

## STAFF SUMMARY FOR APRIL 18-19, 2018

**33. ITEMS OF INTEREST FROM PREVIOUS MEETINGS (NON-MARINE)****Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC staff and DFW to provide FGC with updates on non-marine items of interest from previous meetings. For this meeting there is one topic:

- Receive and discuss DFW update on trapping license fees analysis and determine whether to retain the rulemaking scheduled for notice in June 2018.

**Summary of Previous/Future Actions**

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|--|---------------------------------|
| • DFW update and FGC discussion        | Feb 7-8, 2018; Sacramento       |
| • <b>Today's update and discussion</b> | <b>Apr 18-19, 2018; Ventura</b> |

**Background**

In Feb 2016, FGC received a petition (Petition #2015-009) from the Center for Biological Diversity and Project Coyote requesting that FGC raise commercial trapping license fees to a level necessary to recover all reasonable administrative and implementation costs associated with the trapping program, consistent with Fish and Game Code Section 4006(c). The petition language defines a "commercial trapping license" as a license used for trapping with the intent to sell furs and separates that activity from licensees that provide trapping services for a fee (such as a pest operator). In Apr 2016, FGC referred the petition to DFW for further evaluation and recommendation.

In Oct 2017, following FGC staff and DFW review of the petition, FGC denied the petition as it was determined to require legislation to enable the requested regulation change. However, DFW described a related effort to conduct an analysis of the administrative and implementation costs associated with trapping licenses, and offered to provide a status update at the Dec 2017 FGC meeting and to present its draft findings at the Feb 2018 FGC meeting. Following the discussion, FGC revised its rulemaking timetable to specify that trapping license fees would be considered at the Jun, Aug, and Oct 2018 meetings, in the event that adjustments to the trapping license fees were needed based on DFW's analysis. DFW provided the status update at the Dec 2017 FGC meeting and presented a draft analysis of costs at the Feb 2018 FGC meeting.

Today, DFW will present an update on specific enforcement costs associated with the trapping license fees analysis. In Feb 2018, FGC committed to hear this additional update and to consider authorizing a rule notice in June or remove trapping from the regulatory calendar.

**Significant Public Comments**

The Center for Biological Diversity questions DFW's economic analysis, and states that it ignores enforcement costs, it fails to consider appeals and associated process costs, and recreational and pest control operator licenses are conflated and should be treated separately (Exhibit 1).

Approximately 225 form emails have been received asking FGC to raise trapping costs on recreational trappers in California (Exhibit 2 is a sample).

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**Recommendation (N/A)**

**Exhibits**

1. Email from Jean Su, Center for Biological Diversity, and Project Coyote, received Apr 5, 2018
2. Sample form email from Brian Trindell, received Apr 1, 2018

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission removes from the rulemaking timetable the trapping fees adjustment scheduled for notice in June.

Item 33 - April 2018 FGC Meeting - Main Letter (No Exhibits).pdf

Item 33\_April 2018 FGC Meeting - Exhibit 1 - Part A.pdf

Item 33\_April 2018 FGC Meeting - Exhibit 1 - Part B.pdf

Item 33\_April 2018 FGC Meeting - Exhibit 1 - Part C.pdf

Item 33 - April 2018 FGC Meeting - Exhibits 2 and 3.pdf



*Sent via electronic mail*

April 5, 2018

California Fish and Game Commission (“the Commission”)  
Executive Director Valerie Termini  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Russell Burns  
Commissioner Peter Silva  
Commissioner Anthony Williams

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

CC: Director Charles Bonham, California Department of Fish & Wildlife (“the Department”)  
Chief David Bess, Law Enforcement Division  
Mr. Stafford Lehr, Deputy Director, Wildlife and Fisheries Division  
Ms. Kari Lewis, Chief, Wildlife Branch  
Mr. Scott Gardner, Senior Environmental Scientist, Wildlife Branch  
Mr. Matt Meshriy, Environmental Scientist, Wildlife Branch

**Re: Trapping License Fees Economic Analysis (Item #33(A)) – April 19, 2018 Fish and Game Commission Meeting**

Dear President Sklar, Vice President Hostler-Carmesin, and Commissioners Burns, Silva, and Williams, and Executive Director Termini:

