

STAFF SUMMARY FOR FEBRUARY 7-8, 2018

31. 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 Dec 2017 meeting.
- (B) Update on pending regulation petitions referred to staff or DFW for review.
- (C) Request for reconsideration of Petition #2017-002 (request withdrawn).

Summary of Previous/Future Actions

(A)

- Receipt of new petitions Dec 6-7, 2017; San Diego
- **Today's action on petitions Feb 7-8, 2018; Sacramento**

(B)

- N/A

(C)

- **Today's action on request for reconsideration Feb 7-8, 2018; 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 (A) were received at the Dec 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 evaluation prior to action.

- (A) ***Petitions for regulation change.*** Exhibit A1 summarizes the regulation petitions scheduled for action today and provides staff recommendations for each. One non-marine regulation petition from Dec 2017 is scheduled for FGC action at this meeting:
 - I. *Petition #2017-012 (striped bass bag and size limits in anadromous coastal rivers and ocean waters south of Golden Gate Bridge)* (Exhibit A2).
- (B) ***Pending regulation petitions.*** This item is an opportunity for staff to provide a recommendation on non-marine petitions previously referred by FGC to staff or DFW for review. FGC may act on any staff recommendations made today. No pending non-marine petitions referred to FGC staff or DFW are scheduled for action at this meeting.

STAFF SUMMARY FOR FEBRUARY 7-8, 2018

- (C) ***Request to reconsider decision on petition.*** At its Jun 2016 meeting, FGC denied Petition #2017-002 to eliminate the parking use exemption for County of Los Angeles leases at Ballona Wetlands Ecological Reserve. The petitioner submitted a request for FGC to reconsider its decision on the petition based on the lack of factual substance in the staff recommendation for denial (Exhibit C1). FGC received the request for reconsideration at its Oct 2017 meeting and it was scheduled for action in Dec 2017. However, staff requested a delay until the Feb 2018 meeting to allow for noticing. Following the Dec 2017 meeting, the petitioner withdrew the request for reconsideration and no further action is necessary.

Significant Public Comments

- (A) Received six comments in support of Petition #2017-012 (examples provided in exhibits A3-A4).

Recommendation

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

Exhibits

- A1. [FGC table of non-marine petitions for regulation change received through Dec 7, 2017, for action in Feb 2018](#)
- A2. [Petition #2017-012: Striped bass bag and size limits](#)
- A3. [Form letter from Michael Montgomery, received Dec 8, 2017](#)
- A4. [Email from Paola Berthoin, received Dec 4, 2017](#)
- C1. [Letter from the Law Offices of Brian Acree on behalf of Ballona Wetlands Land Trust, dated Aug 28, 2017](#)

Motion/Direction

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

OR

Moved by _____ and seconded by _____ that the Commission *does not adopt* the staff recommendation for action on the December 2017 petition for regulation change and instead the action is _____.

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR NON-MARINE PETITIONS FOR REGULATION CHANGE RECEIVED THROUGH DEC 7, 2017
 Revised 1-25-2018

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	FGC Decision	Staff Recommendation
2017-012	11/2/2017	A	James L. Lambert	Striped bass	5.75, T14 27.85, T14	Increase the daily bag limit to 3 and reduce minimum size to 12 inches in anadromous coastal rivers and ocean waters south of the Golden Gate Bridge.	Receipt scheduled: 12/6-7/2017 Action scheduled: 2/7-8/2018	Refer to DFW for further evaluation and recommendation.



Tracking Number: **2017-012** (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: James L Lambert
Address:
Telephone number:
Email address:
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: CODE 200, 205, 265, 275 fish and game code.
3. **Overview (Required)** - Summarize the proposed changes to regulations: I propose to allow Striped Bass fishing daily south of Golden Gate Bridge in all California South Coast Rivers and Ocean Waters. Using the same river locations used for fishing steelhead and salmon in the winter months. No other fish may be retained in the rivers and high graders will be severally punished. I suggest size limits reduced to 12" inches to keep, with a three fish bag limit per day for Striped Bass.
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: The California Fish and wild life commission is not enforcing the Law; they are allowing the **non native Striped Bass** to propagate and destroy the California native fish species. They are not protecting the **wild** fish species; Salmon and Steelhead including hatchery fish from predation; this is a significant reason that is causing a decline in these fish. The Strip Bass are land locked; setting up residents and mating in south coast rivers. Devouring whatever they can find, **killing all wild species**.

