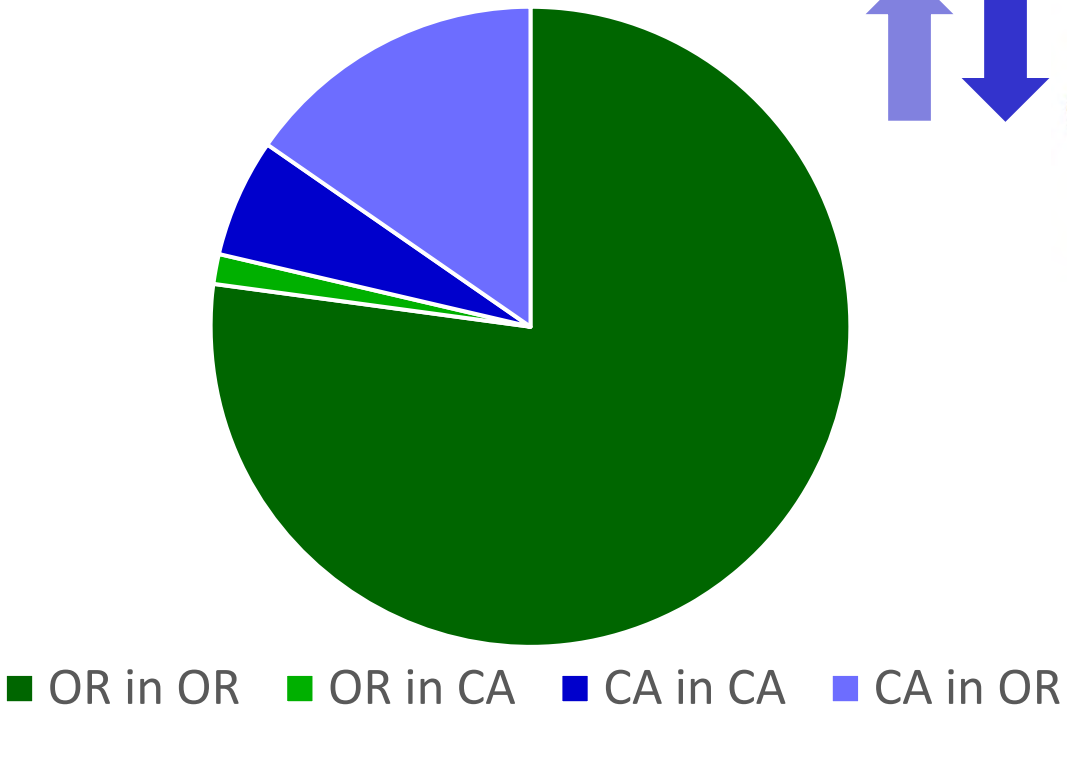
- Pink shrimp stock is volatile and environmentally dependent

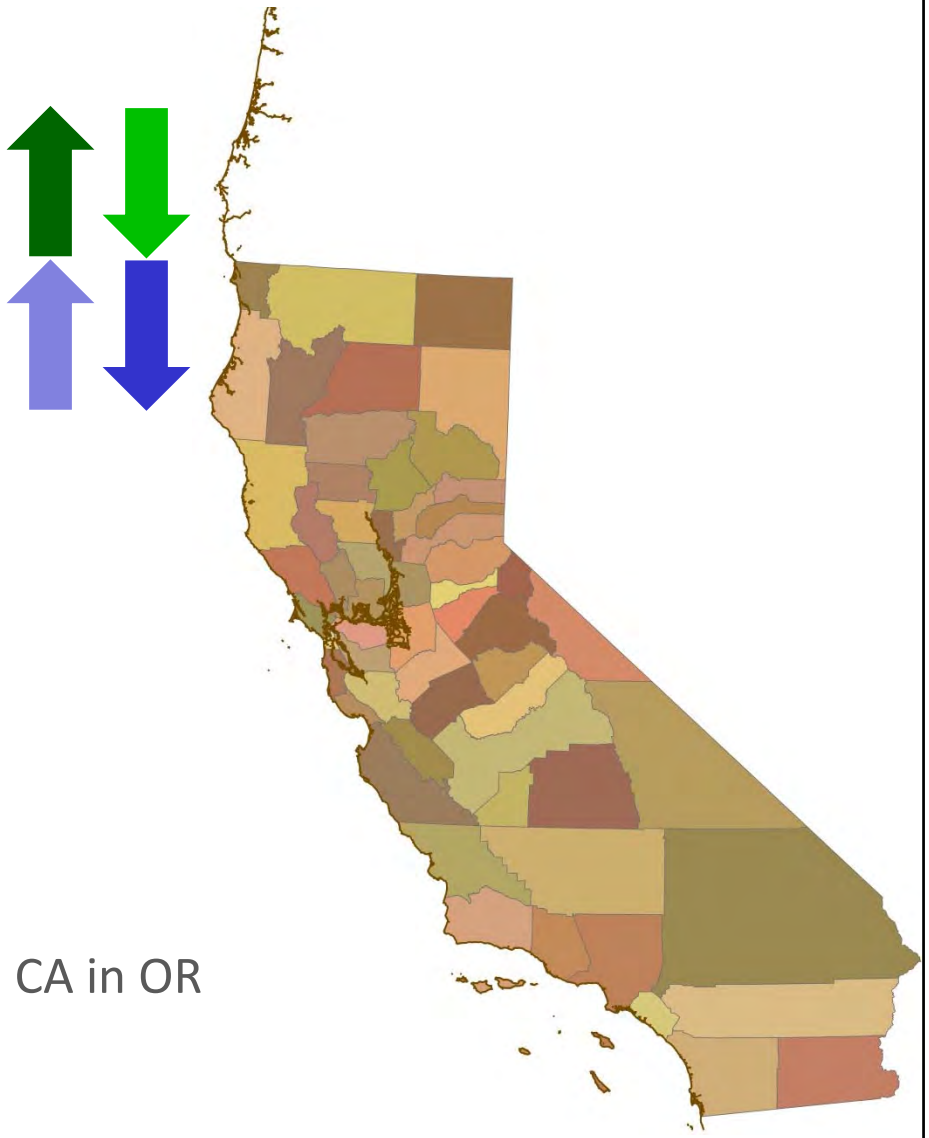


Fleet Efficiency



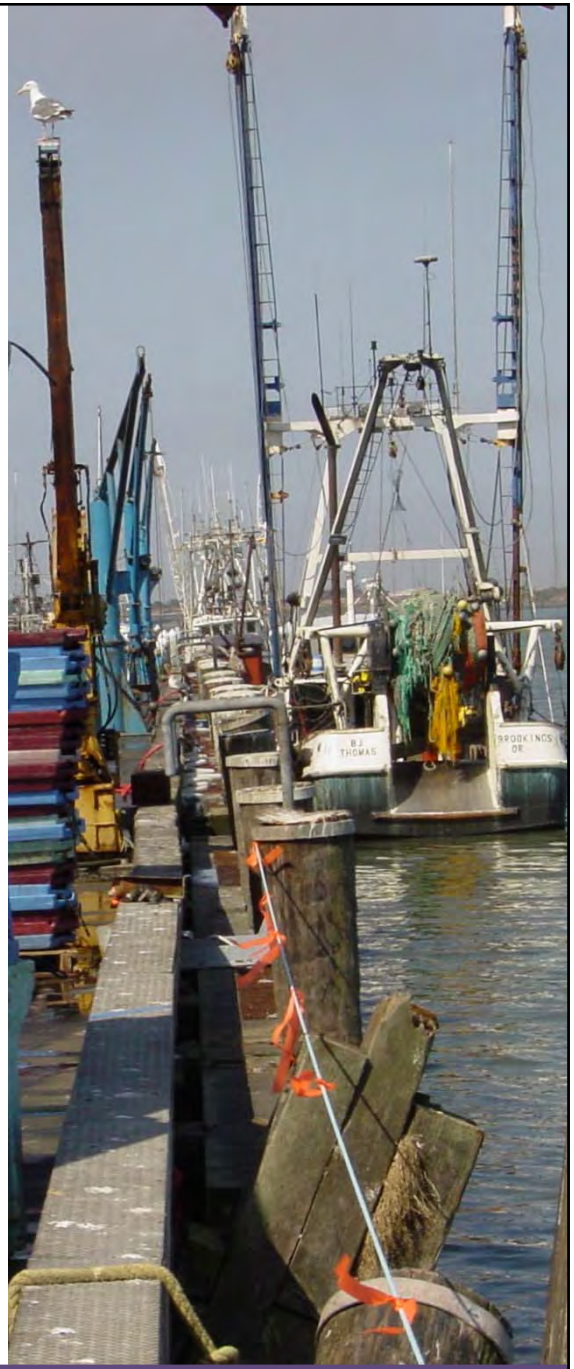
Cross-border fishing 2016





Capacity Summary

- Resource sustainability
- Efficiency
- Cross-border fishing
- Opportunities for other trawlers
- Ecosystem – bycatch, habitat damage
- Orderly & enforceable
- Processor capacity



Initial Capacity Recommendation

- No new transferrable permits at this time
- Consider:
  - Addition of limited-term, non-transferrable permits
  - Replace vessel size restriction for permit transfer with maximum vessel length of 80 feet

Management Improvements

- Improved communication with fleet
- Reference points & harvest controls consistent with other states
- Research plan & biological sampling
- Enforcement
- Bycatch prevention requirements







Trawl Areas
Fish & Game Code Section 8842

- (b) Trawling may be allowed within waters between 2 – 3 nautical miles from shore between False Cape and Point Reyes
- (d) The commission shall permit shrimp trawling from the area above if it finds
  - Gear minimizes bycatch
  - Will not damage seafloor
  - Will not adversely affect ecosystem health
  - Will not impede restoration of kelp, coral or other biogenic habitats

New Information

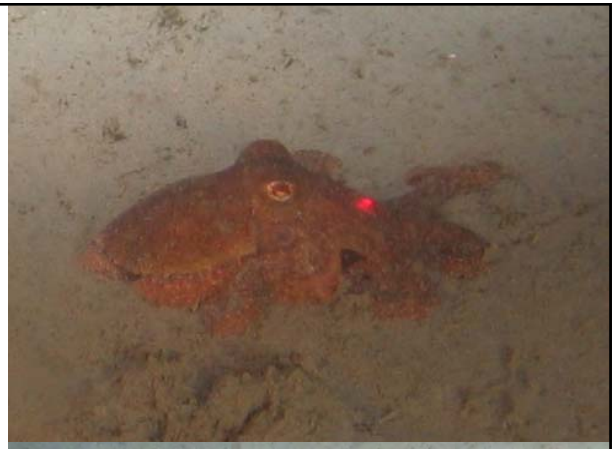
- Oregon Department of Fish & Wildlife research comparing open & closed pink shrimp grounds
  - Impacts documented, significance unknown
- Bycatch reduction devices were required by Senate Bill 1459 in 2004, thus bycatch has likely been reduced by 66-86% (Hannah & Jones 2007)

Studies to Meet Ecosystem Criteria

- Trawl surveys inside & outside state waters
  - Shrimp gear: differences in bycatch
  - Groundfish gear: differences in community composition, evidence for community implications of habitat damage
- ROV surveys of CA pink shrimp beds inside & outside state waters
  - Has cessation of trawling inside state waters resulted in habitat change/recovery?
- Analysis of bycatch density and identity in pink shrimp tows along a gradient of pink shrimp effort

Summary

- Initial recommendation for no new transferrable permits
- Improve management & attain Marine Stewardship Council certification
- State waters easement
- Seek further guidance at MRC









#R-100

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Fish and Wildlife Code Part 1 (Divisions 1-4)

April 2017

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN **July 18, 2017.**

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

California Law Revision Commission
c/o King Hall Law School
Davis, CA 95616
650-494-1335
<commission@clrc.ca.gov>

SUMMARY OF TENTATIVE RECOMMENDATION

In 2010, the Secretary of the Resources Agency was directed to convene a committee to develop and submit a "strategic vision" for the Fish and Game Commission and the Department of Fish and Game (now the Department of Fish and Wildlife). The resulting report recommended that the Law Revision Commission be tasked with cleaning up the Fish and Game Code.

In response to that report, Senator Fran Pavley and Assembly Member Jared Huffman (the Chairs of the Senate Natural Resources and Water Committee and the Assembly Water, Parks, and Wildlife Committee at that time) requested that the Commission conduct a comprehensive review and clean-up of the Fish and Game Code, noting "the need for a comprehensive, thorough review and updating of the Fish and Game Code, to identify obsolete, inconsistent or duplicative sections, and to provide support for more readily understood and enforceable fish and wildlife regulations." Authority to conduct that study was granted by concurrent resolution in 2012.

In order to achieve the greatest degree of improvement to the organization and expression of the Fish and Game Code, the Commission decided to prepare a recommendation that would repeal the existing code and replace it with a new Fish and Wildlife Code. The new code would continue the substance of the former code in a more user-friendly form, without making any significant substantive change to the effect of existing law.

This tentative recommendation presents the first part of the proposed Fish and Wildlife Code. It was prepared pursuant to Resolution Chapter 150 of the Statutes of 2016.

FISH AND WILDLIFE CODE

In 2010, the Secretary of the Resources Agency was directed to convene a committee to develop and submit a "strategic vision" for the Fish and Game Commission and the Department of Fish and Game (now the Department of Fish and Wildlife).[1] The resulting report recommended, among other things, that the Law Revision Commission be tasked with cleaning up the Fish and Game Code.[2]

In response to that recommendation, Senator Fran Pavley and Assembly Member Jared Huffman (the Chairs of the Senate Natural Resources and Water Committee and the Assembly Water, Parks, and Wildlife Committee at that time) requested that the Commission conduct a comprehensive review and clean-up of the Fish and Game Code, noting "the need for a comprehensive, thorough review and updating of the Fish and Game Code, to identify obsolete, inconsistent or duplicative sections, and to provide support for more readily understood and enforceable fish and wildlife regulations."[3] In 2012, the Legislature directed the Commission to conduct the requested study:

> [The] Legislature approves for study by the California Law Revision Commission the new topic listed below:
>
> Whether the Fish and Game Code and related statutory law should be revised to improve its organization, clarify its meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements, without making any significant substantive change to the effect of the law[.][4]

In order to achieve the greatest degree of improvement to the organization and expression of the Fish and Game Code, the Commission decided to prepare a recommendation that would repeal the existing code and replace it with a new Fish and Wildlife Code. The new code would continue the substance of the former code in a more user-friendly form, without making any significant substantive change to the effect of existing law.

This tentative recommendation presents "Part 1" of the proposed Fish and Wildlife Code. It includes the first four divisions of the proposed code:

Division 1. General Provisions
Division 2. Administration
Division 3. Law Enforcement
Division 4. Inter-Jurisdictional Compacts

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1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State's Fish and Wildlife Management Agencies*, A13 (April 2012).

3. See Memorandum 2012-5, pp. 22-23.

4. 2012 Cal. Stat. res. ch. 108 (ACR 98 (Wagner)).

The general character and noteworthy features of the tentative recommendation are discussed below.

STUDY OBJECTIVES

Improve Accessibility of the Law

The primary purpose of this study is to simplify and improve the organization and expression of the Fish and Game Code, to make it more understandable and useable, without making any significant substantive changes to the effect of that law.

The Fish and Game Code needs to be understandable to non-experts. Many laypeople take advantage of the wildlife resources of the state, for recreational or commercial purposes. Those persons need to be able to understand the code in order to comply with the law and avoid criminal liability. Ambiguity and confusion do not promote the public policy goals that the Fish and Game Code was designed to accomplish.

In addition, improvement of the clarity and organization of the Fish and Game Code would facilitate the future development of the law, by making it easier for the Legislature to assess the state of existing law and thereby avoid redundancy or inconsistency in enacting new provisions.

Nonsubstantive Reform

The proposed law would improve the organizational clarity of the Fish and Game Code, as intended. However, there is an important limit on the extent to which the Commission can make that law clearer, simpler, or better organized. In authorizing this study, the Legislature specifically prohibited any "significant substantive change to the effect of the law."[5]

That limitation has been the controlling principle in the preparation of the proposed law. The Commission has exercised care to ensure that the proposed law would not result in any significant substantive change in outcome under the affected statutes.

Specific measures taken by the Commission to avoid making any significant substantive change in the law are described below.

Objective and Participatory Study Process

The Commission's study process is well-suited to the development of a nonsubstantive reform of the Fish and Game Code, for the following reasons:

- The Commission is neutral and objective, with no special interest in the subject of fish and game. The Commission has no motivation to introduce significant substantive changes into fish and game law.

5. *Id.*

- The Commission has prior experience in drafting legislation to recodify complex bodies of law without making any significant substantive change.[6]
- The Commission's work is transparent. All materials are publicly distributed. All deliberations are conducted at open public meetings.
- The Commission actively solicits input from affected interest groups. Interim drafts of the proposed law are provided to those groups for review. Any objection that a change would have a substantive effect is carefully analyzed and addressed by the Commission.
- In proposing legislative reform, the Commission prepares a thorough explanatory report that explains the purpose and effect of the proposed law, and sets out a complete draft of the proposed legislation, with a detailed table of contents and a table showing the disposition of every affected section. This report facilitates public review of the proposed law.

Commission Comments

In preparing a recommendation, the Commission drafts an explanatory "Comment" for every section that is added, amended, or repealed.[7] A Comment indicates the derivation of a section and often explains its purpose, its relation to other law, and potential issues concerning its meaning or application.

For the most part, the Comments in this tentative recommendation state expressly, for each affected section, that the proposed law is not intended to make any change to the substance of the affected provision. In the rare instance that a minor substantive improvement is proposed, it is specifically identified as such.

On completion of a final recommendation, the full recommendation, including the proposed legislation and the Comments, will be presented to the Legislature and the Governor. If legislation is introduced to effectuate the proposed law, the full recommendation will be provided to each member of every policy committee that reviews the legislation.

Commission materials that have been placed before and considered by the Legislature are considered evidence of legislative intent,[8] and are entitled to great weight in construing statutes.[9] The materials are a key interpretive aid for

6. For example, in 2009 the Commission recommended the nonsubstantive recodification of the deadly weapon statutes, an important and sensitive body of law. See *Nonsubstantive Reorganization of Deadly Weapon Statutes,* 38 Cal. L. Revision Comm'n Reports 217 (2009); enacted as 2010 Cal. Stat. ch. 178, 2010 Cal. Stat. ch. 711.

7. The Comments follow each section of the proposed legislation *infra*.

8. See, e.g., Fair v. Bakhtiari, 40 Cal. 4th 189, 195, 147 P.3d 653, 657, 51 Cal. Rptr. 3d 871, 875 (2006) ("The Commission's official comments are deemed to express the Legislature's intent."); People v. Williams, 16 Cal. 3d 663, 667-68, 547 P.2d 1000, 128 Cal. Rptr. 888 (1976) ("The official comments of the California Law Revision Commission on the various sections of the Evidence Code are declarative of the intent not only of the draft[ers] of the code but also of the legislators who subsequently enacted it.").

9. See, e.g., Dep't of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd., 40 Cal. 4th 1, 12-13 n.9, 145 P.3d 462, 469 n.9, 50 Cal. Rptr. 3d 585, 593 n.9 (2006) (Commission's official

practitioners as well as courts,[10] and courts may judicially notice and rely on them.[11] Courts at all levels of the state[12] and federal[13] judicial systems use Commission materials to construe statutes enacted on Commission recommendation.[14]

The Commission's Comments will make clear that, with a small number of specifically identified exceptions, the proposed law should be construed as an entirely nonsubstantive reorganization of the law.

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comments are persuasive evidence of Legislature's intent); Hale v. S. Cal. IPA Med. Group, Inc., 86 Cal. App. 4th 919, 927, 103 Cal. Rptr. 2d 773, 778 (2001):

> In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute. (*Kern v. County of Imperial* (1990) 226 Cal.App.3d 391, 400, fn. 8, 276 Cal.Rptr. 524; *Coopers & Lybrand v. Superior Court* (1989) 212 Cal.App.3d 524, 535, fn. 7, 260 Cal. Rptr. 713.) In particular, reports and interpretive opinions of the Law Revision Commission are entitled to great weight. (*Schmidt v. Southern Cal. Rapid Transit Dist.* (1993) 14 Cal.App.4th 23, 30, fn. 10, 17 Cal.Rptr.2d 340.)

10. *Cf.* 7 B. Witkin, Summary of California Law *Constitutional Law* § 123, at 230 (10th ed. 2005) (Commission reports as aid to construction); Gaylord, *An Approach to Statutory Construction*, 5 Sw. U. L. Rev. 349, 384 (1973).

11. See, e.g., Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc., 133 Cal. App. 4th 26, 34 Cal. Rptr. 3d 520 (2005) (providing overview of materials that may be judicially noticed in determining legislative intent); *Hale*, 86 Cal. App. 4th at 927; Barkley v. City of Blue Lake, 18 Cal. App. 4th 1745, 1751 n.3, 23 Cal. Rptr. 2d 315, 318-19 n.3 (1993).

12. See, e.g., Sullivan v. Delta Air Lines, Inc., 15 Cal. 4th 288, 298, 935 P.2d 781, 63 Cal. Rptr. 2d 74 (1997) (California Supreme Court); Admin. Mgmt. Services, Inc. v. Fid. & Deposit Co. of Md., 129 Cal. App. 3d 484, 488, 181 Cal. Rptr. 141 (1982) (court of appeal); Rossetto v. Barross, 90 Cal. App. 4th Supp. 1, 5-6, 110 Cal. Rptr. 2d 255 (2001) (appellate division of superior court).

13. See, e.g., California v. Green, 399 U.S. 149, 154 n.3 (1970) (United States Supreme Court); S. Cal. Bank v. Zimmerman (*In re* Hilde), 120 F.3d 950, 953 (9th Cir. 1997) (federal court of appeals); Williams v. Townsend, 283 F. Supp. 580, 582 (C.D. Cal. 1968) (federal district court); Ford Consumer Fin. Co. v. McDonell (*In re* McDonell), 204 B.R. 976, 978-79 (B.A.P. 9th Cir. 1996) (bankruptcy appellate panel); *In re* Garrido, 43 B.R. 289, 292-93 (Bankr. S.D. Cal. 1984) (bankruptcy court).

14. See, e.g., Jevne v. Superior Court, 35 Cal. 4th 935, 947, 111 P.3d 954, 962, 28 Cal. Rptr. 3d 685, 694-95 (2005) (Commission report entitled to substantial weight in construing statute); Collection Bureau of San Jose v. Rumsey, 24 Cal. 4th 301, 308 & n.6, 6 P.3d 713, 718 & n.6, 99 Cal. Rptr. 2d 792, 797 & n.6 (2000) (Comments to reenacted statute reiterate the clear understanding and intent of original enactment); Brian W. v. Superior Court, 20 Cal. 3d 618, 623, 574 P.2d 788, 791, 143 Cal. Rptr. 717, 720 (1978) (Comments persuasive evidence of Legislature's intent); Volkswagen Pac., Inc. v. City of Los Angeles, 7 Cal. 3d 48, 61-63, 496 P.2d 1237, 1247-48, 101 Cal. Rptr. 869, 879-80 (1972) (Comments evidence clear legislative intent of law); Van Arsdale v. Hollinger, 68 Cal. 2d 245, 249-50, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968) (Comments entitled to substantial weight), *overruled on other grounds*, Privette v. Superior Court, 5 Cal. 4th 689, 696, 854 P.2d 721, 21 Cal. Rptr. 2d 72 (1993); County of Los Angeles v. Superior Court, 62 Cal. 2d 839, 843-44, 402 P.2d 868, 870-71, 44 Cal. Rptr. 796, 798-99 (1965) (statutes reflect policy recommended by Commission).

Statements of Legislative Intent

The proposed law would be known as the Fish and Wildlife Code of 2019.[15] It would include a number of codified general provisions to expressly state the purpose and effect of the recodification.

Proposed Section 10 would make clear that a provision of the proposed law is intended as a restatement and continuation of the provision that it restates, and that any reference to a restated provision is deemed to include a reference to the section that restates it (and vice versa):

> 10. (a) A provision of this code, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be construed as a restatement and continuation thereof, and not as a new enactment.
>
> (b) A reference in a statute or regulation to a previously existing provision that is restated and continued in this code shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.
>
> (c) A reference in a statute or regulation to a provision of this code that is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

In addition, proposed Sections 15 and 20 would make clear that restatement of a provision is not intended to have any effect, positive or negative, on a judicial interpretation of the restated provision or a judicial holding regarding the provision's constitutionality:

> 15. (a) A judicial decision interpreting a provision of the former Fish and Game Code is relevant in interpreting any provision of this code that restates or continues that provision of the former Fish and Game Code.
>
> (b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision of the former Fish and Game Code.
>
> (c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision of the former Fish and Game Code.

> 20. (a) A judicial decision determining the constitutionality of a provision of the former Fish and Game Code is relevant in determining the constitutionality of any provision of this code that restates or continues that provision of the former Fish and Game Code.
>
> (b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature has not evaluated the constitutionality of any provision enacted by that act, or the correctness of any judicial decision determining the constitutionality of any provision of the former Fish and Game Code.
>
> (c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and does not, reflect any determination of the constitutionality of any provision enacted by that act.

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15. See proposed Section 1(b) *infra*. The title will require adjustment if the proposed legislation is enacted in a different year.

Those provisions are particularly important with respect to provisions that were added by initiative or to effectuate an initiative. The Commission's recommendation to continue those provisions without any significant change should not be construed as acquiescence in any court case construing the continued provisions or an indication that the Commission has assessed the constitutionality of the provisions.

Legislative Process

After the Commission completes its study process and issues a final recommendation, the proposed law would be scrutinized carefully in the legislative process. This would serve as a final safeguard against any unintended substantive change in the law.

DRAFTING APPROACH

Structure of Proposed Law

As noted above, this tentative recommendation presents only the first part of a proposed Fish and Wildlife Code. Specifically, it includes the following divisions:

Division 1. General Provisions
Division 2. Administration
Division 3. Law Enforcement
Division 4. Inter-Jurisdictional Compacts

The Commission anticipates that the remainder of the proposed code will be presented in tentative recommendations addressing the take and possession of wildlife (both recreational and commercial), wildlife and habitat protections, and California Tribes.[16]

The proposed Fish and Wildlife Code would be organized into five levels: divisions, parts, titles, chapters, and articles. This provides as much latitude as possible to group similar provisions together, and then combine similar groupings into a logical hierarchical structure.

This approach complies with the Legislature's directive to improve the organization of the Fish and Game Code.[17] It allows for a more coherent and intuitive organizational structure, which should make it easier for a reader to find relevant provisions within the statute.

16. This tentative recommendation reserves a division for the placement of provisions affecting California Tribes. The content of that division will be determined later in the study, after tribal consultation.

17. ACR 73.

Short, Simple Sections

One common problem in statutory drafting is code sections that are excessively long. Excessively long sections can obscure relevant details of law, especially if a single section addresses several different subjects.

A better approach is to divide the law into a larger number of smaller sections, with each section limited to a single subject. Short sections have numerous advantages. They enhance readability and understanding of the law, and make it easier to locate and refer to pertinent material. In contrast to a long section, a short section can be amended without undue technical difficulties and new material can be inserted where logically appropriate, facilitating sound development of the law. The use of short sections is the preferred drafting technique of the California Code Commission,[18] the Legislature,[19] the Legislative Counsel,[20] and the Law Revision Commission.[21]

For those reasons, the proposed law would divide lengthy sections into shorter and simpler provisions.

Definition of Terms

Under existing law, some definitions are scattered throughout the Fish and Game Code. Some terms are used with different definitions in different contexts, or are defined for some uses but not others. This can create uncertainty as to whether any given term is subject to a statutory definition. That may lead to misunderstanding of the law. It may also lead to unintended consequences, if the Legislature uses a defined term without realizing that it would be subject to an already existing definition.

The proposed law would group most of the definitions in a separate part near the beginning of the proposed law, in alphabetical order. This approach would make it easier for members of the public, attorneys, judges, and the Legislature to quickly determine whether a term is subject to a statutory definition. It will also make it easier for the Legislature to identify and review cases where a single term has multiple definitions that are similar but not identical, or is defined for some purposes but not for others. That would facilitate future simplification of the law.

In some cases, placement of a definition with the other definitions near the front of the code would arguably expand the scope of the definition. In those cases, the Comment indicates that the provision has been "generalized" and a note following the provision specifically asks whether generalization of the definition would

18. California Code Commission, *Drafting Rules and Principles for Use of California Code Commission Draftsmen*, 1947-48 Report, app. G, at 4.

19. Senate & Assembly Joint Rule 8 (May 14, 2009).

20. Legislative Counsel of California, Legislative Drafting Manual 26-28 (1975).

21. Commission Staff Memorandum 76-24 (Feb. 17, 1976); First Supplement to Commission Staff Memorandum 85-64 (May 31, 1985).

cause any problematic substantive change in the meaning of any provision of existing law. The Commission specifically solicits public input on that issue.

There is one definition that is likely to be confusing in some situations. The existing definition of "fish," which applies to the entire Fish and Game Code, includes animals that are not considered fish biologically (i.e., invertebrates and amphibians).[22] It is not clear whether every use of that term is intended to have the defined meaning. Notwithstanding that potential source of confusion, the Commission is not recommending any change to the application of the definition.[23] Making such a change would require a determination of legislative intentions in hundreds of sections, which is not practicable in this study.

Cross-References

The Fish and Game Code contains numerous cross-references. The reorganization of existing law will require that the existing references be updated to reflect the numbering of the new code.

This tentative recommendation updates cross-references to provisions that the Commission had reviewed through the end of 2016 (i.e., the content of this tentative recommendation as well as provisions relating to the take or possession of wildlife). Cross-references to the remainder of the code have not been updated in this tentative recommendation. Those references are set out in boldface type for easy recognition. They will be updated later in the study process.

To facilitate review of the cross-reference updates made in this tentative recommendation, the Commission has provided two tables, located at the end of the proposed legislation. Those tables show the disposition of each provision of existing law and the derivation of each provision of the proposed law. For convenience, the tables include all of the provisions reviewed through the end of 2016, not just the provisions that are included in this tentative recommendation.

MINOR SUBSTANTIVE IMPROVEMENTS

While the Legislature directed the Commission to avoid making any *significant* substantive changes to the effect of the law, this leaves open the possibility of making improvements that would have a de minimis substantive effect. The Commission has done so sparingly. All such proposed changes are noted below, to simplify review.

Preliminary Provisions

In a few instances, the Commission is proposing to add preliminary provisions to clarify the general effect of the Fish and Wildlife Code. Those provisions would

22. See Fish & Game Code § 45.

23. See proposed Section 380 *infra*.

have a salutary effect on the clarity of the code, without significantly affecting the substantive effect of the law.[24]

Definitions

As discussed above, several definitions would be relocated to a part near the beginning of the code.[25] As a consequence of that placement, the definitions would apply to the entire code (except where the law or context provides otherwise).[26]

In addition, some new definitions have been added for drafting convenience.[27]

Broadened Application

Proposed Section 1020 would slightly broaden the application of existing Fish and Game Code Section 203.1.

REQUEST FOR PUBLIC COMMENT

The Commission seeks public comment on its tentative recommendation. Comments supporting the proposed approach are just as important as comments suggesting changes to that approach or expressing other views.

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24. See proposed Sections 5, 15, 20, 25 *infra*.

25. See proposed Sections 235, 240, 255, 265, 290, 330, 340, 350, 365, 410, 470, 490, 525, 530, 540, 560, 600, 605, 610, 615, 625, 630, 670, 675, 685, 690, 730, 745, 750, 765, 770, 780, 785 *infra*.

26. See proposed Section 200 *infra*.

27. See proposed Sections 280, 285, 295, 300, 375, 385, 390, 395, 400, 405, 445, 455, 465, 500, 510, 515, 715, 2800 *infra*.

FISH AND WILDLIFE CODE

☞ **Note:** The document that follows contains a proposed recodification of provisions of the existing Fish and Game Code reasonably described by the indicated topical headings. One or more proposed recodifications, containing all remaining provisions of the existing code, will be distributed at a later time.

Statutory cross-references in this proposed recodification that cannot yet be revised (because the cross-referenced provisions have not yet been recodified) are set out in boldface type, for later attention.

A draft of an official Commission "Comment" follows each proposed code section in the proposed recodification. Such Comments will be included in any final recommendation. The Comments indicate the source of each recodified code section (or provision within the code section) and describe how the recodified code section or provision compares with prior law. Courts have routinely held that the Commission's Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation. For guidance on the terminology used in Commission Comments, see the Comment following proposed Section 20.

There is a "disposition table" at the end of the proposed recodification. It summarizes, in tabular form, the disposition of every provision of the existing code that has been included in this proposed recodification. If an existing provision would be repealed as unnecessary, the table identifies that provision as "omitted."

Some code sections in the proposed recodification are followed by a Commission "Note." Commission Notes are intended to be temporary, and will not be part of the Commission's final recommendation. **The Notes are intended to flag issues requesting special attention and comment from stakeholders and the general public.**

However, the Commission welcomes public comment on *any* issue relating to the content of the recodification. In addition to comment on the matters raised in Commission Notes, the Commission is particularly interested in comments addressing any of the following matters:

(1) Any inconsistency, obsolescence, ambiguity, or problems relating to program authority and funding, whether revealed *within* a provision of this proposed recodification, or *between* a provision of this recodification and any other provision of law.

(2) Provisions that should have been included in this proposed recodification but were not, or provisions included in this recodification that should be located in a proposed recodification of the existing code to follow.

(3) Technical drafting errors.

Comments should be directed to Brian Hebert at bhebert@clrc.ca.gov.

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DIVISION 1. GENERAL PROVISIONS

PART 1. PRELIMINARY PROVISIONS

§ 1. Code title

1. (a) This code shall be known as the Fish and Wildlife Code.

(b) The act that added this code shall be known and may be cited as the "Fish and Wildlife Code of 2019."

Comment. Subdivision (a) of Section 1 is comparable to former Fish and Game Code Section 1.

Subdivision (b) is new. It provides a convenient means of referring to the recodification of the former Fish and Game Code.

§ 5. Application of part

5. Unless the provision or context otherwise requires, the provisions of this part govern the construction of this code.

Comment. Section 5 is new. It is a common general provision in the codes. See, e.g., Prob. Code § 6.

§ 10. Restatement and continuation

10. (a) A provision of this code, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be construed as a restatement and continuation thereof, and not as a new enactment.

(b) A reference in a statute or regulation to a previously existing provision that is restated and continued in this code shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.

(c) A reference in a statute or regulation to a provision of this code that is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

Comment. Subdivision (a) of Section 10 continues the first sentence of former Fish and Game Code Section 3 without substantive change.

Subdivision (b) is drawn from Government Code Section 9604.

Subdivision (c) is drawn from Family Code Section 2.

A number of terms and phrases are used in the Comments to the sections of the Fish and Wildlife Code to indicate the sources of the sections, and to describe how they compare with prior law. The following discussion is intended to provide guidance in interpreting the terminology most commonly used in the Comments.

(1) *Continues without change.* A new provision "continues" a former provision "without change" if the two provisions are identical or nearly so. In some cases, there may be insignificant technical differences, such as where punctuation is changed without a change in meaning. Some Comments may describe the relationship by simply stating that the Fish and Wildlife Code provision "continues" or is "the same as" a former provision, or is "the same as" a provision of a uniform act.

(2) *Continues without substantive change*. A new provision "continues" a former provision "without substantive change" if the substantive law remains the same but the language differs to an insignificant degree.

(3) *Restates without substantive change.* A new provision "restates" a former provision "without substantive change" if the substantive law remains the same but the language differs to a significant degree. Some Comments may describe the new provision as being the "same in substance."

(4) *Exceptions, additions, omissions.* If part of a former provision is "continued" or "restated," the Comment may say that the former provision is continued or restated but also note the specific differences as "exceptions to," "additions to," or "omissions from" the former provision.

(5) *Generalizes, broadens, restates in general terms.* A new provision may be described as "generalizing," "broadening," or "restating in general terms" a provision of prior law. This description means that a limited rule has been expanded to cover a broader class of cases.

(6) *Supersedes, replaces.* A provision "supersedes" or "replaces" a former provision if the new provision deals with the same subject as the former provision but treats it in a significantly different manner.

(7) *New*. A provision is described as "new" when it has no direct source in prior statutes.

(8) *Drawn from, similar to, consistent with.* A variety of terms are used to indicate a source for a new provision, typically a source other than California statutes. For example, a provision may be "drawn from" a uniform act, model code, or the statutes of another state. In these cases, it may be useful to consult any available commentary or interpretation of the source from which the new provision is drawn for background information.

(9) *Codifies.* A Comment may state that a new provision "codifies" a case-law rule that has not previously been enacted into statutory law.

(10) *Makes clear, clarifies*. A new provision may be described as "making clear" a particular rule or "clarifying" a rule as a way of emphasizing the rule, particularly if the situation under prior law was doubtful or contradictory.

(11) *Statement in Comment that section is "comparable" to another section.* A Comment may state that a provision is "comparable" to another provision. If the Comment to a section notes that another section is "comparable," that does not mean that the other section is the same or substantially the same. The statement is included in the Comment so that the statute user is alerted to the other section and can review the cases under that section for possible use in interpreting the section containing the statement in the Comment.

§ 15. Judicial decisions

15. (a) A judicial decision interpreting a provision of the former Fish and Game Code is relevant in interpreting any provision of this code that restates or continues that provision of the former Fish and Game Code.

(b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision of the former Fish and Game Code.

(c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision of the former Fish and Game Code.

Comment. Section 15 is new. Subdivision (a) makes clear that case law construing a predecessor provision of the former Fish and Game Code is relevant in construing its successor provision or provisions in the Fish and Wildlife Code.

Subdivisions (b) and (c) make clear that in enacting the Fish and Wildlife Code of 2019, the Legislature has not taken any position on any judicial opinion interpreting any provision of the former Fish and Game Code.

§ 20. Constitutionality of provisions

20. (a) A judicial decision determining the constitutionality of a provision of the former Fish and Game Code is relevant in determining the constitutionality of any provision of this code that restates or continues that provision of the former Fish and Game Code.

(b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature has not evaluated the constitutionality of any provision enacted by that act, or the correctness of any judicial decision determining the constitutionality of any provision of the former Fish and Game Code.

(c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and does not, reflect any determination of the constitutionality of any provision enacted by that act.

Comment. Section 20 is new. Subdivision (a) makes clear that case law determining the constitutionality of a predecessor provision of the former Fish and Game Code is relevant in determining the constitutionality of its successor provision or provisions in the Fish and Wildlife Code of 2019.

Subdivisions (b) and (c) make clear that in enacting the Fish and Wildlife Code of 2019, the Legislature has not taken any position on the constitutionality of any provision of that act, or of any provision of the former Fish and Game Code.

§ 25. Transitional provision

25. (a) As used in this section:

(1) "New law" means either of the following, as the case may be:

(A) The act that enacted this code.

(B) The act that makes a change in this code, whether effectuated by amendment, addition, or repeal of a provision of this code.

(2) "Old law" means the applicable law in effect before the operative date of the new law.

(3) "Operative date" means the operative date of the new law.

(b) This section governs the application of the new law except to the extent otherwise expressly provided in the new law.

(c) Subject to the limitations provided in this section, the new law applies on the operative date to all matters governed by the new law, regardless of whether an event occurred or circumstance existed before, on, or after the operative date, including, but not limited to, commencement of a proceeding, making of an order, or taking of an action.

(d) If a document or paper is filed before the operative date, the contents, execution, and notice thereof are governed by the old law and not by the new law, but subsequent proceedings taken after the operative date concerning the document or paper, including an objection or response, a hearing, an order, or other matter relating thereto is governed by the new law and not by the old law.

(e) If an order is made before the operative date, or an action on an order is taken before the operative date, the validity of the order or action is governed by the old law and not by the new law. Nothing in this subdivision precludes

proceedings after the operative date to modify an order made, or alter a course of action commenced, before the operative date, to the extent proceedings for modification of an order or alteration of a course of action of that type are otherwise provided in the new law.

(f) No person is liable for an action taken before the operative date that was proper at the time the action was taken, even though the action would be improper if taken on or after the operative date, and the person has no duty, as a result of the enactment of the new law, to take any step to alter the course of action or its consequences.

(g) If the new law does not apply to a matter that occurred before the operative date, the old law continues to govern the matter notwithstanding its repeal or amendment by the new law.

(h) If a party shows, and the court determines, that application of a particular provision of the new law or of the old law in the manner required by this section or by the new law would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons in connection with an event that occurred or circumstance that existed before the operative date, the court may, notwithstanding this section or the new law, apply either the new law or the old law to the extent reasonably necessary to mitigate the substantial interference.

Comment. Section 25 replaces the second sentence of former Fish and Game Code Section 3.

Section 25 is similar to Family Code Section 4 and Probate Code Section 3. It provides general transitional rules applicable to the Fish and Wildlife Code. This section applies both to the act that enacted the Fish and Wildlife Code and to any later act that changes the code, whether the change is effectuated by amendment, addition, or repeal of a provision of the code.

The rules stated in this section are general provisions that apply absent a special rule stated in a new law. Special rules may defer or accelerate application of a new law despite the general rules stated in this section. See subdivision (b).

The general rule prescribed in subdivision (c) is that a new law applies immediately on its operative date to all matters, including pending proceedings. The general rule is qualified by the exceptions listed in subdivision (d) (contents, execution, and notice of papers and documents are governed by the law applicable when the paper or document is filed), subdivision (e) (orders are governed by the law applicable when the order is made, subject to any applicable modification procedures), and subdivision (f) (acts are governed by the law applicable when the act is done).

Where a new law fails to address a matter that occurred before its operative date, subdivision (g) makes clear that old law continues to govern the matter.

Because it is impractical to attempt to deal with all the possible transitional problems that may arise in the application of a new law to various circumstances, subdivision (h) provides a safety valve that permits the court to vary the application of the new law where there would otherwise be a substantial impairment of procedure or justice. This provision is intended to apply only in the extreme and unusual case, and is not intended to excuse compliance with the basic transitional provisions simply because of minor inconveniences or minor impacts on expectations or other interests.

In addition to governing other substantive provisions, Section 25 also governs itself. It therefore becomes operative on the date the Fish and Wildlife Code becomes operative and applies to provisions enacted and operative before, on, or after that date.

§ 30. Effect of headings

30. Division, part, title, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

Comment. Section 30 continues former Fish and Game Code Section 4 without substantive change.

§ 35. Reference to specified part of code

35. Unless otherwise expressly stated:

(a) "Division" means a division of this code.

(b) "Part" means a part of the division in which that term occurs.

(c) "Title" means a title of the part in which that term occurs.

(d) "Chapter" means a chapter of the division, part, or title, as the case may be, in which that term occurs.

(e) "Article" means an article of the chapter in which that term occurs.

(f) "Section" means a section of this code.

(g) "Subdivision" means a subdivision of the section in which that term occurs.

(h) "Paragraph" means a paragraph of the subdivision in which that term occurs.

(i) "Subparagraph" means a subparagraph of the paragraph in which that term occurs.

Comment. Subdivisions (f) and (g) of Section 35 restate former Fish and Game Code Section 73 without substantive change. The other provisions of Section 35 are new. They are similar to Probate Code Section 8, except that references to "title" have been added.

§ 40. Reference to statute includes amendments and additions

40. Whenever reference is made to any portion of this code or of any other law of this state, the reference applies to all amendments and additions heretofore or hereafter made.

Comment. Section 40 continues former Fish and Game Code Section 5 without substantive change.

§ 45. Delegation

45. Whenever a power is granted to, or duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer, or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

Comment. Section 45 continues former Fish and Game Code Section 6 without change.

§ 50. Use of English in statements and reports

50. Whenever a statement or report is required to be made, it shall be made in the English language. Nothing in this section shall prohibit the department from providing an unofficial translation of a statement or report in a language other than English.

Comment. The first sentence of Section 50 continues former Fish and Game Code Section 7 without change.

The second sentence is drawn from Code of Civil Procedure Section 185. It authorizes, but does not require, unofficial translation of statements and reports into languages other than English.

See also Gov't Code §§ 7290-7299.8 (Dymally-Alatorre Bilingual Services Act).

§ 55. Tenses

55. The present tense includes the past and future tenses, and the future, the present.

Comment. Section 55 continues former Fish and Game Code Section 8 without change.

§ 60. Gender

60. The masculine gender includes the feminine and the neuter.

Comment. Section 60 continues former Fish and Game Code Section 9 without change.

§ 65. Number

65. The singular number includes the plural, and the plural, the singular.

Comment. Section 65 continues former Fish and Game Code Section 10 without change.

§ 70. Days

70. Whenever in this code the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified. The first date specified designates the first day of the period, and the second day specified designates the last day of the period. No period of time specified in this code exceeds one year unless otherwise expressly provided.

Comment. Section 70 continues former Fish and Game Code Section 11 without change.

§ 75. Mailed notice

75. Unless otherwise specified by statute, any notice or other written communication required to be sent to any person by this code or regulations adopted pursuant to this code is sufficient notice, if sent by first-class mail to the last address furnished to the department by that person.

Comment. Section 75 continues former Fish and Game Code Section 13 without substantive change.

§ 80. "Shall" and "may"

80. "Shall" is mandatory and "may" is permissive.

Comment. Section 80 continues former Fish and Game Code Section 79 without change.

§ 85. Order, rule, and regulation

85. "Order," "rule," and "regulation" are used interchangeably and each includes the others.

Comment. Section 85 continues former Fish and Game Code Section 64 without change.

§ 90. Possession of animal taken out of state

90. A provision of this code relating to the possession of birds, mammals, fish, reptiles, or amphibians applies to birds, mammals, fish, reptiles, or amphibians taken either in or outside of this state.

Comment. Section 90 continues former Fish and Game Code Section 2013 without substantive change.

§ 95. Animal parts

95. A provision of this code that applies to a whole animal also applies to a part of the animal.

Comment. Section 95 continues former Fish and Game Code Section 80 without substantive change.

PART 2. DEFINITIONS

§ 200. Application of definitions

200. Unless a provision or the context otherwise requires, the definitions in this part govern the construction of this code and all regulations adopted pursuant to this code.

Comment. Section 200 continues former Fish and Game Code Section 2 without substantive change.

§ 205. "Adaptive management"

205. "Adaptive management," unless otherwise specified in this code, means management that improves the management of biological resources over time by using new information gathered through monitoring, evaluation, and other credible sources as they become available, and adjusts management strategies and practices to assist in meeting conservation and management goals. Under adaptive management, program actions are viewed as tools for learning to inform future actions.

Comment. Section 205 continues former Fish and Game Code Section 13.5 without change.

☞ **Note.** The existing Fish and Game Code contains a second definition of the term "adaptive management" in existing Section 90.1, solely governing construction of "Chapter 7 (commencing with Section 1700) of Division 2 and Division 6 (commencing with Section 5500) and all regulations adopted pursuant to those provisions." See existing Fish and Game Code Section 90.

However, the term "adaptive management no longer appears to be used in any of those referenced code sections, nor has the Commission been able to find the term used in any regulation adopted pursuant to the referenced provisions.

The Commission invites comment on whether it would be problematic to discontinue the special definition of the term "adaptive management" in existing Section 90.1.

§ 210. "Affix"

210. "Affix" means physically attach to, or imprint on, an electronic validation to a license document.

Comment. Section 210 continues former Fish and Game Code Section 16 without substantive change.

§ 215. "Anadromous fish"

215. "Anadromous fish" means fish that spawn in fresh water and spend a portion of their lives in the ocean.

Comment. Section 215 continues former Fish and Game Code Section 14 without substantive change.

§ 220. "Angling"

220. "Angling" means the taking of, or attempting to take, fish by hook and line with the line held in the hand, or by hook and line with the line attached to a pole or rod that is closely attended or held in the hand in a manner that the fish voluntarily takes the bait or lure in its mouth.