On behalf of the Center for Biological Diversity (“the Center”) and Project Coyote and our over 100,000 members and supporters in California, we write to urge the Commission to compel an objectively accurate and far more robust economic analysis from the Department with respect to the costs of the State trapping program. The Department’s economic analysis on the State trapping program, issued on February 1, 2018 (“Analysis”), contains several fatal flaws; the Analysis engages figures that are wholly inconsistent and substantially lower than the Department’s own past economic analyses of the trapping program, as well as fails to include fundamental program costs like enforcement. At the February 2018 meeting, the Department presented legal arguments challenging the inclusion of enforcement costs in the Analysis, but these arguments fail under basic canons of statutory construction and contravene legislative history.

At base, the Department’s Analysis is inaccurate and unjustified. A far more robust analysis is required to correctly adjust the State’s trapping license fees in order to comply with section 4006(c) of the

California Fish and Game Code (“FGC” or “Fish & Game Code”), which requires that trapping license fees be set at the levels necessary for the full recovery of the reasonable administrative and implementation costs of the trapping program incurred by the Commission and Department. Should the Commission rely on this fatally flawed Analysis to justify a failure to proceed with an administrative rulemaking adjusting license fees pursuant to FGC § 4006(c), such a decision would constitute an arbitrary and capricious final agency action subject to legal challenge. As such, we urge the Commission to immediately commence the administrative rulemaking process on license fees in order to engage the Department, public, and other stakeholders on ensuring that license fees are adjusted in an accurate, fair, and transparent manner.

## **I. THE DEPARTMENT’S ECONOMIC ANALYSIS IS FATALLY FLAWED**

In advance of the February 2018 Commission meeting, the Center and Project Coyote submitted extensive comments discussing several fatal flaws of the Department’s economic analysis of the trapping program. See Exhibit 1 for a more thorough discussion of the points below. At base, these common sense flaws demonstrate that the Analysis exponentially undervalues the true cost of the trapping program—which is at least *three times* the current estimate.

### ***A. Analysis’s \$75,000 estimate for total trapping program costs is wholly inconsistent with and undermined by the Department’s prior cost estimates for the trapping program***

The total cost of \$75,000 falls exponentially below all prior estimates of trapping program costs offered by the Department in prior economic analyses. Specifically, in the Initial Statement of Reasons for Regulatory Action regarding the Implementation of the Bobcat Protection Act of 2013, dated April 14, 2015 (“AB1213 ISOR”) (See Exhibit 1 (*Exhibit B*)), the Department estimated that its own costs (excluding the Commission’s costs) to manage and implement the commercial trapping program for just *one* species—the bobcat—amounted to \$161,000.<sup>1</sup> Even more, the Department assigned a partial cost figure to a trapping program in which commercial trapping of all bobcats was banned (i.e. today’s current regulations) of \$211,006.<sup>2</sup> Even assuming the accuracy of the Department’s previous cost estimates regarding bobcats (themselves likely gross underestimates of actual costs as described in our previous comment letters), the trapping program costs incurred by both the Department and Commission to implement and administer the entire trapping program targeting *over one dozen species for commercial trapping and pest control trapping* are certainly substantially higher than these two figures already provided by the Department.

The total trapping program costs *must be at least \$211,006—three times* the current estimate—because that amount accounts solely for implementing the trapping program as it pertains to enforcing the commercial bobcat trapping ban. Second, total trapping program costs should exponentially exceed

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<sup>1</sup> Fish and Game Commission, Initial Statement of Reasons for Regulatory Action re: Implementation of the Bobcat Protection Act of 2013, AB 1213 (2015), at 16. Available at: <http://www.fgc.ca.gov/regulations/2015/478isor.pdf>. ) (“AB1213 ISOR”).

<sup>2</sup> *Id.* at 19.

\$161,000, which implements a *solely commercial* trapping program for a *single species*. Given bobcats were only *one of a dozen species* targeted by commercial trappers in California, program costs for the enforcement, management and administration of the entire trapping program—including *both commercial and pest control trapping*—are likely to greatly exceed the figure generated by the Department for just bobcats. The failure of the Analysis to be remotely consistent with these prior analyses demonstrates its inherent inadequacy.