SECTION II: Optional Information

5. **Date of Petition:** 11-1-2017
6. **Category of Proposed Change**
X 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): 5.75
- ☐ 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: As we know the Striped Bass fish is an aggressive predator that has been invading California waterways for over one hundred and thirty years, with a population increase of tens of millions. They are voracious feeders; migrating into all waterways and are known as an Anadromous fish that have no limits. Ultimately this fish will cause total devastation to all the west coast wild fish populations (including Steelhead and Salmon) in California Rivers. It is possible they will consume all the wild fish species populations living along the coastal surf zone as they live and move on through these waters. .

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: The Carmel River Steelhead Association, their web site. <http://www.carmelsteelhead.org/> : news letter June, 2017. My experiences and observations: I became a member of the Carmel Steelhead Association in the mid 1983 and spent a lot of time working on project and Steelhead rescues. Fishing on the Carmel River for Steelhead whenever possible. Spending time fishing on the Monterey wharf in the winter months when the swells were too big and unsafe along the California Coast line. Many days on the wharf schools of Salmon and steelhead would come cruising along the wharf wall seeking out the fresh water that came out into the surf; flowing out of a small stream located under the wharf. We were casting lures to them with hopes of hooking one of the fish. The schools were adult fish 8 to 15 pounds and there was from ten to thirty fish at a time in the schools; it was exciting to see them. Over the years seeing a Salmon or Steelhead became a rare sight. Today many of us fishermen on the wharf see large schools of Striper Bass with two or three hundred fish in the school. This has been for the past several years. Striped Bass are taking over and hunting in packs. Fishing for Striped Bass on the wharf is; casting lures but the fish that are hooked are always too small to keep. Ranging 12 to 16 inches long. Many surf fishermen are seeing the same size fish that are undersize to keep. The State law requires them to be 18 inches. Most fishermen are realizing that the Striped Bass has been one of the major factors causing the decline in Salmon and Steelhead. There is an enormous increase of Striper Bass being seen in all the California waters and Rivers. One river in particular I check is the Carmel River. Large schools of Striper Bass have been recorded in the river and also observed upstream above the recent dam removal location; mating, spawning, including sighting of there off springs. Photos of a large school of Striped Bass in the Carmel River will be included.

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 change in Ocean and River fishing law will help fishermen, Guide Fishing Service, Ocean Party boats, and local city stores with increased sales of fish



equipment which would improve the many local economies. This change will open the door for new fishery studies, and grants to assess the improvement and protection of fish species. This proposal will also give back to fisherman more river fishing time, and put food on their tables. This in turn helps improve and promotes California fishing license sales and the Warden Service. Having more people fishing on the rivers helps decrease poachers, it's a win win for all.

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

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

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

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

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

Tracking Number

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2017 NOV -2 AM 8:06

The California Fish and wild life commission is not enforcing the Law; they are allowing the non native Striped Bass to propagate and destroy the California native fish species. They are not protecting the **wild fish species**; Salmon and Steelhead including hatchery fish from predation; this is a significant reason that is causing a major decline in these fish. The Strip Bass in south coast rivers are land locked; setting up residents and mating. Devouring whatever they can find, killing all wild species.

As we know the Striped Bass Non-Native fish is an aggressive predator that has been invading California waterways for over one hundred and thirty years, with a population increase of tens of millions. They are voracious feeders; migrating into all waterways and are known as an Anadromous fish that have no limits. Ultimately this fish will cause total devastation to all the west coast wild fish populations (including Steelhead and Salmon) in California Rivers. It is possible they will consume all the wild fish species populations living along the coastal surf zone as they live and move on through these waters. Unfortunately, this is also true for the future of tens of millions of hatchery Salmon and Steelhead fish that are released yearly. Basically hatchery fish are weak and not as alert as the wild fish are.