Comment. Section 220 continues former Fish and Game Code Section 15 without substantive change.

§ 225. "Aquaculture"

225. (a) "Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water.

(b) "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes, however, these species continue to be regulated under Part 7 (commencing with Section 26500) of Division 7.

Comment. Section 225 continues former Fish and Game Code Section 17 without substantive change.

§ 230. "Bag limit"

230. "Bag limit" means the maximum limit, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may lawfully be taken by any one person during a specified period of time.

Comment. Section 230 continues former Fish and Game Code Section 18 without change.

§ 235. "Bait net"

235. "Bait net" means a lampara net or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine, or synthetic twine of equivalent size or strength.

Comment. Section 235 generalizes the first sentence of former Fish and Game Code Section 8780(a).

☞ **Note.** Existing Fish and Game Code Section 8780(a) (which would be continued by proposed Section 235) provides a definition of the term "bait net," for purposes of the chapter in which that

section appears. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code § 10660.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 240. "Beach net"

240. "Beach net" means a net hauled from the water to the beach or shore, and includes a beach seine and a haul seine.

Comment. Section 240 generalizes former Fish and Game Code Section 8800.

☞ **Note.** Existing Fish and Game Code Section 8800 (which would be continued by proposed Section 240) provides a definition of the term "beach net," for purposes of the chapter in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 245. "Bird"

245. "Bird" means a wild bird or part of a wild bird.

Comment. Section 245 continues former Fish and Game Code Section 22 without change.

The reference to a "part" of an animal in this section is superfluous. See Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a "part" of an animal.

§ 250. "Body-gripping trap"

250. A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps, conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver traps, and common rat and mouse traps shall not be considered body-gripping traps.

Comment. Section 250 continues the second and third sentences of former Fish and Game Code Section 3003.1(a) without change.

§ 255. "Bucket trap"

255. "Bucket trap" means a plastic bucket of five gallons or less in capacity.

Comment. Section 255 generalizes former Fish and Game Code Section 9000.5(a).

☞ **Note.** Existing Fish and Game Code Section 9000.5(a) (which would be continued by proposed Section 255) provides a definition of the term "bucket trap," for purposes of the article in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 260. "Buy"

260. "Buy" includes an offer to buy, purchase, barter, exchange, or trade.

Comment. Section 260 continues former Fish and Game Code Section 24 without change.

§ 265. "Bycatch"

265. "Bycatch" means fish or other marine life that are taken in a fishery but which are not the target of the fishery. "Bycatch" includes discards.

Comment. Section 265 generalizes former Fish and Game Code Section 90.5.

☞ **Note.** Existing Fish and Game Code Section 90.5 (which would be continued by proposed Section 265) provides a definition of the term "bycatch" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 270. "Chumming"

270. "Chumming" means the placing in the water of fish, or other material upon which fish feed, for the purpose of attracting fish to a particular area in order that they may be taken.

Comment. Section 270 continues former Fish and Game Code Section 27 without change.

§ 275. "Closed season"

275. "Closed season" means that period of time during which the taking of birds, mammals, fish, amphibians, or reptiles is prohibited.

Comment. Section 275 continues former Fish and Game Code Section 29 without change.

§ 280. "Commercial fisherman"

280. "Commercial fisherman" means a person engaging in an activity for which a commercial fishing license is required pursuant to Section 14500.

Comment. Section 280 is drawn from former Fish and Game Code Sections 8040(a) and 7850. It is added for drafting convenience.

☞ **Note.** In general, the Commission believes that the laws governing commercial fishing should apply to anyone who is engaged in the regulated activity, regardless of whether that person holds a valid license. That general principle is undermined by the Fish and Game Code's occasional use of the term "licensed commercial fisherman" in provisions that regulate commercial fishing. Such provisions impliedly only apply to a person who holds a valid commercial fishing license. See, e.g., Sections 8031(a)(4) ("'Commercial fisherman' means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.").

Read literally, such provisions would make some provisions that regulate commercial fishing inapplicable to persons fishing commercially without a valid license. To avoid that result, proposed Section 280 defines the term "commercial fisherman" to mean a person who is required by law to have a commercial fishing license (i.e., a person who is engaging in regulated commercial fishing activity). That defined term is then used throughout this portion of the proposed Fish and Wildlife Code, replacing references to a "licensed commercial fisherman." The Commission will make an exception to that practice if it finds that a provision that regulates commercial fishing is clearly intended to make holding a license a necessary substantive element of a rule. In those cases, the term "licensed commercial fisherman" would be used.

The Commission invites comment on whether the addition of this definition to the proposed law, or the substitution of the defined term for references to a "licensed commercial fisherman" in provisions of the proposed law, would be problematic.

§ 285. "Commercial fishing entitlement"

285. "Commercial fishing entitlement" means a commercial fishing license, or any other permit, stamp, or entitlement issued by the department, to take, possess aboard a boat, or land fish for a commercial purpose, but not including the following entitlements:

(a) A license issued pursuant to Title 9 (commencing with Section 20200) of Part 6 of Division 6.

(b) A license issued pursuant to Title 13 (commencing with Section 22100) of Part 6 of Division 6.

(c) A commercial boat registration or other entitlement authorizing the use of a vessel.

Comment. Section 285 is new. It is added for drafting convenience.

☞ **Note.** Existing Fish and Game Code Sections 7852.1, 7852.2, 7852.25, and 7857 refer in slightly different ways to the various entitlements related to commercial fishing to which those provisions apply. Proposed Section 285 would conform and standardize those application provisions, excluding entitlements that generally apply to distinguishable subject matter.

The Commission invites comment on the inclusion and wording of proposed Section 285.

§ 290. "Commercial fishing license"

290. "Commercial fishing license" means a valid, unrevoked commercial fishing license issued pursuant to Section 14500.

Comment. Section 290 generalizes former Fish and Game Code Section 8031(a)(4). It is added for drafting convenience.

☞ **Note.** Existing Fish and Game Code Section 8031(a)(4) (which would be continued by proposed Section 290) defines the term "commercial fishing license," for purposes of the articles in which those sections appear. However, the term is used without a corresponding definition in many other provisions of the existing code.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 295. "Commercial passenger fishing boat"

295. For purposes of this title, "commercial passenger fishing boat" means a boat or vessel from which its owner, for profit, permits a passenger to take fish.

Comment. Section 295 is drawn from the first paragraph of former Fish and Game Code Section 7920. It is added for drafting convenience.

☞ **Note.** Proposed Section 295 is drawn from the first paragraph of existing Fish and Game Code Section 7920.

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "commercial passenger fishing boat" as set forth in proposed Section 295 that would apply code-wide.

§ 300. "Commercial passenger fishing boat owner"

300. "Commercial passenger fishing boat owner" means a person engaging in an activity for which a commercial passenger fishing boat license is required pursuant to Sections 21900 and 21905.

Comment. Section 300 is drawn from the first paragraph of former Fish and Game Code Section 7920. It is added for drafting convenience.

☞ **Note.** Proposed Section 300 is drawn from the first paragraph of existing Fish and Game Code Section 7920.

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "commercial passenger fishing boat owner" as set forth in proposed Section 300 that would apply code-wide.

§ 305. "Commission"

305. "Commission" means the Fish and Game Commission.

Comment. Section 305 continues the first clause of former Fish and Game Code Section 30 without change.

§ 310. "Commissioner"

310. "Commissioner" means a member of the Fish and Game Commission.

Comment. Section 310 continues the second clause of former Fish and Game Code Section 30 without change.

§ 315. "County"

315. "County" includes city and county.

Comment. Section 315 continues former Fish and Game Code Section 32 without change.

§ 320. "Credible science"

320. "Credible science" means the best available scientific information that is not overly prescriptive due to the dynamic nature of science, and includes the evaluation principles of relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation, and peer review of information as appropriate. Credible science also recognizes the need for adaptive management, as scientific knowledge evolves.

Comment. Section 320 continues former Fish and Game Code Section 33 without substantive change.

§ 325. "Day"

325. "Day" means calendar day.

Comment. Section 325 continues the first clause of former Fish and Game Code Section 35 without change.

§ 330. "Deeper nearshore species"

330. "Deeper nearshore species" means those finfish identified as deeper nearshore species in regulations adopted by the commission pursuant to Section 22620.

Comment. Section 330 generalizes former Fish and Game Code Section 9000.5(b).

☞ **Note.** Existing Fish and Game Code Section 9000.5(b) (which would be continued by proposed Section 330) provides a definition of the term "deeper nearshore species," for purposes of the article in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 335. "Department"

335. "Department" means the Department of Fish and Wildlife.

Comment. Section 335 continues former Fish and Game Code Section 37 without change.

§ 340. "Depressed"

340. "Depressed," with regard to a marine fishery, means the condition of a fishery for which the best available scientific information, and other relevant information that the commission or department possesses or receives, indicates a declining population trend has occurred over a period of time appropriate to that fishery. With regard to fisheries for which management is based on maximum sustainable yield, or in which a natural mortality rate is available, "depressed" means the condition of a fishery that exhibits declining fish population abundance levels below those consistent with maximum sustainable yield.

Comment. Section 340 generalizes former Fish and Game Code Section 90.7.

☞ **Note.** Existing Fish and Game Code Section 90.7 (which would be continued by proposed Section 340) provides a definition of the term "depressed" with regard to a marine fishery, for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 345. "Director"

345. "Director" means the Director of Fish and Wildlife.

Comment. Section 345 continues former Fish and Game Code Section 39 without change.

§ 350. "Discards"

350. "Discards" means fish that are taken in a fishery but are not retained because they are of an undesirable species, size, sex, or quality, or because they are required by law not to be retained.

Comment. Section 350 generalizes former Fish and Game Code Section 91.

☞ **Note.** Existing Fish and Game Code Section 91 (which would be continued by proposed Section 350) provides a definition of the term "discards" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 355. "District"

355. "District" means fish and wildlife district.

Comment. Section 355 continues former Fish and Game Code Section 41 without substantive change.

§ 360. "Ecosystem-based management"

360. "Ecosystem-based management" means an environmental management approach relying on credible science that recognizes the full array of interactions within an ecosystem, including humans, rather than considering single issues, species, or ecosystem services in isolation.

Comment. Section 360 continues former Fish and Game Code Section 43 without substantive change.

§ 365. "Essential fishery information"

365. "Essential fishery information," with regard to a marine fishery, means information about fish life history and habitat requirements; the status and trends of fish populations, fishing effort, and catch levels; fishery effects on fish age structure and on other marine living resources and users, and any other information related to the biology of a fish species or to taking in the fishery that is necessary to permit fisheries to be managed according to the requirements of this code.

Comment. Section 365 generalizes former Fish and Game Code Section 93.

☞ **Note.** Existing Fish and Game Code Section 93 (which would be continued by proposed Section 365) provides a definition of the term "essential fishery information" with regard to a marine fishery, for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 370. "Exotic nonresident game bird"

370. "Exotic nonresident game bird" means a bird of the order Galliformes (pheasant, grouse, quail) that is not established as a wild resident population in this state.

Comment. Section 370 continues former Fish and Game Code Section 3514 without substantive change.

☞ **Note.** It is unclear whether the parenthetical in existing Fish and Game Code Section 3514 (which would be continued by proposed Section 370) – "(pheasant, grouse, quail)" – is meant to be merely illustrative, or is intended as a substantive limitation on the types of birds that are included in the definition of "exotic nonresident game birds."

The order Galliformes includes a number of types of birds that are not listed in the parenthetical (e.g., partridges, turkeys, ptarmigans, guineafowl). If nonresident varieties of those types of birds were introduced into California, would they be within the scope of the definition?

The Commission invites comment on this issue.

§ 375. "Finfish"

375. "Finfish" means any species of bony fish or cartilaginous fish.

Comment. Section 375 is drawn from Section 1.46 of Title 14 of the California Code of Regulations. It is added for drafting convenience.

§ 380. "Fish"

380. "Fish" means a wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ovum of any of those animals.

Comment. Section 380 continues former Fish and Game Code Section 45 without substantive change.

The reference to a "part" of an animal in this section is superfluous. See Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a "part" of an animal.

§ 385. "Fish importer"

385. "Fish importer" means a person engaging in an activity for which a fish importer's license is required pursuant to Section 20350.

Comment. Section 385 is drawn from former Fish and Game Code Section 8036(a). It is added for drafting convenience.

☞ **Note**. Proposed Section 385 is drawn from existing Fish and Game Code Section 8036(a).

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "fish importer" as set forth in proposed Section 385 that would apply code-wide.

§ 390. "Fish processor"

390. "Fish processor" means a person engaging in an activity for which a fish processor's license is required pursuant to Section 20400.

Comment. Section 390 is drawn from former Fish and Game Code Section 8034. It is added for drafting convenience.

☞ **Note.** Proposed Section 390 is drawn from existing Fish and Game Code Section 8034(a). However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 7232, 8110.

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "fish processor" as set forth in proposed Section 390 that would apply code-wide.

§ 395. "Fish receiver"

395. "Fish receiver" means a person engaging in an activity for which a fish receiver's license is required pursuant to Section 20450.

Comment. Section 395 is drawn from former Fish and Game Code Section 8033. It is added for drafting convenience.

☞ **Note.** Proposed Section 395 is drawn from existing Fish and Game Code Section 8033. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 7850.5, 8041, 8047.

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "fish receiver" as set forth in proposed Section 3905 that would apply code-wide.

§ 400. "Fish retailer"

400. "Fish retailer" means a person engaging in an activity for which a fish retailer's license is required pursuant to Section 20500.

Comment. Section 400 is drawn from former Fish and Game Code Section 8033.5(a). It is added for drafting convenience.

☞ **Note.** Proposed Section 400 is drawn from existing Fish and Game Code Section 8033.5(a).
The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "fish retailer" as set forth in proposed Section 400 that would apply code-wide.

§ 405. "Fish wholesaler"

405. "Fish wholesaler" means a person engaging in an activity for which a fish wholesaler's license is required pursuant to Section 20550.

Comment. Section 405 is drawn from former Fish and Game Code Section 8035. It is added for drafting convenience.

☞ **Note.** Proposed Section 405 is drawn from existing Fish and Game Code Section 8035.
The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "fish wholesaler" as set forth in proposed Section 405 that would apply code-wide.

§ 410. "Fishery"

410. "Fishery" means both of the following:

(a) One or more populations of marine fish or marine plants that may be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.

(b) Fishing for, harvesting, or catching the populations described in subdivision (a).

Comment. Section 410 generalizes former Fish and Game Code Section 94.

☞ **Note.** Existing Fish and Game Code Section 94 (which would be continued by proposed Section 410) provides a definition of the term "fishery" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 1000.6, 1068, 1174.
The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 415. "Fully protected amphibian"

415. "Fully protected amphibian" means any of the following amphibians:

(a) Santa Cruz long-toed salamander (Ambystoma macrodactylum croceum).

(b) Limestone salamander (Hydromantes brunus).
(c) Black toad (Bufo boreas exsul).

Comment. Section 415 continues former Fish and Game Code Section 5050(b)(3)-(5) without substantive change.

§ 420. "Fully protected bird"

420. "Fully protected bird" means any of the following birds:
(a) American peregrine falcon (Falco peregrinus anatum).
(b) Brown pelican.
(c) California black rail (Laterallus jamaicensis coturniculus).
(d) California clapper rail (Rallus longirostris obsoletus).
(e) California condor (Gymnogyps californianus).
(f) California least tern (Sterna albifrons browni).
(g) Golden eagle.
(h) Greater sandhill crane (Grus canadensis tabida).
(i) Light-footed clapper rail (Rallus longirostris levipes).
(j) Southern bald eagle (Haliaeetus leucocephalus leucocephalus).
(k) Trumpeter swan (Cygnus buccinator).
(*l*) White-tailed kite (Elanus leucurus).
(m) Yuma clapper rail (Rallus longirostris yumanensis).

Comment. Section 420 continues former Fish and Game Code Section 3511(b) without substantive change.

§ 425. "Fully protected fish"

425. "Fully protected fish" means any of the following fish:
(a) Colorado River squawfish (Ptychocheilus lucius).
(b) Humpback sucker (Xyrauchen texanus).
(c) Lost River sucker (Catostomus luxatus).
(d) Modoc sucker (Catostomus microps).
(e) Mohave chub (Gila mohavensis).
(f) Owens pupfish (Cyprinoden radiosus).
(g) Rough sculpin (Cottus asperrimus).
(h) Shortnose sucker (Chasmistes brevirostris).
(i) Thicktail chub (Gila crassicauda).
(j) Unarmored threespine stickleback (Gasterosteus aculeatus williamsoni).

Comment. Section 425 continues former Fish and Game Code Section 5515(b) without substantive change.

§ 430. "Fully protected mammal"

430. "Fully protected mammal" means any of the following mammals:
(a) Bighorn sheep (Ovis canadensis), except a mature Nelson bighorn ram (subspecies Ovis canadensis nelsoni) when the object of sport hunting authorized by subdivision (b) of Section 35900.

(b) Guadalupe fur seal (Arctocephalus townsendi).
(c) Morro Bay kangaroo rat (Dipodomys heermanni morroensis).
(d) Northern elephant seal (Mirounga angustirostris).
(e) Pacific right whale (Eubalaena sieboldi).
(f) Ring-tailed cat (genus Bassariscus).
(g) Salt-marsh harvest mouse (Reithrodontomys raviventris).
(h) Southern sea otter (Enhydra lutris nereis).
(i) Wolverine (Gulo luscus).

Comment. Section 430 continues former Fish and Game Code Section 4700(b) without substantive change.

☞ **Note.** Existing Fish and Game Code Section 4700(b)(2) (which would be continued by proposed Section 430(a)) provides that bighorn sheep in general are fully protected mammals, "except Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) as provided by subdivision (b) of Section 4902." However, existing Section 4902(b) provides only for the hunting of mature Nelson bighorn rams, and appears to provide that all other Nelson bighorn sheep remain fully protected mammals. Proposed Section 430 would therefore except only mature Nelson bighorn rams from the classification of bighorn sheep as fully protected mammals.

The Commission invites comment on whether this revision would cause any substantive change in the meaning of existing Section 4700(b).

§ 435. "Fur-bearing mammal"

435. "Fur-bearing mammal" means any of the following mammals:
(a) Badger.
(b) Beaver.
(c) Fisher.
(d) Gray fox.
(e) Kit fox.
(f) Mink.
(g) Muskrat.
(h) Pine marten.
(i) Raccoon.
(j) Red fox.
(k) River otter.

Comment. Section 435 continues former Fish and Game Code Section 3900 without substantive change.

§ 440. "Fully protected reptile"

440. "Fully protected reptile" means either of the following reptiles:
(a) Blunt-nosed leopard lizard (Crotaphytus wislizenii silus).
(b) San Francisco garter snake (Thamnophis sirtalis tetrataenia).

Comment. Section 440 continues former Fish and Game Code Section 5050(b)(1)-(2) without substantive change.

§ 445. "Game amphibian"

445. "Game amphibian" means an amphibian that can be lawfully taken for a noncommercial purpose.

Comment. Section 445 is new. It is added for drafting convenience.

☞ **Note.** Proposed Section 445 would define the undefined term "game amphibian." **The Commission invites comment on whether the proposed definition would change existing law in a problematic way.**

§ 450. "Game bird"

450. "Game bird" means a resident game bird or a migratory game bird.

Comment. Section 450 continues former Fish and Game Code Section 3500(c) without substantive change.

§ 455. "Game fish"

455. "Game fish" means a fish that can be lawfully taken for a noncommercial purpose.

Comment. Section 455 is new. It is added for drafting convenience.

☞ **Note.** Proposed Section 455 would define the undefined term "game fish," which is used in existing Fish and Game Code Sections 307, 2003, 2005, and 8183. **The Commission invites comment on whether the proposed definition would change existing law in a problematic way.**

§ 460. "Game mammal"

460. (a) "Game mammal" means any of the following mammals:

(1) Black and brown or cinnamon bear (genus Euarctos).

(2) Deer (genus Odocoileus).

(3) Elk (genus Cervus).

(4) Jackrabbit and varying hare (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus).

(5) Mature Nelson bighorn ram (subspecies Ovis canadensis nelsoni), only when the object of sport hunting authorized by subdivision (b) of Section 35900.

(6) Mountain lion (genus Felis).

(7) Prong-horned antelope (genus Antilocapra).

(8) Tree squirrel (genus Sciurus and Tamiasciurus).

(9) Wild pig, including feral pig and European wild boar (genus Sus).

(b) Notwithstanding subdivision (a) or any other provision of this code, the mountain lion (genus Felis) shall not be listed as, or considered to be, a game mammal by the department or the commission.

(c) Section 1025 does not apply to subdivision (b). Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes this subdivision, or subdivision (b).

Comment. Subdivisions (a)(1)-(4) and (a)(6)-(9) of Section 460 continue former Fish and Game Code Section 3950(a) without substantive change.

Subdivision (a)(5) continues former Fish and Game Code Section 3950(b) without substantive change.

Subdivisions (b) and (c) restate former Fish and Game Code Section 3950.1 without substantive change.

☞ **Note.** Existing Fish and Game Code Section 3950.1 (which would be continued by proposed Section 460(b) and (c)) was added to the existing code in 1990 pursuant to an initiative statute, Proposition 117.

Under Article 2, Section 10(c) of the California Constitution, an initiative statute may be amended or repealed by the Legislature only when expressly permitted by the text of the initiative statute. The text of Proposition 117 provides in pertinent part that any section added to the Fish and Game Code by the proposition may be subsequently amended by the Legislature "only by a statute approved by a vote of four-fifths of the members of both houses of the Legislature,' and that any such amendment "shall be consistent with, and further the purposes of," the proposition. The text does not address a subsequent repeal of any section added by the proposition.

However, courts have held that, for the provisions of Article 2, Section 10(c), a legislative enactment only amends an initiative statute when it "prohibits what the initiative authorizes, or authorizes what the initiative prohibits." *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 571; 227 P.3d 858; 107 Cal. Rptr. 3d 265 (2010). (The Commission has located no authority directly addressing whether this principle also applies to a repeal of an initiative statute.)

Based on interpretative case law, the Office of Legislative Counsel has informally expressed to the Commission its view that the repeal and recodification of an initiative statute in a single enactment is not precluded by Article 2, Section 10(c), if the recodification does not substantively change the meaning of the repealed initiative statute.

Existing Section 3950.1 reads as follows:

"3950.1. (a) Notwithstanding Section 3950 or any other provision of this code, the mountain lion (genus Felis) shall not be listed as, or considered to be, a game mammal by the department or the commission.

(b) Section 219 does not apply to this section. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes this section."

The Commission invites comment on whether the proposed recodification of existing Section 3950.1 would substantively change the meaning of that provision, or would for some other reason violate Article 2, Section 10(c) of the California Constitution.

§ 465. "Game reptile"

465. "Game reptile" means a reptile that can be lawfully taken for a noncommercial purpose.

Comment. Section 465 is new. It is added for drafting convenience.

☞ **Note.** Proposed Section 465 would define the undefined term "game reptile." **The Commission invites comment on whether the proposed definition would change existing law in a problematic way.**

§ 470. "General trap permit"

470. "General trap permit" means a valid permit to take fish for a commercial purpose issued pursuant to Section 19205 that has not been suspended or revoked.

Comment. Section 470 generalizes former Fish and Game Code Section 9000.5(c).

☞ **Note.** Existing Fish and Game Code Section 9000.5(c) (which would be continued by proposed Section 470) provides a definition of the term "general trap permit," for purposes of the article in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 475. "Guide boat"

475. "Guide boat" means a boat or vessel under 25 feet in length, which is used by a guide, who is licensed under Title 4 (commencing with Section 8800) of Part 1 of Division 6, in inland waters for any of the following purposes:

(1) For the business of packing or guiding.

(2) For compensation, to assist another person in taking or attempting to take any fish or amphibian.

(3) For compensation, to assist another person in locating any bird or mammal.

Comment. Section 475 continues former Fish and Game Code Section 46 without substantive change.

§ 480. "Hook" and related terms

480. "Hook" or "fishhook" means an implement to catch or hold fish or amphibians. "Single hook" means any hook with one point and with or without a barb; "double hook" means any hook with two points and with or without barbs; "treble or triple hook" means any hook with three points and with or without barbs. "Snag" or "gaff" hooks are hooks with or without handles used to take fish in such manner that the fish does not take the hook voluntarily in its mouth.

Comment. Section 480 continues former Fish and Game Code Section 48 without substantive change.

§ 485. "Kelp"

485. "Kelp" means kelp or other marine aquatic plants and the seeds thereof.

Comment. Section 485 continues former Fish and Game Code Section 51 without change.

§ 490. "Korean trap"

490. "Korean trap" means a molded plastic cylinder that does not exceed 6 inches in diameter and does not exceed 24 inches in length.

Comment. Section 490 generalizes former Fish and Game Code Section 9000.5(d).

☞ **Note.** Existing Fish and Game Code Section 9000.5(d) (which would be continued by proposed Section 490) provides a definition of the term "Korean trap," for purposes of the article in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 495. "Limited entry fishery"

495. "Limited entry fishery" means a fishery in which the number of persons who may participate or the number of vessels that may be used in taking a specified species of fish is limited by statute or regulation.

Comment. Section 495 continues former Fish and Game Code Section 8100 without change.

§ 500. "Live freshwater bait fish dealer"

500. "Live freshwater bait fish dealer" means a person engaging in an activity for which a live freshwater bait fish license is required pursuant to Section 22100.

Comment. Section 500 is drawn from former Fish and Game Code Section 8460. It is added for drafting convenience.

☞ **Note.** Proposed Section 500 is drawn from existing Fish and Game Code Section 8460.

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "live freshwater bait fish dealer" as set forth in proposed Section 500 that would apply code-wide.

§ 505. "Mammal"

505. "Mammal" means a wild or feral mammal or part of a wild or feral mammal, but not a wild, feral, or undomesticated burro.

Comment. Section 505 continues former Fish and Game Code Section 54 without change.

The reference to a "part" of an animal in this section is superfluous. See Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a "part" of an animal.

§ 510. "Marine aquaria collector"

510. "Marine aquaria collector" means a person engaging in an activity for which a marine aquaria collector's permit is required pursuant to Section 20705.

Comment. Section 510 is drawn from former Fish and Game Code Section 8597(a). It is added for drafting convenience.

☞ **Note.** Proposed Section 510 is drawn from existing Fish and Game Code Section 8597(a).

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "marine aquaria collector" as set forth in proposed Section 510 that would apply code-wide.

§ 515. "Marine aquaria receiver"

515. "Marine aquaria receiver" means a person engaging in an activity for which a marine aquaria receiver's license is required pursuant to Section 20600.

Comment. Section 515 is drawn from former Fish and Game Code Section 8033.1(a). It is added for drafting convenience.

☞ **Note.** Proposed Section 515 is drawn from existing Fish and Game Code Section 8597(a). However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code § 8043.1.

The Commission invites comment on whether it would be problematic to include in the proposed law and generalize a definition of the term "marine aquaria receiver" as set forth in proposed Section 515 that would apply code-wide.

§ 520. "Marine finfish aquaculture"

520. "Marine finfish aquaculture" means the propagation, cultivation, or maintenance of finfish species in the waters of the Pacific Ocean that are regulated by this state.

Comment. Section 520 continues former Fish and Game Code Section 54.5 without change.

§ 525. "Marine living resources"

525. "Marine living resources" includes all wild mammals, birds, reptiles, fish, and plants that normally occur in or are associated with salt water, and the marine habitats upon which these animals and plants depend for their continued viability.

Comment. Section 525 generalizes former Fish and Game Code Section 96.

☞ **Note.** Existing Fish and Game Code Section 96 (which would be continued by proposed Section 525) provides a definition of the term "marine living resources" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code § 93.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 530. "Marine mammal"

530. "Marine mammal" means any of the following mammals:

(a) Dolphin

(b) Porpoise.

(c) Sea lion.

(d) Sea otter.

(e) Seal.

(f) Whale.

Comment. Section 530 generalizes former Fish and Game Code Section 4500(c).

☞ **Note.** Existing Fish and Game Code Section 4500(c) (which would be continued by proposed Section 530) provides a definition of the term "marine mammal," for purposes of the chapter in which that provision appears. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 7712, 8420, 8609.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 535. "Master"

535. "Master," with regard to a vessel, means the person on board a vessel who is in charge of the vessel.

Comment. Section 535 continues the 3rd paragraph of former Fish and Game Code Section 12002.7, and former Fish and Game Code Section 12002.8(f), without substantive change.

§ 540. "Maximum sustainable yield"

540. "Maximum sustainable yield" in a marine fishery means the highest average yield over time that does not result in a continuing reduction in stock abundance, taking into account fluctuations in abundance and environmental variability.

Comment. Section 540 generalizes former Fish and Game Code Section 96.5.

☞ **Note.** Existing Fish and Game Code Section 96.5 (which would be continued by proposed Section 540) provides a definition of the term "maximum sustainable yield" in a marine fishery for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used in that context without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 97, 98.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 545. "Migratory game bird"

545. "Migratory game bird" means any of the following birds:

(a) Band-tailed pigeon.

(b) Coot.

(c) Duck.

(d) Gallinule.

(e) Goose.

(f) Jacksnipe.

(g) Western mourning dove.

(h) White-winged dove.

Comment. Section 545 continues former Fish and Game Code Section 3500(b) without substantive change.

§ 550. "Mile"

550. "Mile" means either a statute mile (5,280 feet) or a nautical mile (6,077 feet) depending on the application. Statute miles shall be the unit of measurement for all land masses, rivers, streams, creeks, and inland bodies of water. Nautical miles shall be the unit of measurement for all marine waters.

Comment. Section 550 continues former Section 55 without change.

§ 555. "Native California trout"

555. "Native California trout" means any of the following fish:

(a) California golden trout.

(b) Coastal cutthroat trout.

(c) Coastal rainbow trout/steelhead.

(d) Eagle Lake rainbow trout.

(e) Goose Lake redband trout.

(f) Kern River rainbow trout.

(g) Lahontan cutthroat trout.

(h) Little Kern golden trout.

(i) McCloud River redband trout.

(j) Paiute cutthroat trout.

(k) Warner Valley redband trout.

Comment. Section 555 continues former Fish and Game Code Section 7261 without substantive change.

§ 560. "Nearshore species"

560. "Nearshore species" means those finfish identified as nearshore species in regulations adopted by the commission pursuant to Section 22620.

Comment. Section 560 generalizes former Fish and Game Code Section 9000.5(e).

☞ **Note.** Existing Fish and Game Code Section 9000.5(e) (which would be continued by proposed Section 560) provides a definition of the term "nearshore species," for purposes of the article in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 565. "Net"

565. "Net" means any gear made of any kind of twine, thread, string, rope, wire, wood, or other materials used for the gilling, entangling, trapping, or impounding fish.

Comment. Section 565 continues former Fish and Game Code Section 56 without change.

§ 570. "Nongame bird"

570. "Nongame bird" means a bird occurring naturally in California that is not a resident game bird, migratory game bird, or fully protected bird.

Comment. Section 570 continues the first sentence of former Fish and Game Code Section 3800(a) without substantive change.

§ 575. "Nongame mammal"

575. "Nongame mammal" means any of the following mammals:

(a) A mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal.

(b) A house cat (Felis domesticus) found within the limits of a fish and game refuge, except if in the residence of its owner or on the grounds adjacent to that residence.

Comment. Subdivision (a) of Section 575 continues the first sentence of former Fish and Game Code Section 4150 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 4151 without substantive change.

§ 580. "Nonresident"

580. "Nonresident" means a person who is not a resident as defined in Section 660.

Comment. Section 580 restates former Fish and Game Code Section 57 to reconcile the definition of the term "nonresident" with the definition of the term "resident" in former Fish and Game Code Section 70. See also Section 660 ("resident").

☞ **Note.** Proposed Section 580 would restate existing Fish and Game Code Section 57 to eliminate an overlap between the definition of "nonresident" in that section and the definition of "resident" in existing Section 70 (which would be continued by proposed Section 660).

The Commission requests public comment on whether the revision would have any problematic effect.

§ 585. "Oath"

585. "Oath" includes affirmation.

Comment. Section 585 continues former Fish and Game Code Section 60 without change.

§ 590. "Ocean ranching"

590. "Ocean ranching" means aquaculture where juvenile anadromous fish are reared and released into state waters to grow and return to an aquaculture facility to be harvested commercially.

Comment. Section 590 continues former Fish and Game Code Section 61 without change.

§ 595. "Open season" and "season"

595. "Open season" means that period of time during which the taking of birds, mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and regulations adopted by the commission. If used to define the period of time during which take is allowed, "season" means "open season."

Comment. Section 595 continues former Fish and Game Code Section 62 without change.

§ 600. "Optimum yield"

600. "Optimum yield," with regard to a marine fishery, means the amount of fish taken in a fishery that does all of the following:

(a) Provides the greatest overall benefit to the people of California, particularly with respect to food production and recreational opportunities, and takes into account the protection of marine ecosystems.

(b) Is the maximum sustainable yield of the fishery, as reduced by relevant economic, social, or ecological factors.

(c) In the case of an overfished fishery, provides for rebuilding to a level consistent with producing maximum sustainable yield in the fishery.

Comment. Section 600 generalizes former Fish and Game Code Section 97.

☞ **Note.** Existing Fish and Game Code Section 97 (which would be continued by proposed Section 600) provides a definition of the term "optimum yield," with regard to a marine fishery, for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used in that context without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code § 99.5.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 605. "Overfished"

605. "Overfished," with regard to a marine fishery, means both of the following:

(a) A depressed fishery.

(b) A reduction of take in the fishery is the principal means for rebuilding the population.

Comment. Section 605 generalizes former Fish and Game Code Section 97.5.

☞ **Note.** Existing Fish and Game Code Section 97.5 (which would be continued by proposed Section 605) provides a definition of the term "overfished" with regard to a marine fishery for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used in that context without a corresponding definition elsewhere the existing code. See, e.g., existing Fish and Game Code § 97.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 610. "Overfishing"

610. "Overfishing" means a rate or level of taking that the best available scientific information, and other relevant information that the commission or department possesses or receives, indicates is not sustainable or that jeopardizes the capacity of a marine fishery to produce the maximum sustainable yield on a continuing basis.

Comment. Section 610 generalizes former Fish and Game Code Section 98.

☞ **Note.** Existing Fish and Game Code Section 98 (which would be continued by proposed Section 610) provides a definition of the term "overfishing" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code § 14001.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 615. "Participants"

615. "Participants" in regard to a fishery means the sportfishing, commercial fishing, and fish receiving and processing sectors of the fishery.

Comment. Section 615 generalizes former Fish and Game Code Section 98.2.

☞ **Note.** Existing Fish and Game Code Section 98.2 (which would be continued by proposed Section 615) provides a definition of the term "participants" in regard to a fishery for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used in that context without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code § 2855(b)(4).

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 620. "Person"

620. "Person" means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.

Comment. Section 620 continues former Fish and Game Code Section 67 without change.

§ 625. "Population"

625. "Population" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

Comment. Section 625 generalizes a part of former Fish and Game Code Section 98.5. See also Section 745 ("stock").

☞ **Note.** Existing Fish and Game Code Section 98.5 (which would be continued by proposed Section 625) provides a definition of the term "population" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 1726.4, 15007, 15400.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 630. "Popup"

630. "Popup" means a mechanism capable of releasing a submerged buoy at a predetermined time.

Comment. Section 630 generalizes former Fish and Game Code Section 9000.5(f).

☞ **Note.** Existing Fish and Game Code Section 9000.5(f) (which would be continued by proposed Section 630) provides a definition of the term "popup," for purposes of the article in which that section appears.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 635. "Possession limit"

635. "Possession limit" means the maximum, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may be lawfully possessed by one person.

Comment. Section 635 continues former Fish and Game Code Section 19 without change.

§ 640. "Project"

640. "Project" has the same meaning as defined in Section 21065 of the Public Resources Code.

Comment. Section 640 continues the definition of "project" in former Fish and Game Code Section 711.2(a) without change.

§ 645. "Purchase"

645. "Purchase" means "buy" as defined in Section 260.

Comment. Section 645 continues former Fish and Game Code Section 68 without substantive change.

§ 650. "Raw fur"

650. "Raw fur" means any of the following:

(a) A fur, pelt, or skin that has not been tanned or cured.

(b) A pelt that is salt-cured or sun-cured.

Comment. Section 650 restates the second sentence of former Fish and Game Code Section 3905(a) without substantive change.

☞ **Note.** Proposed Section 650 is intended to restate the second sentence of existing Fish and Game Code Section 3905(a) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"'Raw fur' means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs."

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 655. "Recycled water" or "reclaimed water"

655. "Recycled water" or "reclaimed water" has the same meaning as "recycled water" as defined in subdivision (n) of Section 13050 of the Water Code.

Comment. Section 655 continues former Fish and Game Code Section 89 without substantive change.

§ 660. "Resident"

660. "Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of application for a license or permit, any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United States Code.

Comment. Section 660 continues former Section 70 without substantive change.

§ 665. "Resident game bird"

665. "Resident game bird" means any of the following birds:

(a) California quail and varieties thereof.

(b) Dove of the genus Streptopelia, including, but not limited to, spotted dove, ringed turtledove, and Eurasian collared-dove.

(c) Gambel's or desert quail.

(d) Hungarian partridge.

(e) Mountain quail and varieties thereof.

(f) Red-legged partridge, including the chukar and other varieties thereof.

(g) Ring-necked pheasant and varieties thereof.

(h) Ruffed grouse.

(i) Sage hens or sage grouse.

(j) Sooty or blue grouse and varieties thereof.

(k) Wild turkey.

Comment. Section 665 continues former Fish and Game Code Section 3500(a) without substantive change.

☞ **Note.** Existing Fish and Game Code Section 3500(a)(11) (which would be continued by proposed Section 665(k)), lists "wild turkeys of the order Galliformes" as a resident game bird. It is the Commission's understanding that all wild turkeys are of the order Galliformes, making the reference to the order superfluous. The Commission also notes that existing Section 3683(a)(12), which identifies those resident game birds that constitute upland game birds, refers only to "wild turkeys."

The Commission invites comment on whether the proposed revision to proposed Section 665(k) is appropriate.

§ 670. "Restricted access"

670. "Restricted access," with regard to a marine fishery, means a fishery in which the number of persons who may participate, or the number of vessels that may be used in taking a specified species of fish, or the catch allocated to each fishery participant, is limited by statute or regulation.

Comment. Section 670 generalizes former Fish and Game Code Section 99.

☞ **Note.** Existing Fish and Game Code Section 99 (which would be continued by proposed Section 670) provides a definition of the term "restricted access" with regard to a marine fishery, for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 675. "Round haul net"

675. "Round haul net" means a circle seine, and includes a purse seine, ring net, half ring net, and lampara net.

Comment. Section 675 generalizes former Fish and Game Code Section 8750.

☞ **Note.** Existing Fish and Game Code Section 8750 (which would be continued by proposed Section 675) provides a definition of the term "round haul net," for purposes of the article in which that section appears. However, the term is used without a corresponding definition elsewhere in the existing code. See existing Fish and Game Code § 2362.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 680. "Sell"

680. "Sell" includes offer or possess for sale, barter, exchange, or trade.

Comment. Section 680 continues former Fish and Game Code Section 75 without change.

§ 685. "Set line"

685. "Set line" means a line used to take fish that is anchored to the bottom on each end and is not free to drift with the tide or current.

Comment. Section 685 combines and generalizes the parts of former Fish and Game Code Section 8601 and the second sentence of former Fish and Game Code Section 9029.5 applicable to set lines.

☞ **Note.** Existing Fish and Game Code Section 8601 (which would be continued by proposed Section 685) provides a definition of the term "set line," but limited to the statutory part in which that section appears. See existing Section 7600. Existing Fish and Game Code Section 9029.5 provides the same definition, solely for purposes of that section. However, the term is used without a corresponding definition elsewhere in the existing code. See existing Fish and Game Code § 3005.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 690. "Set net"

690. (a) "Set net" means either of the following:

(1) A net used to take fish that is anchored to the bottom on each end and is not free to drift with the tide or current.

(2) A net placed so that it will catch or impound fish within a bight, bay, or estuary, or against the shore upon the receding of the tide.

(b) Notwithstanding subdivision (a), the following nets are not set nets:

(1) A fyke net.

(2) A shrimp net.

(3) A crab net.

Comment. Section 690 generalizes the part of former Fish and Game Code Section 8601 applicable to set nets.

☞ **Note.** Existing Fish and Game Code Section 8601 (which would be continued by proposed Section 690) provides a definition of the term "set net," but limited to the statutory part in which that section appears. See existing Section 7600.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 695. "Signature" or "subscription"

695. "Signature" or "subscription" includes mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses also sign their own names.

Comment. Section 695 continues former Fish and Game Code Section 81 without substantive change.

§ 700. "Slurp gun"

700. "Slurp gun" means a self-contained, hand-held device used to capture fish by rapidly drawing water containing fish into a closed chamber.

Comment. Section 700 continues former Fish and Game Code Section 82 without change.

§ 705. "Spike buck"

705. "Spike buck" means a male deer with unbranched antlers on both sides that are more than three inches in length.

Comment. Section 705 continues the third sentence of former Fish and Game Code Section 200(b)(2) without change.

§ 710. "Spiny lobster"

710. "Spiny lobster" refers to the species Panulirus interruptus.

Comment. Section 710 continues former Fish and Game Code Section 8250 without change.

§ 715. "Sport fishing"

715. "Sport fishing" means the take of a fish, amphibian, or reptile, for a purpose other than profit.

Comment. Section 715 is new, and added for drafting convenience. It is consistent with former usage. See, e.g., former Fish and Game Code §§ 7145, 7149.05, 7149.2, 7150, 7151, 7180.1.

☞ **Notes.** (1) The definition of the term "sport fishing" that proposed Section 715 would add states the activity for which existing law generally requires the issuance of a "sport fishing" license.

The Commission invites comment on whether the addition of this definition to the proposed law, or the substitution of the defined term in provisions of the proposed law for the activity described in the provision, would be problematic. See, e.g., proposed Sections 1750, 5100, 8125, 12150, 12850, 12905.

(2) It may appear somewhat counterintuitive that sport fishing would include the take of a reptile. However, as indicated in the Comment to proposed Section 715, that inclusion is clearly consistent with existing law. Moreover, the take of reptiles is so heavily integrated in the sport fishing provisions of the existing code that an attempt to separate and distinguish treatment of reptiles in the proposed law would likely be more problematic. A significant number of provisions would need to be duplicated, and each duplication would increase the risk of fragmenting what may have been intended as a common regulatory scheme.

To minimize any confusion, proposed Division 13 of the proposed law (a division that will relate to reptiles), will cross-reference this definition and Part 5 ("Sport Fishing") of Division 6 of the proposed law.

§ 720. "Spotted fawn"

720. "Spotted fawn" means a deer one year of age or less that has spotted pelage.

Comment. Section 720 continues the second sentence of former Fish and Game Code Section 200(b)(2) without change.

§ 725. "Spouse"

725. "Spouse" includes "registered domestic partner," as required by Section 297.5 of the Family Code.

Comment. Section 725 continues former Fish and Game Code Section 9.2 without change.

§ 730. "Stamp"

730 "Stamp" includes an electronic validation of privileges issued to the licensee.

Comment. Section 730 generalizes former Fish and Game Code Section 7700(d).

☞ **Note.** Existing Fish and Game Code Section 7700(d) (which would be continued by proposed Section 730) provides a definition of the term "stamp," for purposes of the chapter in which that section appears. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 1572, 1573, 3031.2, 5522, 7090, 7149.2, 7380, 7852.1, 7852.2, 7857, 12003.5.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 735. "State"

735. "State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

Comment. Section 735 continues former Fish and Game Code Section 83 without change.

§ 740. "State waters"

740. "State waters" means "waters of the state," as defined in Section 790.

Comment. Section 740 continues a part of former Fish and Game Code Section 89.1 without change.

§ 745. "Stock"

745. "Stock" means "population," as defined in Section 625.

Comment. Section 745 generalizes a part of former Fish and Game Code Section 98.5.

☞ **Note.** Existing Fish and Game Code Section 98.5 (which would be continued by proposed Section 745) provides a definition of the term "stock" for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 1907, 15300, 15512.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 750. "Sustainable," "sustainable use," and "sustainability"

750. "Sustainable," "sustainable use," and "sustainability," with regard to a marine fishery, mean both of the following:

(a) Continuous replacement of resources, taking into account fluctuations in abundance and environmental variability.

(b) Securing the fullest possible range of present and long-term economic, social, and ecological benefits, maintaining biological diversity, and, in the case of fishery management based on maximum sustainable yield, taking in a fishery that does not exceed optimum yield.

Comment. Section 750 generalizes former Fish and Game Code Section 99.5.

☞ **Note.** Existing Fish and Game Code Section 99.5 (which would be continued by proposed Section 750) provides a definition of the terms "sustainable," "sustainable use," and "sustainability" with regard to a marine fishery, for purposes of existing Section 1700, provisions contained in Division 6 (commencing with Section 5500) of the existing code, and all regulations adopted pursuant to those provisions. See existing Section 90. However, the term is used without a corresponding definition elsewhere in the existing code. See, e.g., existing Fish and Game Code §§ 363, 1726.1, 15008.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 755. "Take"

755. "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

Comment. Section 755 continues former Fish and Game Code Section 86 without change.

§ 760. "Transport"

760. "Transport" includes offer or receive for transportation.

Comment. Section 760 continues former Fish and Game Code Section 88 without change.

§ 765. "Trawl net"

765. "Trawl net" means a cone or funnel-shaped net that is towed or drawn through the water by a fishing vessel, and includes any gear appurtenant to the net.

Comment. Section 765 generalizes the first sentence of former Fish and Game Code Section 8830.

☞ **Note.** Existing Fish and Game Code Section 8830 (which would be continued by proposed Section 765) provides a definition of the term "trawl net," but limited to the statutory part in which that section appears. See existing Section 7600.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 770. "Troll line"

770. "Troll line" means a line with one or more hooks towed by a vessel underway and making way.

Comment. Section 770 generalizes former Fish and Game Code Section 9025.5(b).

☞ **Note.** Existing Fish and Game Code Section 9025.5(b) (which would be continued by proposed Section 770) provides a definition of the term "troll line," but limited to the statutory part in which that section appears. See existing Section 7600.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 775. "Upland game bird"

775. "Upland game bird" means any of the following birds:

(a) Band-tailed pigeon.

(b) California quail and varieties thereof.

(c) Dove of the genus Streptopelia, including, but not limited to, spotted dove, ringed turtledove, and Eurasian collared dove.

(d) Gambel's or desert quail.

(e) Hungarian partridge.

(f) Jacksnipe.

(g) Mountain quail and varieties thereof.

(h) Red-legged partridge including the chukar and other varieties.

(i) Ring-necked pheasant and varieties thereof.

(j) Ruffed grouse.

(k) Sage hen or sage grouse.

(*l*) Sooty or blue grouse.
(m) Western mourning dove.
(n) White-tailed ptarmigan.
(*o*) White-winged dove.
(p) Wild turkey.

Comment. Section 775 continues former Fish and Game Code Section 3683 without substantive change.

☞ **Notes.** (1) Existing Fish and Game Code Section 3683 separately lists the upland game birds that are resident game birds, and those that are migratory game birds. Proposed Section 775 would list all upland game birds without indicating whether a listed bird was a resident or migratory game bird.

The Commission invites comment on whether that revision is appropriate.

(2) Existing Fish and Game Code Section 3683(a)(8) identifies a white-tailed ptarmigan as a resident game bird that is also an upland game bird. However, existing Section 3500, which identifies resident game birds, does not list any ptarmigan as a resident game bird.

The Commission invites comment on this apparent discrepancy, and the proper classification of the white-tailed ptarmigan.

§ 780. "Vertical fishing line"

780. "Vertical fishing line" means a fishing line that is anchored to the ocean bottom at one end and attached at the other end on the surface to a fishing vessel or a buoy.

