

## STAFF SUMMARY FOR AUGUST 16, 2017

**11. 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 Jun 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 Jun 21-22, 2017; Smith River
- **Today's action on petitions Aug 16, 2017; Sacramento**

(B)

- **Today's update Aug 16, 2017; Sacramento**

**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 an FGC 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 11(A) were received at the Jun 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 11(B) were scheduled for action at a previous meeting and were referred by FGC to DFW or FGC staff for further evaluation 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 Jun 2017 is scheduled for FGC action: Petition #2017-003 requesting a parking exception at Ballona Wetlands Ecological Reserve (Exhibit A2).
- (B) ***Pending regulation petitions.*** 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 (N/A)**

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**Recommendation**

- (A) Adopt the staff recommendation for the regulation petition 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 the staff recommendation for the regulation petition.

**Exhibits**

- A1. [FGC table of non-marine petitions for regulation change received through Jun 22, 2017](#)
- A2. [Petition #2017-003: Parking exception at Ballona Wetlands Ecological Reserve](#)

**Motion/Direction**

- (A) Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendation for action on the June 2017 petition for regulation change.

**CALIFORNIA FISH AND GAME COMMISSION**  
**DECISION LIST FOR NON-MARINE PETITIONS FOR REGULATION CHANGE RECEIVED THROUGH JUN 22, 2017, FOR FGC ACTION**  
 Revised 07-27-2017

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
<a href="#">2017-003</a>	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	DENY; pursuant to subsection 662(d)(2), petition is equivalent to previously submitted petition #2017- 002 and no new information provided.	RECEIPT: 6/21-22/2017 <b>ACTION: Scheduled 8/16/2017</b>



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](mailto: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](mailto: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 geotechnical 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 exemption 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 payments. 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

Date petitioner was notified of receipt of petition and pending action: June 21-22, 2017  
Tracking Number

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