It is time human action is taken to slow down the Striped Bass. *I have an idea on how to improve the California hatchery fish (Trout, Steelhead, and Salmon) and make them stronger, more alert, and possibly avoiding predators.* There is a safe and sane way to control and decrease the Striped Bass population from the waters. The proposed approach should not cost the Federal or State governments anything monetarily.

I propose to allow fishing of Striped Bass in all California South Coastal Rivers and streams **south** of the Golden Gate Bridge as soon as possible. This should be permitted for the South Coast because there are fishing businesses in the North Coastal Rivers. Consequently, this fishing policy change will not affect fishing Guide Service businesses in the North Coast. As far as I know there is no Fishing Guide Service in South Coast Rivers.

This change will help decrease and reduce the Striped Bass populations living in South Coastal Rivers where flows have become closed off to the ocean and the striped Bass are land locked. This will be a big help controlling the damage caused to the wild Trout, Steelhead and Salmon populations, and all other wild fish species that propagate in these waters. It will also give these wild fish species a chance to multiply, rebound and make a comeback. This small first step would be a great start with helping to improve the present condition for all fish species and help them make a comeback before it's too late.

This proposal will also give back to fisherman more river fishing time, and put food on their tables. This in turn helps improve and promotes California fishing license sales and the Warden Service. Having more people fishing on the rivers helps decrease poachers, it's a win win for all.

I propose to allow fishing daily in all California South Coast Rivers and Ocean Waters. Using the same river locations used for fishing steelhead and salmon in the winter months. No other fish may be retained and high graders will be severally punished. I suggest size limits be reduced to 12" inches to keep, with a three fish bag limit per day for striped Bass.

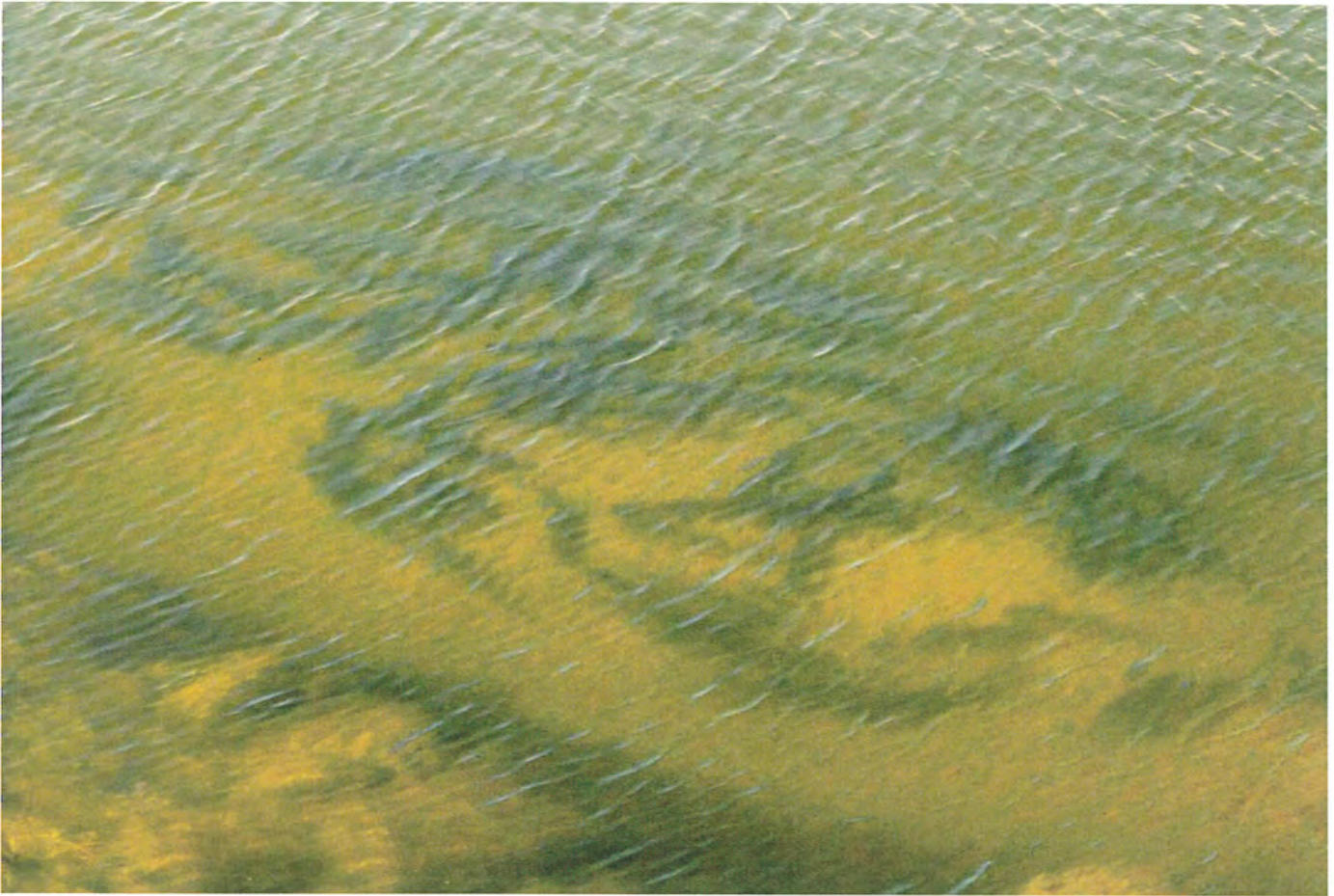
This change in Ocean and River fishing law will help fishermen, River Guide Fishing Service, Ocean Party boats, and local cities stores with increase sales of fish equipment which would improve the many local economies. This change will open the door for new fishery studies, and grants to assess the improvement and protection of fish species.