Comment. Section 780 generalizes the part of the second sentence of former Fish and Game Code Section 9029.5 applicable to a vertical fishing line.

☞ **Note.** A part of existing Fish and Game Code Section 9029.5 (which would be continued by proposed Section 780) provides a definition of the term "vertical fishing line," for purposes of what is referred to as the "subdivision" in which that provision appears. However, Section 9029.5 has no subdivisions.

The Commission invites comment on whether it would be problematic to generalize the definition so that it applies code-wide.

§ 785. "Vessel owner"

785. (a) "Vessel owner," or a reference to an owner of a vessel, means the person or persons designated as the registered owner of a vessel, on a certificate of documentation issued by the United States Coast Guard or on a copy of the vessel registration issued by the vessel registration agency of the state where the owner is a resident.

(b) For purposes of this section, the vessel registration agency in California is the Department of Motor Vehicles.

Comment. Section 785 restates and generalizes former Fish and Game Code Section 7601.

☞ **Notes.** (1) Proposed Section 785(a) is intended to restate the first sentence of proposed Section 7601 to clarify the meaning of that sentence, without changing its substantive effect. The existing sentence reads as follows:

"'Owner' or 'vessel owner' means the person or persons designated as the registered owner of a vessel on a certificate of documentation issued by the United States Coast Guard or on a copy of

the vessel registration issued by the vessel registration agency of the state where the owner is a resident."

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 7601 provides a definition of the terms "vessel owner" and "owner," but limited to the statutory part in which that section appears. See existing Section 7600. However, the term is used without a corresponding definition elsewhere in the existing code. See existing Fish and Game Code §§ 1012, 6596.1, 7147.

The Commission invites comment on the proposed revision of the definition, and whether it would be problematic to generalize the definition so that it applies code-wide.

§ 790. "Waters of the state," "waters of this state"

790. "Waters of the state" or "waters of this state" have the same meaning as "waters of the state" as defined in subdivision (e) of Section 13050 of the Water Code.

Comment. Section 790 continues a part of former Fish and Game Code Section 89.1 without change. See also Section 740 ("state waters").

§ 795. "Week"

795. "Week" means calendar week.

Comment. Section 795 continues the second clause of former Fish and Game Code Section 35 without change.

§ 800. "Wildlife"

800. "Wildlife" means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability.

Comment. Section 800 continues former Fish and Game Code Section 89.5 without change.

DIVISION 2. ADMINISTRATION

PART 1. FISH AND GAME COMMISSION

TITLE 1. ORGANIZATION

§ 900. Fish and Game Commission

900. There is in the Resources Agency the Fish and Game Commission created by Section 20 of Article IV of the Constitution.

Comment. Section 900 continues former Fish and Game Code Section 101 without change.

☞ **Note.** For ease of reference, Section 20 of Article IV of the California Constitution is set out below:

"20. (a) The Legislature may provide for division of the State into fish and game districts and may protect fish and game in districts or parts of districts.

(b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring."

§ 905. Findings and declarations

905. (a) The Legislature finds and declares that the scope and responsibilities of the commission have significantly expanded over the years as the size and diversity of California's population have increased, and as the scientific knowledge of the habitat conservation and ecosystem-based management needs of wildlife has expanded. The members of the commission are expected to make complex public policy and biological decisions on behalf of the people of California. The commission is created by the California Constitution, which does not include any criteria or qualifications for selection and appointment of commissioners.

(b) It is therefore the intent of the Legislature to encourage the Governor and the Senate Committee on Rules to consider the following minimum qualifications in selecting, appointing, and confirming commissioners to serve on the commission:

(1) The degree to which the appointee will enhance the diversity of background and geographic representation of the commission.

(2) The appointee's demonstrated interest and background in, and familiarity with, wildlife and natural resources management programs at the state or federal level.

(3) The appointee's previous experience in public policy decisionmaking, including government processes involving public participation.

(4) The appointee's commitment to prepare for and attend meetings and subcommittee meetings of the commission and to comply with all applicable state conflict-of-interest laws.

(5) The extent of the appointee's exposure to and experience with the basic science underpinning the management of living natural resources.

(6) The appointee's diversity of knowledge of natural resource issues and related scientific disciplines, including, but not limited to, outdoor recreation.

Comment. Section 905 continues former Fish and Game Code Section 101.5 without change.

§ 910. Officers

910. (a) The commissioners shall annually elect one of their number as president and one as vice president, by a concurrent vote of at least three commissioners.

(b) No president or vice president shall serve more than two consecutive years.

(c) The president or vice president may be removed from the position of president or vice president by a vote, at any time, of at least three commissioners.

(d) In the event of a vacancy in either the position of president or vice president, the commission shall fill that vacancy at the next regularly scheduled meeting of the commission. The elected successor president or vice president shall serve for the unexpired term of the predecessor until the annual election pursuant to subdivision (a).

(e) Except as provided in subdivision (b), the commission may not adopt or enforce a policy or a regulation that provides for the president and vice president to be chosen by seniority nor may the commission adopt or enforce any other policy or regulation that would make a commissioner ineligible to be elected as president or vice president of the commission.

Comment. Section 910 continues former Fish and Game Code Section 102 without change.

§ 915. Compensation and expenses

915. (a) Each of the commissioners shall receive one hundred dollars ($100) for each day of actual service performed in carrying out his or her official duties pursuant to law, but the amount of this compensation shall not exceed for any one commissioner the sum of five hundred dollars ($500) for any one calendar month. In addition to this compensation, the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties.

(b) The compensation and expenses provided in this section shall be paid out of the Fish and Game Preservation Fund.

Comment. Section 915 continues former Fish and Game Code Section 103 without change.

§ 920. Meetings

920. (a) The commission shall hold no fewer than eight regular meetings per calendar year, if the commission has adequate funding for related travel, including funding for department travel. The commission may also hold special meetings or hearings to receive additional input from the department and the public.

(b) The commission shall announce the dates and locations of meetings for the year by January 1 of that year, or 60 days prior to the first meeting, whichever comes first. Meeting locations shall be accessible to the public and located throughout the state. To the extent feasible, meetings shall be held in state facilities. In setting the dates and locations for regular meetings, the commission shall also consider the following factors:

(1) Recommendations of the department.

(2) Opening and closing dates of fishing and hunting seasons.

(3) The schedules of other state and federal regulatory agencies whose regulations affect the management of fish and wildlife of this state.

(c) The commission shall cause the notice of the schedule for regular meetings, and notice of any change in the date and location of a meeting, to be disseminated to the public in a manner that will result in broad dissemination and that complies with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Comment. Section 920 continues former Fish and Game Code Section 110 without change.

§ 925. Marine resources committee

925. The commission shall form a marine resources committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all marine resource matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant marine living resource management documents are being developed.

Comment. Section 925 continues former Fish and Game Code Section 105 without change.

§ 930. Wildlife resources committee

930. The commission shall form a wildlife resources committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all nonmarine resource matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant wildlife resource management documents are being developed.

Comment. Section 930 continues former Fish and Game Code Section 106 without change.

§ 935. Commission staff

935. The commission may employ a staff, including an executive director, to assist the commission in conducting its operations, but neither the commission nor its staff shall have or be given any powers in relation to the administration of the department.

Comment. Section 935 continues former Section 104 without change.

§ 940. Code of conduct

940. The commission shall adopt a code of conduct that requires, at a minimum, that a commissioner adhere to the following principles:

(a) A commissioner shall faithfully discharge the duties, responsibilities, and quasi-judicial actions of the commission.

(b) A commissioner shall conduct his or her affairs in the public's best interest, following principles of fundamental fairness and due process of law.

(c) A commissioner shall conduct his or her affairs in an open, objective, and impartial manner, free of undue influence and the abuse of power and authority.

(d) A commissioner understands that California's wildlife and natural resources programs require public awareness, understanding, and support of, and participation and confidence in, the commission and its practices and procedures.

(e) A commissioner shall preserve the public's welfare and the integrity of the commission, and act to maintain the public's trust in the commission and the implementation of its regulations and policies.

(f) A commissioner shall not conduct himself or herself in a manner that reflects discredit upon state laws or policies, regulations, and principles of the commission.

(g) A commissioner shall not make, participate in making, or in any other way attempt to use his or her official position to influence a commission decision in which the member has a financial interest.

Comment. Section 940 continues former Fish and Game Code Section 107 without change.

TITLE 2. POWERS AND DUTIES

CHAPTER 1. REGULATION OF TAKE AND POSSESSION GENERALLY

Article 1. Authority

§ 1000. General authority

1000. (a) There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles.

(b) No power is delegated to the commission by this section to regulate either of the following:

(1) The taking, possessing, processing, or use of fish, amphibians, kelp, or other aquatic plants for commercial purposes.

(2) The taking or possession of a spike buck or spotted fawn.

(c) This section and any regulations adopted pursuant to this section have no effect on any provision of this code or any regulation adopted pursuant to this code that relates to a matter described in paragraph (1) of subdivision (b).

Comment. Section 1000 continues former Fish and Game Code Section 200, other than the second and third sentences of paragraph (2) of subdivision (b), without change.

§ 1005. Limitations on authority

1005. Nothing in this article confers upon the commission any power to regulate any natural resources or commercial or other activity connected therewith, except as specifically provided.

Comment. Section 1005 continues former Fish and Game Code Section 201 without change.

§ 1010. Birds and mammals

1010. Any regulation of the commission adopted pursuant to this chapter relating to resident game birds, game mammals and furbearing mammals may apply to all or any areas, districts, or portions of those areas or districts, 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.

Comment. Section 1010 continues former Fish and Game Code Section 203 without substantive change.

§ 1015. Fish, amphibians, and reptiles

1015. Any regulation of the commission adopted pursuant to this chapter that relates to fish, amphibians, and reptiles, may apply to all or any areas, districts, or portion of those areas or districts, 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, possession limits, and size limits.

(c) Establish and change areas or territorial limits for their taking.

(d) Prescribe the manner and the means of taking.

Comment. Section 1015 continues former Fish and Game Code Section 205 without substantive change.

§ 1020. Factors to be considered

1020. When adopting regulations pursuant to Section 1010 or 1015, the commission shall consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony.

Comment. Section 1020 continues former Fish and Game Code Section 203.1 without substantive change, except that the provision is also made applicable to regulations adopted under former Fish and Game Code Section 205.

§ 1025. Regulation that supersedes statute

1025. (a) Any regulation adopted pursuant to this chapter may supersede any section of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation. A regulation that is adopted pursuant to this section shall be valid only to the extent that it makes additions, deletions, or changes to this code under one or both of the following circumstances:

(1) The regulation is necessary for the protection of fish, wildlife, and other natural resources under the jurisdiction of the commission.

(2) The commission determines that an emergency exists or will exist unless the action is taken. An emergency exists if there is an immediate threat to the public health, safety, and welfare, or to the population or habitat of any species.

(b) A regulation that is adopted pursuant to this section shall be supported by written findings adopted by the commission at the time of the adoption of the regulation setting forth the basis for the regulation.

(c) A regulation adopted pursuant to this section shall remain in effect for not more than 12 months from its effective date.

Comment. Section 1025 continues former Fish and Game Code Section 219 without substantive change.

Article 2. Procedure

§ 1100. Application of article

1100. (a) Except as provided in subdivision (b), this article applies to a commission regulation that governs the take or possession of any bird, mammal, fish, amphibian, or reptile.

(b) This article does not apply to a regulation governed by subdivision (b) of Section 1000, or by Section 1005.

(c) Except as expressly provided, this article does not supersede any other applicable law that governs the adoption, amendment, or repeal of a regulation.

Comment. Section 1100 continues former Fish and Game Code Section 250 without substantive change.

§ 1105. General rulemaking procedure

1105. (a) When adopting, amending, or repealing a regulation governed by this article, the commission shall conduct the following steps at separate public meetings:

(1) Approve the submission of a notice of proposed action to the Office of Administrative Law.

(2) Consider public comment on the proposed action. The department shall participate in this process by reviewing and responding to all public comment.

(3) Make a final decision on the proposed action.

(b) The meetings required by this section may be regular or special meetings.

(c) The meetings required by this section shall be duly noticed to the public in accordance with subdivision (c) of Section 920, and with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(d) Within 45 days after the commission makes a final decision to adopt, amend, or repeal a regulation governed by this article, the department shall publish and distribute the regulation to each county clerk, district attorney, and judge of the superior court in the state.

Comment. Section 1105 continues former Fish and Game Code Section 255 without substantive change.

§ 1110. Distribution of regulations

1110. (a) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute a regulation governed by this article so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of a regulation governed by this article, beyond what is required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, does not impair the validity of the regulation.

(b) Notwithstanding any other law, the commission and the department may contract with private entities to print regulations governed by this article, and other public information. The printing contract shall include criteria to ensure that the public information provided in the publication is easy to reference, read, and understand.

(c) Printing contracts authorized by this section for which no state funds are expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, except for Article 2 (commencing with Section 10295) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(d) Material printed pursuant to subdivision (b) that contains advertisements shall meet all specifications prescribed by the department. The printed material shall not contain advertisements for tobacco products, alcohol, firearms, and devices prohibited pursuant to Section 32625 of the Penal Code, Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4 of Part 6 of the Penal Code, or any provision listed in Section 16590 of the Penal Code, or firearms not authorized by the commission as a legal method of sport hunting, political statements, solicitations for membership in organizations, or any other statement, solicitation, or product advertisement that is in conflict with the purposes for which the material is produced, as determined by the commission.

(e) Neither the department nor the commission shall contract with private entities to print the materials described in subdivision (b) if the letting of those contracts will result in the elimination of civil service positions.

(f) The department or the license agent may give a copy of the current applicable published regulations governed by this article to each person issued a license, at the time the license is issued.

Comment. Section 1110 continues former Fish and Game Code Section 260 without substantive change.

§ 1115. Exemption from time requirements

1115. A regulation governed by this article is not subject to the time periods for the adoption, amendment, or repeal of a regulation prescribed in Sections 11343.4, 11346.4, 11346.8, and 11347.1 of the Government Code.

Comment. Section 1115 continues former Fish and Game Code Section 265 without change.

§ 1120. Effective date of regulation

1120. The adoption, amendment, or repeal of a regulation governed by this article shall become effective at the time specified in the regulation, but not sooner than the date of the filing.

Comment. Section 1120 continues former Fish and Game Code Section 270 without change.

§ 1125. Effective period

1125. A regulation governed by this article shall remain in effect for the period specified in the regulation or until superseded by subsequent regulation of the commission or by statute.

Comment. Section 1125 continues former Fish and Game Code Section 275 without change.

CHAPTER 2. OTHER REGULATION

§ 1200. Commission practices and processes

1200. By July 1, 2013, the commission shall adopt rules to govern the business practices and processes of the commission.

Comment. Section 1200 continues former Fish and Game Code Section 108 without change.

§ 1205. Disposition of accidentally killed birds and mammals

1205. The commission may adopt regulations that it deems necessary for the disposition of birds or mammals that are killed accidentally.

Comment. Section 1205 continues former Section 301 without change.

CHAPTER 3. EMERGENCY REGULATIONS

§ 1250. Emergency regulations

1250. Notwithstanding any other provision of this code, the commission, when adopting, amending, or repealing a regulation pursuant to authority vested in it by this code, may, after at least one hearing, adopt, amend, or repeal that regulation pursuant to Section 11346.1 of the Government Code, if it makes either of the following findings:

(a) That the adoption, amendment, or repeal is necessary for the immediate conservation, preservation, or protection of birds, mammals, fish, amphibians, or reptiles, including, but not limited to, their nests or eggs.

(b) That the adoption, amendment, or repeal is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Comment. Section 1250 continues former Fish and Game Code Section 399 without change.

CHAPTER 4. INVESTIGATION AND ADJUDICATION

§ 1300. Authority to compel testimony and production of evidence

1300. The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, and may compel the attendance of witnesses and the production of documents and papers.

Comment. Section 1300 continues the first sentence of former Fish and Game Code Section 309(a) without change.

§ 1305. Hearings governed by Administrative Procedures Act

1305. Any deliberation conducted by the commission, or conducted by any person appointed by the commission to conduct hearings, is deemed to be a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or similar provision, within the meaning of paragraph (3) of subdivision (c) of Section 11126 of the Government Code.

Comment. Section 1305 continues former Fish and Game Code Section 309(b) without change.

PART 2. DEPARTMENT OF FISH AND WILDLIFE

TITLE 1. ORGANIZATION

§ 1500. Department of Fish and Wildlife

1500. (a) There is in the Natural Resources Agency a Department of Fish and Wildlife administered through the director.

(b) The Department of Fish and Wildlife shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, property, and jurisdiction previously vested in the Department of Fish and Game.

(c) Whenever the term "Department of Fish and Game" appears in a law, the term means the "Department of Fish and Wildlife."

(d) No existing supplies, forms, insignias, signs, logos, uniforms, or emblems shall be destroyed or changed as a result of changing the name of the Department of Fish and Game to the Department of Fish and Wildlife, and those materials shall continue to be used until exhausted or unserviceable.

Comment. Section 1500 continues former Fish and Game Code Section 700 without change.

§ 1505. Administration and enforcement of code

1505. This code shall be administered and enforced through regulations adopted only by the department, except as otherwise specifically provided by this code or where this code requires the commission to adopt regulations.

Comment. Section 1505 continues former Fish and Game Code Section 702 without change.

§ 1510. Commission sets general department policy

1510. General policies for the conduct of the department shall be formulated by the commission. The director shall be guided by those policies and shall be responsible to the commission for the administration of the department in accordance with those policies.

Comment. Section 1510 continues former Fish and Game Code Section 703(a) without change.

§ 1515. Director

1515. The director shall be appointed by the Governor, and receive the annual salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 1515 continues former Section 701 without change.

§ 1520. Deputy director

1520. There shall be one deputy director of the department who shall be a civil executive officer and shall be appointed by the Governor and serve at the pleasure of the Governor. The compensation of the deputy director shall be fixed by the director pursuant to law. The deputy director shall have duties as shall be assigned, from time to time, by the director, and shall be responsible to the director for the performance of those duties.

Comment. Section 1520 continues former Section 701.3 without substantive change.

§ 1525. Director as appointing power for all department employees

1525. (a) Notwithstanding any other provision of law, the director is the appointing power of all employees within the department, and all employees in the department are responsible to the director for the proper carrying out of the duties and responsibilities of their respective positions.

(b) The changes made to subdivision (a) during the 2001-02 Regular Session of the Legislature are declaratory of existing law.

Comment. Section 1525 continues former Section 704 without change.

§ 1530. Incorporation of general law on state agencies

1530. The provisions of Chapter 2 (commencing at Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code shall govern and apply to the conduct of the department in every respect. Wherever in that chapter the term

"head of the department" or similar designation occurs, for the purposes of this section it shall mean the director.

Comment. Section 1530 continues former Fish and Game Code Section 706 without change.

TITLE 2. DEPARTMENT EMPLOYEES

§ 1600. Appointment of employees

1600. The director shall, from time to time, employ or appoint, with or without pay, those deputies, clerks, assistants, and other employees as the department may need to discharge in proper manner the duties imposed upon it by law.

Comment. Section 1600 continues former Section 850 without substantive change.

§ 1605. Legal defense of officers and deputies

1605. (a) It is the duty of the attorney for the department to act as counsel in defense of any officer or deputy of the department, in any suit for damages brought against the officer or deputy, on account of injuries to persons or property alleged to have been received as a result of the negligence or misconduct of the officer or deputy, occurring while the officer or deputy was performing official duties.

(b) For purposes of this section, "person" includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.

Comment. Subdivision (a) of Section 1605 continues former Fish and Game Code Section 707 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 711.2(b) without change.

☞ **Note.** Subdivision (b) of proposed Section 1605 is added to preserve the existing application of a special definition of the word "person." See Fish and Game Code § 711.2(b). That definition is broader than the general definition of the term. See Fish and Game Code § 67 (which would be continued by proposed Section 620).

The Commission invites comment on whether the broader definition of the term "person" set out in existing Section 711.2(b) should be made applicable to proposed Section 1605.

§ 1610. Entry onto private land

1610. (a) Notwithstanding any provision of law, the status of a person as an employee, agent, or licensee of the department does not confer upon that person a special right or privilege to knowingly enter private land without the consent of the owner, a search warrant, or an inspection warrant.

(b) Subdivision (a) does not apply to employees, agents, or licensees of the department in the event of an emergency. For purposes of this section, "emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, wildlife, wildlife resources, or wildlife habitat.

(c) Subdivision (a) does not apply to a sworn peace officer authorized pursuant to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for law enforcement purposes, to other departmental personnel accompanying a sworn peace officer. Subdivision (a) shall not be construed to define or alter any authority conferred on those peace officers by any other law or court decision.

(d) Subdivision (a) does not apply to, or interfere with, the authority of employees or licensees to enter and inspect land in conformance with Section 4604 of the Public Resources Code.

(e) This section is not intended to expand or constrain the authority, if any, of employees, agents, or licensees of the department to enter private land to conduct inspections pursuant to Section 21615 of this code or Section 8670.5, 8670.7, or 8670.10 of the Government Code.

(f) If the department conducts a survey or evaluation of private land that results in the preparation of a document or report, the department shall, upon request and without undue delay, provide either a copy of the report or a written explanation of the department's legal authority for denying the request. The department may charge a fee for each copy, not to exceed the direct costs of duplication.

Comment. Section 1610 continues former Section 857 without substantive change.

☞ **Note.** Existing Fish and Game Code Section 857(f) (which would be continued by proposed Section 1610(f)) does not directly reference any entry onto private land authorized by subdivisions (b) through (e) of the section. The Commission has two questions about the intended application of this subdivision:

(a) Is subdivision (f) intended to apply only to a survey or evaluation of private land that occurs as a result of an entry authorized under other provisions of Section 857?

(b) Is the subdivision intended to require the Department to provide a copy of the prepared document or report referenced by the subdivision (or alternatively, a written explanation for not doing so) to *any* requester, or only to the owner of the private land?

The Commission invites comment on these questions.

§ 1615. Landowner complaint policy

1615. The department, in cooperation with landowners and landowner organizations, shall develop a statewide policy and procedure for recording and processing landowner complaints regarding alleged misconduct by personnel of the department and a written protocol that ensures compliance with Section 1610.

Comment. Section 1615 continues former Section 858(a) without substantive change.

TITLE 3. GENERAL POWERS AND DUTIES

§ 1700. Authority of department to take

1700. Nothing in this code or any other law shall prohibit the department from taking, for scientific, propagation, public health or safety, prevention or relief of suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals, birds, and the nests and eggs thereof, or any other form of plant or animal life.

Comment. Section 1700 continues former Fish and Game Code Section 1001 without change.

§ 1705. Capture and sale of birds and mammals

1705. The department may capture and sell birds and mammals, at prices to be fixed by the commission, to persons engaged in the domestication and sale thereof in this state.

Comment. Section 1705 continues former Fish and Game Code Section 1004 without substantive change.

§ 1710. Importation, propagation, and distribution of birds, mammals, or fish

1710. The department may import, propagate, and distribute birds, mammals, and fish.

Comment. Section 1710 continues former Fish and Game Code Section 1007 without change.

§ 1715. Inspection

1715. The department may inspect the following:

(a) All boats, markets, stores and other buildings, except dwellings, and all receptacles, except the clothing actually worn by a person at the time of inspection, where birds, mammals, fish, reptiles, or amphibians may be stored, placed, or held for sale or storage.

(b) All boxes and packages containing birds, mammals, fish, reptiles, or amphibians that are held for transportation by any common carrier.

Comment. Section 1715 continues former Fish and Game Code Section 1006 without substantive change.

§ 1720. Investigation of disease

1720. The department shall investigate all diseases of, and problems relating to, birds, mammals, or fish, and establish and maintain laboratories to assist in such investigation.

Comment. Section 1720 continues former Section 1008 without change.

§ 1725. Environmental review of effect on salmon and steelhead

1725. Whenever the department is required, or provided an opportunity, to assess the adequacy of a project or to provide a detailed environmental impact statement or similar document pursuant to Public Law 91-190 or Section 21100, 21101, or 21102 of the Public Resources Code, or any other provision of law, it shall determine the extent to which salmon and steelhead resources will be protected from damage by the project in question, together with the extent to which the agency or person preparing the plans for such project has incorporated therein plans for increasing the salmon or steelhead resources of this state. To the fullest practicable extent, the department shall advise the commission at one of its regular scheduled meetings of the state's comments on the project. In no event shall more than one regular commission meeting transpire between the time the department renders comments to the requesting person or agency and the time it reports its findings to the commission.

Comment. Section 1725 continues former Fish and Game Code Section 1015 without change.

§ 1730. Feeding animals

1730. The department, in accordance with policies established by the commission, may provide for the feeding of game birds, mammals, or fish when natural foods are not available for that purpose, and may provide suitable area or areas for that feeding, and may for those purposes expend money as is necessary from the Fish and Game Preservation Fund.

Comment. Section 1730 continues former Fish and Game Code Section 1502 without substantive change.

☞ **Note. The Commission invites comment on whether proposed Section 1730 should apply to all birds, mammals and fish; only game birds, game mammals, and game fish; or some other combination of categories.**

§ 1735. Recovery of isolated fish

1735. The department or any person authorized by it may use any net or other appliance in any district for the purpose of recovering fish from overflowed areas or landlocked sloughs or ponds where they have been left isolated by receding streams or floodwaters.

Comment. Section 1735 continues former Fish and Game Code Section 8605 without substantive change.

☞ **Note.** Existing Fish and Game Code Section 8605 is governed by existing Fish and Game Code Section 7600, which by its terms limits the application of Section 8605 to commercial fishing. That seems inapt, because Section 8605 has no obvious connection to commercial fishing.

Proposed Section 1735 (which would continue existing Section 8605) would not be subject to the provisions of existing Section 7600.

§ 1740. Informal consultative procedures

1740. (a) It is the policy of the state to anticipate and resolve potential conflicts between the management, conservation, and protection of fish and wildlife resources and their habitat and private and public activities that may affect them.

(b) Accordingly, the department may use any informal consultative procedures prior to taking any formal action that will assist in the achievement of this policy.

(c) Any costs incurred by the department in engaging in informal consultative procedures, including, but not limited to, fees charged by any neutral party acting in the capacity of a mediator, discussion facilitator, or convener, are a proper charge against any funds lawfully available to the department for this purpose.

(d) The authority conferred by this section is not intended, and shall not be construed, to increase, decrease, duplicate, or supersede any other authority of the department or the commission under this code or any other provision of law.

(e) As used in this section, “formal action” means any of the following:

(1) The adoption, amendment, or repeal of any rule, regulation, or order.

(2) Entering into, amending, or canceling an agreement.

(3) The issuance, suspension, or revocation of any permit, license, or other entitlement.

Comment. Section 1740 continues former Section 1017 without substantive change.

§ 1745. Biological research

1745. The department shall expend funds necessary for biological research and field investigation and for the collection and diffusion of statistics and information that pertain to the conservation, propagation, protection, and perpetuation of birds and their nests and eggs, and of mammals, reptiles, amphibians, and fish.

Comment. Section 1745 continues former Fish and Game Code Section 1000 without substantive change.

§ 1750. Educational displays

1750. For the purpose of exhibiting fish and wildlife educational material at fairs, hunting shows, or sport fishing shows and making other public displays, and to make conservation educational materials on fish and wildlife available for any public use, including fairs, hunting shows, sport fishing shows, schools, and civic organizations, the department may:

(a) Accept on behalf of the state donations of money and services from any person to defray any expenses that may be incurred by the department in connection with those activities.

(b) Charge admissions or make a charge for the use of any departmental material or exhibits to be used in a fair, hunting show, or sport fishing show, or by a civic organization.

Comment. Section 1750 continues former Fish and Game Code Section 1005 without substantive change.

§ 1755. Gift of personal property from county

1755. Notwithstanding Section 11005 of the Government Code, the department may accept gifts of personal property if the donor is a county of the state and the gift is purchased with fine money derived from fish and wildlife violations. The department shall notify the Department of Finance 30 days in advance of accepting these gifts.

Comment. Section 1755 continues former Fish and Game Code Section 1005.5 without substantive change.

TITLE 4. COORDINATION WITH OTHER ENTITIES

§ 1900. Service agreements

1900. The department may enter into one or more agreements to accept services from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department. Under the direction of the department, these services shall supplement

existing staff resources. Agreements for services for the management and operation of department-managed lands shall be subject to the provisions of Chapter 1 (commencing with Section 2000) of Title 5.

Comment. Section 1900 continues former Fish and Game Code Section 1226(b) without substantive change.

☞ **Note.** Existing Fish and Game Code Section 1226(b) contains a cross-reference to existing Fish and Game Code Section 1745. In the proposed law, Section 1745 would be continued by Chapter 1 (commencing with Section 2000) of Title 5 of Part 2 of Division 2. However that proposed chapter would also contain a provision continuing existing Section 1745.1 (proposed Section 2040).

As a result, the proposed revision of the cross-reference in existing Section 1226(b) would mean that under the proposed law, the agreements for services for the management and operation of department-managed lands referenced in that provision would also be "subject to" proposed Section 2040, which provides:

"2040. (a) Notwithstanding any other provision of this code, the department may lease department-managed lands for agricultural activities, including, but not limited to, grazing, where consistent with the purpose for which the lands were acquired, and compatible with the department's approved management plan for the area, if available.

(b) The moneys collected from agricultural leases entered into pursuant to subdivision (a) shall be deposited by the department into the Wildlife Restoration Fund and, upon appropriation by the Legislature, may be used to support the management, maintenance, restoration, and operations of department-managed lands.

The Commission invites comment on whether the proposed revision of the cross-reference in existing Section 1226(b), to include the provisions of proposed Section 2040, is problematic.

§ 1905. Funding agreements

1905. Notwithstanding any other law, the department may enter into one or more agreements with any person, nonprofit organization, or other public or private entity, as may be appropriate, to assist the department in its efforts to secure long-term private funding sources for purposes relating to conservation programs, projects, and activities by the department. The authority to enter into an agreement under this section shall include, but not be limited to, the authority to secure donations, memberships, corporate and individual sponsorships, and marketing and licensing agreements.

Comment. Section 1905 continues former Section 1227 without change.

§ 1910. Science institute

1910. (a) The director, in consultation with the Natural Resources Agency, shall establish a formal program, which may be called the Science Institute, to assist the department and commission in obtaining independent scientific review and recommendations to help inform the scientific work of the department and the commission. The program shall include one or more ad hoc independent scientific committees consisting of independent scientists who are scientific experts in their fields with expertise in biological sciences and with a range of multidisciplinary expertise pertinent to the work of the department and the commission, and which

may be convened pursuant to this section. The purpose of the program shall be to assist the department and the commission in obtaining and establishing an independent and objective view of the scientific issues underlying important policy decisions.

(b) The objectives of the program shall include, but not necessarily be limited to, the following:

(1) Providing independent scientific guidance of the scientific research, monitoring, and assessment programs that support the department's and the commission's work with fish and wildlife species and their habitats.

(2) Providing the best available independent scientific information and advice to guide and inform department and commission decisions.

(3) Promoting and facilitating independent scientific peer review.

(4) Promoting science-based adaptive management.

(5) Ensuring scientific integrity and transparency in decisionmaking.

(c) The department may consult with members of the ad hoc scientific committees to assist the department in identifying other independent scientific experts with specialized expertise as needed for independent peer review of department reports, including, but not limited to, status review reports prepared for purposes of informing decisions on petitions for listing of species under the California Endangered Species Act **(Chapter 1.5 (commencing with Section 2050) of Division 3).**

(d) The department shall consult with independent scientific advisors to develop and revise as necessary a scientific integrity policy to guide the work of the department and the commission. The scientific integrity policy may include, but is not necessarily limited to, an ethical code of conduct for department scientists, standards for independent peer review, and other best practices for ensuring scientific integrity and public confidence in department and commission work products and decisions.

(e) For marine fisheries and other marine resources, the department may utilize the California Ocean Science Trust for the purposes of this section.

Comment. Section 1910 continues former Fish and Game Code Section 715 without substantive change.

§ 1915. Federal Water Pollution Control Act joint powers agreement

1915. (a) The director or one or more of the director's designees may accept the office of director or alternate director of an entity established by a joint powers agreement providing for the establishment and conduct of an areawide waste management planning process in accordance with the provisions of Section 208 of the Federal Water Pollution Control Act.

(b) The office of director or alternate director of a joint powers entity established pursuant to subdivision (a) is deemed compatible with the office of director of the department, and with the office or employment of a person that the director designates to serve that entity.

(c) For purposes of this section, "person" includes an individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.

Comment. Subdivisions (a) and (b) of Section 1915 continue former Fish and Game Code Section 701.5 without substantive change.

Subdivision (c) continues former Fish and Game Code Section 711.2(b) without substantive change.

☞ **Note.** Subdivision (c) of proposed Section 1915 is added to preserve the existing application of a special definition of the word "person." See Fish and Game Code § 711.2(b). That definition is broader than the general definition of the term. See Fish and Game Code § 67 (which would be continued by proposed Section 620).

The Commission invites comment on whether the broader definition of the term "person" set out in existing Section 711.2(b) should be made applicable to proposed Section 1915.

TITLE 5. REAL PROPERTY

CHAPTER 1. USE OF DEPARTMENT-MANAGED LANDS

§ 2000. Definitions

2000. For purposes of this chapter, the following terms have the following meanings:

(a) "Department-managed lands" includes lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, ecological reserves, and wildlife management areas.

(b) "Nonconsumptive uses" means compatible uses other than hunting and fishing.

Comment. Section 2000 continues former Fish and Game Code Section 1745(a) without substantive change.

§ 2005. Non-profit operation

2005. Department-managed lands shall be operated on a nonprofit basis by the department.

Comment. Section 2005 continues former Fish and Game Code Section 1745(b)(1) without change.

§ 2010. Management and operation contracts

2010. (a) The department may enter into contracts or other agreements for the management and operation of department-managed lands with nonprofit conservation groups, recognized under Section 501(c) of the Internal Revenue Code, or resource conservation districts, as described in Chapter 3 (commencing with Section 9151) of Division 9 of the Public Resources Code.

(b) The contracts or other agreements authorized pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public

Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(c) The contracts or other agreements authorized pursuant to this section shall adhere to the goals and objectives included in an approved management plan and shall be consistent with the purpose for which the lands were acquired and managed by the department. Any changes to the management plan shall be subject to public review and comment.

Comment. Section 2010 continues former Fish and Game Code Section 1745(b)(2) without substantive change.

§ 2015. Property uses

2015. (a) Multiple recreational use of department-managed lands is desirable and that use shall be encouraged by the commission. Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided.

(b) Hunting, fishing, wildlife viewing, wildlife photography, conservation education, and fish and wildlife research are priority uses compatible with department-managed lands, except for ecological reserves where uses shall be considered on an individual basis.

(c) Public uses of department-managed lands not described in subdivision (a) or (b), or subdivision (b) of Section 2020, shall be authorized by regulations adopted by the commission. The commission may require the purchase of a special use permit for these other uses.

Comment. Section 2015 continues former Section 1745(c) and (d) without substantive change.

§ 2020. Use fees and permits

2020. (a) Except as provided in **Section 1765** and 2025, to defray the costs associated with multiple use, the commission may determine and fix the amount of, and the department shall collect, fees for any use privileges. Only persons holding valid hunting licenses may apply for or obtain shooting permits for department-managed lands.

(b) The department shall require the purchase of an entry permit for nonconsumptive uses of department-managed lands, if the department finds that it is practical and would be cost effective for the state to collect entry permit fees.

(c) The following shall apply if the department requires the purchase of an entry permit pursuant to subdivision (b):

(1) The department shall require the purchase of an entry permit for nonconsumptive uses of a department-managed land only if a sign providing notice of the requirement has been posted at the department-managed land.

(2) To the extent feasible, the department shall allow nonconsumptive users to purchase an entry permit onsite.

(3) The department shall use the Automated License Data System to sell an entry permit.

(4) A nonconsumptive user shall have an entry permit in his or her immediate possession while on department-managed lands.

Comment. Section 2020 continues former Fish and Game Code Section 1745(e)-(g) without substantive change.

§ 2025. Failure to obtain permit

2025. Failure to obtain a permit as required pursuant to this chapter is an infraction, punishable by a fine of not less than fifty dollars ($50) nor more than two hundred fifty dollars ($250). A person in possession of a valid hunting license, sport fishing license, or trapping license shall be exempt from a requirement to obtain a permit.

Comment. Section 2025 restates former Fish and Game Code Section 1745(h) without substantive change.

☞ **Notes.** (1) The first sentence of proposed Section 2025 is intended to restate the first sentence of existing Fish and Game Code Section 1745(h), to clarify the meaning of that provision, without changing its substantive effect. The first sentence of Section 1745(h) provides that a failure to obtain a permit as required pursuant to existing Section 1745 shall be an infraction "as described in Section 12002.2.1."

Section 12002.2.1 provides as follows:

"12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of the following is an infraction, punishable by a fine of not less than fifty dollars ($50), or more than two hundred fifty dollars ($250), for a first offense:

(1) Subdivision (a) of Section 6596.1.

(2) Subdivision (a) of Section 7149.45.

(3) Subdivision (b) of Section 7180.1.

(4) Section 1.18 of Title 14 of the California Code of Regulations.

(b) If a person is convicted of a violation of any of the sections listed in subdivision (a) within five years of a separate offense resulting in a conviction of a violation of any of those sections, that person shall be punished by a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500)."

(c) If a person convicted of a violation of any of the sections listed in subdivision (a) produces in court the applicable sport fishing ocean enhancement stamp, sport fishing ocean enhancement validation, second rod sport fishing stamp, second rod sport fishing validation, Colorado River special use stamp, Colorado River special use validation, Bay-Delta Sport Fishing Enhancement Stamp or Bay-Delta Sport Fishing Enhancement validation issued pursuant to this code and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation to twenty-five dollars ($25)."

It is not entirely clear which parts of Section 12002.2.1 are intended to be incorporated by Section 1745(h). Proposed Section 2025 would incorporate the penalty specified in Section 12002.2.1(a) for a first offense. Should it also include the language in Section 12002.2.1(a) providing that the penalty for a first offense applies "notwithstanding any other provision of law? Should proposed Section 2025 incorporate the penalty for a subsequent offense specified in Section 12002.2.1(b)?

The Commission invites comment on how best to continue the reference to Section 12002.2.1 in proposed Section 2025.

(2) The second sentence of existing Section 1745(h) (which would be continued by the second

sentence of proposed section 2025) reads as follows:

"A person in possession of a valid hunting license, sport fishing license, or trapping license shall be exempt from a requirement to obtain a permit."

The word "permit" appears to refer to the "permit" referenced in the first sentence of Section 1745(h), which itself refers to a "permit as required pursuant to this section." But "this section" (Section 1745) expressly references requirements for "special use permits," "shooting permits," and "entry permits."

The Commission invites comment on which permit or permits is intended to be within the scope of the exemption specified in the second sentence of Section 1745(h).

§ 2030. Free access

2030. The commission and department may continue to allow free access to a department-managed land if the commission or department finds the best interests of that area would be served by not fixing a fee for use privileges.

Comment. Section 2030 continues former Section 1745(j) without change.

§ 2035. Use of funds

2035. (a) Except as provided in Section 2040, the moneys generated pursuant to this chapter shall be deposited in the Native Species Conservation and Enhancement Account within the Fish and Game Preservation Fund, and shall be available, upon appropriation by the Legislature, to the department for the management and operation of its lands.

(b) To the extent that the department is able to identify the source of the fee revenue collected, the department shall provide no less than 35 percent of the funds generated pursuant to this section to the department-managed lands from which the fee revenues were collected.

Comment. Section 2035 continues former Fish and Game Code Section 1745(i) without substantive change.

§ 2040. Leasing of department-managed lands

2040. (a) Notwithstanding any other provision of this code, the department may lease department-managed lands for agricultural activities, including, but not limited to, grazing, where consistent with the purpose for which the lands were acquired, and compatible with the department's approved management plan for the area, if available.

(b) The moneys collected from agricultural leases entered into pursuant to subdivision (a) shall be deposited by the department into the Wildlife Restoration Fund and, upon appropriation by the Legislature, may be used to support the management, maintenance, restoration, and operations of department-managed lands.

Comment. Section 2040 continues former Fish and Game Code Section 1745.1 without change.

☞ **Note.** Under existing law, Section 1745.1 is technically not subject to the definition of "department-managed lands" provided in Section 1745, as per Section 1745(a) that definition

applies only for the purposes of that section. The proposed law would change that, as proposed Section 2040 would now be governed by that definition, which would be continued in proposed Section 2000(a).

The Commission invites comment on whether making that definition of "department-managed lands" expressly applicable to existing Section 1745.1 would cause any problematic change in the meaning of that provision.

CHAPTER 2. OTHER DUTIES AND AUTHORITY

§ 2100. Management and listing of real property

2100. (a) Subject to an appropriation of funds by the Legislature for that purpose, for parcels wholly within its jurisdiction acquired on or after January 1, 2002, the department shall prepare draft management plans for public review within 18 months of the recordation date.

(b)(1) On or before February 1 of each year, the department shall submit a list of lands acquired during the previous two fiscal years and the status of the management plans for each acquisition to the fiscal committees of each house of the Legislature.

(2) Each fiscal committee in the Legislature shall consider the lists described in paragraph (1) in its budget decisions for the department.

Comment. Section 2100 continues former Section 1019 without change.

§ 2105. Rights of way

2105. (a) The department may obtain for the state rights of way over private lands for the purpose of furnishing access for the public to lands or waters open to public hunting or fishing, whenever rights of way are determined by the commission to be necessary for public use. The rights of way shall not be acquired by eminent domain proceedings.

(b) The department may construct or cause to be constructed any fences, signs, or other structures as are necessary for the protection of a right of way, and the cost of the construction shall be met out of the funds available to the department.

Comment. Section 2105 continues former Fish and Game Code Section 1009 without substantive change.

§ 2110. Grazing permits

2110. The department, by and with the approval of the Department of General Services, may sell grazing permits or otherwise dispose of excess vegetation or other products, produced on lands acquired by the department.

Comment. Section 2110 continues former Fish and Game Code Section 1010 without change.

TITLE 6. INSURANCE AND LIABILITY

§ 2200. Insurance

2200. (a) The department may procure insurance for any of the following purposes:

(1) For itself and landowners who agree to permit the department to use their land as cooperative hunting, fishing, conservation or recreational areas, against any liability resulting from the operation of those hunting, fishing, conservation or recreational areas.

(2) For its employees or other persons authorized by the department to conduct hunter education training courses against any public liability or property damage resulting from that training.

(b) The cost of insurance procured pursuant to subdivision (a) shall be a proper charge against and shall be paid out of the Fish and Game Preservation Fund.

Comment. Section 2200 continues former Fish and Game Code Section 1011 without change.

§ 2205. Insurance relating to boarding of boats

2205. The department may procure insurance for its employees for injury or death against the liability of the owner or operator of any vessel boarded by an employee as an observer.

Comment. Section 2205 continues former Fish and Game Code Section 1012 without change.

§ 2210. Indemnification relating to fish screen, ladder, weir, or trap

2210. In any lease, easement, or right-of-way in which the department leases real property or obtains a grant of easement or right-of-way in real property for the purpose of constructing, operating, or maintaining a fish screen, fish ladder, fishweir, or fishtrap, the department may agree to indemnify and hold harmless the lessor or grantor by reason of the uses of authorized by the lease, easement, or right-of-way. Insurance may be purchased by the Department of General Services to protect the department against loss or expense arising out of the lease, easement, or right-of-way.

Comment. Section 2210 continues former Fish and Game Code Section 1013 without substantive change.

TITLE 7. UNLAWFUL ACTS

§ 2300. Submission of false or misleading information

2300. (a) It is unlawful to submit, or conspire to submit, any false, inaccurate, or otherwise misleading information on any application or other document offered or otherwise presented to the department for any purpose, including, but not limited to, obtaining a license, tag, permit, or other privilege or entitlement pursuant to this code or regulations adopted pursuant to this code.

(b) For purposes of this section, "department" includes any department employee, license agent, or any person performing the duties of a department employee or license agent.

Comment. Section 2300 continues former Fish and Game Code Section 1054(a) and (c) without substantive change.

PART 3. DEPARTMENT AND COMMISSION

§ 2400. General policy

2400. It is the policy of the state that the department and commission do all of the following:

(a) Seek to create, foster, and actively participate in effective partnerships and collaborations with other agencies and stakeholders to achieve shared goals and to better integrate fish and wildlife resource conservation and management with the natural resource management responsibilities of other agencies.

(b) Participate in interagency coordination processes that facilitate consistency and efficiency in review of projects requiring multiple permits, including, but not necessarily limited to, joint state, federal, and local permit review teams that enable early consultation with project applicants, and provide improved sharing of data, information, tools, and science to achieve better alignment of planning, policies, and regulations across agencies.

Comment. Section 2400 continues former Fish and Game Code Section 703.5 without substantive change.

§ 2405. Strategic planning

2405. (a) The department and the commission shall develop a strategic plan to implement proposals arising from any of the following:

(1) The strategic vision developed and submitted to the Governor and the Legislature pursuant to Section 12805.3 of the Government Code.

(2) Any legislation enacted relating to the strategic vision process.

(3) The department's own proposals for reform.

(b)(1) The department and the commission may contract for consultants to assist in the preparation of the strategic plan pursuant to subdivision (a).

(2) Contracts entered into pursuant to paragraph (1) shall terminate no later than December 31, 2015.

(3) Contracts entered into pursuant to paragraph (1) shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

Comment. Section 2405 continues former Fish and Game Code Section 1020 without change.

§ 2410. Resource management decisionmaking methods

2410. It is the policy of the state that the department and commission use ecosystem-based management informed by credible science in all resource management decisions to the extent feasible. It is further the policy of the state

that scientific professionals at the department and commission, and all resource management decisions of the department and commission, be governed by a scientific quality assurance and integrity policy, and follow well-established standard protocols of the scientific profession, including, but not limited to, the use of peer review, publication, and science review panels where appropriate. Resource management decisions of the department and commission should also incorporate adaptive management to the extent possible.

Comment. Section 2410 continues former Fish and Game Code Section 703.3 without change.

PART 4. DISTRICTS

§ 2500. Fish and Wildlife Districts

2500. (a) For the protection of fish and wildlife, the state is divided into districts to be known and designated as provided in this part.

(b) Unless otherwise provided, the townships and ranges specified in this part are referred to the Mount Diablo base and meridian.

Comment. Section 2500 continues former Fish and Game Code Section 11000 without substantive change.

§ 2505. District 2505

2505. (a) The following constitutes Fish and Wildlife District 2505:

Those portions of the following counties not included in other districts: Shasta, Tehama, Plumas, Butte, Sierra, Sutter, Yuba, Nevada, Placer, Sacramento, Madera, Tulare; those portions of San Joaquin County lying east and north of the east bank of the San Joaquin River and not included in District 2540; those portions of Stanislaus and Merced Counties lying east of the west bank of the San Joaquin River; those portions of Fresno County lying east of the west bank of Fresno Slough, Fish Slough and Summit Lake; those portions of Kings County lying east of the main power line of the San Joaquin Light and Power Company, crossing the north line of Kings County in Section 4, T. 18 S., R. 19 E., southerly to its crossing of State Highway No. 41 between Secs. 21 and 22, T. 21 S., R. 19 E., and east of State Highway No. 41 southerly to its intersection with State Highway No. 33, and easterly of State Highway No. 33 from said intersection to the south line of said county in Section 36, T. 24 S., R. 18 E.; those portions of Kern County lying east of State Highway No. 33 between the northerly line of said county in Section one (1), T. 25 S., R. 18 E., M. D. B. & M., and the City of Taft and U. S. Highway No. 399 between the City of Taft and the City of Maricopa, and lying north of State Highway No. 166 from the City of Maricopa easterly to the intersection of said highway with U.S. Highway No. 99 in Section twelve (12), T. 11 N., R. 20 W., S. B. B. & M., and lying east of U.S. Highway No. 99 from the above-mentioned point of intersection to where the said U.S. highway crosses the northern boundary line of Los Angeles County, not included in other districts.