***B. The Analysis entirely ignores enforcement costs***

The current economic analysis fails to include costs regarding a bedrock function of the Department's program: enforcement. The Analysis's failure to include enforcement costs is unjustifiable, as will be addressed below.

This Analysis's failure to include enforcement costs yields a grossly inaccurate total program cost estimate because enforcement costs are substantial. In the AB1213 ISOR, the Department estimated that enforcement costs for the trapping program for a single species—the bobcat—already totaled \$154,000, which included twelve officers, including a supervising lieutenant, who collectively expended over 2,000 hours in a single bobcat trapping season, along with vehicle mileage. It would be safe to assume that enforcement costs to manage commercial trappers seeking over one dozen species and over 500 pest control trappers would yield a far heftier price tag on enforcement.

In addition to general enforcement costs, any further Department analysis must also factor in the costs of enforcement specifically targeting illicit trapping. The Department asserted that enforcement needs would increase due to the commercial bobcat trapping ban enacted in 2015,<sup>3</sup> stating that the ban would spur “[u]nlawful trappers using illicit techniques [to] trap earlier in the season and well past the normal end of the trapping season, resulting in *increased law enforcement effort*” and thus “require *significant increases* in investigative work to detect and prove.”<sup>4</sup> In the AB1213 ISOR, the Department estimated that a single illicit bobcat trapping case costs the Department approximately \$63,000, which includes 800 hours of officer personnel time over a period of 4.7 months and almost 12,000 vehicle miles.<sup>5</sup> The Department predicted that wildlife officers would pursue an average of three such illegal bobcat trapping cases per year—yielding \$189,000 in extra enforcement costs alone. Clearly, any further revisions to the Analysis or the Commission's own economic considerations must include enforcement costs dealing exclusively with illicit trapping cases—at a price tag that is nearly three times the current Analysis estimate for the total program cost.

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<sup>3</sup> AB1213 ISOR, at 7. (The Department further explained that enforcement activities would “shift routine patrol and enforcement of existing trapping regulations to focus on investigative efforts aimed at detecting and preventing unlawful bobcat trapping,” noting that intelligence gathered indicates that both in-state and out-of-state unlawful trappers “may move into areas wherever bobcat trapping is banned, especially those with high bobcat trapping success.”)

<sup>4</sup> *Ibid.*

<sup>5</sup> *Id.*, at 18.

***C. The Analysis fails to include permit and citation appeals costs and grossly underestimates license suspension and appeals process costs***

Even though the Analysis includes trapping license suspension and appeals process, it fails to include individual permit or citation appeals costs. The latter was specifically identified as a cost in a 2014 Department memo from Director C. Bonham to Assemblymember R. Bloom (“2014 CDFW Memo”) (See Exhibit 1 (*Exhibit E*)) detailing the trapping program’s administration and implementation costs.<sup>6</sup> Such costs are missing in the Analysis. Moreover, the current estimated costs for the license suspension and appeals process in the current analysis are grossly below the estimated costs for permit and citation appeals costs previously cited by the Department.

The costs required for license suspension and appeals are assumed to be similar to the costs associated with permit and citation appeals, as both involve staff time to notify trappers of a violation and attorney time to defend any appeals. However, in the 2014 CDFW Memo, the Department estimated that *each* individual permit and citation appeals cost averaged \$3,000 to 4,000 per violation, accounting for staff time and administrative hearing fees.<sup>7</sup> In stark contrast, the Analysis estimates a mere \$996.96 *in total* for *all* administrative appeals of license suspensions and appeals, accounting for CDFW representation by an attorney in the Office of the General Counsel but failing to cite any staff time. Even assuming that the 2014 CDFW Memo was accurate in its cost estimates for citation appeals, the Analysis must substantially bolster its cost estimates for the license suspension and appeals process to be consistent with prior Department estimates.

***D. The Analysis fails to include additional costs of the trapping program***

The Analysis fails to include numerous additional costs of the trapping program, including the costs of the Department in preparing the cost analysis itself, the costs of the Commission related to setting fees and any other regulations, initiatives, or administrative appeals related to the trapping program, the costs of Department and Commission staff time and travel expenses associated with the Wildlife Resources Committee and the Predator Policy Working Group that have been directed toward the modification of regulations and policies that implicate trapping, and perhaps most importantly, the costs of Department scientists, economists, and other staff associated with studying and monitoring the populations and trends of various species subject to trapping so as to ensure that any take of these species that is allowed is consistent with the Department’s and Commission’s stewardship responsibilities.<sup>8</sup>

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<sup>6</sup> 2014 CDFW Memo, at 2.