Brian K. Wells: from NOAA Southwest fisheries science center. At a MBARI seminar Oct 2017 studying Murre predation on Sardines, Salmon and Cod, notes that **hatchery Salmon fish are a weak fish**. When I asked about Stripe Bass predation; he said he did not study Stripe Bass fish. It then became obvious and it makes sense that millions of the hatchery Salmon and Steelhead releases is a food source for Striped Bass because their easy pickings and weak. Consequently that is the reason returns of Salmon and Steelhead into the rivers are small. California fish hatcheries produce about 40 million fish per year that include Salmon, Steelhead and Trout.

My observation; moving to Carmel / Monterey California in 1976 from I fished along the Big Sur rocky coast line, and fishing in the surf. I became a member of the Carmel Steelhead Association in the mid 1983 and spent a lot of time working on project and Steelhead rescues. Fishing on the Carmel River for Steelhead whenever possible. Spending time fishing on the Monterey wharf in the winter months when the swells were too big and unsafe along the California Coast line. Many days on the wharf schools of Salmon and steelhead would come cruising along the wharf wall seeking out the fresh water that comes out into the surf that is flowing out of a small creek located under the wharf. We are casting lures to the fish with hopes of hooking one. The schools were adult fish 8 to 15 pounds and there was ten to thirty fish in the schools; it was exciting to see them. Over the years seeing a Salmon or Steelhead became a rare sight. Today many of us fishermen on the wharf see schools of Striper Bass with two or three hundred fish in the school. This has been for the past several years. Striped Bass are taking over and hunting in packs. Fishing for Striped Bass on the wharf is; casting lures the fish that are hooked are always too small to keep. Ranging 14 to 16 inches long. Many surf fishermen are seeing the same size fish that are undersize to keep. The State law requires them to be 18 inches. Most fishermen are realizing that the Striped Bass has been one of the major factors causing the decline in Salmon and Steelhead. There is an enormous increase of Striper Bass being seen in all the California waters and Rivers. One river in particular I check is the Carmel River. Large schools of Striper Bass have been recorded in the river and also observed upstream above the recent dam removal location; mating, spawning, including sighting of there off springs.

Photographs: of large school of adult Striped Bass in the Carmel River Lagoon. THE RIVER MOUTH IS CLOSED to ocean.





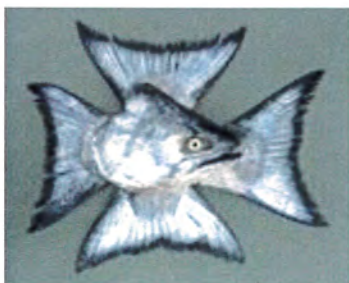
Photographs: of large school of adult Striped Bass in the Carmel River Lagoon. THE RIVER MOUTH IS CLOSED to ocean. This is happening to the entire costal rivers along the California Coast. This is a main reason we need to fish for Striped Bass and get them out of the rivers before they kill all the wild species.