(b) Any reference to "District 1" shall be construed as a reference to District 2505.

Comment. Subdivision (a) of Section 2505 continues former Fish and Game Code Section 11001 without substantive change.

Subdivision (b) is new.

§ 2510. District 2510

2510. (a) The following constitutes Fish and Wildlife District 2510:

Those portions of the following counties not included in other districts: Alpine, El Dorado, Amador, Calaveras, Tuolumne and Mariposa.

(b) Except as otherwise provided, all of the provisions of this code relating to District 2505 shall apply to District 2510.

(c) Any reference to "District 1 3/8" shall be construed as a reference to District 2510.

Comment. Subdivisions (a) and (b) of Section 2510 continue former Fish and Game Code Section 11002 without substantive change.

Subdivision (c) is new.

§ 2515. District 2515

2515. (a) The following constitutes Fish and Wildlife District 2515:

Those portions of the Counties of Del Norte, Siskiyou, Trinity, and Humboldt not included in other districts.

(b) Any reference to "District 1 1/2" shall be construed as a reference to District 2515.

Comment. Subdivision (a) of Section 2515 continues former Fish and Game Code Section 11003 without substantive change.

Subdivision (b) is new.

§ 2520. District 2520

2520. (a) The following constitutes Fish and Wildlife District 2520:

Those portions of the County of Modoc not included in other districts and that portion of the County of Siskiyou lying east of the Weed-Klamath Falls Highway between the north line of the County of Siskiyou and the Town of Weed and east of the Pacific Highway between the Town of Weed and the junction of Pacific Highway and the McCloud-Fall River Mills Highway and north and east of the McCloud-Fall River Mills Highway to the Siskiyou and Shasta county line and that part of Shasta County lying north and east of the McCloud-Fall River Mills Highway to its junction with the road to Lake Britton at Dickson Flat and east of that road through Burney Falls State Park to its junction with the Hat Creek-Lassen Highway at the Redding-Alturas Highway and east of the Hat Creek-Lassen Highway to Lassen Volcanic National Park and north and east to the north and east boundary of Lassen Volcanic National Park to its junction with the Lassen county line. That part of Lassen County north and east of the north and east boundary of the Lassen Volcanic National Park to its junction with the north line

of District 2665 and east of the east boundary of District 2665 to its junction with the Lassen-Plumas county line approximately one mile southeast of Coyote Peak in Sec. 24, T. 28 N., R. 10 E. and north and west of the Plumas-Lassen county line between the boundary of District 1915 and the Susanville-Taylorsville road.

(b) Any reference to "District 1 3/4" shall be construed as a reference to District 2520.

Comment. Subdivision (a) of Section 2520 continues former Fish and Game Code Section 11004 without substantive change.

Subdivision (b) is new.

§ 2525. District 2525

2525. (a) The following constitutes Fish and Wildlife District 2525:

Those portions of the following counties not included in other districts: Mendocino, Glenn, Colusa, Yolo, Solano, Napa, Sonoma, and Marin; that portion of San Francisco Bay lying westerly of a line drawn from California Point to San Quentin Point; that portion of San Francisco Bay lying westerly of a line drawn from San Quentin Point to San Pedro Point, in Marin County; that portion of San Pablo Bay lying westerly of a line drawn from San Pedro Point to the south side of the mouth of Novato Creek; and that portion of San Pablo Bay lying northerly of a line drawn due east from the south side of the mouth of Novato Creek to the westerly shore of Mare Island.

(b) Any reference to "District 2" shall be construed as a reference to District 2525.

Comment. Subdivision (a) of Section 2525 continues former Fish and Game Code Section 11005 without substantive change.

Subdivision (b) is new.

§ 2530. District 2530

2530. (a) The following constitutes Fish and Wildlife District 2530:

Lake County and the waters of Clear Lake.

(b) Any reference in this code to Clear Lake refers to District 2530.

(c) Except as otherwise provided, all of the provisions of this code relating to District 2525 apply to District 2530.

(d) Any reference to "District 2 1/4" shall be construed as a reference to District 2530.

Comment. Subdivisions (a) through (c) of Section 2530 continue former Fish and Game Code Section 11006 without substantive change.

Subdivision (d) is new.

§ 2535. District 2535

2535. (a) The following constitutes Fish and Wildlife District 2535:

Those portions of T. 24 N., R. 18 and 19 W.; 23 N., R. 17 and 18 W.; 22 N., R. 17 and 18 W.; 21 N., R. 17 W., west of the summit of the divide between the Pacific Ocean and the south fork of the Eel River.

All of T. 12, 13, 14, 15, 16, 17, 18 N., R. 16 W.; and T. 12, 13, 14, 15, 16, 17, 18, 19 and 20 N., R. 17 W., and T. 17 and 18 N., R. 18 W.

All being townships located in western Mendocino County.

(b) Any reference to "District 2 1/2" shall be construed as a reference to District 2535.

Comment. Subdivision (a) of Section 2535 continues former Fish and Game Code Section 11007 without substantive change.

Subdivision (b) is new.

§ 2540. District 2540

2540. (a) The following constitutes Fish and Wildlife District 2540:

Those portions of the following counties not included in other districts: San Francisco, Contra Costa, Alameda, San Mateo, Santa Cruz, Santa Clara, San Benito, Monterey, San Joaquin, Stanislaus, Merced, Fresno, and Kings.

(b) Any reference to "District 3" shall be construed as a reference to District 2540.

Comment. Subdivision (a) of Section 2540 continues former Fish and Game Code Section 11008 without substantive change.

Subdivision (b) is new.

§ 2545. District 2545

2545. (a) The following constitutes Fish and Wildlife District 2545:

Those portions of the following counties not included in other districts: San Luis Obispo, Santa Barbara, Ventura, and Kern.

(b) Except as otherwise provided all of the provisions of this code applicable to District 2540 apply to District 2545.

(c) Any reference to "District 3 1/2" shall be construed as a reference to District 2545.

Comment. Subdivisions (a) and (b) of Section 2545 continue former Fish and Game Code Section 11009 without substantive change.

Subdivision (c) is new.

§ 2550. District 2550

2550. (a) The following constitutes Fish and Wildlife District 2550:

Those portions of the following counties not included in other districts: San Bernardino, Riverside, and Orange.

(b) Any reference to "District 4" shall be construed as a reference to District 2550.

Comment. Subdivision (a) of Section 2550 continues former Fish and Game Code Section 11010 without substantive change.

Subdivision (b) is new.

§ 2555. District 2555

2555. (a) The following constitutes Fish and Wildlife District 2555:

All of Los Angeles County not included within other districts.

(b) Except as otherwise provided, all of the provisions of this code applicable to District 2550 apply to District 2555.

(c) Any reference to "District 4 1/8" shall be construed as a reference to District 2555.

Comment. Subdivisions (a) and (b) of Section 2555 continue former Fish and Game Code Section 11011 without substantive change.

Subdivision (c) is new.

§ 2560. District 2560

2560. (a) The following constitutes Fish and Wildlife District 2560:

Those portions of the Counties of Mono and Inyo not included in other districts.

(b) Any reference to "District 4 1/2" shall be construed as a reference to District 2560.

Comment. Subdivision (a) of Section 2560 continues former Fish and Game Code Section 11012 without substantive change.

Subdivision (b) is new.

§ 2565. District 2565

2565. (a) The following constitutes Fish and Wildlife District 2565:

Those portions of the Counties of San Diego and Imperial not included in other districts.

(b) Any reference to "District 4 3/4" shall be construed as a reference to District 2565.

Comment. Subdivision (a) of Section 2565 continues former Fish and Game Code Section 11013 without substantive change.

Subdivision (b) is new.

§ 2570. District 2570

2570. (a) The following constitutes Fish and Wildlife District 2570:

The ocean waters and tidelands of the State to the high-water mark lying between the northern boundary of this State and a line extending due west from the west end of the north jetty at the entrance of Humboldt Bay, excluding all sloughs, streams, and lagoons.

(b) Any reference to "District 6" shall be construed as a reference to District 2570.

Comment. Subdivision (a) of Section 2570 continues former Fish and Game Code Section 11014 without substantive change.

Subdivision (b) is new.

§ 2575. District 2575

2575. (a) The following constitutes Fish and Wildlife District 2575:

The ocean waters and tidelands of the State to high-water mark between a line extending due west from the west end of the north jetty at the entrance of Humboldt Bay and the southern boundary of Mendocino County, excluding the ocean waters between the north and south jetties at the entrance of Humboldt Bay

from the westerly end of each of said jetties in the Pacific Ocean to their respective aprons on the shores of Humboldt Bay, and also excluding all sloughs, streams, and lagoons.

(b) Any reference to "District 7" shall be construed as a reference to District 2575.

Comment. Subdivision (a) of Section 2575 continues former Fish and Game Code Section 11015 without substantive change.

Subdivision (b) is new.

§ 2580. District 2580

2580. (a) The following constitutes Fish and Wildlife District 2580:

The waters and tidelands to high-water mark of Humboldt Bay lying north of a straight line running east from the center of apron at the approach of the south jetty at the entrance of Humboldt Bay to the east shore line of the bay, including the entrance of Humboldt Bay not included in District 2575, and excluding all rivers, streams, and sloughs emptying into the bay.

(b) Any reference to "District 8" shall be construed as a reference to District 2580.

Comment. Subdivision (a) of Section 2580 continues former Fish and Game Code Section 11016 without substantive change.

Subdivision (b) is new.

§ 2585. District 2585

2585. (a) The following constitutes Fish and Wildlife District 2585:

The waters and tidelands to high-water mark of Humboldt Bay lying south of a straight line running east from the center of apron at the approach to the south jetty at the entrance of Humboldt Bay to the east shore line of the bay, excluding all rivers, streams, and sloughs emptying into the bay.

(b) Any reference to "District 9" shall be construed as a reference to District 2585.

Comment. Subdivision (a) of Section 2585 continues former Fish and Game Code Section 11017 without substantive change.

Subdivision (b) is new.

§ 2590. District 2590

2590. (a) The following constitutes Fish and Wildlife District 2590:

The ocean waters and the tidelands of the State to high-water mark lying between the southern boundary of Mendocino County and a line extending west from the Pigeon Point lighthouse in San Mateo County, including the waters of Tomales Bay to a line drawn from the mouth of the unnamed creek approximately 1500 feet north of Tomasini Point southwesterly 218° magnetic to the mouth of the unnamed creek at Shell Beach, and excluding Bodega Lagoon and all that portion of Bolinas Bay lying inside of Bolinas bar, that portion of San Francisco Bay lying east of a line drawn from Point Bonita to Point Lobos and all rivers, streams, and lagoons.

(b) Any reference to "District 10" shall be construed as a reference to District 2590.

Comment. Subdivision (a) of Section 2590 continues former Fish and Game Code Section 11018 without substantive change.

Subdivision (b) is new.

☞ **Note.** The second paragraph of existing Fish and Game Code Section 11018 reads as follows:

"The amendment of this section by the Legislature at the 1963 Regular Session has no effect on the cultivation of oysters by persons licensed under Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6."

The amendment referenced in this language changed the description of one of the geographical areas that comprise existing Fish and Game District 10. See 1965 Cal. Stat. ch. 1487. The statutory article referenced in the paragraph was repealed in 1971, and was not unambiguously continued in any presently existing sections of the code. See 1971 Cal. Stat. ch. 347. The cultivation of oysters is now more generally regulated under the aquaculture provisions of the existing code, and pursuant to oyster leases. See existing Fish and Game Code Sections 15406.5, 15406.7.

The Commission believes the second paragraph of existing Section 11018 is now obsolete, and would not be continued by proposed Section 2590.

The Commission invites comment on the discontinuation of the second paragraph of existing Section 11018 in the proposed law.

§ 2595. District 2595

2595. (a) The following constitutes Fish and Wildlife District 2595:

The waters and tidelands of San Francisco Bay to high-water mark bounded as follows: Beginning at the extreme westerly point of Point Bonita; thence in a direct line to the extreme westerly point of Point Lobos; thence around the shore line of San Francisco Bay to the foot of Powell Street; thence in a direct line northwesterly to Peninsula Point, the most southerly extremity of Belvedere Island; thence in a direct line westerly to the easternmost point of the ferry dock at Sausalito; thence southerly and westerly around the shore of San Francisco Bay to the point of beginning.

(b) Any reference to "District 11" shall be construed as a reference to District 2595.

Comment. Subdivision (a) of Section 2595 continues former Fish and Game Code Section 11019 without substantive change.

Subdivision (b) is new.

§ 2600. District 2600

2600. (a) The following constitutes Fish and Wildlife District 2600:

The waters and tidelands of San Francisco Bay to high-water mark not included in Districts 2595 and 2605, the waters and tidelands to high-water mark of San Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, Raccoon Strait, San Pablo Bay, the Carquinez Strait to the Carquinez Bridge, and all lands and waters included within the exterior boundaries of these districts and excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not specifically described herein.

(b) Any reference to "District 12" shall be construed as a reference to District 2600.

Comment. Subdivision (a) of Section 2600 continues former Fish and Game Code Section 11020 without substantive change.

Subdivision (b) is new.

§ 2605. District 2605

2605. (a) The following constitutes Fish and Wildlife District 2605:

The waters and tidelands to high-water mark of San Francisco Bay lying to the south of a line drawn between the Ferry Building at the foot of Market Street in San Francisco and the mouth of the Oakland Creek or estuary in Alameda County, excluding all streams, sloughs, and lagoons.

(b) Any reference to "District 13" shall be construed as a reference to District 2605.

Comment. Subdivision (a) of Section 2605 continues former Fish and Game Code Section 11022 without substantive change.

Subdivision (b) is new.

§ 2610. District 2610

2610. (a) The following constitutes Fish and Wildlife District 2610:

The waters and tidelands to high-water mark of that portion of Monterey Bay lying to the south of a line drawn 100° magnetic from the extreme northerly point of Point Pinos in a straight line easterly to the eastern shore of Monterey Bay.

(b) Any reference to "District 16" shall be construed as a reference to District 2610.

Comment. Subdivision (a) of Section 2610 continues former Fish and Game Code Section 11024 without substantive change.

Subdivision (b) is new.

§ 2615. District 2615

2615. (a) The following constitutes Fish and Wildlife District 2615:

The waters and tidelands to high-water mark of Monterey Bay and the Pacific Ocean, lying between a line extending west from Pigeon Point Lighthouse and a line extending west from Yankee Point, Carmel Highlands in Monterey County, excluding the areas included in District 2610, and excluding all rivers, creeks, sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the boundaries thus defined.

(b) Any reference to "District 17" shall be construed as a reference to District 2615.

Comment. Subdivision (a) of Section 2615 continues former Fish and Game Code Section 11025 without substantive change.

Subdivision (b) is new.

§ 2620. District 2620

2620. (a) The following constitutes Fish and Wildlife District 2620:

The ocean waters of the State and tidelands to high-water mark not included in other districts, lying between a line extending due west from Yankee Point, Carmel Highlands, in Monterey County, and a line extending from Point Rincon near or at the common boundaries between Santa Barbara and Ventura Counties westerly through Richardson Rock, and excluding all rivers, streams, sloughs, and lagoons.

(b) Any reference to "District 18" shall be construed as a reference to District 2620.

Comment. Subdivision (a) of Section 2620 continues former Fish and Game Code Section 11026 without substantive change.

Subdivision (b) is new.

§ 2625. District 2625

2625. (a) The following constitutes Fish and Wildlife District 2625:

The ocean waters of the State and tidelands to high-water mark, and islands off the coast and waters adjacent thereto, lying southerly of Fish and Wildlife District 1870, and northerly of a westerly extension of the boundary line between the Republic of Mexico and San Diego County, excepting Districts 2630, 2635, 2640, 2645, and 2650, and excluding all rivers, streams, sloughs, lagoons, and bays.

(b) Any reference to "District 19" shall be construed as a reference to District 2625.

Comment. Subdivision (a) of Section 2625 continues former Fish and Game Code Section 11027 without substantive change.

Subdivision (b) is new.

§ 2630. District 2630

2630. (a) The following constitutes Fish and Wildlife District 2630:

The ocean waters and tidelands to high-water mark lying between the southerly extremity of Malibu Point and the westerly extremity of Rocky Point (Palos Verdes Point), excluding all rivers, streams and lagoons.

(b) Any reference to "District 19A" shall be construed as a reference to District 2630.

Comment. Subdivision (a) of Section 2630 continues former Fish and Game Code Section 11028 without substantive change.

Subdivision (b) is new.

§ 2635. District 2635

2635. (a) The following constitutes Fish and Wildlife District 2635:

The ocean waters and tidelands to high-water mark northerly of the following line:

Beginning at the west end of the San Pedro Breakwater, thence in an extended line following the axis of said San Pedro Breakwater, the middle breakwater and the Long Beach Breakwater to the east end of the latter, thence to the outer end of the west jetty of Anaheim Bay.

(b) Except as otherwise provided, all of the provisions of this code applicable to Districts 2550 and 2555 apply to District 2635.

(c) Any reference to "District 19B" shall be construed as a reference to District 2635.

Comment. Subdivision (a) of Section 2635 continues former Fish and Game Code Section 11029 without substantive change.

Subdivision (b) is new.

§ 2640. District 2640

2640. (a) The following constitutes Fish and Wildlife District 2640:

Santa Catalina Island and the portion of the waters of the state within three nautical miles of the island's coast line on the northerly, easterly, and southerly side of the island, lying between a line extending three nautical miles west magnetically from the extreme westerly end of Santa Catalina Island to a line extending three nautical miles southwest magnetically from the most southerly promontory of China Point.

(b) Any reference to "District 20" shall be construed as a reference to District 2640.

Comment. Subdivision (a) of Section 2640 continues former Fish and Game Code Section 11030 without substantive change.

Subdivision (b) is new.

§ 2645. District 2645

2645. (a) The following constitutes Fish and Wildlife District 2645:

The waters lying around Santa Catalina Island, within three nautical miles of the coast line of the island, which are not included in District 2640.

(b) Any reference to "District 20A" shall be construed as a reference to District 2645.

Comment. Subdivision (a) of Section 2645 continues former Fish and Game Code Section 11031 without substantive change.

Subdivision (b) is new.

§ 2650. District 2650

2650. (a) The following constitutes Fish and Wildlife District 2650:

The waters and tidelands to high water mark of San Diego Bay lying inside of a straight line drawn from the southerly extremity of Point Loma to the offshore end of the San Diego breakwater.

(b) Any reference to "District 21" shall be construed as a reference to District 2650.

Comment. Subdivision (a) of Section 2650 continues former Fish and Game Code Section 11032 without substantive change.

Subdivision (b) is new.

§ 2655. District 2655

2655. (a) The following constitutes Fish and Wildlife District 2655:

All of Imperial County and those portions of Riverside and San Bernardino Counties lying south and east of the following line: Starting at the intersection of Highway 99 with the north boundary of Imperial County, thence north along that highway to the intersection with Highway 60 and 70; thence east along Highway 60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S., R. 11 E.; thence north along that road and the Mecca Dale Road to Amboy; thence east along Highway 66 to the intersection with Highway 95; thence north along Highway 95 to the California-Nevada boundary.

(b) Any reference to "District 22" shall be construed as a reference to District 2655.

Comment. Subdivision (a) of Section 2655 continues former Fish and Game Code Section 11033 without substantive change.

Subdivision (b) is new.

§ 2660. District 2660

2660. (a) The following constitutes Fish and Wildlife District 2660:

The lands and waters lying within the drainage area of Rubicon and Little Rubicon Rivers above their confluence in Sec. 13, T. 13 N., R. 13 E.; all lands and waters lying within the drainage area of the South Fork of the American River and all its tributaries above Chili Bar Bridge on the Placerville-Georget own Highway; all of the lands and waters lying within the drainage area of Webber Creek above the Mother Lode Highway between El Dorado and Placerville; the waters of Lake Tahoe and the Truckee River, and all streams flowing into that lake and river, and all lands and waters within the drainage basin of that lake and river lying within this State; the waters of Silver Lake, Twin Lakes, Twin Lake, Blue Lakes, Meadow Lake, Wood Lake, Winnemucca Lake and Scott's Lake, Burnside Lake, the Carson River, the West Fork of the Carson River, Willow Creek and Markleeville Creek and all tributaries of those streams and all streams flowing into those lakes and all lands and waters lying within the drainage basin of those lakes, rivers and streams within this State; all the waters of the Cosumnes River and its tributaries, and all lakes lying within the watershed of that river and tributaries above the bridge on the Mother Lode Highway between Plymouth and Nashville, all being within the Counties of Alpine, Amador, and El Dorado.

(b) Any reference to "District 23" shall be construed as a reference to District 2660.

Comment. Subdivision (a) of Section 2660 continues former Fish and Game Code Section 11034 without substantive change.

Subdivision (b) is new.

§ 2665. District 2665

2665. (a) The following constitutes Fish and Wildlife District 2665:

The waters of Lake Almanor and all streams flowing into that lake and all lands lying within the drainage basin of those streams and lake, all being within the Counties of Plumas and Lassen.

(b) Any reference to "District 25" shall be construed as a reference to District 2665.

Comment. Subdivision (a) of Section 2665 continues former Fish and Game Code Section 11035 without substantive change.

Subdivision (b) is new.

§ 2670. District 2670

2670. (a) The following constitutes Fish and Wildlife District 2670:

The waters of the Klamath River as described in the initiative act to create the Klamath River Fish and Game District, approved by the electors on November 4, 1924, which initiative act provides:

> The Klamath River Fish and Game District is hereby created and shall consist of the Klamath River and the waters thereof, following its meanderings from the confluence of the Klamath River and the Shasta River in the County of Siskiyou to the mouth of the Klamath River in Del Norte County.

(b) Any reference to the "Klamath River district" shall be construed as a reference to District 2670.

Comment. Subdivision (a) of Section 2670 continues the first three paragraphs of former Fish and Game Code Section 11036 without substantive change.

Subdivision (b) is new.

§ 2675. District 2675

2675. (a) The following constitutes Fish and Wildlife District 2675:

The Klamath River and the waters thereof, following its meanderings from the mouth of the Klamath River in Del Norte County to its confluence with the Salmon River, and also the Trinity River and the waters thereof, following its meanderings from its confluence with the Klamath River in the County of Humboldt to its confluence with the south fork of the said Trinity River.

(b) Any reference to the "Trinity and Klamath River District" shall be construed as a reference to District 2675.

Comment. Subdivision (a) of Section 2675 continues former Fish and Game Code Section 11037 without substantive change.

Subdivision (b) is new.

§ 2680. District 2680

2680. (a) The following constitutes Fish and Wildlife District 2680:

The ocean waters and tidelands lying within the following boundaries:

Beginning at the south side of the pier at San Simeon thence westerly three miles, thence southerly to a point three miles west of the southern boundary of the state park at Cambria in San Luis Obispo County, thence easterly to the southwest point of the state park at Cambria.

(b) All of the provisions relating to District 2620 shall apply to District 2680.

(c) Any reference to "District 118" shall be construed as a reference to District 2680.

Comment. Subdivisions (a) and (b) of Section 2680 continue former Fish and Game Code Section 11038 without substantive change.

Subdivision (c) is new.

§ 2685. District 2685

2685. (a) The following constitutes Fish and Wildlife District 2685:

The ocean and tidelands to high-water mark, not included in other districts, excluding all rivers, streams, sloughs, and lagoons, bounded by a line beginning at the intersection of the common boundary of Monterey and San Luis Obispo Counties with the mean high-water mark, thence due west two miles to a point, thence by a line following the coast line and parallel to it southerly to a point two miles south of the intersection of the common boundary of Santa Barbara and Ventura Counties with the mean high-water mark, thence north to the intersection of the common boundary of Santa Barbara and Ventura Counties with the mean high-water mark.

(b) Except as otherwise provided, all of the provisions relating to District 2620 shall apply to District 2685.

(c) Any reference to "District 118.5" shall be construed as a reference to District 2685.

Comment. Subdivisions (a) and (b) of Section 2685 continue former Fish and Game Code Section 11039 without substantive change.

Subdivision (c) is new.

PART 5. GENERAL LICENSE PROVISIONS

TITLE 1. LICENSES GENERALLY

CHAPTER 1. FORM AND VALIDITY

§ 2800. "License" defined

2800. For the purposes of this part, "license" includes any license, permit, tag, reservation, or other entitlement authorized by this code.

Comment. Section 2800 is new. It is added for drafting convenience.

§ 2805. Form

2805. (a) Except as provided in subdivision (b), the commission shall determine all of the following:

(1) The form of a license.

(2) The method of carrying and displaying a license.

(3) The application for a license.

(4) Any contrivance to be used in connection with a license.

(b) For programs where the department has fee-setting authority, the department has the authority described in subdivision (a).

Comment. Section 2805 restates former Fish and Game Code Section 1050(b) without substantive change.

☞ **Note.** Proposed Section 2805 is intended to restate existing Section 1050(b) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"The commission shall determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses, and may require and prescribe the form of applications therefor and the form of any contrivance to be used in connection therewith, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority."

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

§ 2810. Licenses uniquely numbered

2810. Licenses of each class shall be uniquely numbered. Every license shall contain its expiration date and the fee for which it is issued. If no fee is either required by this code or established by the commission pursuant to Section 3000, the license shall so indicate.

Comment. Section 2810 continues former Fish and Game Code Section 1051 without substantive change.

§ 2815. Validity

2815. A license is not valid until it is filled out completely and accurately and the fee authorized or identified in statute or regulation for the license is received and paid to the department or its agent. It is the responsibility of the user to ensure that the license is filled out completely and accurately.

Comment. Section 2815 continues former Fish and Game Code Section 1050.1 without substantive change.

§ 2820. Validity of stamp

2820. Any stamp issued pursuant to this part is not valid unless affixed to the appropriate license document.

Comment. Section 2820 continues former Fish and Game Code Section 1052.5 without substantive change.

CHAPTER 2. ISSUANCE

§ 2900. Issuance generally

2900. The department may issue and shall collect payment for any entitlement, document, or authorization for which a fee is authorized pursuant to this code.

Comment. Section 2900 continues former Fish and Game Code Section 1054.5 without change.

§ 2905. Issuance

2905. All licenses shall be prepared and issued by the department.

Comment. Section 2905 continues former Fish and Game Code Section 1050(a) without substantive change.

§ 2910. Terms and conditions of issuance

2910. (a) Except as provided in subdivision (b), the commission shall prescribe the terms and conditions under which a license or application is issued.

(b) For programs where the department has fee-setting authority, the department has the authority described in subdivision (a).

(c) The department shall issue a license or application in accordance with the terms and conditions prescribed pursuant to this section and with the applicable provisions of law.

Comment. Section 2910 restates former Fish and Game Code Section 1050(c) without substantive change.

☞ **Notes.** (1) Proposed Section 2910 is intended to restate Section 1050(c) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"Whenever this code provides for a permit, license, tag, reservation, application, or other entitlement, the commission, in accordance with the provision, shall prescribe the terms and conditions under which the permit, license, tag, reservation, application, or other entitlement shall be issued, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority. The department shall issue the permit, license, tag, reservation, application, or other entitlement in accordance therewith and with the applicable provisions of law."

The Commission requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

(2) Proposed Section 2910(c) appears to be superfluous. See proposed Sections 2905 (duty of department to issue license), 2910(a)-(b) (terms under which license can be issued). **Can proposed Section 2910(c) be deleted?**

§ 2915. Applicant information confidential

2915. (a) Except as otherwise provided in this section, the names and addresses contained in records submitted and retained by the department for the purpose of obtaining recreational fishing and hunting licenses are confidential and are not public records.

(b) Notwithstanding any other provision of law, the department may release the confidential information described in subdivision (a) under the following circumstances:

(1) To an agent or authorized family member of the person to whom the information pertains.

(2) To an officer or employee of another governmental agency when necessary for the performance of his or her official duties.

(3) In accordance with Section 5050.

(4) Pursuant to a court order.

Comment. Section 2915 continues former Fish and Game Code Section 1050.6 without substantive change.

§ 2920. Proof of statements or facts

2920. (a) The department may require the applicant for a license or other privilege to show proof of the statements or facts required for the issuance of the license or other privilege.

(b) For purposes of this section, "department" includes any department employee, license agent, or any person performing the duties of a department employee or license agent.

Comment. Section 2920 continues former Fish and Game Code Section 1054(b)-(c) without substantive change.

§ 2925. Temporary document

2925. Notwithstanding any other provision of this code, the department may issue a temporary document that allows the holder of a license purchased through the Internet to enjoy the privileges of the license for a period not to exceed 30 calendar days from the date of purchase.

Comment. Section 2925 continues former Fish and Game Code Section 1050.3 without substantive change.

§ 2930. Limitation on number of licenses issued to one person

2930. A person shall not obtain more than one license, permit, reservation, or other entitlement of the same class, or more than the number of tags authorized by statute or regulation for the same license year, except under one of the following conditions:

(a) A nonresident hunting license issued pursuant to paragraph (4) or (5) of subdivision (a) of Section 10210, or a short-term sport fishing license issued pursuant to paragraph (3), (4), or (5) of subdivision (a) of Section 13100.

(b) The loss or destruction of an unexpired license, tag, permit, reservation, or other entitlement, except a stamp or endorsement, provided that all the following requirements are met:

(1) The applicant certifies the loss or destruction of the license by signed affidavit.

(2) There is proof, as determined by the department, that the original license was issued.

(3) The applicant pays a base fee of five dollars ($5). The base fee shall be adjusted annually pursuant to Section 3755, not to exceed the fee for the original entitlement. The adjustment shall apply to the hunting license years commencing on or after July 1, 1996, and the fishing license years commencing on or after January 1, 1996.

(c) The loss or destruction of a stamp or endorsement imprinted on a base license that was issued through the Automated License Data System, on payment of a base fee of three dollars ($3) for each stamp or endorsement replaced on any base license document. The base fee shall be adjusted annually pursuant to Section

3755, not to exceed the fee for the original entitlement. The base fee shall apply to the 2011 license year.

Comment. Section 2930 restates former Fish and Game Code Sections 1053.1(a) without substantive change.

☞ **Note.** Proposed Section 2930 is intended to restate existing Section 1053.1(a) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

"1053.1. (a) A person shall not obtain more than one license, permit, reservation, or other entitlement of the same class, or more than the number of tags authorized by statute or regulation for the same license year, except under one of the following conditions:

(1) Nonresident hunting licenses issued pursuant to paragraphs (4) and (5) of subdivision (a) of Section 3031, and short-term sport fishing licenses issued pursuant to paragraphs (3), (4), and (5) of subdivision (a) of Section 7149, and paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05.

(2) The loss or destruction of an unexpired license, tag, permit, reservation, or other entitlement, except a stamp or endorsement, as certified by the applicant's signed affidavit and proof, as determined by the department, that the original license, tag, permit, reservation, or other entitlement was issued, and payment of a base fee of five dollars ($5). The base fee shall be adjusted annually pursuant to Section 713, not to exceed the fee for the original entitlement, as follows:

(A) The adjustment shall apply to the hunting license years commencing on or after July 1, 1996.

(B) The adjustment shall apply to the fishing license years commencing on or after January 1, 1996.

(3) The loss or destruction of a stamp or endorsement imprinted on a base license and payment of a base fee of three dollars ($3) for each stamp or endorsement replaced on any base license document, adjusted annually pursuant to Section 713, not to exceed the fee for the original entitlement. The base fee in this paragraph shall apply to the 2011 license year."

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of any of these provisions.

§ 2935. License voucher

2935. (a) The department may allow a person to purchase a license voucher as a gift for a licensee when the licensee's complete and accurate personal information, as defined in regulation, is not provided by the license buyer at the time of purchase.

(b) A license purchase voucher entitles the holder of the voucher to redeem it for the specific license, permit, tag, or other privilege or entitlement, and license year for which it was purchased.

(c) A license purchase voucher shall expire and be considered void if not redeemed within the license year for which it was purchased.

(d) A license purchase voucher may be issued and redeemed by a person authorized by the department to issue licenses.

(e) The license agent handling fee, as provided under Section 3350, shall only apply to the sale of the license purchase voucher.

Comment. Section 2935 continues former Fish and Game Code Section 1061 without substantive change.

§ 2940. Issuance of hunting tags for fundraising purposes

2940. (a) The department shall establish, and keep current, written policies and procedures relating to the application process and the award of hunting tags for fundraising purposes, as authorized pursuant to Section 32950, 34855, 34215, or 35905.

(b) The policies and procedures shall include, but need not be limited to, all of the following:

(1) The application process and criteria.

(2) A standard application format.

(3) An appeal process.

(4) A requirement that all applications shall remain sealed until on or after a filing date specified by the department.

(c) The department shall make the policies and procedures available to interested parties 30 days before their implementation and shall receive and consider any related recommendations.

(d) The department shall not require a minimum tag sale price, except as otherwise provided in this code.

(e) It is the intent of the Legislature that the department develop policies and procedures that seek to maximize both the revenues received by the department and participation by qualified nonprofit organizations making application to sell the tags as sellers of the tags.

Comment. Section 2940 continues former Section 1054.8 without substantive change.

CHAPTER 3. FEES

§ 3000. Commission authority to set or change license fees

3000. (a) In any of the following circumstances, the commission may, by regulation, establish or change the amount of a fee for an application or for the issuance of a license:

(1) This code does not specify whether the fee is to be collected.

(2) This code does not specify the amount of the fee.

(3) This code does not prohibit, by express reference to this section, the commission from adjusting a statutorily imposed fee.

(b) Fees established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program with regard to which the fee is paid. The commission may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department and commission, provided that full cost recovery is achieved within five years of the establishment of the fee.

(c) The commission may change the amount of a fee in accordance with Section 3755.

(d) This section does not apply to fees set by the department pursuant to Section 3750.

Comment. Section 3000 restates former Fish and Game Code Section 1050(d) without substantive change.

☞ **Note.** Proposed Section 3000 is intended to restate Section 1050(d) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"Except for fees set by the department pursuant to subdivision (e), whenever this code does not specify whether a fee is to be collected, or does not specify the amount of a fee to be collected, or does not expressly prohibit the adjustment of statutorily imposed fees by the commission by reference to this section for the issuance of any license, tag, permit, application, reservation, or other entitlement, the commission may establish a fee or the amount thereof by regulation. The commission may also provide for the change in the amount of the fee in accordance with Section 713. Fees established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program with regard to which the fee is paid. The commission may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department and commission, provided that full cost recovery is achieved within five years of the establishment of the fee."

The Commission requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

§ 3005. Application fee

3005. (a) Whenever this code provides for a license, the commission or department, as applicable, may establish a nonrefundable application fee, not to exceed the lesser of (1) seven dollars and fifty cents ($7.50) or (2) an amount sufficient to pay the department's costs for issuing the license.

(b) The commission or department, as applicable, may adjust the application fee in accordance with Section 3755.

Comment. Section 3005 restates former Fish and Game Code Section 1050(f) without substantive change.

☞ **Notes.** (1) Proposed Section 3005 is intended to restate former Fish and Game Code Section 1050(f) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the commission or department, as applicable, may establish a nonrefundable application fee, not to exceed seven dollars and fifty cents ($7.50) sufficient to pay the department's costs for issuing the license, tag, permit, reservation, or other entitlement and may adjust the application fee in accordance with Section 713."

The Commission requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

(2) Under the existing provision, it is not clear how the two limits on the fee amount operate. Proposed Section 3005 would provide that the fee cannot exceed the *lesser* of the two specified amounts. **The Commission requests public comment on whether that is an appropriate resolution of the ambiguity.**

§ 3010. Credit card payment

3010. The department may accept a credit card charge as a method of payment. Any contract executed by the department with credit card issuers or draft purchasers shall be consistent with Section 6159 of the Government Code.

Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the department may impose a surcharge in an amount to cover the cost of providing the credit card service, including reimbursement for any fee or discount charged by the credit card issuer.

Comment. Section 3010 continues former Fish and Game Code Section 1050.5 without change.

CHAPTER 4. VIOLATIONS

§ 3050. Unlawful acts

3050. It is unlawful for any person to do any of the following:

(a) Transfer any license.

(b) Use or possess any license that was not lawfully issued to the user or possessor thereof or that was obtained by fraud, deceit, or the use of a fake or counterfeit application form.

(c) Use or possess any fake or counterfeit license, permit application form, band, or seal, made or used for the purpose of evading any of the provisions of this code, or regulations adopted pursuant to this code.

(d) Predate, fail to date, or alter any date of any license.

(e) Postdate the date of application or the date of issuance of the license. This subdivision does not apply to the date that a license is valid.

(f) Alter, mutilate, deface, duplicate, or counterfeit any license, permit application form, band, or seal, or entries thereon, to evade the provisions of this code, or any regulations adopted pursuant to this code.

Comment. Section 3050 continues former Fish and Game Code Section 1052 without substantive change.

CHAPTER 5. SUSPENSION, REVOCATION, OR FORFEITURE

§ 3100. "Conviction"

3100. For the purpose of invoking any provision of this code, or any rule, regulation, or order made or adopted under this code, relating to the suspension, revocation, or forfeiture of any license or permit, a plea of nolo contendere or "no contest" to, or forfeiture of bail from, a charge of a violation of any provision of this code, or any rule, regulation, or order made or adopted under this code, is a conviction of a violation thereof.

Comment. Section 3100 continues former Fish and Game Code Section 12158.5 without change.

§ 3105. Collection of administrative penalty

3105. After the expiration of the time period to appeal an administrative penalty imposed pursuant to Section 9305, 9320, 49995, or 50130, or any other provision of this code, the department may apply to the clerk of the appropriate court for a

judgment to collect the administrative penalty. The application, including a certified copy of the order imposing the administrative penalty, a hearing officer's decision, if any, or a settlement agreement, if any, shall constitute a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

Comment. Section 3105 continues former Section 12014 without substantive change.

☞ **Note.** The sections listed in the first sentence of existing Section 12014 (i.e., existing Sections 2301, 2302, 2582, and 2583) are not the only sections of the code that authorize the imposition of administrative penalties. See, e.g., existing Section 1615. Given that the section also applies to "any other provision of this code," it is not clear why those sections are specifically listed. **The Commission invites comments on whether "Section 2301, 2302, 2582, or 2583, or any other" should be replaced with "a." That would seem to more clearly state the broad application of the section.**

TITLE 2. LICENSE AGENTS

CHAPTER 1. AUTHORIZED LICENSE AGENT

§ 3200. Application and approval generally

3200. (a) Any person, except a commissioner, officer, or employee of the department, may submit an application to the department to be a license agent to issue licenses.

(b) A person shall only be authorized to be a license agent to issue licenses, upon the written approval of the department.

Comment. Section 3200 continues former Fish and Game Code Section 1055.1(a)-(b) without substantive change.

§ 3205. License agent for sale of lifetime licenses

3205. (a) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to Sections 9100, 10230, and 13105. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code.

(b) A license agent authorized to issue lifetime sport fishing licenses, lifetime hunting licenses, and lifetime sport fishing and hunting licenses under this section is exempt from subdivisions (a) and (c) of Section 3350.

(c) The license agent shall remit to the department the fees from the sale of lifetime licenses, as defined in Sections 9100, 10230, and 13105.

Comment. Section 3205 continues former Fish and Game Code Section 1055.1(g) without substantive change.

☞ **Notes.** (1) Does the exemption in proposed Section 3205(b) apply to any type of license sold by a license agent authorized to sell lifetime licenses under that section? Or does the exemption only apply to lifetime licenses sold by such a license agent?

(2) Are "nonprofit organizations" the only persons who can act as license agents for the sale of lifetime licenses?

§ 3210. Wildlife area passes and native species stamps

3210. The department may authorize any person other than a commissioner or an officer or employee of the department to issue, as an agent of the department, annual wildlife area passes and native species stamps, and to sell promotional materials and nature study aids pursuant to, and subject to the requirements of, this article. An agent thus authorized may add a handling charge pursuant to Section 3350 to the fee prescribed in **Article 3 (commencing with Section 1760) of Chapter 7.5 of Division 2** for each annual wildlife area pass or native species stamp issued.

Comment. Section 3210 continues former Fish and Game Code Section 1055.3 without substantive change. Cross-references to repealed subdivisions of former Fish and Game Code Section 1055 are not continued.

CHAPTER 2. AUTOMATED LICENSE DATA SYSTEM

§ 3250. Provision of licenses

3250. (a) The department may provide licenses to authorized license agents and shall collect, prior to delivery, an amount equal to the fees for all licenses provided.

(b) Any licenses provided pursuant to this section that remain unissued at the end of the license year may be returned to the department for refund or credit, or a combination of refund and credit, within six months of the item expiration date. No credit may be allowed after six months following the last day of the license year.

(c) Any license agent who pays the fees prior to delivery for licenses, permits, reservations, tags, or other entitlements is exempt from Sections 3360, 3365, and 3370.

Comment. Subdivision (a) of Section 3250 continues the first sentence of former Fish and Game Code Section 1055.1(c) without substantive change.

Subdivision (b) continues the third and fourth sentences of former Fish and Game Code Section 1055.1(c) without substantive change.

Subdivision (c) continues the second sentence of former Fish and Game Code Section 1055.1(c) without substantive change.

☞ **Note.** (1) Section 1055.1(c) was modeled after language in Section 1055(d), which describes license agents who prepay the Department of Fish and Wildlife for physical licenses and then sell them to the public. As a result of that origin, the language does not do a very good job of describing the ALDS system. **The Commission invites comment on whether proposed Section 3250(a) could be restated for greater accuracy.**

(2) The Commission's understanding is that ALDS is a print-on-demand system. Licenses are only printed when they have been purchased. Consequently, it is not clear that proposed Section

3250(b) has any meaningful application. The inclusion of that provision in existing Section 1055.1(c) may have been inadvertent. **The Commission requests public comment on whether the provision should be deleted as unnecessary.**

(3) Similarly, proposed Section 3250(c) continues the second sentence of existing Section 1055.1(c), which provides express exemptions for an ALDS license agent who pays for licenses "prior to delivery." The Commission's understanding is that ALDS sales are never pre-paid. Instead, charges for ALDS license sales are logged and electronic transfers are made periodically, after the fact. **The Commission requests public comment on whether the exemptions in Section 1055.1(c) apply to ALDS sales.**

§ 3255. Remittance

3255. (a) Except as provided in subdivision (b), each license agent authorized pursuant to Section 3200 shall remit to the department the fees prescribed in this code or in regulations adopted pursuant to this code for all licenses by electronic means, such as electronic fund transfer. In order to facilitate the prompt remittance of revenues, the department is authorized to withdraw funds from the bank account of the license agent, including adjustments, by electronic transfer. License agents shall ensure that the total fees required for all licenses necessary to perform the electronic transfer are available on the date specified by the license agent contract.

(b) A license agent shall report to the department on or before the end of the next business day of the department any losses of fees received from the issuing of licenses.

(c) Except as provided in subdivision (b), any fees not transmitted or made available to the department within seven days following the due date as specified by the department are delinquent, and delinquent fees are subject to interest and penalties prescribed in subdivision (b) of Section 3360. Interest and penalties shall be computed beginning one day following the due date as specified by the department.

Comment. Subdivision (a) of Section 3255 continues former Fish and Game Code Section 1055.6(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 1055.6(b) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 1055.6(d) without substantive change.

§ 3260. Advertisement of Automated License Data System website

3260. (a) A nonprofit conservation organization seeking promotion, exposure, and awareness of the organization on the Automated License Data System Online License Service Internet Web site, as feasible, through the display of the organization's logo, or other graphics agreed upon by the organization and the department, to give a prospective license buyer the opportunity to link electronically to the organization's Internet home page, shall submit, by September 30 of each year, a letter to the department providing evidence that the organization meets the criteria set forth in subdivision (c). If the department

determines that the nonprofit conservation organization is eligible, it shall include the organization's logo or other graphics in a space with a link to the organization's Internet home page on the Automated License Data System Online License Service Internet Web site for a time period agreed upon by both parties.

(b) The department may impose a charge on a nonprofit conservation organization for inclusion on the Automated License Data System Online License Service Internet Web site pursuant to subdivision (a) that shall not exceed the costs associated with the direct administration of this section.

(c) As used in this section, "nonprofit conservation organization" means an entity that the department determines meets all of the following:

(1) It is a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)).

(2) It is registered with the Attorney General.

(3) Its goals and objectives are related to the conservation of sport fish or game species.

(4) In at least one of the previous three calendar years, it has entered into, or been obligated under, a contract or other agreement, including, but not limited to, a license, easement, memorandum of understanding, or lease, with the department to perform habitat or other wildlife conservation work, to provide hunting or fishing opportunities for the public, to raise funds on behalf of the department, including, but not limited to, the sale of hunting fundraising tags or related items, or to otherwise provide assistance to the department that is consistent with the department's mission.

(d) The department shall deposit revenues of the charge imposed pursuant to subdivision (b) in the Fish and Game Preservation Fund, to be available, upon appropriation by the Legislature, exclusively to pay all initial and ongoing costs associated with the direct administration of this section, including, but not limited to, a portion of the costs of making changes to the Automated License Data System necessary to implement this section.

(e) The department shall implement the links from the Automated License Data System Online License Service Internet Web site by January 1, 2015, if it determines that date is feasible.

Comment. Section 3260 continues former Fish and Game Code Section 1065 without change.

CHAPTER 3. FINANCIAL PROVISIONS

§ 3350. Handling charge

3350. (a) Authorized license agents shall add a handling charge to the fees prescribed in this code or in regulations adopted pursuant to this code for any license, permit, reservation, tag, and other entitlement issued by the license agent in an amount that is 5 percent of the face value of the item rounded to the nearest five cents ($0.05).

(b) The handling charge added pursuant to subdivision (a) shall be incorporated into the total amount collected for issuing the license, permit, reservation, tag, and other entitlement, but the handling charge shall not be included when determining license fees in accordance with Section 3755. A license agent may issue any license, permit, reservation, tag, or other entitlement for any amount up to 10 percent less than the fee prescribed in this code or in regulations adopted pursuant to this code. The license agent shall remit to the department the full amount of the fees as prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements issued.

(c) The handling charge required by subdivision (a) is the license agent's only compensation for services. The license agent shall not be entitled to any other additional fee or charge for issuing any license, permit, reservation, tag, or other entitlement authorized pursuant to this section.

Comment. Section 3350 continues former Fish and Game Code Section 1055.1(d)-(f) without substantive change.

§ 3355. Colorado River special use validation

3355. Notwithstanding subdivision (c) of Section 3350, a license agent may retain not more than fifteen cents ($0.15) of the fee received for each Colorado River special use validation issued pursuant to Section 12955 as compensation for services. The license agent shall remit to the department the fees prescribed by Section 13260, less any amounts retained under this section, as provided in subdivision (a) of Section 3255.

Comment. Section 3355 continues former Fish and Game Code Section 1055.6(c) without substantive change.

§ 3360. Failure to account

3360. (a) The failure or refusal of any license agent to account for licenses or any fees received from their issuance as required by Section 3255 or upon demand by an authorized representative of the department is a misdemeanor.

(b) In addition to subdivision (a), any license agent who fails to remit fees to the department on or before the date required by Section 3255 shall pay interest and penalties prescribed for sales and use taxes and, except as otherwise provided in this code, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapters 5 (commencing with Section 6451) and 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department.

(c) The punishment for a violation of this section is a fine of not more than two thousand dollars ($2,000), imprisonment in a county jail for not more than one year, or both that fine and imprisonment.

Comment. Subdivisions (a) and (b) of Section 3360 continue former Fish and Game Code Section 1059 without substantive change.

Subdivision (c) continues former Fish and Game Code Section 12002(b)(1) without substantive change.