<sup>7</sup> *Id.*, at 2.

<sup>8</sup> While the Analysis includes costs related to compiling information for preparation of the annual trapping report, surely that task alone does not encompass the breadth of work on trapping that scientists, economists, and the Department and Commission’s other staff undergo related to the trapping program to enforce the bevy of trapping regulations and mandates.

***E. The Analysis includes both commercial fur and pest control trapping licenses, but fails to impose the necessary requirements—and accompanying costs—on pest control trappers as applied to commercial fur trappers***

The Analysis accounts for both commercial fur and pest control trappers in the total number of licenses issued annually, totaling 700. As a threshold matter, the Center and Project Coyote hold that these two categories of trappers should not be conflated for the purposes of issuing a single type of license and price. Rather, these two separate licenses can and should be issued for each set of trappers because the law treats them separately (*see* FGC § 4005), and the Department administers, issues, and counts them as two separate classes, reflected in the trapping license application forms and license data reports.<sup>9</sup>

Despite these commonsense arguments, the Department and Commission have insisted to conflate the two trapping licenses together for the purposes of issuing the same license fee. Given that position, it follows that the same set of requirements imposed on either class of trappers should also be applied dually and equally to both classes—and, accordingly, the costs of implementing such requirements should be added to the Analysis. For example, pursuant to FGC § 467, “all holders of trapping licenses” are required to submit an annual report of their annual take of fur, and non-compliance with such rule leads to license suspension. However, in practice, only commercial fur trappers submit these reports. Under legal mandate as well as the Department’s purported equal treatment of both classes of trappers, pest control trappers should also be required to submit the annual reports. Accordingly, this cost category should also be added to the total trapping program costs—implicating substantial increased costs relating to the scientific compilation and analysis of the reports for the annual Licensed Fur Trappers’ and Dealers’ Report, the entry of such data in the ALDS, and other related costs. Any other administrative and implementation costs relating to one class should also be transferred to the other.

**II. THE ANALYSIS’S FAILURE TO INCORPORATE ENFORCEMENT COSTS INTO THE TRAPPING FEE PROGRAM COSTS IS LEGALLY UNTENABLE AND CONTRAVENES LEGISLATIVE INTENT AND HISTORY**

The Analysis’s failure to include enforcement costs yields a grossly inaccurate total program cost estimate because enforcement costs are substantial, with the enforcement of just a *single* species estimated at \$151,000—or two times the Analysis’s current estimate of the trapping program’s total cost. At the February 2018 Commission meeting, Department Director Chuck Bonham contended that enforcement costs are not included in total trapping program costs. Accordingly, the operative legal question is: *Does the “reasonable administrative and implementation costs of the department and the commission” under FGC § 4006(c) include enforcement costs?* The answer is yes.

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<sup>9</sup> See, e.g., CA Department of Fish and Wildlife, *2017-2018 Trapping License Applications* (2017), <https://www.wildlife.ca.gov/licensing/trapping>; CA Department of Fish and Wildlife, *Special Permits: Items Reported by License Year*, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59827&inline>.



***A. Canons of statutory construction demonstrate that enforcement costs are included in “administrative and implementation costs” of the trapping program under FGC § 4006(c)***

Enforcement costs of California’s trapping program are included in the definition of “administrative and implementation costs” under FGC § 4006(c). Specifically, FGC § 4006(c), enacted through Senate Bill Number 1148 (Pavley) in 2012 (“SB 1148”),<sup>10</sup> directs the Commission to raise trapping license fees as follows (emphasis added):

The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed *all reasonable administrative and implementation costs of the department and the commission relating to those licenses*.