Please let's get this done before it's too late..... Optimistically it's not too late.

Jim Lambert,

Ca. : phone:

The Salmon Cross is a symbol that represents those individuals who have made it their mission in life to save the Wild Steelhead and Wild Salmon from extinction. Their work, dedication and sacrifices provide future generations the enjoyment of this treasured natural resource. @ Jim Lambert, Contemporary Photographs



RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

2017 DEC -8 AM 8:30

Striped Bass Petition: Ref to petition #2017-012.

Fisherman need to have their inherited fishing rights and opportunities increased. Many fishing opportunities have been taken away due to the decreasing number of fish available.

Today the West Coast waters are being taken over by huge numbers of schooling Striped Bass. These fish are in many river systems and ocean. Killing and eating the native fishes such as Steelhead, Salmon and any other wild fish they come across. These are aggressive predators that were introduced to the west coast waters around 1879; http://www.striperurf.com/california_history_print.html...These adult Striped Bass have no native fish predators in these waters; only fishing persons.

We need to be able to fish for these Striped Bass 365 days a year; in any water that they are living in today. Considering and including coastal rivers that harbor them and are **closed** to fishing most of the year. Reduce size limit to **12** inches and bag limit of 3 fish. This will improve the native wild fish runs that live in these waters and help bring food to the table. It needs to happen now before all the native wild fish are killed off by these schools of Striped Bass that are living and feeding in the coastal rivers and streams

Sign; and send this letter to support the petition #2017-012, immediately to Ca. F&W Commission.

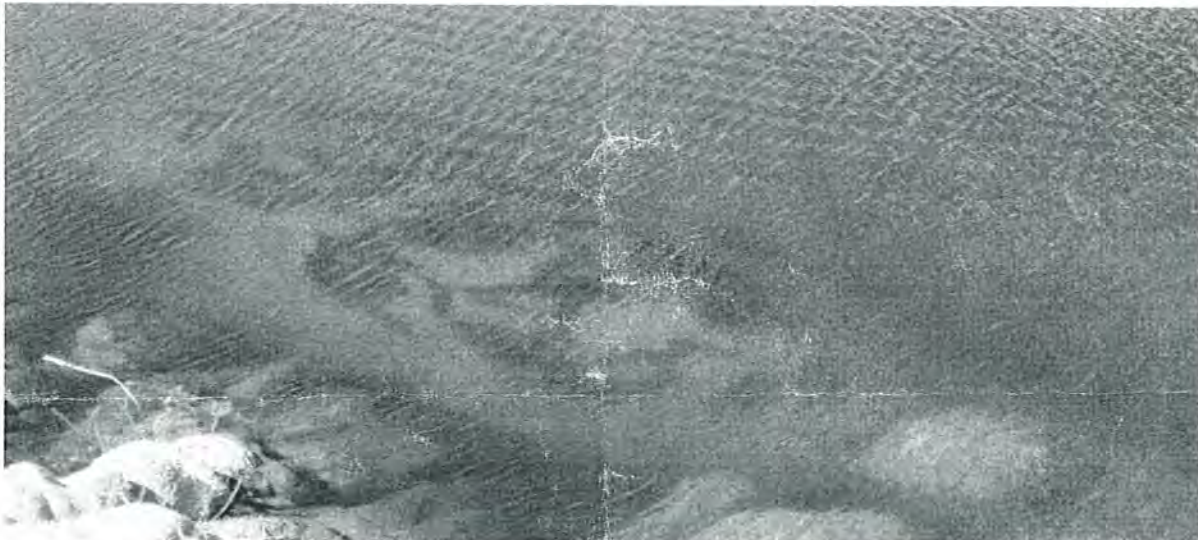
Mailing Address: California Fish and Wildlife Commission, P.O. Box 944209. Sacramento, CA. 94244-2090

Your name print Michael D. Montgomery Signature Michael D. Montgomery

Full Address _____

Date 12.5.2017

Optional information: E mail _____ Phone _____



Picture taken: Oct 1, 2016; estimate two hundred plus Striped Bass fish are in three feet of Carmel River lagoon water. Please Share.