§ 3365. Separate accounting required

3365. All license money shall be accounted for separately from other funds of a license agent, and shall at all times belong to the state.

Comment. Section 3365 continues former Section 1057 without substantive change.

§ 3370. Bond

3370. A license agent who fails to transmit the fees or accounting reports required by Section 3255 not later than 60 days following the due date as specified by the department may be required to execute, in favor of the department, a bond, payable to the department, in a sum determined by the department in order to continue as a license agent. The bond shall secure the accurate accounting and payment to the department of the funds collected and the performance of the duties imposed upon the license agent by this article.

Comment. Section 3370 continues former Fish and Game Code Section 1056 without substantive change.

§ 3375. Preferred claim

3375. In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the license agent's assignee, receiver, or trustee for all moneys owing the state for the issuing of licenses as provided in this code and shall not be estopped from asserting that claim by reason of the commingling of funds or otherwise.

Comment. Section 3375 continues former Fish and Game Code Section 1058 without substantive change.

PART 6. GENERAL FINANCIAL PROVISIONS

TITLE 1. STATE

CHAPTER 1. LEGISLATIVE FINDINGS, DECLARATIONS, AND INTENT

§ 3450. Legislative findings and declarations of 1978 (as amended in 2006)

3450. The Legislature finds and declares that the department has in the past not been adequately funded to meet its mandates. The principal causes have been the fixed nature of the department's revenues in contrast with the rising costs resulting from inflation, the increased burden on the department to carry out its public trust responsibilities, and additional responsibilities placed on the department by the Legislature. This lack of funding has prevented proper planning and personnel allocation. The lack of funding has required the department to restrict wildlife officer enforcement and to defer essential management of lands acquired for wildlife conservation. The lack of funding for fish and wildlife conservation activities other than sport and commercial fishing and hunting activities has resulted in inadequate wildlife and habitat conservation and wildlife protection programs.

Comment. Section 3450 continues former Fish and Game Code Section 710 without substantive change.

§ 3455. Legislative findings and declarations of 1990

3455. (a) The Legislature finds and declares that the department continues to be inadequately funded to meet its mandates. While revenues have been declining, the department's responsibilities have increased in order to protect public trust resources in the face of increasing population and resource management demands. The department's revenues have been limited due to a failure to maximize user fees and inadequate non-fee-related funding. The limited department revenues have resulted in the inability of the department to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the department for the people of the state.

(b) The Legislature further finds and declares that the department has been largely supported by fees paid by those who utilize the resources held in trust by the department. It is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees. All fees collected by the department, including, but not limited to, recreational hunting and fishing licenses, landing taxes, commercial licenses, permits and entitlements, and other fees for use of the resources regulated or managed by the department, are user fees. To the extent that these fees are appropriated through the Budget Act for the purposes for which they are collected to provide services to the people of the State of California, these user fees are not subject to Article XIII B of the California Constitution.

(c) The Legislature further finds and declares that user fees are not sufficient to fund all of the department's mandates. To fulfill its mandates, the department must secure a significant increase in reliable funding, in addition to user fees.

Comment. Section 3455 continues former Fish and Game Code Section 710.5 without change.

§ 3460. Legislative findings and declarations of 1992

3460. (a) The Legislature finds and declares all of the following:

(1) The department continues to face serious funding instability due to revenue declines from traditional user fees and taxes and the addition of new and expanded program responsibilities.

(2) Historically, the recreational and commercial fishing industry has funded much of the department's marine fisheries activities.

(3) As the state's population grows and development changes historic land uses, fish and wildlife continue to be depleted, necessitating a significant portion of the department's activities to be directed toward protecting fish and wildlife for the benefit of the people of the state.

(b) It is the intent of the Legislature to extend the current user-based funding system by allocating a portion of the marine resource protection costs to those who use and benefit from recreational and commercial use of the marine resources.

(c) It is the Legislature's intent that, notwithstanding Section 3465, the department shall cooperate with the Legislature, recreational users, conservation organizations, the commercial fishing industry, and other interested parties to identify and propose new alternative sources of revenue to fund the department's necessary marine conservation, restoration, and resources management, and protection responsibilities.

(d) It is further the intent of the Legislature to identify new funding sources and to secure those sources to adequately fund the department's activities directed at protecting and managing wildlife for the people of the state.

Comment. Section 3460 continues former Fish and Game Code Section 710.7 without substantive change.

§ 3465. Statement of legislative intent regarding funding

3465. (a) It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(1) The costs of nongame fish and wildlife programs shall be provided annually in the Budget Act by appropriating money from the General Fund, through nongame user fees, and sources other than the Fish and Game Preservation Fund to the department for these purposes.

(2) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing taxes, license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose.

(3) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds

shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(4) The costs of managing lands managed by the department and the costs of wildlife management programs shall be supplemented out of revenues in the Native Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 3755. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 3755 shall not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

(6) The costs of a conservation and mitigation banking program, including, but not limited to, costs incurred by the department during its adoption of guidelines for, and the review, approval, establishment, monitoring, and oversight of, banks, shall be reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to **Sections 1798.5, 1798.6, and 1799.**

(b) The director and the Secretary of the Natural Resources Agency, with the department's annual budget submittal to the Legislature, shall submit a report on the fund condition, including the expenditures and revenue, for all accounts and subaccounts within the Fish and Game Preservation Fund. The department shall also update its cost allocation plan to reflect the costs of program activities.

(c) For purposes of this section, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.

Comment. Section 3465 continues former Fish and Game Code Section 711 without substantive change.

☞ **Notes.** (1) Existing Section 711(b) (which would be continued by proposed Section 3465(b)) is not a statement of legislative intent. It is a substantive provision. Moreover, it appears to duplicate the substance of existing Section 13001.5, with less detail. **Does existing Section 711(b) serve any purpose, or can it be deleted?**

(2) Existing Section 711(c) (which would be continued by proposed Section 3465(c)) provides a definition for the purposes of "this article." But existing Section 711 is the only section in the referenced article that uses the defined term. **The provision's scope of application has been narrowed accordingly.**

§ 3470. Statement of legislative intent regarding nongame program funding

3470. (a) It is the intent of the Legislature that the Department of Finance shall include in the Governor's Budget sufficient moneys from the General Fund and sources other than the Fish and Game Preservation Fund to pay the costs of the department's nongame programs, including those necessary for the protection and

enhancement of California's nongame fish and wildlife and their habitat, the free hunting and fishing license programs, and special repairs and capital outlay.

(b) It is the intent of the Legislature that the Department of Finance shall not include in the Governor's Budget any appropriation from the Fish and Game Preservation Fund for any program or project that is not expressly found to be an activity relating to the protection or propagation of fish and wildlife, except to the extent that moneys have been deposited in that fund from collections under a law which is not related to the protection or propagation of fish and wildlife.

(c) Any study relating to funding of programs administered or conducted by the department shall include express findings of whether the program is related to the protection or propagation of fish and wildlife and shall describe the relationship.

Comment. Section 3470 continues former Fish and Game Code Section 712 without substantive change.

CHAPTER 2. ACCOUNTING

§ 3500. Fish and Game Preservation Fund

3500. (a) The Fish and Game Preservation Fund in the State Treasury is continued in existence.

(b) Wherever the term "Fish Commission Fund" or "Game Preservation Fund" appears in any law, it means "Fish and Game Preservation Fund."

Comment. Subdivision (a) of Section 3500 continues former Fish and Game Code Section 13000 without change.

Subdivision (b) continues former Fish and Game Code Section 12 without change.

§ 3505. Fund condition statement

3505. (a) The department shall prepare annually, for inclusion in the Governor's Budget, a fund condition statement for the Fish and Game Preservation Fund that displays both of the following:

(1) Information relating to the total amounts of revenues and expenditures with regard to the moneys in the fund that are deposited in an account or subaccount in the fund.

(2) Information relating to revenues and expenditures with regard to all moneys in the fund that are not deposited in an account or subaccount in the fund.

(b) For the purposes of subdivision (a), the department shall prepare the fund condition statement in a manner that is similar to the fund condition statement relating to the Fish and Game Preservation Fund included in the 2003-04 Governor's Budget.

(c) The department shall prepare, for posting on its Internet Web site on or before January 10 of each year, a fund condition statement for each account or subaccount in the fund.

Comment. Section 3505 continues former Fish and Game Code Section 13001.5 without change.

§ 3510. Accounting method

3510. The department shall account for revenues and expenditures of the money in the Fish and Game Preservation Fund in a manner consistent with the laws and applicable policies governing state departments generally for each activity or program in which the department is engaged.

Comment. Section 3510 continues former Fish and Game Code Section 13200 without substantive change.

§ 3515. Program descriptions

3515. In establishing the appropriate programs or activities for this system, the department shall consider the following programs or activities:

(1) Freshwater fisheries activities.

(2) Marine fisheries activities.

(3) Wildlife management activities.

(4) Planning and environmental review.

(5) Law enforcement.

(6) Nongame and endangered species.

(7) General administration.

Comment. Section 3515 continues former Fish and Game Code Section 13201 without change.

☞ **Note. The Commission invites comment on the intended meaning of the reference in the introduction to this provision to "this system."**

§ 3520. Payroll and other costs

3520. (a) Payroll and other costs that are directly identifiable with specific programs or activities shall be charged directly to accounts maintained for the appropriate programs or activities.

(b) Payroll and other costs that are not identifiable with specific programs or activities shall be allocated on an equitable basis to program or activity cost accounts.

Comment. Section 3520 continues former Fish and Game Code Section 13202 without substantive change.

§ 3525. Basic principle of cost accounting system

3525. The basic principle of this cost accounting system shall be that the total cost of operation of the department shall be accounted for by accounting for the cost of each activity or program in which it is engaged.

Comment. Section 3525 continues former Fish and Game Code Section 13203 without change.

☞ **Note.** Existing Fish and Game Code Section 13203 (which would be continued by proposed Section 3525) refers to "*this* cost accounting system," without clearly identifying the pronoun's antecedent. In order to resolve that ambiguity, it would be helpful to know whether the section is referring to existing Section 13200 (which would be continued by proposed Section 3510),

existing Section 13202 (which would be continued by proposed Section 3520), both of those sections, or something else.

The Commission invites comment on that issue.

CHAPTER 3. REVENUE

Article 1. Deposit of Revenue

§ 3600. Default deposit rule

3600. Unless otherwise provided, all money collected under the provisions of this code and of any other law relating to the protection and preservation of birds, mammals, fish, reptiles, or amphibians shall be paid into the State Treasury to the credit of the Fish and Game Preservation Fund.

Comment. Section 3600 continues former Fish and Game Code Section 13001(a) without substantive change.

§ 3605. Deposit of license revenue

3605. The department shall pay into the State Treasury at least once a month the money received by it from the sale of licenses issued under the provisions of this code.

Comment. Section 3605 continues former Fish and Game Code Section 13002 without change.

§ 3610. Deposit and apportionment of fines and forfeitures

3610. (a) Unless otherwise provided by law, a fine or forfeiture imposed or collected in any court of this state for a violation of a provision of this code, a regulation adopted pursuant to this code, or any other law providing for the protection or preservation of birds, mammals, fish, reptiles, or amphibians, shall be deposited as soon as practicable after the receipt thereof with the county treasurer of the county in which the court is situated.

(b) Amounts deposited pursuant to subdivision (a) shall be paid at least once a month as follows:

(1) One-half to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the Fish and Game Preservation Fund in the State Treasury on order of the Controller. At the time of transmittal, the county auditor shall forward to the Controller, on a form or forms that the Controller may prescribe, a record of the imposition, collection, and payment of the fines or forfeitures. The department may employ legal counsel and may expend these funds to pay the costs of legal actions brought in the name of the people relating to the enforcement of this code by a district attorney, city attorney, or the department, as appropriate.

(2) One-half to the county in which the offense was committed.

Comment. Section 3610 continues former Fish and Game Code Section 13003 without substantive change.

Article 2. Gifts, Grants, and Donations

§ 3650. Deposit of gifts and bequests

3650. All moneys collected or received from gifts or bequests, or from municipal or county appropriations or donations for purposes relating to conservation programs, projects, and activities by the department shall be deposited in the State Treasury to the credit of the Fish and Game Preservation Fund. All moneys deposited pursuant to this section shall be used for purposes relating to conservation programs, projects, and activities by the department.

Comment. Section 3650 continues former Fish and Game Code Section 1225 without change.

§ 3655. Funding agreements

3655. The department may enter into one or more agreements to accept funds from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department. Any funds received pursuant to this section shall be deposited in the Fish and Game Preservation Fund. The funds received shall supplement existing resources for purposes relating to conservation programs, projects, and activities by the department.

Comment. Section 3655 continues former Fish and Game Code Section 1226(a) without change.

§ 3660. Grants and donations for financing of K9 program

3660. Notwithstanding Section 11005 of the Government Code, the department may seek and accept grants and donations from private and public organizations and agencies for the purpose of administering the Canine (K9) Program. The acceptance of one-time donations valued over fifteen thousand dollars ($15,000) shall require approval of the Department of Finance.

Comment. Section 3660 continues former Fish and Game Code Section 859 without change.

§ 3665. Commemorative license

3665. (a) The department may issue collectible, commemorative licenses to any person for purposes of promoting and supporting licensed hunting, fishing, and resource conservation, subject to all of the following:

(1) A commemorative license may be designed and produced as the department may determine and shall be clearly marked and identified as a commemorative license, rendering it invalid for the take of any mammal, bird, fish, reptile, or amphibian.

(2) A commemorative license shall not confer any rights, privileges, or other entitlements to any person purchasing or in possession of such a license.

(3) Provisions of this code that govern hunting and sport fishing licenses do not apply to the purchase of a commemorative license. A commemorative license shall not qualify as evidence required in subdivision (a) of Section 10200.

(b) All funds derived from the sale of commemorative licenses shall be deposited in the Fish and Game Preservation Fund.

Comment. Section 3665 continues former Fish and Game Code Section 1050.8 without substantive change.

☞ **Note.** Existing Fish and Game Code Section 1050.8(a)(3) (which would be continued by proposed Section 3665(a)(3)) provides that "Subdivision (a) of Section 1052, Section 1053.1, Article 2 (commencing with Section 3031) of Chapter 1 of Part 1 of Division 4, and Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6" do not apply to the purchase of a commemorative license. The two referenced articles in this cross-reference each contain many provisions that in the proposed law have been continued in many different locations.

The Commission invites comment on whether the alternative use of a descriptive cross-reference in proposed Section 3665(a)(3) – "provisions of this code that govern hunting and sport fishing licenses" – would change the meaning of existing Section 1050.8(a)(3).

§ 3670. Wildlife officer stamp

3670. (a) The department may offer for sale a wildlife officer stamp to be designed and produced as the department may determine. The wildlife officer stamp may be purchased on a voluntary basis from the department or a licensed agent authorized pursuant to Section 3250 for a donation of not less than five dollars ($5). The department may also design an electronic version of the wildlife officer stamp to be offered through the Automated License Data System. There shall be no indication on any license or permit of the purchase of a wildlife officer stamp.

(b) All revenues from sales under this section shall be deposited in the Fish and Game Warden Stamp Account that is hereby created in the Fish and Game Preservation Fund to permit separate accountability for the receipt and expenditure of these funds. Funds deposited in the Fish and Game Warden Stamp Account shall be used, upon appropriation, to support the department's wildlife officers.

Comment. Section 3670 continues former Fish and Game Code Section 860 without substantive change.

Article 3. Fees

§ 3750. Department authority to set or change fees

3750. (a) The department may, by regulation, establish fees and adjust statutorily imposed fees for the filings, permits, determinations, or other department actions described in **Sections 711.4**, 9200, and **1609**.

(b) The department may change the amount of a fee in accordance with Section 3755.

(c) Fees established by the department shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department relating to the program with regard to which the fee is paid. The department may establish a fee structure that provides for the phasing in of new fees leading up to

full cost recovery for the department, provided that full cost recovery is achieved within five years of the establishment of the fee.

Comment. Section 3750 restates former Fish and Game Code Section 1050(e) without substantive change.

☞ **Note.** Proposed Section 3750 is intended to restate existing Fish and Game Code Section 1050(e) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"1050. (a)....

(e) The department may establish fees and may adjust statutorily imposed fees by regulation for the filings, permits, determinations, or other department actions described in Section 711.4, 1002, or 1609. The department also may provide for the change in the amount of the fee in accordance with Section 713. Fees established by the department shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department relating to the program with regard to which the fee is paid. The department may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department, provided that full cost recovery is achieved within five years of the establishment of the fee."

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

§ 3755. Inflation based changes in fees

3755. (a) The changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, shall be used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, tags, or other entitlements issued by the department.

(b)(1) The department shall determine the change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, for the quarter ending March 31 of the current year compared to the quarter ending March 31 of the previous year. The relative amount of the change shall be multiplied by the current fee for each license, stamp, permit, tag, or other entitlement issued by the department.

(2) The product shall be rounded to the nearest twenty-five cents ($0.25), and the resulting amount shall be added to the fee for the current year. The resulting amount shall be the fee for the license year beginning on or after January 1 of the next succeeding calendar year for the license, stamp, permit, tag, or other entitlement that is adjusted under this section.

(c) Notwithstanding any other provision of law, the department may recalculate the current fees charged for each license, stamp, permit, tag, or other entitlement issued by the department, to determine that all appropriate indexing has been included in the current fees. This section shall apply to all licenses, stamps, permits, tags, or other entitlements, that have not been increased each year since the base year of the 1985-86 fiscal year.

(d) The commission, with respect to any license, stamp, permit, tag, or other entitlement issued by the commission shall comply with subdivisions (a) to (c), inclusive.

(e) The calculations provided for in this section shall be reported to the Legislature with the Governor's Budget Bill.

(f) The Legislature finds that all revenues generated by fees for licenses, stamps, permits, tags, and other entitlements, computed under this section and used for the purposes for which they were imposed, are not subject to Article XIII B of the California Constitution.

(g) The department and the commission, at least every five years, shall analyze all fees for licenses, stamps, permits, tags, and other entitlements issued by it to ensure the appropriate fee amount is charged. Where appropriate, the department shall recommend to the Legislature or the commission that fees established by the commission or the Legislature be adjusted to ensure that those fees are appropriate.

Comment. Section 3755 continues former Fish and Game Code Section 713 without change.

CHAPTER 4. EXPENDITURES

§ 3800. Expenditures generally

3800. Except as provided in **Section 13230**, the money in the Fish and Game Preservation Fund, commencing with the 2005-06 fiscal year, is available for expenditure, upon appropriation by the Legislature, for all of the following purposes:

(a) To the department for payment of refunds of sums determined by it to have been erroneously deposited in the fund, including, but not limited to, money received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures, or services.

(b) To the department for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.

(c) To the commission for expenditure in accordance with law for the payment of the compensation and expenses of the commissioners and employees of the commission.

Comment. Section 3800 continues former Fish and Game Code Section 13220 without substantive change.

§ 3805. Secret witness program

3805. Notwithstanding Sections 3600 and 3810, the money collected from the penalties on fines, penalties, or forfeitures levied pursuant to Section 4425 shall be used only to pay the department's costs of support for the department's secret witness program. The purpose of the secret witness program is to facilitate the enforcement of this code and regulations adopted pursuant to this code. Contributions to the secret witness program may also be made pursuant to subdivision (k) of Section 3915.

Comment. Section 3805 continues former Fish and Game Code Section 13006 without substantive change.

§ 3810. Loans to General Fund

3810. Notwithstanding any other provision of law, the Controller may use the Fish and Game Preservation Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

Comment. Section 3810 continues former Fish and Game Code Section 13001(b) without change.

TITLE 2. COUNTIES

§ 3900. County fish and wildlife propagation fund

3900. (a) The amounts paid to and retained in the county treasury pursuant to Sections 45850 and 3610 shall be deposited in a county fish and wildlife propagation fund and expended for the protection, conservation, propagation, and preservation of fish and wildlife, under the direction of the board of supervisors, pursuant to this title.

(b) All proposed expenditures from a county fish and wildlife propagation fund shall be reviewed first at a regular meeting of the county board of supervisors or its designated county fish and game commission to ensure compliance with Section 3915.

Comment. Section 3900 continues former Fish and Game Code Section 13100 without substantive change.

§ 3905. Agreement between counties

3905. (a) The board of supervisors of any county may enter into a written agreement with the board of supervisors of one or more counties for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 3900 for any purpose authorized by Section 3915 in either, or any, of the counties for the joint benefit of both, or all, of the counties as the judgment of the boards of supervisors may direct. The purchase of real property necessary for that purpose is lawful and title to that property shall be taken in the joint names of each county that contributes funds for that purpose. The property may be deeded to the state upon the express condition that it shall be employed for the purposes of this title within the counties.

(b) The board of supervisors of one or more counties may enter into a written agreement with the department for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 3900 for any purpose authorized by Section 3915.

Comment. Section 3905 continues former Fish and Game Code Section 13101 without substantive change.

§ 3910. Expenditures subject to Gov't Code § 29000 et seq

3910. Expenditures from the fish and wildlife propagation fund of any county shall be subject to the provisions of Division 3 (commencing with Section 29000) of Title 3 of the Government Code.

Comment. Section 3910 continues former Fish and Game Code Section 13102 without substantive change.

§ 3915. Authorized expenditures

3915. Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Public education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum and aids to education such as literature, audio and video recordings, training models, and nature study facilities.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or wildlife which are to be released upon approval of the department pursuant to Sections 25410 and 25415 onto land or into waters of local, state, or federal agencies or onto land or into waters open to the public.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

(f) Construction, maintenance, and operation of public hatchery facilities.

(g) Purchase and maintain materials, supplies, or equipment for either the department's ownership and use or the department's use in the normal performance of the department's responsibilities.

(h) Predator control actions for the benefit of fish or wildlife following certification in writing by the department that the proposed actions will significantly benefit a particular wildlife species.

(i) Scientific fish and wildlife research conducted by institutions of higher learning, qualified researchers, or governmental agencies, if approved by the department.

(j) Reasonable administrative costs, excluding the costs of audits required by Section 3920, for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount which does not exceed 15 percent of the average amount received by the fund during the previous

three-year period, or ten thousand dollars ($10,000) annually, whichever is greater, excluding any funds carried over from a previous fiscal year.

(k) Contributions to a secret witness program for the purpose of facilitating enforcement of this code and regulations adopted pursuant to this code.

(*l*) Costs incurred by the district attorney or city attorney in investigating and prosecuting civil and criminal actions for violations of this code, as approved by the department.

(m) Other expenditures, approved by the department, for the purpose of protecting, conserving, propagating, and preserving fish and wildlife.

Comment. Section 3915 continues former Fish and Game Code Section 13103 without substantive change.

§ 3920. Audit

3920. The department may audit, or require the county to audit, expenditures by the county from its fish and wildlife propagation fund in order to determine compliance with this title. If, after reviewing the audit, the department determines that expenditures are not in compliance with this title, the department may require that all expenditures from the fund be temporarily suspended, or it may seek reimbursement of funds that the department determines, based on the audit, were expended improperly, or both.

Comment. Section 3920 continues former Fish and Game Code Section 13104 without substantive change.

DIVISION 3. LAW ENFORCEMENT

PART 1. PERSONNEL

TITLE 1. DEPARTMENT

§ 4100. Deputy as peace officer

4100. A deputy appointed to enforce the provisions of this code is a peace officer. The deputy has all the powers and authority conferred by law upon peace officers listed in Section 830.6 of the Penal Code to make arrests for violations of this code, and may serve all processes and notices throughout the state.

Comment. Section 4100 continues former Fish and Game Code Section 851 without change.

§ 4105. Deputized law enforcement officer as peace officer

4105. (a) Every employee of the department designated by the director as a deputized law enforcement officer is a peace officer as provided by Section 830.2 of the Penal Code. The authority of that peace officer extends to any place in the state as to a public offense committed or which offense there is probable cause to believe has been committed within the state.

(b) Every peace officer described in this section, before the date that he or she is first deputized by the department, shall have satisfactorily completed the basic course as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) Every peace officer described in this section shall be required to complete regular training courses as required by the Commission on Peace Officer Standards and Training.

Comment. Section 4105 continues former Fish and Game Code Section 856 without substantive change.

§ 4110. Employee deputized to check sport fishing licenses

4110. (a) The director may deputize any employee of the department to check persons for licenses required under Section 12900 and to enforce any violation of that section.

(b) Before a person is deputized pursuant to this section for the first time, the person shall have satisfactorily completed a training course meeting the minimum standards of, and comparable to, the training for "level III reserve" as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) A person who is deputized for the limited purpose stated in subdivision (a) shall not enforce any other provision of this code. Being deputized under this section does not make a person a peace officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

Comment. Section 4110 restates former Fish and Game Code Section 853 without substantive change.

☞ **Note.** Proposed Section 4110(c) restates the last sentence of existing Fish and Game Code Section 853 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

"Any person, who is deputized for this limited purpose pursuant to this section, may not enforce any other provision of this code, and is not a peace officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code."

The restated provision would also make clear that a person who is already a peace officer does not lose that status as a result of being deputized under this section.

The Commission requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

§ 4115. Minimum age of wildlife officer

4115. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of wildlife officer of the department shall be 18 years. An examination for the position of wildlife officer shall require a demonstration of the physical ability to effectively carry out the duties and responsibilities of the position in a manner that would not inordinately endanger the health or safety of a wildlife officer or any other person.

Comment. Section 4115 continues former Fish and Game Code Section 854 without substantive change.

§ 4120. Emblems

4120. The department shall designate official wildlife officer emblems and their placement. The department shall prohibit personnel of the department who are not peace officers from wearing any patch, badge, bar, or other indicia of peace officer status. The selection and configuration of official wildlife officer emblems shall be established by the department in cooperation with California wildlife officers to ensure that the public is readily able to distinguish wildlife officers from personnel who are not peace officers.

Comment. Section 4120 continues former Fish and Game Code Section 858(b) without substantive change.

TITLE 2. COUNTY

§ 4200. Appointment of county wildlife officer

4200. The board of supervisors of each county may, in its discretion, appoint a suitable person to serve for a period of two years from the date of appointment as wildlife officer of the county.

Comment. Section 4200 continues former Fish and Game Code Section 875 without substantive change.

§ 4205. Removal of county wildlife officer

4205. The board of supervisors may by a majority vote of its members remove the county wildlife officer at any time.

Comment. Section 4205 continues former Fish and Game Code Section 877 without substantive change.

§ 4210. Salary

4210. The board of supervisors shall fix the salary to be paid and the expenses to be allowed the county wildlife officer, which salary and expenses shall be paid from the county treasury.

Comment. Section 4210 continues former Fish and Game Code Section 876 without substantive change.

§ 4215. Authority

4215. The county wildlife officer shall enforce the state laws relating to the protection of fish and wildlife. The wildlife officer has the powers and authority conferred by law upon peace officers listed in Section 830.6 of the Penal Code.

Comment. Section 4215 continues former Fish and Game Code Section 878 without substantive change.

§ 4220. Quarterly activity report

4220. The county wildlife officer shall report quarterly to the board of supervisors, giving a detailed statement of all arrests made, convictions had, and

fines collected, and a general statement in regard to the management of the office of county wildlife officer. A copy of the detailed statement shall, at the same time, be filed with the department.

Comment. Section 4220 continues former Fish and Game Code Section 879 without substantive change.

§ 4225. Appointment of deputy

4225. The board of supervisors of each county may, in its discretion, appoint a deputy wildlife officer, to serve at the pleasure of the board.

Comment. Section 4225 continues former Fish and Game Code Section 880 without substantive change.

§ 4230. Deputy powers, duties, salary, and expenses

4230. The deputy shall have the powers, perform the duties, receive the salary, and be entitled to expenses, as the board of supervisors provides.

Comment. Section 4230 continues former Fish and Game Code Section 881 without substantive change.

§ 4235. Source of payment of deputy salary and expenses

4235. The salary and expenses of a deputy county wildlife officer shall be paid from the county treasury.

Comment. Section 4235 continues former Fish and Game Code Section 882 without substantive change.

PART 2. GENERAL PROCEDURES

§ 4300. Rewards

4300. (a) The director may pay a reward from any funds available for that purpose to any person who furnished information that led to an arrest, a criminal conviction, a civil penalty, an administrative penalty, or for forfeiture of property, for any violation of this code or any regulation adopted pursuant to this code. The amount of reward, if any, shall be designated by the director with the advice of the CalTIP Award Board.

(b) This section does not apply to any action brought to recover damages under Section 8450.

Comment. Section 4300 continues former Fish and Game Code Section 2586 without substantive change.

§ 4305. Employee expenditure to procure evidence

4305. (a) Regularly employed law enforcement officers of the department may, when authorized by the director, expend sums authorized for the purchase of fish, birds, or mammals as evidence, or for expenditures related to the procurement of

those types of evidence, or for expenditures made to investigate other violations of this code, without divulging the identity of the employee.

(b) The sums so expended shall be repaid to the law enforcement officer making the expenditure upon claims approved by the director. The claims, when approved, shall be paid out of the funds appropriated or made available by law for the support of the department.

Comment. Section 4305 continues former Fish and Game Code Section 855 without substantive change.

§ 4310. Environmental crimes task force

4310. (a) The Legislature finds and declares that:

(1) Poaching violations and other violations of the Fish and Wildlife Code have been increasing, and these violations have a detrimental impact on fish and wildlife and their habitats, which are held in trust by the state for the benefit of the people of the state.

(2) In order to deter illegal poaching and other violations that adversely impact fish and wildlife, it is important that the department coordinate with other law enforcement entities and the courts to facilitate effective enforcement and prosecution of these offenses.

(b) The department, to the extent feasible and subject to available resources, shall establish and coordinate an environmental crimes task force. The task force should involve the participation of the department's Office of General Counsel working with each of the department's law enforcement districts. The task force may include coordination with representatives from the California District Attorneys' Association, the Judicial Council, the Attorney General's office, and the University of California. Objectives of the task force may include, but are not limited to, providing training, education, and outreach to prosecutors and the courts on Fish and Wildlife Code violations and providing other assistance as appropriate in the prosecution of environmental crimes.

Comment. Section 4310 continues former Fish and Game Code Section 12028 without substantive change.

§ 4315. Electronic management of citations

4315. (a) The department, on or before January 1, 2016, shall prepare and submit to the relevant policy and fiscal committees of the Legislature a feasibility study report on an electronic system to manage citations issued by fish and wildlife wardens, exchange information on citations with the courts, and transfer data on court dispositions to the Automated License Data System.

(b)(1) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report pursuant to subdivision (a) shall become inoperative on January 1, 2017.

(2) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

Comment. Section 4315 continues former Fish and Game Code Section 702.1 without substantive change.

§ 4320. Dashboard cameras

4320. (a) The department may install patrol vehicle mounted video and audio systems, commonly known as dashboard cameras, in patrol vehicles used by peace officers described in Section 4105. A peace officer described in Section 4105 may use the patrol vehicle mounted video and audio system to record any communications or other actions involving the officer while the officer is in uniform and acting within the scope of his or her authority.

(b) The department shall adopt a policy to establish standards regarding the activation of patrol vehicle mounted video and audio systems and the preservation and retention of recordings from patrol vehicle mounted video and audio systems, subject to the following requirements:

(1) Once a patrol vehicle mounted video and audio system has been activated pursuant to standards established by the department pursuant to subdivision (b), the patrol vehicle mounted video and audio system shall record the duration of an encounter.

(2) The department shall retain a recording from a patrol vehicle mounted video and audio system for a minimum of 90 days and a maximum of one year, except if the recording is necessary for a pending, or reasonably foreseeable civil or criminal action, or for training or administrative purposes.

(3) The department shall provide access to a recording from a patrol vehicle mounted video and audio system in accordance with all other provisions of law.

Comment. Section 4320 continues former Fish and Game Code Section 856.5 without substantive change.

PART 3. PENALTIES

TITLE 1. PENALTIES GENERALLY

§ 4400. Misdemeanor as default criminal penalty

4400. (a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted pursuant to this code, is a misdemeanor.

(b) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

Comment. Subdivision (a) of Section 4400 continues former Fish and Game Code Section 12000(a) without change.

Subdivision (b) continues former Fish and Game Code Section 12002(a) without change.

☞ **Note.** The introductory clauses in existing Section 12000(a) (which would be continued by proposed Section 4400(a)) and existing Section 12002(a) (which would be continued by proposed Section 4400(b)) are slightly different in scope. It seems likely that the difference was inadvertent, in which case it would be appropriate to conform the two provisions.

The Commission requests public comment on whether the stricter introductory clause in subdivision (a) of proposed Section 4400 should also be used in subdivision (b) of that provision.

§ 4405. Violation of regulations generally

4405. It is unlawful to violate any provision of Division 1 (commencing with Section 1.04) of Title 14 of the California Code of Regulations. The violation may be charged as a violation of this section or of the specific provision of Title 14, and shall be punishable as provided in Section 4410.

Comment. Section 4405 continues former Fish and Game Code Section 2020 without substantive change.

§ 4410. Violation of specific regulations

4410. Notwithstanding Section 4400, a person who violates any of the following regulations in Title 14 of the California Code of Regulations is guilty of an infraction punishable by a fine of not less than one hundred dollars ($100) and not to exceed one thousand dollars ($1,000), or of a misdemeanor:

(a) Sections 1.14, 1.17, 1.62, 1.63, and 1.74.

(b) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive.

(c) Sections 27.56 to 30.10, inclusive.

(d) Sections 40 to 43, inclusive.

(e) Section 251.7.

(f) Sections 307, 308, and 311 to 313, inclusive.

(g) Sections 505, 507 to 510, inclusive, and 550 to 553, inclusive.

(h) Section 630.

(i) Section 632, except if either of the following apply:

(1) The person who violates the regulation is a commercial fisherman, or a commercial passenger fishing boat owner.

(2) The violation of the regulation occurred within two years of a prior violation of the regulation that resulted in a conviction.

Comment. Section 4410 continues former Fish and Game Code Section 12000(b)(4)-(12) without substantive change.

☞ **Note.** As a general proposition, except where there exists clear legislative intent to achieve a different result, the proposed law would replace references to the term "licensed commercial fisherman" with the term "commercial fisherman," which is defined as a person "engaging in an activity for which a commercial fishing license is *required*.... (regardless of whether the person *had* a valid license). See proposed Section 280 ("commercial fisherman") and Note following. As expressed in that Note, the rationale for that revision is the Commission's belief that the Legislature intended that laws regulating commercial fishing should apply to anyone *engaged* in the regulated activity, regardless of whether the person held a valid *license* to do so.

Based on that rationale, proposed Section 4410(i)(1) would replace the phrase "person who violates the regulation holds a commercial fishing license issued pursuant to Article 3

(commencing with Section 7850) of Chapter 1 of Part 3 of Division 6" with the phrase "person who violates the regulation is a commercial fisherman."

This same rationale also applies equally to persons involved in other regulated commercial fishing businesses, and so throughout the proposed law the Commission has proposed similar revisions of references to persons holding licenses to engage in such businesses. See, e.g., proposed Sections 300 ("commercial passenger fishing boat owner")**.** Therefore**,** proposed Section 4410(i)(1) would also replace the phrase "person who violates the regulation holds...a commercial passenger fishing boat license issued pursuant to Article 5 (commencing with Section 7920) of Chapter 1 of Part 3 of Division 6" with the phrase "person who violates the regulation is... a commercial passenger fishing boat owner."

The Commission invites comment on whether these revisions would be problematic.

§ 4415. Failure to appear or pay fine

4415. (a) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(b) This subdivision does not apply to any violation of Section 3050, 25200, 39230, **5650, 5653.9**, **6650**, **6653.5**, or subdivision (a) or (b) of Section 3360.

Comment. Section 4415 continues former Fish and Game Code Section 12002(d) without substantive change.

§ 4420. Violation of promise to appear

4420. Any person willfully violating his or her written promise to appear in court, or before a person authorized to receive a deposit of bail, is guilty of a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.

Comment. Section 4420 continues former Fish and Game Code Section 12020 without substantive change.

☞ **Note**. In context, it seems likely that existing Section 12020 only applies to a person charged with a violation of the Fish and Game Code (or an implementing regulation). However, the section does not state that limitation expressly. **Should it?**

§ 4425. Additional penalty

4425. (a) In addition to any assessment, fine, penalty, or forfeiture imposed pursuant to any other provision of law, an additional penalty of fifteen dollars ($15) shall be added to any fine, penalty, or forfeiture imposed under this code for a violation of this code or a regulation adopted pursuant thereto. However, no more than one additional penalty may be imposed in a single proceeding. The revenue from this penalty shall be transferred to, and deposited in, the Fish and Game Preservation Fund and used exclusively for the purposes of Section 3805.

(b) Subdivision (a) does not apply to a violation punishable pursuant to subdivision (b) of Section 9900, subdivision (b) of Section 13300, or any regulation relating to the wearing or display of a fishing license.

Comment. Section 4425 continues former Fish and Game Code Section 12021 without substantive change.

TITLE 2. CULTIVATION OR PRODUCTION OF CONTROLLED SUBSTANCE

§ 4700. "Controlled substance" defined

4700. For purposes of this chapter, "controlled substance" has the same meaning as defined in Section 11007 of the Health and Safety Code.

Comment. Section 4700 continues former Fish and Game Code Section 12025(h) without substantive change.

§ 4705. Conduct on public land

4705. In addition to any penalties imposed by any other law, a person found to have violated the code sections described in subdivisions (a) to (k), inclusive, in connection with the production or cultivation of a controlled substance on land under the management of the Department of Parks and Recreation, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection, the State Lands Commission, a regional park district, the United States Forest Service, or the United States Bureau of Land Management, or within the respective ownership of a timberland production zone, as defined in Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code, of more than 50,000 acres, or while trespassing on other public or private land in connection with the production or cultivation of a controlled substance, shall be liable for a civil penalty as follows:

(a) A person who violates **Section 1602** in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(b) A person who violates **Section 5650** in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(c) A person who violates **Section 5652** in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(d) A person who violates subdivision (a) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(e) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled

substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(f) A person who violates subdivision (b) of Section 374.8 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(g) A person who violates Section 384a of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(h) A person who violates subdivision (a) of Section 4571 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(i) A person who violates Section 4581 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(j) A person who violates Section 8000 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(k) A person who violates Section 8010 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

Comment. Section 4705 continues former Fish and Game Code Section 12025(a) without substantive change.

§ 4710. Conduct on other land

4710. (a) In addition to any penalties imposed by any other law, a person found to have violated the code sections described in this section in connection with the production or cultivation of a controlled substance on land that the person owns, leases, or otherwise uses or occupies with the consent of the landowner shall be liable for a civil penalty as follows:

(1) A person who violates **Section 1602** in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(2) A person who violates **Section 5650** in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(3) A person who violates **Section 5652** in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(4) A person who violates subdivision (a) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject

to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(5) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(6) A person who violates subdivision (b) of Section 374.8 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(7) A person who violates Section 384a of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(8) A person who violates subdivision (a) of Section 4571 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(9) A person who violates Section 4581 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(10) A person who violates Section 8000 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(11) A person who violates Section 8010 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(b) Each day that a violation of a code section described in this section occurs or continues to occur shall constitute a separate violation.

Comment. Section 4710 continues former Fish and Game Code Section 12025(b) without substantive change.

§ 4715. Consideration of civil penalty in conjunction with other penalties

4715. (a) A civil penalty imposed for each separate violation pursuant to this chapter is in addition to any other civil penalty imposed for another violation of this chapter, or any violation of any other law.

(b) A civil penalty imposed or collected by a court for a separate violation pursuant to this chapter shall not be considered to be a fine or forfeiture, as described in Section 3610.

(c) A civil penalty imposed pursuant to this chapter for the violation of an offense described in subdivision (d), (e), or (f) of Section 4705 or paragraphs (4), (5), or (6) of subdivision (a) of Section 4710, for which the person was convicted, shall be offset by the amount of any restitution ordered by a criminal court.

Comment. Subdivision (a) of Section 4715 continues former Fish and Game Code Section 12025(c) without substantive change.

Subdivision (b) continues the first part of former Fish and Game Code Section 12025(d) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 12025(g) without substantive change.

§ 4720. Apportionment of penalty

4720. A civil penalty imposed or collected by a court for a separate violation pursuant to this chapter shall be apportioned in the following manner:

(a) Thirty percent shall be distributed to the county in which the violation was committed, pursuant to Section 3610. The county board of supervisors shall first use any revenues from those penalties to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation.

(b) (1) Thirty percent shall be distributed to the investigating agency to be used to reimburse the cost of any investigation directly related to the violations described in this chapter.

(2) If the department receives reimbursement pursuant to this subdivision for activities funded pursuant to subdivision (f) of Section 4629.6 of the Public Resources Code, the reimbursement funds shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, if there is an unpaid balance for a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code.

(c) Forty percent shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, and used for grants authorized pursuant to Section 4629.6 of the Public Resources Code that improve forest health by remediating former marijuana growing operations.

Comment. Section 4720 continues former Fish and Game Code Section 12025(d) without substantive change.

§ 4725. Imposition of administrative penalty by Department of Fish and Wildlife

4725. (a) A civil penalty authorized pursuant to this chapter may be imposed administratively by the department, if all of the following occur:

(1) The chief deputy director or law enforcement division assistant chief in charge of marijuana-related enforcement issues a complaint to any person or entity on which a civil penalty may be imposed pursuant to this chapter. The complaint shall allege the act or failure to act that constitutes a violation, any facts related to natural resources impacts, the provision of law authorizing an administrative penalty to be imposed, and the proposed penalty amount.

(2) The complaint and order is served by personal notice or certified mail and informs the party served that the party may request a hearing not later than 20 days from the date of service. If a hearing is requested, it shall be scheduled before the director or his or her designee, which designee shall not be the chief deputy or

assistant chief issuing the complaint and order. A request for a hearing shall contain a brief statement of the material facts the party claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a lesser amount is warranted. A party served with a complaint pursuant to this subdivision waives his or her right to a hearing if a hearing is not requested within 20 days of service of the complaint, in which case the order imposing the administrative penalty shall become final.

(3) The director, or his or her designee, shall control the nature and order of hearing proceedings. Hearings shall be informal in nature, and need not be conducted according to the technical rules relating to evidence. The director or his or her designee shall issue a final order within 45 days of the close of the hearing. A copy of the final order shall be served by certified mail upon the party served with the complaint.

(4) A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired, or, where the party did not request a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

(5) The department may adopt regulations to implement this subdivision.

(d) All administrative penalties imposed or collected by the department for a separate violation pursuant to this chapter shall not be considered to be fines or forfeitures, as described in Section 3610.

(e) All administrative penalties imposed or collected by the department for a separate violation pursuant to this chapter shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, to repay any unpaid balance of a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code. Any remaining funds from administrative penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited into the Timber Regulation and Forest Restoration Fund for grants authorized pursuant to subdivision (h) of Section 4629.6 of the Public Resources Code, with priority given to grants that improve forest health by remediating former marijuana growing operations.

(2) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

Comment. Section 4725 continues former Fish and Game Code Section 12025(e) and (f) without substantive change.

DIVISION 4. INTER-JURISDICTIONAL COMPACTS

PART 1. UNITED STATES

TITLE 1. ACCEPTANCE OF FEDERAL ACTS

§ 4800. Assent to Public Law 415, 75th Congress

4800. The State of California hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress). The department, with the approval of the commission, shall perform any acts needed to conduct or establish cooperative wildlife-restoration projects, as defined in that act of Congress, in compliance with that act and rules and regulations adopted under that act, and funds accruing to the State of California from license fees paid by hunters shall not be diverted for a purpose other than the administration of the department and the protection, propagation, preservation, and investigation of fish and wildlife.

Comment. Section 4800 continues former Fish and Game Code Section 400 without change.

§ 4805. Assent to Public Law 681, 81st Congress

4805. The State of California hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950 (Public Law 681, 81st Congress). The department, with the approval of the commission, may perform any acts needed to conduct or establish cooperative fish restoration projects, as defined in that act of Congress, in compliance with that act and rules and regulations adopted under that act, and funds accruing to the State of California from license fees paid by fishermen shall not be diverted for a purpose other than the administration of the department and the protection, propagation, preservation, and investigation of fish and wildlife.

Comment. Section 4805 continues former Fish and Game Code Section 401 without change.

TITLE 2. MANAGEMENT OF FISH AND WILDLIFE ON MILITARY LANDS

§ 4850. Statement of policy

4850. It is the policy of the state to actively encourage the biologically sound management of fish and other wildlife resources on lands administered by the United States Department of Defense. The department may develop a program to implement this title in cooperation with the military services.

Comment. Section 4850 continues former Fish and Game Code Section 3450 without substantive change.

§ 4855. Coordination and cooperation with military services

4855. The department may coordinate and cooperate with all branches of the United States military service, Department of Defense, for the purpose of developing fish and wildlife management plans and programs on military installations. The plans and programs shall be designed to provide biologically optimum levels of fish and wildlife resource management and use compatible with the primary military use of those lands. Military lands involved in programs developed pursuant to this title shall not be available to the general public without the consent of the military service administering the lands.

Comment. Section 4855 continues former Fish and Game Code Section 3451 without substantive change.

§ 4860. Regulations and agreements authorized

4860. The commission may adopt regulations and authorize the department to enter into agreements with the United States Department of Defense for the administration of this title.

Comment. Section 4860 continues former Fish and Game Code Section 3452 without substantive change.

§ 4865. Management plans and programs

4865. (a) Upon approval of specific management plans and programs, which reflect the recommendations of the department, the commission may authorize actions and adopt regulations governing those actions pursuant to this title.

(b) The provisions of Sections 34520, 34525, and 34530 do not apply to regulations adopted pursuant to this title.

(c) The activities conducted pursuant to this program shall be reviewed annually by the department and the commission.

Comment. Section 4865 continues former Fish and Game Code Section 3453 without substantive change.

TITLE 3. FEDERAL BIRD RESERVATIONS

§ 4900. Acceptance of Migratory Bird Conservation Act

4900. The people of the state, through their legislative authority, accept the provisions and benefits of the act of Congress known as the "Migratory Bird Conservation Act," approved February 18, 1929. Upon approval by the commission, they consent to the acquisition by the United States, by purchase, lease, gift, or devise, of areas of land, water, or land and water, within the state, that the United States or its properly constituted officers or agents may deem necessary for migratory bird reservations in carrying out the provisions of the act

of Congress; saving and reserving, however, to the state full and complete jurisdiction and authority over any areas that is not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of the act of Congress, and saving and reserving to all persons within those areas all rights, privileges, and immunities under the laws of the State, insofar as they are compatible with the administration, maintenance, protection, and control of those areas by the United States under the terms of the act of Congress.

Comment. Section 4900 continues former Fish and Game Code Section 10680 without substantive change.

§ 4905. Consent of concerned county

4905. Prior to approval by the commission under Section 4900, the legislative body of the county concerned shall have given its written consent to the commission for the proposed acquisition.

Comment. Section 4905 continues former Fish and Game Code Section 10681 without substantive change.

§ 4910. Insufficient payments from United States to county

4910. (a) If in any year, on lands hereafter acquired, the in lieu payments from the United States to the county, pursuant to the provisions of law, do not equal the taxes assessed on a given project, the department shall pay from income derived from hunting privileges on the project an amount equal to the balance of the taxes on the entire project.

(b) For the purposes of this section, the taxes on a given project are the assessed taxes on the project at the time of acquisition, plus any subsequent increases that may accrue from general county increases in the tax rates, but not subject to re-evaluation of the project properties after the time of acquisition.

Comment. Section 4910 continues former Fish and Game Code Section 10682 without substantive change.

☞ **Note.** In the first sentence of existing Section 10682 (which would be continued by proposed Section 4910, the phrase "pursuant to the provisions of law" is ambiguous. It could refer to the Migratory Bird Conservation Act, this title, or both. There is no appellate decision construing the provision.

The Commission requests public input on how to correctly resolve the ambiguity.