The plain meaning of “implementation” includes enforcement. As the California Supreme Court has held, statutory interpretation begins with an analysis of the statutory language. “If the statute’s text evinces an unmistakable plain meaning, we need go no further.” *Olson v. Automobile Club of Southern California*, 42 Cal. 4th 1142, 1147 (2017); *see also Mercer v. Dep’t of Motor Vehicles*, 53 Cal. 3d 753, 763 (1991) (Courts should “focus on the words used by the Legislature in order to determine their traditional and plain meaning.”). According to the Merriam-Webster Dictionary, the definition of “implementation” is “the process of making something active or effective” and “an act or instance of implementing something”<sup>11</sup> whereby “implementing” means “to give practical effect to and ensure of actual fulfillment by concrete measures.”<sup>12</sup> Giving practical effect to the statewide trapping program—and the numerous and complex regime of trapping regulations and laws (*see Exhibit 1 (Exhibit C)*) that—necessarily includes enforcement as a bedrock part of the trapping program’s implementation. Enforcement is fundamental to any Department program, as Department wardens are charged with the critical mission “to protect California natural resources and provide public safety through effective and responsive law enforcement.”<sup>13</sup> The State trapping program is anything but an exception to this mission, as California’s trapping regulations and laws regarding which species can and cannot be trapped, the means and circumstances by which species may and may not be trapped, the geographic boundaries of trapping, and the penalties for such actions are numerous, complex, and necessary to “implement” and “carry out” the State trapping program. Any other reading that excludes enforcement from being a part of the definition of “implementation” defies commonsense. *Lungren v. Deukmejian*, 45 Cal. 3d 727 (1988) (Courts must adopt a “plain and commonsense interpretation” of statutory provisions.)

Further, other sections of the Fish & Game Code inform that the definition of “implementation costs” *does include* enforcement costs, and such a reading applies to FGC § 4006(c). *See Lungren v. Deukmejian*, 45 Cal. 3d 727 (1988) (“The meaning of a statute . . . must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible.”). Most relevant,

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<sup>10</sup> Stats. 2013, ch. 748.

<sup>11</sup> Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/implementation>.

<sup>12</sup> Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/implement#h2>.

<sup>13</sup> CA DEPARTMENT OF FISH AND WILDLIFE, Mission of Law Enforcement, *available at*: <https://www.wildlife.ca.gov/Explore/Organization/LED>.

FGC § 4155(e), enacted through Assembly Bill Number 1213 (Bloom) in 2013 (“AB 1213”),<sup>14</sup> subsequent to the passage of SB 1148, explicitly enumerates enforcement costs as part of the definition of “administrative and implementation costs” and states that such a definition is “consistent with” the definition of that phrase in FGC § 4006(c). Specifically, FGC § 4155(e), provides (emphasis added):

*(e) Consistent with the requirements of subdivision (c) of Section 4006, the commission shall set trapping license fees and associated fees, including, but not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for the 2014–15 season, and any subsequent seasons in which bobcat trapping is allowed, at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.*

Under a plain reading of the language and grammar of this provision, FGC § 4155(e) clearly defines “reasonable administrative and implementation costs” to “include[] . . . enforcement costs.” The plain language delineates that enforcement costs are a subset of the larger category of “administrative and implementation costs.” The phrase “including, but not limited, to enforcement costs” identifies a subset of the definition of “administrative and implementation costs” in the Fish & Game Code. Moreover, FGC § 4155(e) explicitly states that its enumerated definition of “administrative and implementation costs,” which includes enforcement costs, is “consistent with the requirements of subdivision (c) of Section 4006.” The phrase “consistent with the requirements of subdivision (c) of Section 4006” acts as a qualifying phrase to the entire directive on the Commission to set license fees that recover the full cost of the bobcat trapping program’s “administrative and implementation costs” which “include[e] . . . enforcement costs.” Therefore, under basic interpretations of grammar in statutory language, the inclusion of enforcement costs in “administrative and implementation costs”, as enumerated in FGC § 4155(e), is “consistent with” the definition of the same phrase in FGC § 4006(c). This modifying clause serves to clarify, eliminate doubt about, and enumerate the types of costs encompassed in the phrase “administrative and implementation costs”—which includes enforcement costs—in FGC § 4006(c).