Revs.12-4-2017

From: Paola Berthoin
Sent: Monday, December 04, 2017 10:36 PM
To: FGC
Cc: jim lambert
Subject: Striped Bass Petition: #2017-012.

Striped Bass Petition: #2017-012.

Today the West Coast waters are being taken over by huge numbers of schooling Striped Bass. These fish are in many river systems and the ocean, killing and eating the native fishes such as Steelhead, Salmon and any other wild fish they come across. These are aggressive predators that were introduced to the west coast waters around 1879; http://www.stripersurf.com/california_history_print.html... These adult Striped Bass have no native fish predators in these waters; only fishermen.

Fishermen need to be able to fish for these Striped Bass 365 days a year; in any water that they are living in today, including coastal rivers that harbor them and are **closed** to fishing most of the year. The size limit needs to be reduced to **12** inches and bag limit of 3 fish. This will improve the native wild fish runs that live in these waters and help bring food to the table. It needs to happen now before all the native wild fish are killed off by these predatory schools of Striped Bass that are living and feeding in the coastal rivers and streams.

The federally threatened Carmel River Steelhead are struggling to survive. There used to be thousands upon thousands, now they are just a shadow of such numbers. The striped bass are one more threat to the survival of these native fish of the Carmel River.

A handwritten signature in cursive script that reads "Paola Berthoin".

Paola Berthoin

LAW OFFICES OF BRIAN ACREE

5042 WILSHIRE BLVD #38524

LOS ANGELES, CA 90036

(510) 517-5196 TEL

(510) 291-9629 FAX

August 28, 2017

VIA ELECTRONIC MAIL

Valerie Termini
Executive Director, California Fish and Game Commission
1416 9th Street, Suite 1320
Sacramento, CA 95814

Email: valerie.termini@fgc.ca.gov

RE: Request for public records and reconsideration of petition (Gov. Code § 11340.7(c))

Dear Ms. Termini:

I represent the Ballona Wetlands Land Trust, a 501(c)(3) non-profit organization dedicated to the protection of the Ballona Wetlands. On June 21, 2017, the California Fish and Game Commission ("Commission") voted to deny my client's petition to strike a provision from the regulations governing the Ballona Wetlands Ecological Reserve that currently allows parking in the reserve for vehicles of Los Angeles County and also many private businesses. This result was based on a staff recommendation claiming that the parking in question provided a public benefit. My client subsequently requested all records from the Commission used to support either the staff recommendation of the Commission vote to deny the petition. On July 26th, 2017, the Commission provided my client with responsive e-mails and other records, but provided no indication that any records had been withheld pursuant to exemptions outlined in the California Public Records Act. The disclosed e-mail records referenced conversations between Commission staff and the staff of other agencies, namely the State Coastal Conservancy and the California Department of Fish and Wildlife. Also on July 26, 2017, my client requested any handwritten or typed notes from those agency discussions. After multiple follow-up requests, the Commission responded that "[d]ocuments that consisted of staff notes were withheld from your response; those documents were withheld from your public records request because the legislature has designated them as exempt from disclosure in Gov. Code, § 6254(a)."

Gov. Code, § 6254(a) exempts from disclosure "[p]reliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure." (emphasis added) In such balancing tests, the burden is on the withholding agency to demonstrate that the public interest is better served by non-disclosure than disclosure. Additionally,

the Courts have generally found that only information that is “recommendatory” in nature will pass this balancing test, whereas information that is factual in nature is to be disclosed. (See for example *Citizens for a Better Environment v. Department of Food & Agriculture* (1985), 171 Cal. App. 3d 704, 217 Cal. Rptr. 504.)

My client is interested in any factual information provided to the Commission from these other agencies that could have contributed to the Commission’s staff finding that the parking in question, largely used for commercial purposes, provided a public benefit. The public has a fundamental right to understand all of the facts used to support the staff recommendation. Therefore, it is in the best interest of all parties for the Commission to voluntarily disclose these notes to the public at the earliest possible time.