§ 4915. Federal compliance with state law

4915. The consent of the state to the acquisition by the United States of land, water, or land and water for migratory bird reservations in accordance with this title, is subject to the condition that the United States conform to the laws of the state relating to the acquisition, control, use, and distribution of water with respect to the land acquired.

Comment. Section 4915 continues former Fish and Game Code Section 10683 without substantive change.

§ 4920. Conditions on continuing consent

4920. The consent contained in Section 4900 continues only so long as the property continues to belong to the United States and is held by it in accordance and in compliance with each and all of the conditions and reservations as prescribed in this title, and is used for the purposes for which it was acquired.

Comment. Section 4920 continues former Fish and Game Code Section 10684 without substantive change.

§ 4925. Additional consent

4925. With the approval of the commission, the people of the state, through their legislative authority, also consent to the declaration, withdrawal, or determination of any part of any national forest or power site, and do further consent to the condemnation of any lands lying and being below an elevation known and described as minus 230-foot elevation below sea level, as a migratory bird reservation under the provisions of the act of Congress cited in Section 4900.

Comment. Section 4925 continues former Fish and Game Code Section 10685 without substantive change.

PART 2. STATES AND OTHER JURISDICTIONS

TITLE 1. RECIPROCAL AGREEMENTS WITH ADJOINING STATES

§ 5000. Reciprocal sport fishing license agreements

5000. The commission, subject to the approval of the Attorney General, may enter into reciprocal agreements with corresponding state or county official agencies of adjoining states pertaining to the establishment of a basis whereby valid sport fishing licenses issued by the parties to the reciprocal agreements may be used by their licensees within the jurisdiction of either, in accordance with the terms of the agreements.

Comment. Section 5000 continues former Fish and Game Code Section 390 without substantive change.

§ 5005. Reciprocal operational agreement with law enforcement

5005. (a) The director, or a designated representative, may enter into reciprocal operational agreements with authorized representatives of any Oregon, Nevada, or Arizona state law enforcement agency, including, but not limited to, the Oregon State Police, the Nevada Department of Wildlife, and the Arizona Game and Fish Department, to promote expeditious and effective law enforcement service to the public, and assistance between the members of the department and those agencies, in areas adjacent to the borders of this state and each of the adjoining states pursuant to Section 5010.

(b) The reciprocal operational agreement shall be in writing and may cover the reciprocal exchange of law enforcement services, resources, facilities, and any other necessary and proper matters between the department and the respective agency.

(c) Any agreement shall specify all of the following:

(1) The involved departments, divisions, or units of the agencies.

(2) The duration and purpose of the agreement.

(3) Responsibility for damages.

(4) The method of financing any joint or cooperative undertaking.

(5) The methods to be employed to terminate an agreement.

(d) The director may establish operational procedures in implementation of any reciprocal operational agreement that are necessary to achieve the purposes of the agreement.

Comment. Section 5005 continues former Fish and Game Code Section 392 without substantive change.

§ 5010. Status of law enforcement officers of adjoining states

5010. (a) A regularly employed law enforcement officer of an Oregon, Nevada, or Arizona state law enforcement agency, including, but not limited to, the Oregon State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish Department, is a peace officer in this state, if all of the following conditions are met:

(1) The officer is providing, or attempting to provide, law enforcement services within this state, within a distance of up to 50 statute miles of the contiguous border of this state and the state employing the officer, or within waters offshore of this state in the Exclusive Economic Zone.

(2) The officer is providing, or attempting to provide, law enforcement services pursuant to either of the following:

(A) In response to a request for services initiated by a member of the department.

(B) In response to a reasonable belief that emergency law enforcement services are necessary for the preservation of life, and a request for services by a member of the department is impractical to obtain under the circumstances. In those situations, the officer shall obtain authorization as soon as practical.

(3) The officer is providing, or attempting to provide, law enforcement services for the purpose of assisting a member of the department in response to misdemeanor or felony criminal activity, pursuant to the authority of a peace officer as provided in subdivision (e) of Section 830.2 of the Penal Code, or, in the event of an emergency incident or other similar public safety problem, whether or not a member of the department is present at the scene of the event.

(4) An agreement pursuant to Section 5005 is in effect between the department and the agency of the adjoining state employing the officer, the officer acts in accordance with that agreement, and the agreement specifies that the officer and

employing agency of the adjoining state shall be subject to the same civil immunities and liabilities as a peace officer and his or her employing agency in this state.

(5) The officer receives no separate compensation from this state for providing law enforcement services within this state.

(6) The adjoining state employing the officer confers similar rights and authority upon a member of the department who renders assistance within that state.

(b) Notwithstanding any other provision of law, a person who is acting as a peace officer in this state in the manner described in this section shall be deemed to have met the requirements of Section 1031 of the Government Code and the selection and training standards of the Commission on Peace Officer Standards and Training, if the officer has completed the basic training required for peace officers in his or her state.

(c) A peace officer of an adjoining state shall not provide services within a California jurisdiction during a period in which officers of the department are involved in a labor dispute that results in a formal work slowdown or stoppage.

Comment. Section 5010 continues former Fish and Game Code Section 393 without substantive change.

TITLE 2. INFORMATION RELEASE

§ 5050. Release of information to other jurisdictions

5050. The department may exchange or release to any appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by the department under any provision of this code or any regulation adopted pursuant to this code.

Comment. Section 5050 continues former Fish and Game Code Section 391 without change.

TITLE 3. CALIFORNIA-ARIZONA COMPACT

§ 5100. California-Arizona Compact authorized

5100. (a) The commission may negotiate the terms of a compact between the States of Arizona and California with any appropriate officials of the State of Arizona in relation to reciprocal privileges and licenses for hunting and fishing by residents of one of the states within the territorial jurisdiction of the other. The negotiations shall include, but shall not be limited to, provisions relating to sport fishing and the hunting of migratory waterfowl in, on, or along the Colorado River.

(b) It is the primary purpose of this section to provide a method whereby the hunting and fishing opportunities afforded by the Colorado River may be mutually enjoyed by the residents of the States of Arizona and California despite the difficulties and inconveniences that result from the fact that the boundary line

between the States of Arizona and California is the middle of the channel of the Colorado River.

Comment. Section 5100 continues former Fish and Game Code Section 375 without substantive change.

TITLE 4. WILDLIFE VIOLATOR COMPACT

CHAPTER 1. GENERAL PROVISIONS

§ 5200. Enactment of Wildlife Violator Compact

5200. The Wildlife Violator Compact is hereby enacted into law and entered into with all other participating states.

Comment. Section 5200 continues former Fish and Game Code Section 716 without change.

§ 5205. Statement of policy

5205. It is the policy of this state in entering into the compact to do all of the following:

(a) Promote compliance with the statutes, ordinances, and administrative rules and regulations relating to the management of wildlife resources in this state.

(b) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat that suspension as if it had occurred in the licensee's home state if the violation that resulted in the suspension could have been the basis for suspension in the home state.

(c) Allow a violator, except as provided in subdivision (b) of Section 5450, to accept a wildlife citation and, without delay or detention, proceed on his or her way whether or not the violator is a resident of the state in which the citation was issued, if the violator's home state is a party to this compact.

(d) Report to the appropriate participating states, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(e) Allow the home state to recognize and treat convictions recorded against its residents, if those convictions occurred in a participating state, as though they had occurred in the home state.

(f) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

(g) Maximize effective use of law enforcement personnel and information.

(h) Assist court systems in the efficient disposition of wildlife violations.

Comment. Section 5205 continues former Fish and Game Code Section 716.1 without substantive change.

§ 5210. Purposes of title

5210. The purposes of this title include both of the following:

(a) To provide a means by which participating states may join in a reciprocal program to effectuate the policies enumerated in Section 5205 in a uniform and orderly manner.

(b) To provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of the participating states.

Comment. Section 5210 continues former Fish and Game Code Section 716.2 without substantive change.

CHAPTER 2. DEFINITIONS

§ 5300. Application of chapter

5300. The definitions in this chapter govern the construction of this title.

Comment. Section 5300 restates the introductory clause of former Fish and Game Code Section 716.3 without substantive change.

§ 5305. "Board"

5305. "Board" means the board of compact administrators established pursuant to Section 5650.

Comment. Section 5305 continues former Fish and Game Code Section 716.3(a) without substantive change.

§ 5310. "Citation"

5310. "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation pertaining to sport fishing, hunting, or trapping, which contains an order requiring the person to respond.

Comment. Section 5310 continues former Fish and Game Code Section 716.3(b) without change.

§ 5315. "Collateral"

5315. "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

Comment. Section 5315 continues former Fish and Game Code Section 716.3(c) without change.

§ 5320. "Compact manual"

5320. "Compact manual" is a manual used and adopted by the participating states that prescribes the procedures to be followed in administering the wildlife violator compact in participating states.

Comment. Section 5320 continues former Fish and Game Code Section 716.3(d) without change.

§ 5325. "Compliance"

5325. "Compliance," with respect to a citation, means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, penalties, costs, and surcharges, if any.

Comment. Section 5325 continues former Fish and Game Code Section 716.3(e) without change.

§ 5330. "Conviction"

5330. "Conviction" means a conviction, including, but not limited to, any court conviction for an offense related to sport fishing, hunting, or trapping, that is prohibited by statute, ordinance, or administrative rule or regulation, that involves the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed an offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

Comment. Section 5330 continues former Fish and Game Code Section 716.3(f) without substantive change.

§ 5335. "Court"

5335. "Court" means a court of law, including a magistrate's court and a justice of the peace court.

Comment. Section 5335 continues former Fish and Game Code Section 716.3(g) without substantive change.

The reference to a "justice of the peace court" in Section 5335 is retained, notwithstanding the elimination of such courts in California, based on the existence of such courts in other states that are members of the Interstate Violator Compact.

§ 5340. "Home state"

5340. "Home state" means the state of primary residence of a person.

Comment. Section 5340 continues former Fish and Game Code Section 716.3(h) without change.

§ 5345. "Issuing state"

5345. "Issuing state" means the participating state that issues a wildlife citation to the violator.

Comment. Section 5345 continues former Fish and Game Code Section 716.3(i) without change.

§ 5350. "License"

5350. "License" means any license, permit, entitlement to use, or other public document that conveys to the person to whom it is issued the privilege of sport

fishing, hunting, or trapping, that is regulated by statute, ordinance, or administrative rule or regulation of a participating state.

Comment. Section 5350 continues former Fish and Game Code Section 716.3(j) without change.

§ 5355. "Licensing authority"

5355. "Licensing authority," with reference to this state, means the department, which is the state agency authorized by law to issue or approve licenses or permits to sport fish, hunt, or trap.

Comment. Section 5355 continues former Fish and Game Code Section 716.3(k) without change.

§ 5360. "Participating state"

5360. "Participating state" means any state that enacts legislation to become a member of the wildlife compact.

Comment. Section 5360 continues former Fish and Game Code Section 716.3(*l*) without change.

§ 5365. "Personal recognizance"

5365. "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

Comment. Section 5365 continues former Fish and Game Code Section 716.3(m) without change.

§ 5370. "State"

5370. "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

Comment. Section 5370 continues former Fish and Game Code Section 716.3(n) without change.

§ 5375. "Suspension"

5375. "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license for sport fishing, hunting, or trapping.

Comment. Section 5375 continues former Fish and Game Code Section 716.3(*o*) without change.

§ 5380. "Terms of the citation"

5380. "Terms of the citation" means those conditions and options expressly stated upon a citation.

Comment. Section 5380 continues former Fish and Game Code Section 716.3(p) without change.

§ 5385. "Wildlife"

5385. "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, ordinance, or administrative rule or regulation in a participating state. The species included in the definition of "wildlife" vary from state to state and the determination of whether a species is "wildlife" for the purposes of this compact shall be based on the law of the participating state.

Comment. Section 5385 continues former Fish and Game Code Section 716.3(q) without change.

§ 5390. "Wildlife law"

5390. "Wildlife law" means any statute, regulation, ordinance, or administrative rule or regulation developed and enacted for the management of wildlife resources and the uses thereof.

Comment. Section 5390 continues former Fish and Game Code Section 716.3(r) without change.

§ 5395. "Wildlife officer"

5395. "Wildlife officer" means any individual authorized in this state to issue a citation for a wildlife violation.

Comment. Section 5395 continues former Fish and Game Code Section 716.3(s) without change.

§ 5400. "Wildlife violation"

5400. "Wildlife violation" means the violation of a statute, ordinance, or administrative rule or regulation developed and enacted for the management of wildlife resources and the uses thereof pertaining to sport fishing, hunting, and trapping and for which a prosecution is initiated.

Comment. Section 5400 continues former Fish and Game Code Section 716.3(t) without change.

CHAPTER 3. ISSUING STATE VIOLATION PROCEDURES

§ 5450. Issuance of citation

5450. (a) Notwithstanding any other provision of law, when issuing a citation for a wildlife violation for purposes of this title, a wildlife officer of the issuing state may issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state, and shall not require that person to post collateral to secure appearance, except as provided in subdivision (b), if the officer receives the personal recognizance of the person that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable unless prohibited by ordinance of a city or county, the policy of the issuing agency, a procedure or regulation, or by the compact manual, and only if the violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate wildlife officer shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state, and shall contain information as prescribed in the compact manual.

(d) Upon receipt of the report of conviction or noncompliance pursuant to subdivision (c), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

Comment. Section 5450 continues former Fish and Game Code Section 716.4 without change.

CHAPTER 4. HOME STATE PROCEDURES

§ 5500. Action by home state

5500. (a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority shall notify the violator and shall initiate a suspension action. The licensing authority shall suspend the violator's license privileges, in accordance with the requirements of due process, until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished to the licensing authority.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state may enter that conviction in its records and may treat the conviction as though it occurred in the home state for the purposes of the suspension of license privileges, if the violation that resulted in the conviction would constitute a wildlife violation in the home state.

(c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

Comment. Section 5500 continues former Fish and Game Code Section 716.5 without change.

CHAPTER 5. RECIPROCAL RECOGNITION OF SUSPENSION

§ 5550. Recognition of suspension in other state

5550. (a) As a participating member of the wildlife violator compact, the licensing authority of this state may recognize the suspension of license privileges of any person by any participating state if both of the following occur:

(1) The violation that resulted in the conviction would constitute a wildlife violation in this state.

(2) The conviction that resulted in the suspension could have been the basis for suspension under the statutes, ordinances, or administrative rules or regulations of this state.

(b) The licensing authority shall communicate suspension information to other participating states in the form and content prescribed by the compact manual.

Comment. Section 5550 continues former Fish and Game Code Section 716.6 without change.

CHAPTER 6. APPLICABILITY OF OTHER LAWS

§ 5600. Right of participating state to apply its own laws

5600. Except as expressly required by this title, this title shall not be construed to affect the right of any participating state to apply any of its statutes, ordinances, or administrative rules or regulations relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state, concerning wildlife law enforcement.

Comment. Section 5600 continues former Fish and Game Code Section 716.7 without change.

CHAPTER 7. COMPACT ADMINISTRATOR PROCEDURES

§ 5650. Establishment, duties, and powers

5650. (a)(1) A board of compact administrators is hereby established to serve as a governing body for the resolution of all matters relating to the operation of this compact. The board shall be composed of one member from each of the participating states to be known as the compact administrator.

(2) A compact administrator of any participating state may provide for the discharge of his or her duties and the performance of his or her functions as a board member by an alternate, designated by that member. An alternate is not entitled to serve unless written notification of his or her identity is provided to the board.

(3) The compact administrator for this state shall be appointed by the director and shall serve, and be subject to removal, in accordance with the laws of this state.

(b) Each member of the board is entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the membership of the board vote in favor thereof. Action by the board may only be taken at a meeting at which a majority of the membership of the board is present.

(c) The board shall elect annually from its membership a chairperson and vice chairperson.

(d) The board shall adopt bylaws, not inconsistent with this compact, and may amend and rescind the bylaws.

(e) The board may accept for any of its purposes and functions under this compact any donation and grant of money, equipment, supplies, materials, and

services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose thereof.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, including any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

Comment. Section 5650 continues former Fish and Game Code Section 716.8 without change.

CHAPTER 8. ENTRY INTO COMPACT AND WITHDRAWAL

§ 5700. Application of compact

5700. (a) This title shall become effective when it is adopted in substantially similar form by this state and one or more other states, subject to the following conditions:

(1) The entry into the compact shall be made by resolution executed and ratified by authorized officials of the applying state and submitted to the chairperson of the board of contract administrators.

(2) The resolution shall substantially be in the form and content as provided in the compact manual, and shall include all of the following:

(A) A citation of the authority authorizing the state to become a party to this compact.

(B) An agreement to comply with the terms and provisions of this compact.

(C) An agreement that the state entering into the compact agrees to participate with all participating states in the compact.

(b) The effective date of entry into the compact shall be specified by the applying state but shall not be less than 60 days after notice has been given by either the chairperson or secretary of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from participation in this compact by giving written notice to the compact administrator of each participating state. The withdrawal shall not become effective until 90 days from the date on which the written notice of withdrawal is sent to each participating state. The withdrawal of any state shall not affect the validity of this compact as to the remaining participating states.

Comment. Section 5700 continues former Fish and Game Code Section 716.9 without substantive change.

CHAPTER 9. AMENDMENTS TO THE COMPACT

§ 5750. Amendment

5750. (a) This compact may be amended periodically. Amendments shall be presented in resolution form to the chairperson of the board, and shall be initiated by one or more participating states.

(b) The adoption of an amendment requires endorsement by all participating states and becomes effective 30 days after the date of the last endorsement.

(c) The failure of any participating state to respond to the appropriate authority within 60 days after receipt of a proposed amendment constitutes endorsement thereof.

Comment. Section 5750 continues former Fish and Game Code Section 717 without change.

CHAPTER 10. CONSTRUCTION AND SEVERABILITY

§ 5800. Liberal construction

5800. This compact shall be liberally construed to effectuate its purposes.

Comment. Section 5800 continues former Fish and Game Code Section 717.1 without change.

§ 5805. Severability

5805. The provisions of this title are severable. If any provision of this title or its application is held invalid or contrary to the constitution of any participating state or of the United States, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Comment. Section 5805 continues former Fish and Game Code Section 717.2 without change.

TITLE 5. PACIFIC MARINE FISHERIES COMPACT

CHAPTER 1. THE COMPACT

§ 5900. Authority to execute compact

5900. The Governor is hereby authorized and directed to execute a compact on behalf of this state with any or all of the states of Alaska, Idaho, Oregon**,** and Washington for the purpose of cooperating with those states in the formation of a Pacific States Marine Fisheries Commission.

Comment. Section 5900 continues former Fish and Game Code Section 14000 without substantive change.

§ 5905. Form and content of compact

5905. The form and contents of the Pacific Marine Fisheries Compact shall be substantially as provided in this section and the effect of its provisions shall be interpreted and administered in conformity with the provisions of this title:

PACIFIC MARINE FISHERIES COMPACT

The contracting states do hereby agree as follows:

Article I

The purposes of this compact are and shall be to promote the better utilization of fisheries, marine, shell and anadromous, which are of mutual concern, and to develop a joint program of protection and prevention of physical waste of those fisheries in all of those areas of the Pacific Ocean over which the compacting states jointly or separately now have or may hereafter acquire jurisdiction.

Nothing herein contained shall be construed so as to authorize the compacting states or any of them to limit the production of fish or fish products for the purpose of establishing or fixing the prices thereof or creating and perpetuating a monopoly.

Article II

This agreement shall become operative immediately as to those states executing it in the form that is in accordance with the laws of the executing state and when the Congress has given its consent.

Article III

Each state joining herein shall appoint, as determined by state statutes, one or more representatives to a commission hereby constituted and designated as the Pacific States Marine Fisheries Commission, of whom one shall be the administrative or other officer of the agency of that state charged with the conservation of the fisheries resources to which this compact pertains. This commission shall be invested with the powers and duties set forth herein.

The term of each commissioner of the Pacific States Marine Fisheries Commission shall be four years. A commissioner shall hold office until a successor shall be appointed and qualified but the successor's term shall expire four years from legal date of expiration of the term of the predecessor. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned. Each commissioner may delegate in writing from time to time, to a deputy, the power to be present and participate, including voting as a representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

Voting powers under this compact shall be limited to one vote for each state regardless of the number of representatives.

Article IV

The duty of the said commission shall be to make inquiry and ascertain from time to time any methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell, and anadromous in all of those areas of the Pacific Ocean over which the states signatory to this compact jointly or separately now have or may hereafter acquire jurisdiction. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions and said conservation zones to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the signatory parties hereto.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislative branches of the various signatory states hereto legislation dealing with the conservation of the marine, shell, and anadromous fisheries in all of those areas of the Pacific Ocean over which the states signatory to this compact jointly or separately now have or may hereafter acquire jurisdiction. The commission shall, more than one month prior to any regular meeting of the legislative branch in any state signatory hereto, present to the governor of that state its recommendations relating to enactments by the legislative branch of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the signatory states with regard to problems connected with the fisheries and recommend the adoption of any regulations that it deems advisable and which lie within the jurisdiction of the agencies.

The commission shall have power to recommend to the states signatory hereto the stocking of the waters of the states with marine, shell or anadromous fish and fish eggs or joint stocking by some or all of the states and when two or more of the said states shall jointly stock waters the commission shall act as the coordinating agency for the stocking.

Article V

The commission shall elect from its number a chairperson and a vice chairperson and shall appoint and at its pleasure remove or discharge any officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business.

It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory states but must meet at least once a year.

Article VI

No action shall be taken by the commission except by the affirmative vote of a majority of the whole number of compacting states represented at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the vote of a majority of the compacting states which have an interest in the species.

Article VII

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of the Pacific States Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishers, commercial fishing industry and any other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon any recommendations as it may desire to make.

Article VIII

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

Article IX

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the governor thereof.

Article X

The states agree to make available annual funds for the support of the commission on the following basis:

Eighty percent of the annual budget shall be shared equally by those member states having as a boundary the Pacific Ocean. Not less than 5 percent of the annual budget shall be contributed by any other member state. The balance of the annual budget shall be shared by those member states having as a boundary the Pacific Ocean, in proportion to the primary market value of the products of their commercial fisheries on the basis of the latest five–year catch records.

The annual contribution of each member state shall be figured to the nearest one hundred dollars ($100).

Article XI

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

Article XII

Hawaii or any other state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of the Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop the programs.

This compact shall become effective upon its enactment by the states signatory to this compact and upon ratification by Congress by virtue of the authority vested in it under Article 1, Section 10, of the Constitution of the United States.

Comment. Section 5905 continues former Fish and Game Code Section 14001 without substantive change.

§ 5910. Operation of compact

5910. Participation by this State in this compact shall continue until the Legislature otherwise provides by law. Notice of intention to withdraw from the compact shall be executed and transmitted by the Governor after the Legislature provides by law for discontinuance of participation therein by this State.

Comment. Section 5910 continues former Fish and Game Code Section 14002 without substantive change.

CHAPTER 2. THE COMMISSION

§ 5950. Members

5950. In furtherance of the provisions contained in the compact there shall be three members of the Pacific States Marine Fisheries Commission from the State of California, appointed by the Governor by and with the advice and consent of the Senate. One commissioner shall be the administrative or other officer of the department or agency of this state charged with the conservation of its marine fisheries resources. Another commissioner shall be a Member of the Legislature of this state who is a member of a committee on interstate cooperation of the

Legislature. Another member shall be a citizen of this state who shall have wide knowledge of and interest in the marine fisheries problem.

Comment. Section 5950 continues former Fish and Game Code Section 14100 without substantive change.

§ 5955. Term

5955. The term of each commissioner shall be four years. A commissioner shall hold office until a successor shall be appointed and qualified but the successor's term shall expire four years from the legal date of expiration of the term of the predecessor. Any commissioner may be removed from office by the Governor upon charges and after a hearing. The term of any commissioner who ceases to hold the qualifications required shall terminate when a successor may be duly appointed. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term in the same manner as for a full term appointment.

Comment. Section 5955 continues former Fish and Game Code Section 14101 without substantive change.

§ 5960. Compensation

5960. Each commissioner who is not also a state officer shall receive one hundred dollars ($100) for each day of performing official duties pursuant to the direction of the commission, and each commissioner shall receive actual and necessary travel expenses incurred in performing official duties on behalf of the commission.

Comment. Section 5960 continues former Fish and Game Code Section 14102 without substantive change.

☞ **Note.** Section 14102 provides for a per diem of $10. That provision appears to be obsolete. See Gov't Code § 11564.5 (default per diem is $100, notwithstanding any other provision of law). Proposed Section 5960 provides for the $100 per diem provided under the Government Code.

The Commission invites comment on whether this revision would be consistent with existing practice.

§ 5965. Performance

5965. All officers of the state are authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the compact in every particular. The policy of this state is to perform and carry out the compact and to accomplish the purposes thereof. All officers, bureaus, departments, and persons of and in the state government or administration of the state are hereby authorized and directed at convenient times and upon request of the commission to furnish the commission with information and data possessed by them and to aid the commission by any means lying within their legal rights.

Comment. Section 5965 continues former Fish and Game Code Section 14103 without substantive change.

§ 5970. Annual report

5970. The commission shall keep accurate accounts of its activities and shall report to the Governor and the Legislature on or before the thirty–first day of December in each year, setting forth in detail the transactions conducted by it during that calendar year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes that may be necessary to carry out the intent and purposes of the compact between the signatory states.

Comment. Section 5970 continues former Fish and Game Code Section 14104 without substantive change.

§ 5975. Execution of compact

5975. When the Governor on behalf of the state executes the compact, the Governor shall sign under a recital that the compact is executed pursuant to the provisions thereof, subject to the limitations and qualifications contained in the sections of this title in aid and furtherance thereof.

Comment. Section 5975 continues former Fish and Game Code Section 14105 without substantive change.

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DISPOSITION OF FORMER LAW

The table below shows the relationship between each provision of the existing Fish and Game Code and the corresponding provision of the proposed law (if any).

Existing Provision	*Proposed Provision(s)*
1	1(a)
2	200
3 1st sent	10(a)
3 2nd sent	25
4	30
5	40
6	45
7	50 (1st sent)
8	55
9	60
9.2	725
10	65
11	70
12	3500(b)
13	75
13.5	205
14	215
15	220
16	210
17	225
18	230
19	635
22	245
24	260
27	270
29	275
30 1st cl	305
30 2nd cl	310
32	315
33	320
35	795
35 1st cl	325
37	335
39	345
41	355
43	360
45	380
46	475
48	480
51	485
54	505
54.5	520
55	550
56	565
57	580
60	585
61	590
62	595
64	85
67	620
68	645
70	660
73	35(f), (g)
75	680
79	80
80	95
81	695
82	700
83	735
86	755
88	760
89	655
89.1	740, 790
89.5	800
90	not cont'd
90.1	not cont'd (see Note on proposed § 205)
90.5	265
90.7	340
91	350
93	365
94	410
96	525
96.5	540
97	600
97.5	605
98	610
98.2	615
98.5	625, 745
99	670
99.5	750
101	900
101.5	905
102	910
103	915
104	935
105	925
106	930
107	940
108	1200
110	920
200(a), (b)(1), (b)(2) 1st sent, (c)	1000
200(b)(2) 2nd sent	720
200(b)(2) 3rd sent	705
201	1005
203	1010
203.1	1020

Existing Provision	*Proposed Provision(s)*
205	1015
219	1025
250	1100
255	1105
260	1110
265	1115
270	1120
275	1125
301	1205
302	33400(a)
303	33400(b)
306	8700
307	8705
308	8720
308.5	35820
309(a)	1300
309(b)	1305
310	41000
312	9150
313	44350
314	8710(a)
315	8710(b)
315.3	8715
316	39805
316.5	41010
317	10310
325	10500(a)(1)-(3)
326	10505(a)
327	10510
328 1st sent	10505(b)
328 2nd sent	10515
329	10500(a)(4)
330	10500(b)
331(a)	33000
331(b) 1st-3rd sent	32955
331(b) 4th sent	32960(b)
331(c), (d)	32950
332(a)	34950
332(b)	34850
332(c)	34860
332(d), (e)	34855
355 1st, 2nd para	29210
355 3rd para	29220
356 1st para	29200
356 2nd para	29215
357	29225
375	5100
390	5000
391	5050
392	5005
393	5010
395	30100
396	30105(a), (b)
398	30105(c)
399	1250
400	4800

Existing Provision	*Proposed Provision(s)*
401	4805
450	34500
451	34530(e)
452	34505
453	34510(a)
454	34510(b)
455	34510(c)
456 1st sent	34515(a)
456 2nd sent	not cont'd
456 3rd sent	34515(b)
457	34520
458	34525
459	34525
460	34530(a)-(d)
500	9360
700	1500
701	1515
701.3	1520
701.5	1915(a), (b)
702	1505
702.1	4315
703(a)	1510
703.3	2410
703.5	2400
704	1525
706	1530
707	1605(a)
709	32965(a), 34245(a), 34870(a), 35825(a)
710	3450
710.5	3455
710.7	3460
711	3465
711.2(a)	640
711.2(b)	1605(b), 1915(c), 9100(i)
712	3470
713	3755
714	9100(a)-(h)
715	1910
716	5200
716.1	5205
716.2	5210
716.3 intro.	5300
716.3(a)	5305
716.3(b)	5310
716.3(c)	5315
716.3(d)	5320
716.3(e)	5325
716.3(f)	5330
716.3(g)	5335
716.3(h)	5340
716.3(i)	5345
716.3(j)	5350
716.3(k)	5355
716.3(l)	5360
716.3(m)	5365
716.3(n)	5370

Existing Provision	*Proposed Provision(s)*
716.3(o)	5375
716.3(p)	5380
716.3(q)	5385
716.3(r)	5390
716.3(s)	5395
716.3(t)	5400
716.4	5450
716.5	5500
716.6	5550
716.7	5600
716.8	5650
716.9	5700
717	5750
717.1	5800
717.2	5805
850	1600
851	4100
853	4110
854	4115
855	4305
856	4105
856.5	4320
857	1610
858(a)	1615
858(b)	4120
859	3660
860	3670
875	4200
876	4210
877	4205
878	4215
879	4220
880	4225
881	4230
882	4235
1000	1745
1000.6	40955
1001	1700
1002	9200
1002.5	9205
1003	9210
1004	1705
1005	1750
1005.5	1755
1006	1715
1007	1710
1008	1720
1009	2105
1011	2200
1012	2205
1013	2210
1015	1725
1017	1740
1019	2100
1020	2405
1021	49850

Existing Provision	*Proposed Provision(s)*
1050(a)	2905
1050(b)	2805
1050(c)	2910
1050(d)	3000
1050(e)	3750
1050(f)	3005
1050.1	2815
1050.3	2925
1050.5	3010
1050.6	2915
1050.8	3665
1051	2810
1052	3050
1052.5	2820
1053.1(a)	2930
1053.1(b)	not cont'd
1053.5	10205
1054(a)	2300
1054(b)	2920
1054(c)	2300, 2920
1054.2	8300(a)
1054.5	2900
1054.8	2940
1055.1(a), (b)	3200
1055.1(c) 1st sent	3250(a)
1055.1(c) 2nd sent	3250(c)
1055.1(c) 3rd, 4th sent	3250(b)
1055.1(d)-(f)	3350
1055.1(g)	3205
1055.1(h)	not cont'd
1055.3	3210
1055.6(a)	3255(a)
1055.6(b)	3255(b)
1055.6(c)	3355
1055.6(d)	3255(c)
1055.6(e)	not cont'd
1056	3370
1057	3365
1058	3375
1059	3360(a), (b)
1061	2935
1065	3260
1068	50655
1069	23200
1110	15200
1120	25100
1121	25105
1122	25110
1122.5	25130
1123	25405
1123.5	25855
1124	11505
1125	25420
1126	25115
1150	25120
1170	25200

Existing Provision	*Proposed Provision(s)*
1171	25205
1172	25210
1173	25215
1174	25220
1175	25225
1200	25300
1201	25305
1202	25310
1203	25315
1204	25320
1205	25325
1206	25330
1210	25135
1225	3650
1226(a)	3655
1226(b)	1900
1227	1905
1502	1730
1503	34535
1575	10700
1725	11700
1726	11705
1726.1	11710
1726.4	11715
1726.5	11720
1727	11725
1728	11730
1729	11735
1730	11740
1740	38900
1741	38905
1742	38910
1743	38915
1745(a)	2000
1745(b)(1)	2005
1745(b)(2)	2010
1745(c), (d)	2015
1745(e)-(g)	2020
1745(h)	2025
1745(i)	2035
1745(j)	2030
1745.1	2040
2000	8000
2000.5	8005
2001	8015
2002	8010
2003	8115
2004	8120
2005	8125
2006	9715
2007	9560
2009(a), (c)-(f)	8130(a), (b), (d), (e)
2009(b)	8130(c)
2010	9555
2011	9735
2011.5	9725

Existing Provision	*Proposed Provision(s)*
2012	8305
2013	90
2014	8450
2015	28600
2016	9580
2018	8135
2019	9730
2020	4405
2021	42610(a)-(d)
2021.5(a)	42610(e), (f)
2021.5(b)	42615
2022(a)	28650
2022(b), (c)	28655
2022(d)	28660
2022(e)	28665
2022(f), (i)	28670
2022(g)	28675
2022(h)	28680
2022(j)	28685
2116	26500
2116.5	26510
2117	26505
2118	26520
2118.2	35050
2118.3	34815
2118.4	35055
2118.5	26525
2119	26535
2120	26515
2121	26545(a)
2122	26530
2123	26540
2124	26550
2125(a)-(c)	26560
2125(d)	26565
2126	26555
2127	26575
2128	28750
2150(a)	26700
2150(b)	26705
2150(c)-(f)	26710
2150.1	26715(b)
2150.2	26715(a)
2150.3	26720
2150.4	26725
2150.5	26730
2151	26735
2152	26740
2153	26745
2155	26750
2156	26755
2157(a)	26760
2157(b), (d)	26765
2157(c)	26770
2185(a)	26905
2185(b)	26900

Existing Provision	***Proposed Provision(s)***
2186(a)	26910
2186(b)	26900
2187(a)	26915
2187(b)	26900
2189(a)	27000
2189(b), (c)	27005
2189(d)-(f)	27010
2190	26545(b)
2192	26580
2193(a)	26775
2193(b), (c)	26780
2195	26570
2200	27100
2201	27105
2202	27110
2203	27115
2225	28000
2250	35615
2270	28100
2270.5	28105
2271	28110
2272	28115
2300(a), (b)	28250
2300(c)	28255
2301(a)(1)	49950
2301(a)(2)(A)-(D)(i), (c)(2)	49960
2301(a)(2)(D)(ii)-(iv)	49965
2301(b)	49970
2301(c)(1)	49975
2301(d)	49980
2301(e)	49955
2301(f)	49995
2301(g)	49985
2301(h)	49990
2301(i)	50000
2302(a), (b)	50105
2302(c)	50110
2302(d)	50115
2302(e)	50120
2302(f) 1st, 2nd sent	50130
2302(f) 3rd sent	50125
2302(g)	50100
2345	28400
2346	28405(a)
2347	28405(b)
2348	28410
2349	28415
2350	29375, 34120
2352	28420
2353	28425
2354	40705
2355	34125
2356	43850
2358	43855
2359	38865(a)
2360	38850, 38860

Existing Provision	***Proposed Provision(s)***
2361	41050
2362	38705, 38875(a), 38875(b), 44650
2363	38865(b), 42455, 43200
2364	46550
2365	49315
2368	46255
2369	46260
2371	45750
2400	28500
2401	28505
2535	8800
2536	8805
2537	8810
2538	8900
2539	8815
2540(a), (b), (d), and (e)	8905
2540(c)	8910
2541	8915
2542	8820
2543	8825
2544	8920
2545	8925
2546	9000
2575	37455(b)
2576	37455(a)
2580	9300
2581	9310(a)
2582	9305
2583(a) 1st sent	9320
2583(a) 2nd, 3rd sent	9325
2583(b)	9310(c)
2584(a)	9315
2584(b)-(h)	9330
2585	9335
2586(a)	4300
2586(b)	4300, 9310(b)
2587(a)	9340
2587(b)	9345
2588	9350
2589	9355
2760	11900
2761	11905
2762	11910
2762.2	11915
2762.5	11920
2762.6	11925
2763	11930
2764	11935
2765	11940
3000	9590
3001	9710
3002	9550
3003	9575
3003.1(a) 1st sent, (b), (c)	11110(a)
3003.1(a) 2nd-3rd sent	250
3003.1(d)	11100

Existing Provision	*Proposed Provision(s)*
3003.2	8140(a)
3003.5	9570
3004(a)	9700
3004(b)	9705
3004.5(a)	10000
3004.5(b)	10005(a)
3004.5(c)	10010
3004.5(d)	10015
3004.5(e)	10020
3004.5(f)	10030
3004.5(g)	10025(a)
3004.5(h)	10025(b)
3004.5(i)	10005(b)
3004.5(j)	10005(c)
3005(a)	9565(a)
3005(c)	9565(b)
3005(d)	9565(c)
3005.5	9740
3006	33225, 34115, 34810
3007	9500(a)
3008	9720
3009	10100
3010	30910(a)
3011	33200
3012	9585
3031	10210
3032(a)(1)	31500
3031.2	10225
3031.5	10215
3032(a)(2)-(d)	31505
3033	10300
3037	10220
3038	10305
3040	10230
3049	10400
3050	10200
3051	10405
3052	10410
3053	10415
3054	10420
3060	10355
3061	10350
3062	10360
3063	10365
3080(a)	10800
3080(b)	10805
3080(c)	10810
3080(d)	10815
3080(e)	10820
3086	10825
3087	10830
3200	26000
3201	26005
3202	26010
3203	26015
3204 1st para	26020
3204 2nd para	26025
3205	26030
3206	26035
3207	26040
3208	26045
3209	26050
3212	26055
3213	26060
3214	26065
3216	26070
3217	26075
3218	26080
3219	26085
3240.5(a)	10600
3240.5(b)	10605
3240.5(c), (d)	10610
3241	10615
3242	10620
3243.5	10625
3245	10630
3246	10635
3270(a)	29365
3270(b)	not cont'd
3300 1st para, 1st sent	26205
3300 1st para, 2nd sent	26210(a)
3300 2nd para	26200
3301 1st sent	26210(b)
3301 2nd, 3rd sent	26215
3302	26220
3303 1st, 2nd sent	26225
3303 3rd sent	26230
3305	26235
3306 1st, 2nd para	26240
3306 3rd para	26245
3307 1st para, 1st sent	26250(b)
3307 1st para, 2nd sent	26250(a)
3307 2nd para	26255
3308	26265
3309	26260
3310	26270
3311	26275
3450	4850
3451	4855
3452	4860
3453	4865
3500(a)	665
3500(a)(10)	30900
3500(a)(11)	31100
3500(b)	545
3500(b)(1)	30500
3500(b)(6)	31000
3500(c)	450
3501	29355
3502	29350
3503	28905(a)
3503.5	30105(a), 30105(b), 30110(a)

Existing Provision	***Proposed Provision(s)***
3504	28910
3505	30300, 30700, 30750, 30800, 30850
3508	29360
3511(a)(1) 1st, 2nd sent	30200(a), (b)
3511(a)(1) 3rd-6th sent, (a)(2)	30205
3511(a)(3)	30210
3511(b)	420
3511(b)(5)	30350
3513	29855(a)
3514	370
3515	29705
3516 1st para	29700
3516 2nd para	29650
3660	30910(b)
3680	31010
3681	30510
3682.1(a)	29500
3682.1(b)	29505
3682.1(c)	not cont'd
3682.2	29510
3683	775
3683(a)(11)	30900
3683(a)(12)	31100
3683(b)(4)	31000
3684(a)	29515(a)
3684(b)	29515(b)
3684(c) 1st sent	29515(d)
3684(c) 2nd sent	29520(a)
3684(c) 3rd sent	29525
3684(c) 4th, 5th sent	29520(b)
3684(d)	29530(a)
3684(e) 1st sent	29540
3684(e) 2nd sent	29515(e)
3684(f)	29545
3684(g)	29515(c)
3686 1st sent	29520(c)
3686 2nd sent	29530(b), 29535
3700.1(a)	30505(a)
3700.1(b)	30515
3700.1(c)	not cont'd
3700.2(a)-(f)	30520
3700.2(g)	30525(a)
3701 1st sent	30530
3701 2nd sent	30535(a)
3702 1st sent	30540
3702 2nd sent	30555
3702 3rd sent	30550
3702.1	30565
3702.5 1st para	30525(b)
3702.5 2nd para	not cont'd
3703	30560(a)
3704 1st para, 1st-2nd sent	30535(b)
3704 1st para, 3rd sent	30535(c)
3704 1st para, 4th sent	30545
3704 2nd para	not cont'd
3704.5 1st para, 1st sent	30570
3704.5 1st para, 2nd sent	30555
3704.5 1st para, 3rd sent	30550
3704.5 2nd para	not cont'd
3705	30560(b)
3800(a) 1st sent	570
3800(a) 2nd sent	29850(a)
3801	31050
3801.5	29860
3801.6(a)	30000
3801.6(b)(1)	30005
3801.6(b)(2) 1st sent	30015
3801.6(b)(2) 2nd-4th sent	30010(a)
3801.6(c)	30010(b)
3802	30115
3803	28915
3806	29205
3850	30360
3851	30365
3852	30370
3853	30375
3854	30380
3855	30385
3856	30390
3857	30395
3860	29050
3861	29055
3862	29060
3863	29065
3950(a)	460(a)(1)-(4), 460(a)(6)-(9), 32900, 33100, 34100, 34800, 35300(a), 35700, 36000, 37100, 37450
3950(b)	460(a)(5)
3950.1	460(b), (c)
3950.1(a)	35300(b)
3950.1(b)	35310
3951	34960
3952	34955
3953(a)	31900
3953(b) 1st sent	32960(a), 34865, 35830(a), 37220
3953(b) 2nd sent	32965(b), 33305, 34240, 34245(b), 34870(b), 35825(b)
3953(c)	31905
3953(d)	31910
3953(e) 1st sent	31915
3953(e) 2nd sent	31920
3953(f)	31925
3953(g)	31930
3960(a)	31500
3960(b)	31510(a)
3960(c)(1), (2), (4)	31550
3960(c)(3)	31510(b)
3960.2	33515
3960.2(a)	31500, 33755
3960.2(b), (d), (e)	33905
3960.4	33600, 33755

Existing Provision	***Proposed Provision(s)***
3960.4(a)	31500
3960.4(b)-(d)	33950
3960.6	33505, 33755
3960.6(a)	31500
3960.6(b)	33900
3961	31555
4000	435, 33700, 35200, 35600
4002	32150(a)
4003	32150(b)
4004(a)	11150
4004(b)	11105
4004(c)	11020(a), (b)
4004(d)	11000
4004(e)	11155
4004(f)	11005
4004(g)	11010
4005(a) 1st sent	11200(a), (b)(1)
4005(a) 2nd sent	650
4005(b)	11210
4005(c)	11200(b)(6)
4005(d)	11205
4005(e)	11200(b)(2)-(5)
4005(f)	37460
4006(a)	11215(a)
4006(b)	11230
4006(c)	11215(b)
4007	11220
4008	11225
4009	11015
4009.5	11235
4010	26400
4011	31700
4012	35210
4030	11300
4031	11305
4032	11315(a), (b)
4033	11315(c)
4034	11310
4035	11320
4036	11350
4037	11325(a)
4038	11325(b)
4040	11330
4041	11335
4042	11340
4043	11355
4150	35700
4150 1st sent	575(a)
4150 2nd sent	32300
4151	575(b)
4152	32305, 35215, 35610, 35710, 36010
4153 1st para	32310(a)
4153 2nd para	31600
4154	32310(b)
4155(a)	33805
4155(b), (c)	33810
4155(d)	33800
4155(e)	33815
4155(f)	33820
4180	32155
4180.1 1st para	31605(a)
4180.1 2nd para	31605(b)
4181(a)	31110, 33520(a)-(e) and (g), 33710, 35000(a)-(d) and (g), 36015, 37150, 37360(a)-(d) and (f)
4181(b)	33520(f)
4181(c)	37355(f), 37360(e)
4181(d)	35000(e), (f)
4181.1(a)	33510(a)
4181.1(b)	37355(a)-(d)
4181.1(c)	33510(b), 37355(e)
4181.1(d)	33510(c)
4181.1(e)	33510(d)
4181.2	37350
4181.5	34600
4185	33650
4186	35705
4188	31115, 34605, 37365
4190	31610
4301(a) 1st sent	34400(b), (c)
4301(a) 2nd-4th sent	34405(b)-(d)
4301(b)	34400(a), 34405(a)
4302	34110
4303	34410
4304	31800, 34415
4304 1st sent	29370
4330	34200(a)
4331	34220
4332(a)-(d)	33225
4332(e)	not cont'd
4333	34230
4334	34215
4336	34205
4340	34235
4341	34210
4370	34350
4371	34355
4500	32500(a)-(c)
4500(c)	530
4500(c)	37000
4501	35755
4502.5	37050
4600	34055(a)-(c)
4650	37105
4651	37300
4652	37150
4653	37200
4654	37205, 37215
4655	37210
4656	not cont'd
4657	37155
4700(a)(1) 1st, 2nd sent	32700(a), (b)

Existing Provision	*Proposed Provision(s)*
4700(a)(1) 3rd-6th sent, (a)(2)	32705
4700(a)(3)	32710
4700(b)	430
4700(b)(1), (b)(7)	37450
4700(b)(2)	35800
4700(b)(6)	37000
4700(b)(8)	35750
4750	33205(a)
4751	33300
4752	33310
4753	33210
4754	33315
4755	33215
4757	33220
4758	33455
4759 1st sent	33450(a)
4759 2nd, 3rd sent	33450(b)
4760	33110
4763	33500
4800(a)-(c)	35350
4800(d)	35310
4801	35400
4801.5	35440
4802	35405
4803	35410
4804	35415
4805	35420
4806	35425
4807	35430
4808	35315
4809	35435
4810	35500
4900	35810
4901	35815
4902(a), (b)	35900
4902(c)	35910
4902(d)	35905(a), (b)
4902(e)	35905(c)
4903	35915
4903 3rd, 4th sent	35830(b)
5000	53305
5001	53315
5002	53310
5050(a)	52200(a)-(d), (g); 53000(a)-(d), (g)
5050(b)(1), (2)	440
5050(b)(3)-(5)	415
5060	53100
5061	53105
5062	53200
5500	8145
5501	11540
5503	11525
5505	11530, 45250, 45400, 51905
5507	11510
5508	11515
5509	11520

Existing Provision	*Proposed Provision(s)*
5510	13710
5511	24905
5514	41005, 43950
5515(a)	38200(a)-(d), (g)
5515(b)	425
5516	11535
5517	42605
5520	46000
5521	45800
5521.5	45805
5521.6	45810
5522(a), (b)	46005
5522(c)	46010
5522(d)	46015
5522(e)	46020
5523	11500
5669	45500(a)
5670	45505
5671	45500(a)
5672 1st para	45510(a)
5672 2nd para	45505
5673	45510(b)
5674	45515
5675	45500(b)
5700	45450
5701	45455
5701.5	45460
5702	45465
6300	37950
6300	52000
6301	37955, 52005
6302	37960, 52010
6303	37965, 52015
6304	37970, 52020
6305	37975, 52025
6306	37980, 52030
6400	25415
6400.5	38870
6401	25410
6402	25850
6403	13255(c), 25400, 39150
6420	25600
6421	25605
6422	25610
6423	25615
6424	25620(a)
6425(a)	not cont'd
6425(b)	25620(b)
6440	39205
6450	39210
6451	39215
6452	39220
6453	39235
6454	39230
6455	39225
6456	39200

Existing Provision	*Proposed Provision(s)*
6457	39240
6460	39245
6590	25700
6591	25705
6592	25710
6593 1st, 3rd sent	25720
6593 2nd sent	25715(b)
6594	25715(a)
6595	25725
6596.1(a) 1st, 3rd sent	12910(a), (b)
6596.1(a) 2nd sent, (f)	13255(a)
6596.1(b)	21935
6596.1(c)	38875(c)
6596.1(d)	14620
6596.1(e)	not cont'd
6596.1(f)	14620
6596.1(g)	13255(b), 21935(c)
6597	25730
6597.5	25735
6598	25740
6850	52400
6851	52450
6852	52460
6854	52455
6855	52465
6880	52500
6881 1st sent	52505
6881 2nd sent	52510
6882	52505
6883	52515
6884	52505
6885	52520
6895	52300
6896	52305
6900	11800
6901	11810
6902	11815
6903	11820
6903.5	25125
6910	11805
6911	11805
6912	11805
6920(a)	11825(a)
6920(b)	11830
6921	11825(b)
6922	11845
6923	11840
6924	11835
6930	11850
6950	41100
6952	41105
6953	41110
6954	41115
6955	41120
6956	41125
7050	12100
7051	12105
7055	12150
7056	12155
7058	12160
7059	12165
7060	12200
7062	12205
7065	12250
7066	12255
7070	12300
7071(a)	12305
7071(b), (c)	12310
7072(a)-(c)	12315
7072(d)	12320
7073	12325
7074	12330
7075	12400
7076	12405
7077	12410
7078(a)-(c)	12415
7078(d)	12420
7078(e), (f)	12425
7080	12500
7081	12510
7082	12515
7083	12520
7084	12525
7085	12530
7086	12535
7087(a)	12505
7087(b)	12540(a)
7088	12540(b)
7090(a)	12600
7090(b)(1), (b)(2) 1st sent	12605
7090(b)(2) 2nd sent (b)(2)(A)-(E)	12610
7090(c)	12615
7090(d)	12620
7090(e)	12625
7090(f)	12630
7090(g)	12635
7090(h)	12640
7100	12805
7110	13800
7115	13805
7120	13500
7121 1st para	13600
7121 2nd para	13605
7123	40710
7145(a)	12900, 13000
7145(b)	13010
7147	13610
7147	21930
7149.05(a)	12850, 13100(a)
7149.05(b)	13400
7149.05(c)	not cont'd
7149.05(d)	13100(b)

Existing Provision	*Proposed Provision(s)*
7149.05(e)	13100(c)
7149.2	13105
7149.3	53250
7149.45(a)	12905(a), (b)
7149.45(b)	13250
7149.5	13110
7149.7	13020
7149.8	45700(a)-(c)
7149.9(a) 1st, 2nd sent	45955(a)
7149.9(a)(1) 1st sent	45960
7149.9(a)(1) 2nd sent	45950(b), (c)
7149.9(a)(2), (a)(3)	45960
7149.9(b)-(d)	45955(b)-(d)
7150	13150
7151(a)-(c)	13200
7151(d)	13205
7151(e)	13210
7151(f), (g)	13215
7153	13005
7153(a)	13015
7180.1(a)	12950, 12955
7180.1(b)	12955
7180.1(c) 1st sent	12955
7180.1(c) 2nd sent	13260
7181.1(a)	12960
7181.1(b)	not cont'd
7182.1(a)	13405
7182.1(b)	not cont'd
7183.1(a), (b)	13355
7183.1(c)	not cont'd
7184.1(a), (b)	13360
7184.1(c)	not cont'd
7185	12965, 13350(a), 13405(b)
7186.1(a)	13365
7186.1(b)	13350(b)
7186.1(c)	not cont'd
7230	13700
7232	13705
7256	49310
7260	43805
7261	555
7290	46250
7332	46300
7350	38855
7361	13900
7362	13910
7363	13905
7364	13915
7370	43150(a), (b)
7380	44000
7381	44005
7382	44010
7400	46050
7600	14200(a), 14200(b), 37805, 45005
7601	785
7630	22900

Existing Provision	*Proposed Provision(s)*
7650	22300
7652(a)-(c)	22405
7652(d)	22315
7652.1	22400(a)-(d)
7652.2	22450(a)-(d)
7652.3(a)	22410, 22455
7652.3(b)	22400(e), 22450(e)
7653	22415
7654	22305
7655	22310
7660	42050(b)
7662	42050(a)
7690	not cont'd
7700(a)-(c)	21600
7700(d)	730
7701	21610
7702	21615
7702.1	21810
7703	21620
7704(a)	14310
7704(b)	21800
7704(c)	42750
7705	21750
7706	21850
7707	21855
7708	21605
7709	23150
7710(a)-(c)	22800(a)-(e)
7710 last para	22800(f), 22805(d)
7710.1	22810
7710.5	22805(a)-(c)
7712	22815
7850	280
7850(a)	14500(a)
7850(b)	14500(b)
7850(c)	14615
7850(c) 1st sent	14500(c)
7850(d)	14500(d)(1)
7850.5	14500(d)(2)
7851	14550(b)
7852(a), (b)	14550(a)
7852(a)-(d)	14600
7852(e)	14550(c)
7852.1	14610, 14770
7852.2	14605
7852.25	14555
7852.27	14505, 20225
7852.4	14860
7853	14665(a)
7854	14665(b)
7855	14655
7856(a)-(d)	14870 (a)-(g)
7856(e)	14870(h)
7856(f) 1st-3rd sent	14875
7856(f) 4th sent	14880
7857(a), (c)-(k), (m)	14560

Existing Provision	***Proposed Provision(s)***
7857(b)	14650
7857(e)	14865
7857(k)	14760
7857(l)	14855
7857(m)	14850
7858	14565
7860	41355
7861	41360(a)-(d)
7861.1	41360(e)
7861.2	41365
7861.3	41350
7861.4	41375
7861.5	41370
7862	41380
7862.5	41385
7863	41390
7880	14785
7881(a)	14755, 14780
7881(b) 1st sent	14765(a)
7881(b) 2nd sent	14775
7881(c) 1st sent	14765(a)
7881(c) 2nd sent	14775
7881(d)	14790
7881(e)	14750
7881(f)	14765(c)
7881(g)	14765(d)
7891	15200
7892 1st sent	15050
7892 2nd sent	15055
7892 3rd sent	15060
7920 1st sent	295, 300
7920 1st, 3rd para	21905
7920 2nd para	21900
7921 1st sent	21915
7921 2nd sent	21910
7923	21920(a)
7924	21925
7925	42100
8010	22210
8022	22205
8025(a)	21400, 22215
8025(b)	not cont'd
8026	22200(a), (b)
8030	20200
8031(a)(1) 1st, 2nd sent	20400(a)
8031(a)(1) 3rd sent	20400(b)
8031(a)(2), (3)	not cont'd
8031(a)(4)	290
8031(b)	not cont'd
8032(a)	20205(a), 20230(b)
8032(b)	20205(b)
8032(c)	20230(b)
8032.5(a), (b), (d)-(i)	20210
8032.5(c)	20235
8033	395
8033(a)	20450
8033(b)	20455(a)
8033(c)	20460
8033.1(a)	515, 20600
8033.1(b)	20610
8033.2	20605(a)
8033.5(a)	400
8033.5(a) 1st sent	20500
8033.5(a) 2nd sent	20505(a)
8033.5(b)	not cont'd
8034	390
8034(a) 1st sent	20400(a)
8034(a) 2nd sent	20405(a)
8034(b)	not cont'd
8035	405
8035(a)	20550(a)
8035(b)	20555(a)
8035(c)	20550(b)
8036(a)	385
8036(a) 1st sent	20350
8036(a) 2nd sent	20355(a)
8036(b)	not cont'd
8037(a) 1st sent	20300
8037(a) 2nd sent	20220
8037(b)	not cont'd
8038	20215
8039	20230(c), 20355(b), 20405(b), 20455(b), 20505(b), 20555(b), 20605(b)
8040(a)	280
8040(b)	20900
8041	20950
8042 1st sent	20955(a)
8042 2nd sent	20955(b)
8043(a) 1st sent	21000
8043(a) 2nd sent	21005(a)
8043(b)	21020
8043(c) 1st sent	21025(b)
8043(c) 2nd, 3rd sent	21025(c)
8043(c) 4th sent	21155
8043.1(a)	21000
8043.1(b)	20905
8043.1(c) 1st sent	21005(b)
8043.1(c) 2nd sent	21005(c)
8043.1(d)	not cont'd
8043.2(a)	21010
8043.2(b)	21450
8043.2(c)	21455
8045	21020, 21225
8046(a) 1st sent	21150
8046(a) 2nd, 3rd, 4th sent	21100
8046(b)	21015
8046(c)	21110
8046.1	21115, 38365
8047(a)(1) 1st sent	21005(c)
8047(a)(1) 2nd sent	21150
8047(a)(1) 3rd sent	21105(a)
8047(a)(1) 4th sent	21110

Existing Provision	*Proposed Provision(s)*
8047(a)(2) 1st sent	21210(b)
8047(a)(2) 2nd, 3rd sent	21000
8047(a)(2) 4th sent	21215
8047(b) 1st sent	21000
8047(b) 2nd sent	20950
8047(b) 3rd sent	21025(a)
8047(b) 4th sent	not cont'd
8047(b) 5th sent	21105(a)
8047(b) 6th sent	21105(b)
8047(b) 7th sent	21110
8047(c)(1)	21210(a), 21215
8047(c)(2) 1st sent	21235
8047(c)(2) 2nd sent	21230(a)
8047(c)(2) 3rd sent	21230(b)
8047(c)(3)	21205
8047(c)(4)	20450
8047(c)(5)	21200
8047(d)	21225
8047(e) 1st sent	21220
8047(e) 2nd, 3rd sent	21240
8047(e) 4th sent	21245
8050	21300
8051	20955(a)
8051.4(a)	46150
8051.4(b)	not cont'd
8052	21360
8053	21350
8055	42105
8056	21355
8057	21365(a)
8058	21365(b)
8059	21365(c)
8060	21365(d)
8061	21365(e)
8062	21365(f)
8063	21365(g)
8064	21370
8065	21375(a)
8066	21375(b)
8067	21375(c)
8068	21375(d)
8069	21375(e)
8070	21375(f)
8075	21650
8076	21805
8077	21655
8078	21660
8079	21665
8079.1	21670
8080	21675
8100	495
8101	22500
8102	22505
8103	22510
8104	22515
8110	22705

Existing Provision	*Proposed Provision(s)*
8111	22700
8112	22710
8113	22715
8114	22720
8120	41600
8121	41605(a)-(c)
8122	41605(d)
8123	41610
8125 1st, 2nd sent	22905
8125 3rd sent	22915
8126	22910
8140	14210
8150.5	42265
8150.7 1st sent	42255
8150.7 2nd sent	42260
8154	42355
8180	38555(a)
8181	38555(b)
8182	38555(c)
8183	38560
8190	38550
8210.2	41450
8213	41460
8214	41465
8215	41470
8217	41455
8218	41475
8219	41480
8226	42110
8230	41650
8231	41305
8232	41665
8232.5	41670
8233 1st sent	41715
8233 2nd sent	41795
8233.3	41730
8233.4	41760
8233.5	41735
8233.8	41710
8233.9	41680
8234(a)	41675
8234(b)	41800
8235	41725
8236	41720
8237	41735
8238	41745(a)
8238.1	41745(b)
8239	41740(a)-(i)
8239.1	41755(a)-(c)
8239.2	41660(b)
8239.6	41765
8239.9	41750
8240	41755(d), (e)
8241	41740(j)
8242	41690
8243	41685

Existing Provision	*Proposed Provision(s)*
8244	41695
8245	41700
8245.5	41705
8246(a)	41785(a)
8246(b)	41785(b)
8246(c)	41785(c)
8246(d)	41785(e)
8246.2(a)	41790
8246.2(b)	41785(d)
8246.4	41770
8246.6	41775
8246.7	41780
8246.8	41660(a)
8247 1st sent	41900
8247 2nd sent	41940
8247 3rd sent	41930
8247.1	41915
8247.2 1st sent	41925
8247.2 2nd, 3rd sent	41935
8247.4	41945
8247.5(a)	41905
8247.5(b)	41920
8247.6	41955
8247.7	41910
8247.8	41950
8248	41655
8250	710
8250.5(a)	49700
8250.5(b)	49715
8250.5(c)	49750
8251	49600
8252	49605
8253	49755
8254	49500(a)-(e)
8254.7 1st-6th sent	49515
8254.7 7th sent	49615
8257	49505
8258	49710(a)
8259	49510
8275	46855
8276(a), (b)	47300
8276(c)	47060
8276.2(a)	47350
8276.2(b)(1)	47355(a)
8276.2(b)(2)(A)	47370
8276.2(b)(2)(B)	47360
8276.2(c) 1st, 3rd-6th sent	47365
8276.2(c) 2nd sent	47355(b)
8276.2(d)	47375
8276.3(a), (b)	47150
8276.3(c)	47160
8276.4(a) 1st sent	47800
8276.4(a) 2nd sent, (a)(1)-(7)	47805
8276.4(b)	47810
8276.4(c)	47815
8276.4(d)	47820

Existing Provision	*Proposed Provision(s)*
8276.4(e)	47825
8276.4(f)	47830(a)
8276.4(g)	47010(a)
8276.4(h)	47010(b), 47835
8276.5(a) 1st sent	47610
8276.5(a) 2nd sent	47615
8276.5(a)(1), (2)	47620
8276.5(a)(3)	47625
8276.5(a)(4)	47630
8276.5(a)(5)	47635
8276.5(a)(6)	47640
8276.5(a)(7)	47645
8276.5(a)(8)	not cont'd
8276.5(b)	47650
8276.5(c)	47830(b)
8276.5(d)	47655
8276.5(e), (f)	47660
8276.5(g)	47605
8276.5(h)	47600
8276.5(i)	47665
8277	47305
8278	47070
8279	47055
8279.1(a)-(e)	47155
8279.1(f)	47160
8280	48500
8280.1(a)	47900
8280.1(b)	48100
8280.1(b)(1), (2)	48105
8280.1(b)(3)	48110
8280.1(b)(4)(A)	48115
8280.1(b)(4)(B)	48120
8280.1(b)(4)(C)	48125
8280.1(b)(5)	48130
8280.1(b)(6)	48135
8280.1(c)	48145
8280.1(d)	48100
8280.1(e)	not cont'd
8280.1(f)	48140
8280.1(g)(1)	47930
8280.1(g)(2)	47935
8280.1(h)	47945, 48150
8280.2(a)-(d)	47925
8280.2(e) 1st sent	47920
8280.2(e) 2nd-4th sent	47915
8280.2(f)	47945
8280.2(f)	47945
8280.3(a)	48300
8280.3(b)	48310
8280.3(c)	48315
8280.3(d)	48320
8280.3(e)	48325
8280.3(f)	48330
8280.3(g)(1)	48340
8280.3(g)(2)	48335
8280.3(h)	48345

Existing Provision	*Proposed Provision(s)*
8280.3(i)	48350
8280.3(j)	48360
8280.4(a)	47905
8280.4(b)	47945
8280.5(a)-(e)	47940
8280.5(f)	47945
8280.6(a)	47910
8280.6(b)	48355
8280.6(c)	48305, 48360
8280.6(d)	47945
8280.7	48510
8280.9	48505
8281	47015
8282	48650
8283	47455
8284(a) 1st sent	47450(a)
8284(a) 2nd sent	47460(a)
8284(b), (c)	48660
8340	46400
8341	46410
8342	46425
8343	46415
8344	50255
8345	50405
8346	46420
8370	39005
8370	41495, 43355
8371(a), (b)	39010
8371(c), (d)	41455
8372	39105
8373	39555
8374	44455(a), 44470
8375	44455(b)
8376	44450
8377	44460(b)
8377.5	44460(a)
8378	44465
8380	39100
8381	39655
8382	38755(b), 44755(b)
8383.5	39050
8384	38755(c), 44755(c)
8385	21950
8386	38755(a), 44755(a)
8387	44760
8388(a)	42805
8388(b)	42800
8388(c)	42810(a)
8388(d)	42810(b)
8388.5	42905
8389(a) 1st sent	40500
8389(a) 2nd sent	40505
8389(b)	40510(a)
8389(c)	40510(b)
8389(d)	40515
8391	39900

Existing Provision	*Proposed Provision(s)*
8392	39905
8393(a)	40755
8393(b)	40760
8394	43655(a)
8394.5	43655(b)
8395	43555
8398	15100
8399	51400
8399.1	51405
8400	15105
8403(a)	38360
8403(b) 1st sent	19510(a)
8403(b) 2nd sent	19510(b)
8403(c)	19505
8405	50505
8405.1	50510
8405.2	50515
8405.3	50520
8405.4	50525
8411	40610, 40620
8412	40605
8420	51450
8424	51455
8425(a)	51460
8425(b)	51465
8428	51470
8429 1st sent	51475
8429 2nd sent	51480
8429.5	51485
8429.7	51490
8430	44105(a)
8431	44200(a), (b)
8432	44200(c)
8433	15150(b), 44105(b), 44200(d)
8434	15150(a)
8435	39410
8436	20105(a)
8436.5	20105(b)
8437	20100(a)
8437.1	20100(b)
8460	500
8460 1st para	22100(a)
8460 2nd para	22105, 22115
8460 3rd para	22100(b)
8460 4th para	14200(c), 21920(b), 22200(c)
8461	22110
8462	22120
8463	22125
8475	46405
8490	49005
8491	49015
8492	49020
8494(a)	39950
8494(b)	39955(a)
8494(c)	39955(b)
8494(d)	39960

Existing Provision	*Proposed Provision(s)*
8494(e)	39965
8494(f)	39970
8494(g)	39980
8494(h)	39975
8495(a)	40100
8495(b)-(d)	40105
8495(e)	40110
8496	40115
8497	40120
8500	45010
8510	49205
8550 1st para, 1st sent	40350(a)
8550 1st para, 2nd sent; 2nd para	40355
8550.5	40360
8552(a) 1st sent	40350(b)
8552(a) 2nd sent	40375, 40380
8552(b)-(e)	40365
8552.1	40400
8552.2	40380
8552.3	40385
8552.4	40395
8552.5	40445
8552.6	40375
8552.7	40390
8552.8	40370
8553	40455
8554	40405
8555	40410
8556	40415
8557	40420
8558	40425
8558.1(a) 1st, 2nd sent	40430
8558.1(a) 3rd sent	40435(c)
8558.1(b)	not cont'd
8558.2	40435(a), (b)
8558.3	40435(d)
8559	40440
8561	18300
8561.5	18305
8562	18310
8563	18315
8564	18320
8567	18325
8568	18330
8568.5	18335
8569	18340
8573	18345
8574	18350
8575	18355
8575.5	18360
8576	18365
8576.5	18370
8577	18375
8579	18380
8580	18385
8581	18390

Existing Provision	*Proposed Provision(s)*
8582	18395
8585	22600
8585.5	22605
8586	22610
8586.1	22625
8587	22630
8587.1	22620
8589	22615
8589.5	22640
8589.7	22635
8590	50955
8591	51005
8593	51000
8594	51050
8595(a)	51015(b)
8595(b)	51015(d)
8595(a)	51100(a)
8596	20700
8597(a)	510, 20705
8597(b)	20710
8597(c)	20715
8598	20720
8598.2	20725
8598.3(a), (c)	20730
8598.3(b)	20735
8598.4	20740
8598.6	20745
8599	42950
8599.3	42955
8599.4	42850
8601	685
8601	690
8601.5(a)	15600(a), 18900(c)
8601.5(b) 1st, 2nd sent	15600(b)
8601.5(b) 3rd sent	15610(b)
8601.5(b) 4th sent	15610(c)
8601.5(c)	15610(a)
8601.6(a)	15605
8601.6(b)	not cont'd
8602	15300
8603	14300
8604	14305
8605	1735
8606	19900
8606.1	16100
8607	38355
8608	15305
8609	16805
8610.1	16850
8610.2	16855
8610.3	16860
8610.4	16865
8610.5	16870
8610.6	16875
8610.9	16880
8610.11	16885

Existing Provision	***Proposed Provision(s)***
8610.12	16890
8610.13	16895
8610.14	16900
8610.15	16905
8610.16	16910
8614	19905
8615	19910
8623(a), (b), (e)	38760, 39055, 44765
8623(c), (d)	18500
8625	18505
8626	18510
8630 1st para	15400(a)
8630 1st para, 2nd sent	19405(b)
8630 2nd para 1st-3rd sent	15420, 19425
8630 2nd para 4th, 5th sent	15425(b), 19430(b)
8631	15400(b)-(d)
8632	15405, 19410
8633	15410, 19415
8634	15425(a), 19430(a)
8635	15415, 19420
8660	15500
8661	15505
8663	15515
8664	15520
8664.5	17000
8664.67	17005
8664.7	17010
8664.8	17015
8664.13	17020
8665	15510
8666	17025
8667	15525
8668	15530
8669	15535
8670	15540(a)
8680	18000
8681	18005
8681.5	18010
8681.7	18015
8682	18020
8683	18025
8684	18030
8685	18035
8685.5	18040
8685.6	18045
8685.7	18050
8686	18055
8687	18060
8688	18065
8691	18070
8692	18075
8692.5	18080
8693	18085
8694	18090
8696	18095

Existing Provision	***Proposed Provision(s)***
8700	18100
8720	18200
8721	18205
8724	18210
8725	18215
8750	675
8751	15700, 15705, 15710
8752	15715, 15720, 15725, 15730, 15735, 15740
8754	15745, 15750, 15755, 15760(a)-(c)
8755	15775(a), 15775(b), 15780, 15785
8756	39000, 41485, 42505, 44205
8757	15760(d), 15765(a), 15765(b), 15770(a), 15770(b), 15775(c)
8780(a) 1st sent	235
8780(a) 2nd sent	15760(e), 15765(c), 15770(c), 15775(d), 15905
8780(b)	15910
8780(c), (d)	15915
8780.1	15900
8800	240
8801	16000, 16005, 16010
8802	16015, 16020
8803	16025
8804	16030
8805	16035, 16040
8806	16045
8807	16050
8830 1st sent	765
8830 2nd sent	16105(a)
8831	16150
8832	16350, 16650
8833	16250, 16280, 16285, 16290, 16295, 16300, 16305
8834	47000
8834.1	41490
8834.5	47065
8835	16255, 16260, 16265
8836	16270, 16275, 16310
8837	16155
8840	16175
8841(a)-(c), (e), (i)-(k)	16110
8841(d)	16105(b)
8841(f)	16160(a)
8841(g)	51010(a), (b)
8841(h)	16165(a)
8841(i)	16160(b), 16165(b), 16170(b), 51010(c)
8841(l)	16170(a)
8842(a) 1st para	51100(a)
8842(a) 2nd para	51100(b)
8842(b)	51105(a)
8842(c) 1st sent	51110
8842(c) 2nd sent	40125
8842(c) 3rd sent	51115
8842(d)	51105(b)

Existing Provision	***Proposed Provision(s)***
8843	16355
8870	16400
8870(a)	16450, 16455, 16460, 16465, 16470
8870(b)	16475
8870(c)	16480
8890	16550
8890	16555
9000(a), (b)	19200
9000(c)	19600
9000.5(a)	255
9000.5(b)	330
9000.5(c)	470
9000.5(d)	490
9000.5(e)	560
9000.5(f)	630
9001	19205
9001.6	39755
9001.7(a)-(j)	19500
9001.7(k)	49610
9001.8	40905
9002(a)	19300(a)
9002(b)	19305
9002(c)	19300(b)
9002(d)	19310
9002.5	19315
9003	19210
9004	19215, 19220
9005	19225
9006	19230
9007	19400
9008	19405(a), 19405(b), 19410, 19415, 19420, 19425, 19430(a), 19430(b)
9010(a)	49700
9010(b)	49710(b)
9010(c)-(e)	49705
9011(a)(1)	47450(a)
9011(a)(2)	47450(b)
9011(a)(3)	47460(b), (c)
9011(b)	48655
9011(c)	47465
9012(a)	47005
9012(b)	47450(c)
9015(a)	51015(a)
9015(b)	51015(c)
9020(a)	19605
9020(b)	19610
9022(a)	19515
9022(b)	19510(a)
9023	39305
9024	49010
9025.1	18700
9025.5(a)	18950, 19000, 19005, 19010(a), 19015(a), 19030, 19035, 19040, 19045, 19050
9025.5(b)	770
9025.5(c)	19010(b), 19015(b), 19020, 19025

Existing Provision	***Proposed Provision(s)***
9026	18900(a), (b)
9027	18800(c), 18805(c), 18810(c)
9027.5	18815(c), 18815(d),18820(c), 18820(d), 18825(c), 18825(d)
9028	18705
9029	18800(a), 18800(b), 18805(a), 18805(b), 18810(a), 18810(b), 18815(a), 18815(b), 18820(a), 18820(b), 18825(a), 18825(b)
9029.5 1st, 3rd sent	18805(d), 18810(d)
9029.5 2nd sent	685, 780
9050	19805
9051	19810
9052	19800
9053	45305, 45405
9054 1st sent	50705(a)
9054 2nd sent	50710
9054 3rd sent	50705(c)
9054 4th sent	50705(d)
9055	50705(b)
9100	15000
9101	15005
10000	43250
10001 1st sent	43255
10001 2nd sent	43260
10002	43265
10003	43270(a)
10004	43270(b)
10005	43275
10501	34450
10680	4900
10681	4905
10682	4910
10683	4915
10684	4920
10685	4925
10930	34060(a)
10931	34060(b), (c)
11000	2500
11001	2505(a)
11002	2510
11003	2515
11004	2520
11005	2525
11006	2530
11007	2535
11008	2540
11009	2545
11010	2550
11011	2555
11012	2560
11013	2565
11014	2570
11015	2575
11016	2580
11017	2585

Existing Provision	*Proposed Provision(s)*
11018	2590
11019	2595
11020	2600
11022	2605
11024	2610
11025	2615
11026	2620
11027	2625
11028	2630
11029	2635
11030	2640
11031	2645
11032	2650
11033	2655
11034	2660
11035	2665
11036 1st-3rd para	2670
11037	2675
11038	2680
11039	2685
12000(a)	4400(a)
12000(b)(1)	8130(c)
12000(b)(2)	not cont'd
12000(b)(3)	45700(d)
12000(b)(4)-(12)	4410
12001	10110(d)
12001.5	9500(b), 30505(b), 33205(b), 33465, 34200(b)
12002(a)	4400(b)
12002(b)(1)	3360(c), 11020(c)
12002(b)(3)	34055(d), 45700(d)
12002(b)(5)	15540(b)
12002(c)	28905(b), 29850(b), 29855(b), 30110(b)
12002(d)	4415
12002.1	9900
12002.2	13300
12002.2.1	12905(d)-(f), 12910(d)-(f), 13305
12002.3(a)	13310, 45860
12002.3(b)	45860
12002.3(c)	13310
12002.4	21945
12002.6	14950
12002.7 1st, 2nd para	21940
12002.7 3rd para	535
12002.8(a)-(c)	45865
12002.8(d), (e)	38565, 40050, 40450, 41500, 42270, 48800
12002.8(f)	535
12002.9	20240
12002.10	45860
12002.11	10830(e)
12003	15540(c)
12003.1	8400
12003.2	32500(d), 32700(c)
12003.5	16895

Existing Provision	*Proposed Provision(s)*
12004	18250
12005	33460
12005.5	8140(b), 11110(b)
12006(a)(1)	43150(c)
12006(a)(2)	49500(f)
12006(b) 1st, 3rd sent	43150(d), 43150(f), 49500(g), 49500(i)
12006(b) 2nd sent	43150(e), 49500(h)
12006.6	45855
12008(b)	30205(c)
12008(c)	32700(c)
12008(d)	52200(e), 53000(e)
12008(e)	38200(e)
12008.5	35950
12009	45850
12010	30110(b)
12012	8100
12013(a), (b), (d)-(g)	8105
12013(c), (g)	8110
12013.3	31105, 33050, 34700, 35100, 35955
12013.5	33470
12014	3105
12017(a)(1)	8450(g)
12020	4420
12021	4425
12023	25500
12024	25505
12025(a)	4705
12025(b)	4710
12025(c)	4715(a)
12025(d)	4715(b), 4720
12025(e), (f)	4725
12025(g)	4715(c)
12025(h)	4700
12026	25510
12028	4310
12150	10110(a)-(c)
12150.5	10115
12150.6	10130
12150.7	10135
12150.8	10140
12151	10120
12151.5	10105
12152	10125
12153	14660
12154	8505
12155	9910
12155.5	8515
12156	11240
12156.5	9010
12157(a), (b), (c)(1)(A), (c)(1)(D), (c)(1)(E)-(i)	8630
12157(c)(1)(B)	45870
12157(c)(1)(C)	43150(e), 49500(h)
12157.5	8635

Existing Provision	*Proposed Provision(s)*
12158	8500
12158.5	3100
12159	8600
12159.5	30205(d), 32700(d), 38200(f), 52200(f), 53000(f)
12160	8615
12161	8620
12162	8605
12163	8625
12164	9905
12165	9005
12166	8510
13000	3500(a)
13001(a)	3600
13001(b)	3810
13001.5	3505
13002	3605
13003	3610
13005	9105
13006	3755
13007(a) 1st sent	12000
13007(a) 2nd sent, (b)-(g)	12005
13100	3900
13101	3905
13102	3910
13103	3915
13104	3920
13200	3510
13201	3515
13202	3520
13203	3525
13205	31935
13220	3750
14000	5900
14001	5905
14002	5910
14100	5950
14101	5955
14102	5960
14103	5965
14104	5970
14105	5975
15000(a)	23305
15000(b)-(d)	23350
15001	23915
15002	24900
15003	23820
15004(a), (b)	23505
15004(c)	23500
15005	23355
15006	23300
15007(a) 1st sent	24960(a)
15007(a) 2nd sent	24960(b)
15007(a) 3rd sent	24950(a)
15007(b)	24950(b)
15007(c)	24960(c)

Existing Provision	*Proposed Provision(s)*
15007(d)	24965
15007(e)	24970
15007(f)	24955
15008	23360
15100	23365
15101(a)	23605(a)
15101(b) 1st sent	23605(b), 23610, 23700
15101(b) 2nd, 4th sent	23700
15101(b) 3rd sent	23600
15101(c)	23605(c)
15101(d)	23700
15102	23805
15103	23705
15104	23710
15105	23715
15200 1st sent	23800(a)
15200 2nd sent	23815
15201	23810
15202	23800(b)
15300	23900
15301(a)	23910
15301(b)	23905(a)
15301(c)	23905(b)
15400(a)	24000
15400(b) 1st sent	24005
15400(b) 2nd sent	24010
15400(c)	24015
15400(d)	24020
15401	24100(c)
15402	24310
15403 1st para, 1st sent	24100(a)
15403 1st para, 2nd sent	24100(b)
15403 2nd para	24305
15404	24105
15405	24200
15406	24210
15406.5(a) 1st sent	24115(a)
15406.5(a) 2nd sent	24220(a)
15406.5(a) 3rd sent	24115(b)
15406.5(b)	24115(c)
15406.7	24220(b)-(d)
15407	24300
15408	24320(a)
15409	24320(b)-(e)
15410	24205
15411	24315
15412	24325
15413	24400
15414	24215
15415	24110
15500	24500
15501	24505
15502	24510
15503	24515(a)
15504	24515(b)
15505	24520

Existing Provision	***Proposed Provision(s)***
15506	24525
15507	24530
15508	24535
15509	24545
15510	24540
15512	24600
15513	24605
15514	24610
15516	24615
15600(a)	24705
15600(b)	24710
15601	24715
15604	24720
15605	24700
15700	24800
15701(a)	24805
15701(b)	24810
15702	24820
15703	24815

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DERIVATION OF PROPOSED LAW

The table below shows the relationship between each provision of the Fish and Wildlife Code and the corresponding provision of existing law.

Proposed Provision	***Existing Provision(s)***
1(a)	1
10(a)	3 1st sent
25	3 2nd sent
30	4
35(f), (g)	73
40	5
45	6
55	8
60	9
65	10
70	11
75	13
80	79
85	64
90	2013
95	80
200	2
205	13.5
210	16
215	14
220	15
225	17
230	18
235	8780(a) 1st sent
240	8800
245	22
250	3003.1(a) 2nd-3rd sent
255	9000.5(a)
260	24
265	90.5
270	27
275	29
280	7850, 8040(a)
290	8031(a)(4)
295	7920 1st sent
300	7920 1st sent
305	30 1st cl
310	30 2nd cl
315	32
320	33
325	35 1st cl
330	9000.5(b)
335	37
340	90.7
345	39
350	91
355	41
360	43
365	93
370	3514
380	45
385	8036(a)
390	8034
395	8033
400	8033.5(a)
405	8035
410	94
415	5050(b)(3)-(5)
420	3511(b)
425	5515(b)
430	4700(b)
435	4000
440	5050(b)(1),(2)
450	3500(c)
460(a)(1)-(4)	3950(a)
460(a)(5)	3950(b)
460(a)(6)-(9)	3950(a)
460(b), (c)	3950.1
470	9000.5(c)
475	46
480	48
485	51
490	9000.5(d)
495	8100
500	8460
50 (1st sent)	7
505	54
510	8597(a)
515	8033.1(a)
520	54.5
525	96
530	4500(c)
535	12002.7 3rd para
535	12002.8(f)
540	96.5
545	3500(b)
550	55
555	7261
560	9000.5(e)
565	56
570	3800(a) 1st sent
575(a)	4150 1st sent
575(b)	4151
580	57
585	60
590	61

Proposed Provision	***Existing Provision(s)***
595	62
600	97
605	97.5
610	98
615	98.2
620	67
630	9000.5(f)
635	19
640	711.2(a)
645	68
650	4005(a) 2nd sent
655	89
660	70
665	3500(a)
670	99
675	8750
680	75
685	8601
685	9029.5 2nd sent
690	8601
695	81
700	82
705	200(b)(2) 3rd sent
710	8250
720	200(b)(2) 2nd sent
725	9.2
730	7700(d)
735	83
740	89.1
745	98.5
745	98.5
750	99.5
755	86
760	88
765	8830 1st sent
770	9025.5(b)
775	3683
780	9029.5 2nd sent
785	7601
790	89.1
795	35
800	89.5
900	101
905	101.5
910	102
915	103
920	110
925	105
930	106
935	104
940	107
1000	200(a),(b)(1),(b)(2) 1st sent,(c)
1005	201
1010	203
1015	205
1020	203.1
1025	219
1100	250
1105	255
1110	260
1115	265
1120	270
1125	275
1200	108
1205	301
1250	399
1300	309(a)
1305	309(b)
1500	700
1505	702
1510	703(a)
1515	701
1520	701.3
1525	704
1530	706
1600	850
1605(a)	707
1605(b)	711.2(b)
1610	857
1615	858(a)
1700	1001
1705	1004
1710	1007
1715	1006
1720	1008
1725	1015
1730	1502
1735	8605
1740	1017
1745	1000
1750	1005
1755	1005.5
1900	1226(b)
1905	1227
1910	715
1915(a), (b)	701.5
1915(c)	711.2(b)
2000	1745(a)
2005	1745(b)(1)
2010	1745(b)(2)
2015	1745(c),(d)
2020	1745(e)-(g)
2025	1745(h)
2030	1745(j)
2035	1745(i)
2040	1745.1
2100	1019
2105	1009
2200	1011
2205	1012
2210	1013
2300	1054(a)

Proposed Provision	***Existing Provision(s)***
2300	1054(c)
2400	703.5
2405	1020
2410	703.3
2500	11000
2505	11001
2510	11002
2515	11003
2520	11004
2525	11005
2530	11006
2535	11007
2540	11008
2545	11009
2550	11010
2555	11011
2560	11012
2565	11013
2570	11014
2575	11015
2580	11016
2585	11017
2590	11018
2595	11019
2600	11020
2605	11022
2610	11024
2615	11025
2620	11026
2625	11027
2630	11028
2635	11029
2640	11030
2645	11031
2650	11032
2655	11033
2660	11034
2665	11035
2670	11036 1st-3rd para
2675	11037
2680	11038
2685	11039
2805	1050(b)
2810	1051
2815	1050.1
2820	1052.5
2900	1054.5
2905	1050(a)
2910	1050(c)
2915	1050.6
2920	1054(b)
2920	1054(c)
2925	1050.3
2930	1053.1(a)
2935	1061
2940	1054.8

Proposed Provision	***Existing Provision(s)***
3000	1050(d)
3005	1050(f)
3010	1050.5
3050	1052
3100	12158.5
3105	12014
3200	1055.1(a),(b)
3205	1055.1(g)
3210	1055.3
3250(a)	1055.1(c) 1st sent
3250(c)	1055.1(c) 2nd sent
3250(b)	1055.1(c) 3rd, 4th sent
3255(a)	1055.6(a)
3255(b)	1055.6(b)
3255(c)	1055.6(d)
3260	1065
3350	1055.1(d)-(f)
3355	1055.6(c)
3360(a), (b)	1059
3360(c)	12002(b)(1)
3365	1057
3370	1056
3375	1058
3450	710
3455	710.5
3460	710.7
3465	711
3470	712
3500(a)	13000
3500(b)	12
3505	13001.5
3510	13200
3515	13201
3520	13202
3525	13203
3600	13001(a)
3605	13002
3610	13003
3650	1225
3655	1226(a)
3660	859
3665	1050.8
3670	860
3750	1050(e)
3750	13220
3755	713
3755	13006
3810	13001(b)
3900	13100
3905	13101
3910	13102
3915	13103
3920	13104
4100	851
4105	856
4110	853

Proposed Provision	***Existing Provision(s)***
4115	854
4120	858(b)
4200	875
4205	877
4210	876
4215	878
4220	879
4225	880
4230	881
4235	882
4300	2586(a)
4300	2586(b)
4305	855
4310	12028
4315	702.1
4320	856.5
4400(a)	12000(a)
4400(b)	12002(a)
4405	2020
4410	12000(b)(4)-(12)
4415	12002(d)
4420	12020
4425	12021
460(a)(5)	3950(b)
4700	12025(h)
4705	12025(a)
4710	12025(b)
4715(a)	12025(c)
4715(b)	12025(d)
4715(c)	12025(g)
4720	12025(d)
4725	12025(e),(f)
4800	400
4805	401
4850	3450
4855	3451
4860	3452
4865	3453
4900	10680
4905	10681
4910	10682
4915	10683
4920	10684
4925	10685
5000	390
5005	392
5010	393
5050	391
5100	375
5200	716
5205	716.1
5210	716.2
5300	716.3 intro.
5305	716.3(a)
5310	716.3(b)
5315	716.3(c)

Proposed Provision	***Existing Provision(s)***
5320	716.3(d)
5325	716.3(e)
5330	716.3(f)
5335	716.3(g)
5340	716.3(h)
5345	716.3(i)
5350	716.3(j)
5355	716.3(k)
5360	716.3(l)
5365	716.3(m)
5370	716.3(n)
5375	716.3(o)
5380	716.3(p)
5385	716.3(q)
5390	716.3(r)
5395	716.3(s)
5400	716.3(t)
5450	716.4
5500	716.5
5550	716.6
5600	716.7
5650	716.8
5700	716.9
5750	717
5800	717.1
5805	717.2
5900	14000
5905	14001
5910	14002
5950	14100
5955	14101
5960	14102
5965	14103
5970	14104
5975	14105
8000	2000
8005	2000.5
8010	2002
8015	2001
8100	12012
8105	12013(a),(b),(d)-(g)
8110	12013(c),(g)
8115	2003
8120	2004
8125	2005
8130(a), (b), (d), (e)	2009(a),(c)-(f)
8130(c)	2009(b)
8130(c)	12000(b)(1)
8135	2018
8140(a)	3003.2
8140(b)	12005.5
8145	5500
8300(a)	1054.2
8305	2012
8400	12003.1
8450	2014

Proposed Provision	***Existing Provision(s)***
8450(g)	12017(a)(1)
8500	12158
8505	12154
8510	12166
8515	12155.5
8600	12159
8605	12162
8615	12160
8620	12161
8625	12163
8630	12157(a), (b), (c)(1)(A), (c)(1)(D), (c)(1)(E)-(i)
8635	12157.5
8700	306
8705	307
8710(a)	314
8710(b)	315
8715	315.3
8720	308
8800	2535
8805	2536
8810	2537
8815	2539
8820	2542
8825	2543
8900	2538
8905	2540(a),(b),(d), and(e)
8910	2540(c)
8915	2541
8920	2544
8925	2545
9000	2546
9005	12165
9010	12156.5
9100(i)	711.2(b)
9100(a)-(h)	714
9105	13005
9150	312
9200	1002
9205	1002.5
9210	1003
9300	2580
9305	2582
9310(a)	2581
9310(c)	2583(b)
9310(b)	2586(b)
9315	2584(a)
9320	2583(a) 1st sent
9325	2583(a) 2nd, 3rd sent
9330	2584(b)-(h)
9335	2585
9340	2587(a)
9345	2587(b)
9350	2588
9355	2589
9360	500

Proposed Provision	***Existing Provision(s)***
9500(a)	3007
9500(b)	12001.5
9550	3002
9555	2010
9560	2007
9565(a)	3005(a)
9565(b)	3005(c)
9565(c)	3005(d)
9570	3003.5
9575	3003
9580	2016
9585	3012
9590	3000
9700	3004(a)
9705	3004(b)
9710	3001
9715	2006
9720	3008
9725	2011.5
9730	2019
9735	2011
9740	3005.5
9900	12002.1
9905	12164
9910	12155
10000	3004.5(a)
10005(a)	3004.5(b)
10005(b)	3004.5(i)
10005(c)	3004.5(j)
10010	3004.5(c)
10015	3004.5(d)
10020	3004.5(e)
10025(a)	3004.5(g)
10025(b)	3004.5(h)
10030	3004.5(f)
10100	3009
10105	12151.5
10110(d)	12001
10110(a)-(c)	12150
10115	12150.5
10120	12151
10125	12152
10130	12150.6
10135	12150.7
10140	12150.8
10200	3050
10205	1053.5
10210	3031
10215	3031.5
10220	3037
10225	3031.2
10230	3040
10300	3033
10305	3038
10310	317
10350	3061

Proposed Provision	*Existing Provision(s)*
10355	3060
10360	3062
10365	3063
10400	3049
10405	3051
10410	3052
10415	3053
10420	3054
10500(a)(1)-(3)	325
10500(a)(4)	329
10500(b)	330
10505(a)	326
10505(b)	328 1st sent
10510	327
10515	328 2nd sent
10600	3240.5(a)
10605	3240.5(b)
10610	3240.5(c),(d)
10615	3241
10620	3242
10625	3243.5
10630	3245
10635	3246
10700	1575
10800	3080(a)
10805	3080(b)
10810	3080(c)
10815	3080(d)
10820	3080(e)
10825	3086
10830	3087
10830(e)	12002.11
11000	4004(d)
11005	4004(f)
11010	4004(g)
11015	4009
11020(a), (b)	4004(c)
11020(c)	12002(b)(1)
11100	3003.1(d)
11105	4004(b)
11110(a)	3003.1(a) 1st sent,(b),(c)
11110(b)	12005.5
11150	4004(a)
11155	4004(e)
11200(a), (b)(1)	4005(a) 1st sent
11200(b)(2)-(5)	4005(e)
11200(b)(6)	4005(c)
11205	4005(d)
11210	4005(b)
11215(a)	4006(a)
11215(b)	4006(c)
11220	4007
11225	4008
11230	4006(b)
11235	4009.5
11240	12156

Proposed Provision	*Existing Provision(s)*
11300	4030
11305	4031
11310	4034
11315(a), (b)	4032
11315(c)	4033
11320	4035
11325(a)	4037
11325(b)	4038
11330	4040
11335	4041
11340	4042
11350	4036
11355	4043
11500	5523
11505	1124
11510	5507
11515	5508
11520	5509
11525	5503
11530	5505
11535	5516
11540	5501
11700	1725
11705	1726
11710	1726.1
11715	1726.4
11720	1726.5
11725	1727
11730	1728
11735	1729
11740	1730
11800	6900
11805	6910
11805	6911
11805	6912
11810	6901
11815	6902
11820	6903
11825(a)	6920(a)
11825(b)	6921
11830	6920(b)
11835	6924
11840	6923
11845	6922
11850	6930
11900	2760
11905	2761
11910	2762
11915	2762.2
11920	2762.5
11925	2762.6
11930	2763
11935	2764
11940	2765
12000	13007(a) 1st sent
12005	13007(a) 2nd sent,(b)-(g)

Proposed Provision	***Existing Provision(s)***
12100	7050
12105	7051
12150	7055
12155	7056
12160	7058
12165	7059
12200	7060
12205	7062
12250	7065
12255	7066
12300	7070
12305	7071(a)
12310	7071(b),(c)
12315	7072(a)-(c)
12320	7072(d)
12325	7073
12330	7074
12400	7075
12405	7076
12410	7077
12415	7078(a)-(c)
12420	7078(d)
12425	7078(e),(f)
12500	7080
12505	7087(a)
12510	7081
12515	7082
12520	7083
12525	7084
12530	7085
12535	7086
12540(a)	7087(b)
12540(b)	7088
12600	7090(a)
12605	7090(b)(1),(b)(2) 1st sent
12610	7090(b)(2) 2nd sent(b)(2)(A)-(E)
12615	7090(c)
12620	7090(d)
12625	7090(e)
12630	7090(f)
12635	7090(g)
12640	7090(h)
12805	7100
12850	7149.05(a)
12900	7145(a)
12905(a), (b)	7149.45(a)
12905(d)-(f)	12002.2.1
12910(a), (b)	6596.1(a) 1st, 3rd sent
12910(d)-(f)	12002.2.1
12950	7180.1(a)
12955	7180.1(b)
12955	7180.1(c) 1st sent
12955	7180.1(a)
12960	7181.1(a)
12965	7185
13000	7145(a)

Proposed Provision	***Existing Provision(s)***
13005	7153
13010	7145(b)
13015	7153(a)
13020	7149.7
13100(a)	7149.05(a)
13100(b)	7149.05(d)
13100(c)	7149.05(e)
13105	7149.2
13110	7149.5
13150	7150
13200	7151(a)-(c)
13205	7151(d)
13210	7151(e)
13215	7151(f),(g)
13250	7149.45(b)
13255(c)	6403
13255(a)	6596.1(a) 2nd sent,(f)
13255(b)	6596.1(g)
13260	7180.1(c) 2nd sent
13300	12002.2
13305	12002.2.1
13310	12002.3(a)
13310	12002.3(c)
13350(b)	7186.1(b)
13350(a)	7185
13355	7183.1(a),(b)
13360	7184.1(a),(b)
13365	7186.1(a)
13400	7149.05(b)
13405	7182.1(a)
13405(b)	7185
13500	7120
13600	7121 1st para
13605	7121 2nd para
13610	7147
13700	7230
13705	7232
13710	5510
13800	7110
13805	7115
13900	7361
13905	7363
13910	7362
13915	7364
14200(a)	7600
14200(b)	7600
14200(c)	8460 4th para
14210	8140
14300	8603
14305	8604
14310	7704(a)
14500(a)	7850(a)
14500(b)	7850(b)
14500(c)	7850(c) 1st sent
14500(d)(1)	7850(d)
14500(d)(2)	7850.5