Additionally, while my client appreciates that the Commission will include a discussion of the Ballona Wetlands Restoration Project for its October 11 meeting in Atascadero, California, my client believes that the Commission should also have an opportunity to revisit its decision regarding my client’s petition at that time. The Commissioners clearly lacked important information and context at the June 21 hearing that should have been provided in the staff report, such as the history of the parking lots, information regarding who was using the parking lots in question, for what purpose, and based on what financial arrangements, and also the market value of any consideration provided to the State of California in return for the parking. Due to the lack of substantive facts to support the conclusionary findings in the staff report, my client is exploring its legal options with regard to California Code of Civil Procedure Section 1085, which provides remedy for quasi-legislative decisions by an agency which “has acted arbitrarily, capriciously, or without evidentiary basis.” (*Concerned Citizens of Calaveras County v. Board of Supervisors* (1985), 166 Cal.App.3d 90)

However, the best interests of all parties would be better served if Commission staff reconsidered its “public benefit” finding and brought the petition back in front of the Commission for reconsideration with a more factually substantive staff report. As such, please consider this letter as a formal request, pursuant to Gov. Code § 11340.7(c), for the Commission to reconsider my client’s petition (#2017-002). Section 11340.7(c) allows 60 days for a request for reconsideration following the date of the decision involved. Although the decision in question was made on June 21, 2017, my client did not receive official notice until July 6, 2017 (a letter from Fish and Game Commission staff). Nor does the decision appear to have been published in the California Regulatory Notice Register pursuant to Gov. Code § 11340.7(d). If the Commission determines, despite this information, that the 60 day period for request for reconsideration has expired, then my client alternatively requests reconsideration of petition #2017-003, a similar petition heard on August 16, 2017 and denied on procedural grounds.

The request for reconsideration (of either petition) is based on the aforementioned lack of factual substance in the staff recommendations for denial. Specific examples of factual information that was missing from the staff recommendation is outlined below:

- Historical context: The staff recommendation provided Commissioners with no historical context for the existing regulation which currently allows commercial parking and parking by the County of Los Angeles within the ecological reserve. The Director of the California Department of Fish and Wildlife simply described the history as “complicated.” No

historical records were attached to the staff recommendation, such as the statement of reasons for the 2005 regulation change, the purchase agreement for the property, the text of the bond proposition which provided the funds to acquire the property, the local coastal plan, or any other factual historical record.

- Applicable permits and leases: The staff recommendation provided no information regarding whether the parking lots in question have valid Coastal Development Permits and provided no information about the leases which govern use of the parking lots. CDFW's Director acknowledged that he only came into possession of certain lease documents, obtained by my client via a public records act request, days before the August 16 hearing. The records in question were requested from the Los Angeles County Department of Beaches and Harbors by my client on April 12, 2017, and my client is investigating why Beaches and Harbors delayed disclosure of the documents until after the June 21, 2017 hearing, for which Beaches and Harbors was an interested party. That question notwithstanding, these documents should have been obtained by CDFW long ago, and obtained by Commission staff prior to recommending denial of the petition.
- Parking studies, logs of services, market value assessments: The staff recommendation provided no evidentiary support for its conclusionary assertion that the parking in question provided a public benefit. There was no information from any parking studies, no logs of services (or summaries of such logs) provided by the County agencies in question, and no discussion of the market value of the parking area.
- Regulatory context: The staff recommendation broadly discussed a "public benefit" without any discussion of the specific public purpose of the Commissions, which is independent from the public purpose of various departments of Los Angeles County, and certainly different than the commercial purpose of Fisherman's Village.

All of this information was more easily obtainable by the Commission and/or CDFW than by my client. Without this information, the Commission was unable to make an informed policy decision regarding a valuable natural resource. The Commission now has an opportunity to voluntarily remedy that mistake.

Please feel free to have the Commission's legal counsel contact me directly to discuss this matter further. My client is eager to resolve these matters of public interest in a way that is mutually beneficial to all parties.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brian Acree', with a stylized flourish extending to the right.

Brian Acree
Attorney for Ballona Wetlands Land Trust