Proposed Provision	***Existing Provision(s)***
14505	7852.27
14550(b)	7851
14550(a)	7852(a),(b)
14550(c)	7852(e)
14555	7852.25
14560	7857(a),(c)-(k),(m)
14565	7858
14600	7852(a)-(d)
14605	7852.2
14610	7852.1
14615	7850(c)
14620	6596.1(d)
14620	6596.1(f)
14650	7857(b)
14655	7855
14660	12153
14665(a)	7853
14665(b)	7854
14750	7881(e)
14755	7881(a)
14760	7857(k)
14765(a)	7881(b) 1st sent
14765(a)	7881(c) 1st sent
14765(c)	7881(f)
14765(d)	7881(g)
14770	7852.1
14775	7881(b) 2nd sent
14775	7881(c) 2nd sent
14780	7881(a)
14785	7880
14790	7881(d)
14850	7857(m)
14855	7857(l)
14860	7852.4
14865	7857(e)
14870 (a)-(g)	7856(a)-(d)
14870(h)	7856(e)
14875	7856(f) 1st-3rd sent
14880	7856(f) 4th sent
14950	12002.6
15000	9100
15005	9101
15050	7892 1st sent
15055	7892 2nd sent
15060	7892 3rd sent
15100	8398
15105	8400
15150(b)	8433
15150(a)	8434
15200	1110
15200	7891
15300	8602
15305	8608
15400(a)	8630 1st para
15400(b)-(d)	8631
15405	8632

Proposed Provision	***Existing Provision(s)***
15410	8633
15415	8635
15420	8630 2nd para 1st-3rd sent
15425(b)	8630 2nd para 4th, 5th sent
15500	8660
15505	8661
15510	8665
15515	8663
15520	8664
15525	8667
15530	8668
15535	8669
15540(a)	8670
15540(b)	12002(b)(5)
15540(c)	12003
15600(a)	8601.5(a)
15600(b)	8601.5(b) 1st, 2nd sent
15605	8601.6(a)
15610(b)	8601.5(b) 3rd sent
15610(c)	8601.5(b) 4th sent
15610(a)	8601.5(c)
15700	8751
15705	8751
15710	8751
15715	8752
15720	8752
15725	8752
15730	8752
15735	8752
15740	8752
15745	8754
15750	8754
15755	8754
15760(a)-(c)	8754
15760(d)	8757
15760(e)	8780(a) 2nd sent
15765(a)	8757
15765(b)	8757
15765(c)	8780(a) 2nd sent
15770(a)	8757
15770(b)	8757
15770(c)	8780(a) 2nd sent
15775(a)	8755
15775(b)	8755
15775(c)	8757
15775(d)	8780(a) 2nd sent
15780	8755
15785	8755
15900	8780.1
15905	8780(a) 2nd sent
15910	8780(b)
15915	8780(c),(d)
16000	8801
16005	8801
16010	8801
16015	8802

Proposed Provision	***Existing Provision(s)***
16020	8802
16025	8803
16030	8804
16035	8805
16040	8805
16045	8806
16050	8807
16100	8606.1
16105(a)	8830 2nd sent
16105(b)	8841(d)
16110	8841(a)-(c),(e),(i)-(k)
16150	8831
16155	8837
16160(a)	8841(f)
16160(b)	8841(i)
16165(a)	8841(h)
16165(b)	8841(i)
16170(b)	8841(i)
16170(a)	8841(l)
16175	8840
16250	8833
16255	8835
16260	8835
16265	8835
16270	8836
16275	8836
16280	8833
16285	8833
16290	8833
16295	8833
16300	8833
16305	8833
16310	8836
16350	8832
16355	8843
16400	8870
16450	8870(a)
16455	8870(a)
16460	8870(a)
16465	8870(a)
16470	8870(a)
16475	8870(b)
16480	8870(c)
16550	8890
16555	8890
16650	8832
16805	8609
16850	8610.1
16855	8610.2
16860	8610.3
16865	8610.4
16870	8610.5
16875	8610.6
16880	8610.9
16885	8610.11
16890	8610.12

Proposed Provision	***Existing Provision(s)***
16895	8610.13
16895	12003.5
16900	8610.14
16905	8610.15
16910	8610.16
17000	8664.5
17005	8664.67
17010	8664.7
17015	8664.8
17020	8664.13
17025	8666
18000	8680
18005	8681
18010	8681.5
18015	8681.7
18020	8682
18025	8683
18030	8684
18035	8685
18040	8685.5
18045	8685.6
18050	8685.7
18055	8686
18060	8687
18065	8688
18070	8691
18075	8692
18080	8692.5
18085	8693
18090	8694
18095	8696
18100	8700
18200	8720
18205	8721
18210	8724
18215	8725
18250	12004
18300	8561
18305	8561.5
18310	8562
18315	8563
18320	8564
18325	8567
18330	8568
18335	8568.5
18340	8569
18345	8573
18350	8574
18355	8575
18360	8575.5
18365	8576
18370	8576.5
18375	8577
18380	8579
18385	8580
18390	8581

Proposed Provision	*Existing Provision(s)*
18395	8582
18500	8623(c),(d)
18505	8625
18510	8626
18700	9025.1
18705	9028
18800(c)	9027
18800(a)	9029
18800(b)	9029
18805(c)	9027
18805(a)	9029
18805(b)	9029
18805(d)	9029.5 1st, 3rd sent
18810(c)	9027
18810(a)	9029
18810(b)	9029
18810(d)	9029.5 1st, 3rd sent
18815(c)	9027.5
18815(d)	9027.5
18815(a)	9029
18815(b)	9029
18820(c)	9027.5
18820(d)	9027.5
18820(a)	9029
18820(b)	9029
18825(c)	9027.5
18825(d)	9027.5
18825(a)	9029
18825(b)	9029
18900(c)	8601.5(a)
18900(a), (b)	9026
18950	9025.5(a)
19000	9025.5(a)
19005	9025.5(a)
19010(a)	9025.5(a)
19010(b)	9025.5(c)
19015(a)	9025.5(a)
19015(b)	9025.5(c)
19020	9025.5(c)
19025	9025.5(c)
19030	9025.5(a)
19035	9025.5(a)
19040	9025.5(a)
19045	9025.5(a)
19050	9025.5(a)
19200	9000(a),(b)
19205	9001
19210	9003
19215	9004
19220	9004
19225	9005
19230	9006
19300(a)	9002(a)
19300(b)	9002(c)
19305	9002(b)
19310	9002(d)

Proposed Provision	*Existing Provision(s)*
19315	9002.5
19400	9007
19405(b)	8630 1st para, 2nd sent
19405(a)	9008
19405(b)	9008
19410	8632
19410	9008
19415	9008
19420	8635
19420	9008
19425	9008
19425	8630 2nd para 1st-3rd sent
19430(b)	8630 2nd para 4th, 5th sent
19430(a)	8634
19430(a)	9008
19430(b)	9008
19500	9001.7(a)-(j)
19505	8403(c)
19510(a)	8403(b) 1st sent
19510(b)	8403(b) 2nd sent
19510(a)	9022(b)
19515	9022(a)
19600	9000(c)
19605	9020(a)
19610	9020(b)
19800	9052
19805	9050
19810	9051
19900	8606
19905	8614
19910	8615
20100(a)	8437
20100(b)	8437.1
20105(a)	8436
20105(b)	8436.5
20200	8030
20205(a)	8032(a)
20205(b)	8032(b)
20210	8032.5(a),(b),(d)-(i)
20215	8038
20220	8037(a) 2nd sent
20225	7852.27
20230(b)	8032(a)
20230(b)	8032(c)
20230(c)	8039
20235	8032.5(c)
20240	12002.9
20300	8037(a) 1st sent
20350	8036(a) 1st sent
20355(a)	8036(a) 2nd sent
20355(b)	8039
20400(a)	8031(a)(1) 1st, 2nd sent
20400(b)	8031(a)(1) 3rd sent
20400(a)	8034(a) 1st sent
20405(a)	8034(a) 2nd sent
20405(b)	8039

Proposed Provision	***Existing Provision(s)***
20450	8033(a)
20450	8047(c)(4)
20455(a)	8033(b)
20455(b)	8039
20460	8033(c)
20500	8033.5(a) 1st sent
20505(a)	8033.5(a) 2nd sent
20505(b)	8039
20550(a)	8035(a)
20550(b)	8035(c)
20555(a)	8035(b)
20555(b)	8039
20600	8033.1(a)
20605(a)	8033.2
20605(b)	8039
20610	8033.1(b)
20700	8596
20705	8597(a)
20710	8597(b)
20715	8597(c)
20720	8598
20725	8598.2
20730	8598.3(a),(c)
20735	8598.3(b)
20740	8598.4
20745	8598.6
20900	8040(b)
20905	8043.1(b)
20950	8041
20950	8047(b) 2nd sent
20955(a)	8042 1st sent
20955(b)	8042 2nd sent
20955(a)	8051
21000	8043(a) 1st sent
21000	8043.1(a)
21000	8047(a)(2) 2nd, 3rd sent
21000	8047(b) 1st sent
21005(a)	8043(a) 2nd sent
21005(b)	8043.1(c) 1st sent
21005(c)	8043.1(c) 2nd sent
21005(c)	8047(a)(1) 1st sent
21010	8043.2(a)
21015	8046(b)
21020	8043(b)
21020	8045
21025(b)	8043(c) 1st sent
21025(c)	8043(c) 2nd, 3rd sent
21025(a)	8047(b) 3rd sent
21100	8046(a) 2nd, 3rd, 4th sent
21105(a)	8047(a)(1) 3rd sent
21105(a)	8047(b) 5th sent
21105(b)	8047(b) 6th sent
21110	8046(c)
21110	8047(a)(1) 4th sent
21110	8047(b) 7th sent
21115	8046.1

Proposed Provision	***Existing Provision(s)***
21150	8046(a) 1st sent
21150	8047(a)(1) 2nd sent
21155	8043(c) 4th sent
21200	8047(c)(5)
21205	8047(c)(3)
21210(b)	8047(a)(2) 1st sent
21210(a)	8047(c)(1)
21215	8047(a)(2) 4th sent
21215	8047(c)(1)
21220	8047(e) 1st sent
21225	8045
21225	8047(d)
21230(a)	8047(c)(2) 2nd sent
21230(b)	8047(c)(2) 3rd sent
21235	8047(c)(2) 1st sent
21240	8047(e) 2nd, 3rd sent
21245	8047(e) 4th sent
21300	8050
21350	8053
21355	8056
21360	8052
21365(a)	8057
21365(b)	8058
21365(c)	8059
21365(d)	8060
21365(e)	8061
21365(f)	8062
21365(g)	8063
21370	8064
21375(a)	8065
21375(b)	8066
21375(c)	8067
21375(d)	8068
21375(e)	8069
21375(f)	8070
21400	8025(a)
21450	8043.2(b)
21455	8043.2(c)
21600	7700(a)-(c)
21605	7708
21610	7701
21615	7702
21620	7703
21650	8075
21655	8077
21660	8078
21665	8079
21670	8079.1
21675	8080
21750	7705
21800	7704(b)
21805	8076
21810	7702.1
21850	7706
21855	7707
21900	7920 2nd para

Proposed Provision	***Existing Provision(s)***
21905	7920 1st, 3rd para
21910	7921 2nd sent
21915	7921 1st sent
21920(a)	7923
21920(b)	8460 4th para
21925	7924
21930	7147
21935	6596.1(b)
21935(c)	6596.1(g)
21940	12002.7 1st, 2nd para
21945	12002.4
21950	8385
22100(a)	8460 1st para
22100(b)	8460 3rd para
22105	8460 2nd para
22110	8461
22115	8460 2nd para
22120	8462
22125	8463
22200(a), (b)	8026
22200(c)	8460 4th para
22205	8022
22210	8010
22215	8025(a)
22300	7650
22305	7654
22310	7655
22315	7652(d)
22400(a)-(d)	7652.1
22400(e)	7652.3(b)
22405	7652(a)-(c)
22410	7652.3(a)
22415	7653
22450(a)-(d)	7652.2
22450(e)	7652.3(b)
22455	7652.3(a)
22500	8101
22505	8102
22510	8103
22515	8104
22600	8585
22605	8585.5
22610	8586
22615	8589
22620	8587.1
22625	8586.1
22630	8587
22635	8589.7
22640	8589.5
22700	8111
22705	8110
22710	8112
22715	8113
22720	8114
22800(a)-(e)	7710(a)-(c)
22800(f)	7710 last para

Proposed Provision	***Existing Provision(s)***
22805(d)	7710 last para
22805(a)-(c)	7710.5
22810	7710.1
22815	7712
22900	7630
22905	8125 1st, 2nd sent
22910	8126
22915	8125 3rd sent
23150	7709
23200	1069
23300	15006
23305	15000(a)
23350	15000(b)-(d)
23355	15005
23360	15008
23365	15100
23500	15004(c)
23505	15004(a),(b)
23600	15101(b) 3rd sent
23605(a)	15101(a)
23605(b)	15101(b) 1st sent
23605(c)	15101(c)
23610	15101(b) 1st sent
23700	15101(b) 1st sent
23700	15101(b) 2nd, 4th sent
23700	15101(d)
23705	15103
23710	15104
23715	15105
23800(a)	15200 1st sent
23800(b)	15202
23805	15102
23810	15201
23815	15200 2nd sent
23820	15003
23900	15300
23905(a)	15301(b)
23905(b)	15301(c)
23910	15301(a)
23915	15001
24000	15400(a)
24005	15400(b) 1st sent
24010	15400(b) 2nd sent
24015	15400(c)
24020	15400(d)
24100(c)	15401
24100(a)	15403 1st para, 1st sent
24100(b)	15403 1st para, 2nd sent
24105	15404
24110	15415
24115(a)	15406.5(a) 1st sent
24115(b)	15406.5(a) 3rd sent
24115(c)	15406.5(b)
24200	15405
24205	15410
24210	15406

Proposed Provision	***Existing Provision(s)***
24215	15414
24220(a)	15406.5(a) 2nd sent
24220(b)-(d)	15406.7
24300	15407
24305	15403 2nd para
24310	15402
24315	15411
24320(a)	15408
24320(b)-(e)	15409
24325	15412
24400	15413
24500	15500
24505	15501
24510	15502
24515(a)	15503
24515(b)	15504
24520	15505
24525	15506
24530	15507
24535	15508
24540	15510
24545	15509
24600	15512
24605	15513
24610	15514
24615	15516
24700	15605
24705	15600(a)
24710	15600(b)
24715	15601
24720	15604
24800	15700
24805	15701(a)
24810	15701(b)
24815	15703
24820	15702
24900	15002
24905	5511
24950(a)	15007(a) 3rd sent
24950(b)	15007(b)
24955	15007(f)
24960(a)	15007(a) 1st sent
24960(b)	15007(a) 2nd sent
24960(c)	15007(c)
24965	15007(d)
24970	15007(e)
25100	1120
25105	1121
25110	1122
25115	1126
25120	1150
25125	6903.5
25130	1122.5
25135	1210
25200	1170
25205	1171

Proposed Provision	***Existing Provision(s)***
25210	1172
25215	1173
25220	1174
25225	1175
25300	1200
25305	1201
25310	1202
25315	1203
25320	1204
25325	1205
25330	1206
25400	6403
25405	1123
25410	6401
25415	6400
25420	1125
25500	12023
25505	12024
25510	12026
25600	6420
25605	6421
25610	6422
25615	6423
25620(a)	6424
25620(b)	6425(b)
25700	6590
25705	6591
25710	6592
25715(b)	6593 2nd sent
25715(a)	6594
25720	6593 1st, 3rd sent
25725	6595
25730	6597
25735	6597.5
25740	6598
25850	6402
25855	1123.5
26000	3200
26005	3201
26010	3202
26015	3203
26020	3204 1st para
26025	3204 2nd para
26030	3205
26035	3206
26040	3207
26045	3208
26050	3209
26055	3212
26060	3213
26065	3214
26070	3216
26075	3217
26080	3218
26085	3219
26200	3300 2nd para

Proposed Provision	***Existing Provision(s)***
26205	3300 1st para, 1st sent
26210(a)	3300 1st para, 2nd sent
26210(b)	3301 1st sent
26215	3301 2nd, 3rd sent
26220	3302
26225	3303 1st, 2nd sent
26230	3303 3rd sent
26235	3305
26240	3306 1st, 2nd para
26245	3306 3rd para
26250(b)	3307 1st para, 1st sent
26250(a)	3307 1st para, 2nd sent
26255	3307 2nd para
26260	3309
26265	3308
26270	3310
26275	3311
26400	4010
26500	2116
26505	2117
26510	2116.5
26515	2120
26520	2118
26525	2118.5
26530	2122
26535	2119
26540	2123
26545(a)	2121
26545(b)	2190
26550	2124
26555	2126
26560	2125(a)-(c)
26565	2125(d)
26570	2195
26575	2127
26580	2192
26700	2150(a)
26705	2150(b)
26710	2150(c)-(f)
26715(b)	2150.1
26715(a)	2150.2
26720	2150.3
26725	2150.4
26730	2150.5
26735	2151
26740	2152
26745	2153
26750	2155
26755	2156
26760	2157(a)
26765	2157(b),(d)
26770	2157(c)
26775	2193(a)
26780	2193(b),(c)
26900	2185(b)
26900	2186(b)

Proposed Provision	***Existing Provision(s)***
26900	2187(b)
26905	2185(a)
26910	2186(a)
26915	2187(a)
27000	2189(a)
27005	2189(b),(c)
27010	2189(d)-(f)
27100	2200
27105	2201
27110	2202
27115	2203
28000	2225
28100	2270
28105	2270.5
28110	2271
28115	2272
28250	2300(a),(b)
28255	2300(c)
28400	2345
28405(a)	2346
28405(b)	2347
28410	2348
28415	2349
28420	2352
28425	2353
28500	2400
28505	2401
28600	2015
28650	2022(a)
28655	2022(b),(c)
28660	2022(d)
28665	2022(e)
28670	2022(f),(i)
28675	2022(g)
28680	2022(h)
28685	2022(j)
28750	2128
28905(a)	3503
28905(b)	12002(c)
28910	3504
28915	3803
29050	3860
29055	3861
29060	3862
29065	3863
29200	356 1st para
29205	3806
29210	355 1st, 2nd para
29215	356 2nd para
29220	355 3rd para
29225	357
29350	3502
29355	3501
29360	3508
29365	3270(a)
29370	4304 1st sent

Proposed Provision	*Existing Provision(s)*
29375	2350
29500	3682.1(a)
29505	3682.1(b)
29510	3682.2
29515(a)	3684(a)
29515(b)	3684(b)
29515(d)	3684(c) 1st sent
29515(e)	3684(e) 2nd sent
29515(c)	3684(g)
29520(a)	3684(c) 2nd sent
29520(b)	3684(c) 4th, 5th sent
29520(c)	3686 1st sent
29525	3684(c) 3rd sent
29530(a)	3684(d)
29530(b)	3686 2nd sent
29535	3686 2nd sent
29540	3684(e) 1st sent
29545	3684(f)
29650	3516 2nd para
29700	3516 1st para
29705	3515
29850(a)	3800(a) 2nd sent
29850(b)	12002(c)
29855(a)	3513
29855(b)	12002(c)
29860	3801.5
30000	3801.6(a)
30005	3801.6(b)(1)
30010(a)	3801.6(b)(2) 2nd-4th sent
30010(b)	3801.6(c)
30015	3801.6(b)(2) 1st sent
30100	395
30105(a), (b)	396
30105(c)	398
30105(a)	3503.5
30105(b)	3503.5
30110(a)	3503.5
30110(b)	12002(c)
30110(b)	12010
30115	3802
30200(a), (b)	3511(a)(1) 1st, 2nd sent
30205	3511(a)(1) 3rd-6th sent,(a)(2)
30205(c)	12008(b)
30205(d)	12159.5
30210	3511(a)(3)
30300	3505
30350	3511(b)(5)
30360	3850
30365	3851
30370	3852
30375	3853
30380	3854
30385	3855
30390	3856
30395	3857
30500	3500(b)(1)

Proposed Provision	*Existing Provision(s)*
30505(a)	3700.1(a)
30505(b)	12001.5
30510	3681
30515	3700.1(b)
30520	3700.2(a)-(f)
30525(a)	3700.2(g)
30525(b)	3702.5 1st para
30530	3701 1st sent
30535(a)	3701 2nd sent
30535(b)	3704 1st para, 1st-2nd sent
30535(c)	3704 1st para, 3rd sent
30540	3702 1st sent
30545	3704 1st para, 4th sent
30550	3702 3rd sent
30550	3704.5 1st para, 3rd sent
30555	3702 2nd sent
30555	3704.5 1st para, 2nd sent
30560(a)	3703
30560(b)	3705
30565	3702.1
30570	3704.5 1st para, 1st sent
30700	3505
30750	3505
30800	3505
30850	3505
30900	3500(a)(10)
30900	3683(a)(11)
30910(a)	3010
30910(b)	3660
31000	3500(b)(6)
31000	3683(b)(4)
31010	3680
31050	3801
31100	3500(a)(11)
31100	3683(a)(12)
31105	12013.3
31110	4181(a)
31115	4188
31500	3032(a)(1)
31500	3960(a)
31500	3960.2(a)
31500	3960.4(a)
31500	3960.6(a)
31505	3032(a)(2)-(d)
31510(a)	3960(b)
31510(b)	3960(c)(3)
31550	3960(c)(1),(2),(4)
31555	3961
31600	4153 2nd para
31605(a)	4180.1 1st para
31605(b)	4180.1 2nd para
31610	4190
31700	4011
31800	4304
31900	3953(a)
31905	3953(c)

Proposed Provision	*Existing Provision(s)*
31910	3953(d)
31915	3953(e) 1st sent
31920	3953(e) 2nd sent
31925	3953(f)
31930	3953(g)
31935	13205
32150(a)	4002
32150(b)	4003
32155	4180
32300	4150 2nd sent
32305,	4152
32310(a)	4153 1st para
32310(b)	4154
32500(a)-(c)	4500
32500(d)	12003.2
32700(a), (b)	4700(a)(1) 1st, 2nd sent
32700(c)	12003.2
32700(c)	12008(c)
32700(d)	12159.5
32705	4700(a)(1) 3rd-6th sent,(a)(2)
32710	4700(a)(3)
32900	3950(a)
32950	331(c),(d)
32955	331(b) 1st-3rd sent
32960(b)	331(b) 4th sent
32960(a)	3953(b) 1st sent
32965(a)	709
32965(b)	3953(b) 2nd sent
33000	331(a)
33050	12013.3
33100	3950(a)
33110	4760
33200	3011
33205(a)	4750
33205(b)	12001.5
33210	4753
33215	4755
33220	4757
33225	3006
33225	4332(a)-(d)
33300	4751
33305	3953(b) 2nd sent
33310	4752
33315	4754
33400(a)	302
33400(b)	303
33450(a)	4759 1st sent
33450(b)	4759 2nd, 3rd sent
33455	4758
33460	12005
33465	12001.5
33470	12013.5
33500	4763
33505	3960.6
33510(a)	4181.1(a)
33510(b)	4181.1(c)

Proposed Provision	*Existing Provision(s)*
33510(c)	4181.1(d)
33510(d)	4181.1(e)
33515	3960.2
33520(a)-(e) and (g)	4181(a)
33520(f)	4181(b)
33600	3960.4
33650	4185
33700	4000
33710	4181(a)
33755	3960.2(a)
33755	3960.4
33755	3960.6
33800	4155(d)
33805	4155(a)
33810	4155(b),(c)
33815	4155(e)
33820	4155(f)
33900	3960.6(b)
33905	3960.2(b),(d),(e)
33950	3960.4(b)-(d)
34055(a)-(c)	4600
34055(d)	12002(b)(3)
34060(a)	10930
34060(b), (c)	10931
34100	3950(a)
34110	4302
34115	3006
34120	2350
34125	2355
34200(a)	4330
34200(b)	12001.5
34205	4336
34210	4341
34215	4334
34220	4331
34230	4333
34235	4340
34240	3953(b) 2nd sent
34245(a)	709
34245(b)	3953(b) 2nd sent
34350	4370
34355	4371
34400(b), (c)	4301(a) 1st sent
34400(a)	4301(b)
34405(b)-(d)	4301(a) 2nd-4th sent
34405(a)	4301(b)
34410	4303
34415	4304
34450	10501
34500	450
34505	452
34510(a)	453
34510(b)	454
34510(c)	455
34515(a)	456 1st sent
34515(b)	456 3rd sent

Proposed Provision	*Existing Provision(s)*
34520	457
34525	458
34525	459
34530(e)	451
34530(a)-(d)	460
34535	1503
34600	4181.5
34605	4188
34700	12013.3
34800	3950(a)
34810	3006
34815	2118.3
34850	332(b)
34855	332(d),(e)
34860	332(c)
34865	3953(b) 1st sent
34870(a)	709
34870(b)	3953(b) 2nd sent
34950	332(a)
34955	3952
34960	3951
35000(a)-(d) and (g)	4181(a)
35000(e), (f)	4181(d)
35050	2118.2
35055	2118.4
35100	12013.3
35200	4000
35210	4012
35215	4152
35300(a)	3950(a)
35300(b)	3950.1(a)
35310	3950.1(b)
35310	4800(d)
35315	4808
35350	4800(a)-(c)
35400	4801
35405	4802
35410	4803
35415	4804
35420	4805
35425	4806
35430	4807
35435	4809
35440	4801.5
35500	4810
35600	4000
35610	4152
35615	2250
35700	3950(a)
35700	4150
35705	4186
35710	4152
35750	4700(b)(8)
35755	4501
35800	4700(b)(2)
35810	4900

Proposed Provision	*Existing Provision(s)*
35815	4901
35820	308.5
35825(a)	709
35825(b)	3953(b) 2nd sent
35830(a)	3953(b) 1st sent
35830(b)	4903 3rd, 4th sent
35900	4902(a),(b)
35905(a), (b)	4902(d)
35905(c)	4902(e)
35910	4902(c)
35915	4903
35950	12008.5
35955	12013.3
36000	3950(a)
36010	4152
36015	4181(a)
37000	4500(c)
37000	4700(b)(6)
37050	4502.5
37100	3950(a)
37105	4650
37150	4181(a)
37150	4652
37155	4657
37200	4653
37205	4654
37210	4655
37215	4654
37220	3953(b) 1st sent
37300	4651
37350	4181.2
37355(f)	4181(c)
37355(a)-(d)	4181.1(b)
37355(e)	4181.1(c)
37360(a)-(d) and (f)	4181(a)
37360(e)	4181(c)
37365	4188
37450	3950(a)
37450	4700(b)(1),(b)(7)
37455(b)	2575
37455(a)	2576
37460	4005(f)
37805	7600
37950	6300
37955	6301
37960	6302
37965	6303
37970	6304
37975	6305
37980	6306
38200(a)-(d), (g)	5515(a)
38200(e)	12008(e)
38200(f)	12159.5
38355	8607
38360	8403(a)
38365	8046.1

Proposed Provision	***Existing Provision(s)***
38550	8190
38555(a)	8180
38555(b)	8181
38555(c)	8182
38560	8183
38565	12002.8(d),(e)
38705	2362
38755(b)	8382
38755(c)	8384
38755(a),	8386
38760	8623(a),(b),(e)
38850	2360
38855	7350
38860	2360
38865(a)	2359
38865(b)	2363
38870	6400.5
38875(a)	2362
38875(b)	2362
38875(c)	6596.1(c)
38900	1740
38905	1741
38910	1742
38915	1743
39000	8756
39005	8370
39010	8371(a),(b)
39050	8383.5
39055	8623(a),(b),(e)
39100	8380
39105	8372
39150	6403
39200	6456
39205	6440
39210	6450
39215	6451
39220	6452
39225	6455
39230	6454
39235	6453
39240	6457
39245	6460
39305	9023
39410	8435
39555	8373
39655	8381
39755	9001.6
39805	316
39900	8391
39905	8392
39950	8494(a)
39955(a)	8494(b)
39955(b)	8494(c)
39960	8494(d)
39965	8494(e)
39970	8494(f)
39975	8494(h)
39980	8494(g)
40050	12002.8(d),(e)
40100	8495(a)
40105	8495(b)-(d)
40110	8495(e)
40115	8496
40120	8497
40125	8842(c) 2nd sent
40350(a)	8550 1st para, 1st sent
40350(b)	8552(a) 1st sent
40355	8550 1st para, 2nd sent; 2nd para
40360	8550.5
40365	8552(b)-(e)
40370	8552.8
40375	8552(a) 2nd sent
40375	8552.6
40380	8552(a) 2nd sent
40380	8552.2
40385	8552.3
40390	8552.7
40395	8552.4
40400	8552.1
40405	8554
40410	8555
40415	8556
40420	8557
40425	8558
40430	8558.1(a) 1st, 2nd sent
40435(c)	8558.1(a) 3rd sent
40435(a), (b)	8558.2
40435(d)	8558.3
40440	8559
40445	8552.5
40450	12002.8(d),(e)
40455	8553
40500	8389(a) 1st sent
40505	8389(a) 2nd sent
40510(a)	8389(b)
40510(b)	8389(c)
40515	8389(d)
40605	8412
40610	8411
40620	8411
40705	2354
40710	7123
40755	8393(a)
40760	8393(b)
40905	9001.8
40955	1000.6
41000	310
41005	5514
41010	316.5
41050	2361
41100	6950
41105	6952

Proposed Provision	***Existing Provision(s)***
41110	6953
41115	6954
41120	6955
41125	6956
41305	8231
41350	7861.3
41355	7860
41360(a)-(d)	7861
41360(e)	7861.1
41365	7861.2
41370	7861.5
41375	7861.4
41380	7862
41385	7862.5
41390	7863
41450	8210.2
41455	8217
41455	8371(c),(d)
41460	8213
41465	8214
41470	8215
41475	8218
41480	8219
41485	8756
41490	8834.1
41495	8370
41500	12002.8(d),(e)
41600	8120
41605(a)-(c)	8121
41605(d)	8122
41610	8123
41650	8230
41655	8248
41660(b)	8239.2
41660(a)	8246.8
41665	8232
41670	8232.5
41675	8234(a)
41680	8233.9
41685	8243
41690	8242
41695	8244
41700	8245
41705	8245.5
41710	8233.8
41715	8233 1st sent
41720	8236
41725	8235
41730	8233.3
41735	8233.5
41735	8237
41740(a)-(i)	8239
41740(j)	8241
41745(a)	8238
41745(b)	8238.1
41750	8239.9

Proposed Provision	***Existing Provision(s)***
41755(a)-(c)	8239.1
41755(d), (e)	8240
41760	8233.4
41765	8239.6
41770	8246.4
41775	8246.6
41780	8246.7
41785(a)	8246(a)
41785(b)	8246(b)
41785(c)	8246(c)
41785(e)	8246(d)
41785(d)	8246.2(b)
41790	8246.2(a)
41795	8233 2nd sent
41800	8234(b)
41900	8247 1st sent
41905	8247.5(a)
41910	8247.7
41915	8247.1
41920	8247.5(b)
41925	8247.2 1st sent
41930	8247 3rd sent
41935	8247.2 2nd, 3rd sent
41940	8247 2nd sent
41945	8247.4
41950	8247.8
41955	8247.6
42050(b)	7660
42050(a)	7662
42100	7925
42105	8055
42110	8226
42255	8150.7 1st sent
42260	8150.7 2nd sent
42265	8150.5
42270	12002.8(d),(e)
42355	8154
42455	2363
42505	8756
42605	5517
42610(a)-(d)	2021
42610(e), (f)	2021.5(a)
42615	2021.5(b)
42750	7704(c)
42800	8388(b)
42805	8388(a)
42810(a)	8388(c)
42810(b)	8388(d)
42850	8599.4
42905	8388.5
42950	8599
42955	8599.3
43150(a), (b)	7370
43150(c)	12006(a)(1)
43150(d)	12006(b) 1st, 3rd sent
43150(f)	12006(b) 1st, 3rd sent

Proposed Provision	***Existing Provision(s)***
43150(e),	12006(b) 2nd sent
43150(e)	12157(c)(1)(C)
43200	2363
43250	10000
43255	10001 1st sent
43260	10001 2nd sent
43265	10002
43270(a)	10003
43270(b)	10004
43275	10005
43355	8370
43555	8395
43655(a)	8394
43655(b)	8394.5
43805	7260
43850	2356
43855	2358
43950	5514
44000	7380
44005	7381
44010	7382
44105(a)	8430
44105(b)	8433
44200(a), (b)	8431
44200(c)	8432
44200(d)	8433
44205	8756
44350	313
44450	8376
44455(a)	8374
44455(b)	8375
44460(b)	8377
44460(a)	8377.5
44465	8378
44470	8374
44650	2362
44755(b)	8382
44755(c)	8384
44755(a)	8386
44760	8387
44765	8623(a),(b),(e)
45005	7600
45010	8500
45250	5505
45305	9053
45400	5505
45405	9053
45450	5700
45455	5701
45460	5701.5
45465	5702
45500(a)	5669
45500(a)	5671
45500(b)	5675
45505	5670
45505	5672 2nd para

Proposed Provision	***Existing Provision(s)***
45510(a)	5672 1st para
45510(b)	5673
45515	5674
45700(a)-(c)	7149.8
45700(d)	12000(b)(3)
45750	2371
45800	5521
45805	5521.5
45810	5521.6
45850	12009
45855	12006.6
45860	12002.3(a)
45860	12002.3(b)
45860	12002.10
45865	12002.8(a)-(c)
45870	12157(c)(1)(B)
45950(b), (c)	7149.9(a)(1) 2nd sent
45955(a)	7149.9(a) 1st, 2nd sent
45955(b)-(d)	7149.9(b)-(d)
45960	7149.9(a)(1) 1st sent
45960	7149.9(a)(2),(a)(3)
46000	5520
46005	5522(a),(b)
46010	5522(c)
460(a)(1)-(4)	3950(a)
46015	5522(d)
46020	5522(e)
46050	7400
460(a)(6)-(9)	3950(a)
46150	8051.4(a)
46250	7290
46255	2368
46260	2369
46300	7332
46400	8340
46405	8475
46410	8341
46415	8343
46420	8346
46425	8342
46550	2364
46855	8275
47000	8834
47005	9012(a)
47010(a)	8276.4(g)
47010(b)	8276.4(h)
47015	8281
47055	8279
47060	8276(c)
47065	8834.5
47070	8278
47150	8276.3(a),(b)
47155	8279.1(a)-(e)
47160	8276.3(c)
47160	8279.1(f)
47300	8276(a),(b)

Proposed Provision	***Existing Provision(s)***
47305	8277
47350	8276.2(a)
47355(a)	8276.2(b)(1)
47355(b)	8276.2(c) 2nd sent
47360	8276.2(b)(2)(B)
47365	8276.2(c) 1st, 3rd-6th sent
47370	8276.2(b)(2)(A)
47375	8276.2(d)
47450(a)	8284(a) 1st sent
47450(a)	9011(a)(1)
47450(b)	9011(a)(2)
47450(c)	9012(b)
47455	8283
47460(a)	8284(a) 2nd sent
47460(b), (c)	9011(a)(3)
47465	9011(c)
47600	8276.5(h)
47605	8276.5(g)
47610	8276.5(a) 1st sent
47615	8276.5(a) 2nd sent
47620	8276.5(a)(1),(2)
47625	8276.5(a)(3)
47630	8276.5(a)(4)
47635	8276.5(a)(5)
47640	8276.5(a)(6)
47645	8276.5(a)(7)
47650	8276.5(b)
47655	8276.5(d)
47660	8276.5(e),(f)
47665	8276.5(i)
47800	8276.4(a) 1st sent
47805	8276.4(a) 2nd sent,(a)(1)-(7)
47810	8276.4(b)
47815	8276.4(c)
47820	8276.4(d)
47825	8276.4(e)
47830(a)	8276.4(f)
47830(b)	8276.5(c)
47835	8276.4(h)
47900	8280.1(a)
47905	8280.4(a)
47910	8280.6(a)
47915	8280.2(e) 2nd-4th sent
47920	8280.2(e) 1st sent
47925	8280.2(a)-(d)
47930	8280.1(g)(1)
47935	8280.1(g)(2)
47940	8280.5(a)-(e)
47945	8280.1(h)
47945	8280.2(f)
47945	8280.2(f)
47945	8280.4(b)
47945	8280.5(f)
47945	8280.6(d)
48100	8280.1(b)
48100	8280.1(d)

Proposed Provision	***Existing Provision(s)***
48105	8280.1(b)(1),(2)
48110	8280.1(b)(3)
48115	8280.1(b)(4)(A)
48120	8280.1(b)(4)(B)
48125	8280.1(b)(4)(C)
48130	8280.1(b)(5)
48135	8280.1(b)(6)
48140	8280.1(f)
48145	8280.1(c)
48150	8280.1(h)
48300	8280.3(a)
48305	8280.6(c)
48310	8280.3(b)
48315	8280.3(c)
48320	8280.3(d)
48325	8280.3(e)
48330	8280.3(f)
48335	8280.3(g)(2)
48340	8280.3(g)(1)
48345	8280.3(h)
48350	8280.3(i)
48355	8280.6(b)
48360	8280.3(j)
48360	8280.6(c)
48500	8280
48505	8280.9
48510	8280.7
48650	8282
48655	9011(b)
48660	8284(b),(c)
48800	12002.8(d),(e)
49005	8490
49010	9024
49015	8491
49020	8492
49205	8510
49310	7256
49315	2365
49500(a)-(e)	8254
49500(f)	12006(a)(2)
49500(g)	12006(b) 1st, 3rd sent
49500(h)	12006(b) 2nd sent
49500(h)	12157(c)(1)(C)
49500(i)	12006(b) 1st, 3rd sent
49505	8257
49510	8259
49515	8254.7 1st-6th sent
49600	8251
49605	8252
49610	9001.7(k)
49615	8254.7 7th sent
49700	8250.5(a)
49700	9010(a)
49705	9010(c)-(e)
49710(a)	8258
49710(b)	9010(b)

Proposed Provision	*Existing Provision(s)*
49715	8250.5(b)
49750	8250.5(c)
49755	8253
49850	1021
49950	2301(a)(1)
49955	2301(e)
49960	2301(a)(2)(A)-(D)(i),(c)(2)
49965	2301(a)(2)(D)(ii)-(iv)
49970	2301(b)
49975	2301(c)(1)
49980	2301(d)
49985	2301(g)
49990	2301(h)
49995	2301(f)
50000	2301(i)
50100	2302(g)
50105	2302(a),(b)
50110	2302(c)
50115	2302(d)
50120	2302(e)
50125	2302(f) 3rd sent
50130	2302(f) 1st, 2nd sent
50255	8344
50405	8345
50505	8405
50510	8405.1
50515	8405.2
50520	8405.3
50525	8405.4
50655	1068
50705(a)	9054 1st sent
50705(c)	9054 3rd sent
50705(d)	9054 4th sent
50705(b)	9055
50710	9054 2nd sent
50955	8590
51000	8593
51005	8591
51010(a), (b)	8841(g)
51010(c)	8841(i)
51015(b)	8595(a)
51015(d)	8595(b)
51015(a)	9015(a)
51015(c)	9015(b)
51050	8594
51100(a)	8595(a)
51100(a)	8842(a) 1st para
51100(b)	8842(a) 2nd para
51105(a)	8842(b)
51105(b)	8842(d)

Proposed Provision	*Existing Provision(s)*
51110	8842(c) 1st sent
51115	8842(c) 3rd sent
51400	8399
51405	8399.1
51450	8420
51455	8424
51460	8425(a)
51465	8425(b)
51470	8428
51475	8429 1st sent
51480	8429 2nd sent
51485	8429.5
51490	8429.7
51905	5505
52000	6300
52005	6301
52010	6302
52015	6303
52020	6304
52025	6305
52030	6306
52200(a)-(d), (g)	5050(a)
52200(e)	12008(d)
52200(f)	12159.5
52300	6895
52305	6896
52400	6850
52450	6851
52455	6854
52460	6852
52465	6855
52500	6880
52505	6881 1st sent
52505	6882
52505	6884
52510	6881 2nd sent
52515	6883
52520	6885
53000(a)-(d), (g)	5050(a)
53000(e)	12008(d)
53000(f)	12159.5
53100	5060
53105	5061
53200	5062
53250	7149.3
53305	5000
53310	5002
53315	5001

Fish and Game Commission
Potential Agenda Items for August Commission Meeting

The next FGC meeting is scheduled for August 16-17, 2017, at the Resources Building Auditorium in Sacramento. This document identifies potential agenda items for the meeting, including items to be received from FGC staff and the California Department of Fish and Wildlife (DFW).

Wednesday, August 16: Non-Marine-related and administrative items

1. Public forum
2. Wildlife Resources Committee
3. Notice: Sport fishing (Annual)
4. Receive DFW's 1-year status review on tricolored blackbird
5. Receive DFW's 1-year status review on Humboldt marten
6. Receive DFW's 90-day evaluation report on Cascades frog
7. Recognize inductees into the California Waterfowler's Hall of Fame
8. Adopt FGC meeting dates and locations for 2018
9. Executive session
10. Non-marine items of interest from previous meetings
11. Action on non-marine petitions for regulation change
12. Action on non-marine non-regulatory requests from prior meetings

Thursday, August 17: Marine-related and administrative items

13. Public forum
14. Marine Resources Committee
15. Tribal Committee
16. Notice: Abalone certificate of compliance
17. Discuss: Nearshore and deeper nearshore fishing permits
18. Discuss: Sea cucumber
19. Adopt: Abalone emergency – 2nd 90-day
20. Adopt: Process for automatic conformance to federal recreational fishing regulations
21. Receive and approve request to transfer halibut trawl vessel permit for Frank Cardinale
22. Marine items of interest from previous meetings
23. Action on marine petitions for regulation change
24. Action on marine non-regulatory requests from prior meetings
25. Receive DFW informational items
26. Receive other information (staff report, legislative update, federal report)

California Fish and Game Commission – Perpetual Timetable for Anticipated Regulatory Actions

(Dates shown reflect the date intended for the subject regulatory action.)

Updated: 6/8/17

ITEMS PROPOSED FOR CHANGE ARE SHOWN IN BLUE

For FGC Staff Use				REGULATORY CHANGE CATEGORY	ACTION DATE, TYPE AND LOCATION	2017										2018						
						JUN 20	JUN 21 22	JUL 20	AUG 16 17	SEP 13	OCT 10	OCT 11 12	NOV 9	DEC 6 7	JAN TBD	FEB TBD	MAR TBD	MAR TBD	APR TBD	APR TBD	MAY 24
QUARTERLY EFFECTIVE	DFW RU ANALYST	FGC ANALYST	LEAD			TC CRESCENT CITY	FGC SMITH RIVER	MRC SANTA ROSA	FGC SACRAMENTO	WRC RIVERSIDE	TC ATASCADERO	FGC ATASCADERO	MRC MARINA	FGC SAN DIEGO	WRC TBD	FGC TBD	FGC TELECONFERENCE	MRC TBD	FGC TELECONFERENCE	FGC TBD	WRC TBD
					File Notice w/OAL by		04/25/17		06/20/17			8/15/17		10/10/17		TBD	TBD		TBD	TBD	
					Notice Published		05/05/17		06/30/17			8/25/17		10/20/17		TBD	TBD		TBD	TBD	
					Title 14 Section(s)																
	SB	JS	FB	Sport Fishing (Annual)	1.05 et al.				N			D		A			E 3/1				R
✱	SB	MMH	LED	Enhance Penalties for Game Illegal Take	748.6 (new)			E 7/1													
✱	CM	ST	HC	Livermore Tarplant	670.2						E 10/1										
✱	MR	JS	WLB	Falconry Clean-up	670			E 7/1													
	SB	SF	FB	Klamath River Sport Fishing (Annual)	7.50(b)(91.1)				E 8/1	R				N		D			A		
	SB	MMH	FB	Central Valley Salmon Sport Fishing (Annual)	7.50(b)					R				N		D			A		E 5/17
	SB	SF	MR	Ocean Salmon Sport Fishing (April 2018) (Annual)	27.80(c)									N		D	A		E 4/1 X		
	SB	SF	MR	Ocean Salmon Sport Fishing (May - November 2018) (Annual)	27.80(d)									N		D			A		E 5/1 X
	CM	JS	FGC	Use of Dogs for Pursuit/Take of Mammals or for Dog Training	265														E 4/1		
	MR	JS	WLB	Mammal Hunting (Annual)	360 et al.			E 7/21		R				N		D				A	
	MR	JS	WLB	Deer Tag Reporting Requirements	708.5						E 10/1										
	MR	JS	WLB	Waterfowl (Annual)	502			E 7/21		R				N		D				A	
	MR	JS	WLB	Upland (Resident) Game Bird (Annual)	300		A			E9/1 V					R	N				D	
✱	SB	ST	MR	Dungeness Crab and Lobster Recreational Gear Marking and Commercial Lobster Harbor Restricted Fishing Areas	29.80, 122			A				E 10/1									
		ST	WB	Tricolored Blackbird Emergency - 180 Day	749.9					EE 9/7											
	SB	ST	MR	Abalone Emergency - 180 DAY	29.15					EE 9/28											
	CM	JS	FGC	Use of Dogs for Pursuit/Take of Mammals or for Dog Training	265							D		A					E 4/1		
	SB	SF		Process for Automatic Conformance to Federal Recreational Fishing Regulations	1.95		D		A				E 11/1								
✱	SB	ST	FB	Commercial Take of Rattlesnakes	~~TBD~~42, 43, 651, 703		N					D/A			E 1/1						
✱	SB	SA/ST	MR	Nearshore and Deeper Nearshore Fishing Permits	150,150.01,150.02,705		N		D			A									
✱	MR	ST	MR	Commercial Fisheries Electronic Reporting	~~TBD~~197		N					D/A			E 1/1						
✱	MR	SF	MR	Commercial Sea Cucumber	128		N		D			D/A			E 1/1						
✱	~~MR~~	~~SF~~	~~MR~~	~~Commercial Herring (Annual)~~	~~163, 164~~				~~N~~			~~D/A~~		~~E 12/26 X~~							
	SB	ST	MR	Abalone Emergency - 2nd 90 DAY	29.15				A	E 9/28				EE12/28							
	SB	ST	MR	Abalone Certificate of Compliance	29.15				N			D		A							
RULEMAKING SCHEDULE TO BE DETERMINED																					
✱			MR	Kelp and Algae Harvest Management	165, 165.5, 704			~~V~~					V								
✱	MR	ST	MR	Commercial Sea Urchin (Phase II)	120.7																
✱				Possess Game / Process Into Food	TBD																
✱			OGC	AZA / ZAA	671.1																
				Night Hunting in Gray Wolf Range	474																
				Shellfish Aquaculture Best Management Practices	TBD			V													
			WB	Trapping Fees	TBD																
✱		ST	WB	Tricolored Blackbird	749.9																
✱		SF	FGC	Tribal Take in MPAs	632																

EM = Emergency, EE = Emergency Expires, E = Anticipated Effective Date (RED "X" = expedited OAL review), N = Notice Hearing, D = Discussion Hearing, A = Adoption Hearing, V =Vetting, R = Committee Recommendation, WRC = Wildlife Resources Committee, MRC = Marine Resources Committee, TC = Tribal Committee

State of California
Department of Fish and Wildlife

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2017 JUN -6 PM 3:33

Memorandum

Date: June 6, 2017

To: Valerie Termini, Executive Director
Fish and Game Commission

From: Charlton Bonham
Director

Subject: **Request for changes to the Fish and Game Commission's Timetable for Anticipated Regulatory Actions**

The Department of Fish and Wildlife (Department) requests the following schedule changes to the Fish and Game Commission's (Commission's) 2017 regulatory timetable:

- Remove the annual rulemaking for Commercial Herring from the 2017 calendar. Based on current biomass data, the Department recommends leaving the current quotas in place for the 2017-18 herring season. The Director's Herring Advisory Committee supports this recommendation.
- Extend the current emergency regulations for red abalone for a period of 90 days and add a Certificate of Compliance rulemaking to the 2017 calendar to make the emergency regulations permanent. The Department proposes that the Commission extend the emergency regulations and authorize publication of notice of its intent to make the regulations permanent at the August meeting in Sacramento. Discussion and adoption should be scheduled for the October meeting in Atascadero and the December meeting in San Diego, respectively.

If you have any questions or need additional information, please contact Regulations Unit Manager, Craig Martz at (916) 653-4674 or by email at Craig.Martz@wildlife.ca.gov.

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