Moreover, the inclusion of enforcement costs as part of “administrative and implementation costs” under FGC § 4155(e), which was enacted one year after FGC § 4006(c), prevails as the subsequent and more specific definition of the phrase. As the California Supreme Court has held, “In harmonizing the disparate, and sometimes discordant, statutory provisions, we are guided by the maxim that, where statutes are otherwise irreconcilable, *later and more specific enactments prevail, pro tanto, over earlier and more general ones.*” *Id.* at 1208 (emphasis added) (concluding that a 1993 version of a provision in the Education Code was “more recent and specific on the subjects it addresses” than pertinent 1992 provisions that were general). *See also Pacific Lumber Co. v. State Water Resources Control Bd.*, 37 Cal.

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<sup>14</sup> Stats. 2012, ch. 565, p. 91, § 17. The Pavley bill specifically required the Commission to recoup program and implementation costs from fee-based programs in an effort to “enable the Department and the Commission to do a better job as public trustees for the state’s fish and wildlife, and for the people they serve.” *See* “Legislature Passes Huffman and Pavley Bills to Improve Fish & Wildlife Conservation” (Sep. 6, 2012). *Available at:* <http://sd27.senate.ca.gov/news/2012-09-06-legislature-passes-huffman-and-pavley-bills-improve-fish-wildlife-conservation>.

4th 921 (2006) (“As a principle of construction, it is well established that a specific provision prevails over a general one relating to the same subject,” and “the doctrine of implied repeal provides that the most recently enacted statute expresses the will of the Legislature, and thus to the extent of the conflict impliedly repeals the other enactment.” (internal citations omitted)). Here, FGC § 4155(e) was enacted through AB 1213 in 2013, one year after the enactment of SB 1148 which gave rise to FGC § 4006(c). Further, FGC § 4155(e) deals with the same subject of “administrative and implementation costs” involved in FGC § 4006(c) and lends specificity to the phrase’s definition by articulating enforcement costs as a sub-set of those larger categories, thus trumping the earlier more general phrase of “administrative and implementation costs” used in FGC § 4006(c). The Department’s purported narrow reading—that “administrative and implementation costs” under FGC § 4006(c) excludes enforcement costs—directly contradicts the later, more specific definition illuminated in FGC § 4155(e), leading to irreconcilable definitions. Therefore, under the aforementioned canons of statutory construction, the subsequent provision of FGC § 4155(e) prevails and trumps the Department’s narrow interpretation of “administrative and implementation costs.”<sup>15</sup> Accordingly, the Commission should reject the Department’s narrow interpretation and compel it to include enforcement costs in the Analysis.

***B. The statutory purpose and legislative history of SB 1148, the enacting statute of FGC Section 4006(c), and related statutes, counsel against the Department’s narrow definition of “administrative and implementation costs”***

In assessing whether “administrative and implementation costs” includes enforcement costs, both the statute’s broad purpose and legislative history of SB 1148 and related legislation further solidify that enforcement costs are to be included as part of total program costs subject to the cost recovery mandate under FGC § 4006(c). *See Jones v. Lodge at Torrey Pines Partnership*, 42 Cal. 4th 1158, 1163 (2008) (Courts are to consider “other aids, such as the statute’s purpose, legislative history, and public policy” to gauge statutory meaning.)

First, the purpose of enacting SB 1148—to provide financial resources to the Department and Commission to better carry out their public trust responsibilities over wildlife—reinforces the interpretation that “administrative and implementation costs” include enforcement costs as part of the cost recovery scheme for the trapping program. As held by the California Supreme Court, “The intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act. . . . [I]f a statute is amenable to two alternative interpretations, the one that leads to the more reasonable result will be followed.” *Lungren*, 45 Cal. 3d at 735. According to legislative hearings on SB 1148, the statute was intended to “include[] provisions allowing [the Department] and the [Commission] to adjust various licensing fees to achieve cost recovery” as a means to “improve the effectiveness of these entities in

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<sup>15</sup> Further, any other conclusion—apart from that the broad definition of “administrative and implementation costs” includes enforcement costs, as consistent with FGC § 4006(c)—would “deprive this phrase of significance, contrary to the principle of statutory construction that interpretations which render any part of a statute superfluous are to be avoided.” *Wells v. One2One Learning Foundation*, 39 Cal. 4th 1164, 1208 (2008).

*protecting and managing* state fish and wildlife resources.”<sup>16</sup> Moreover, SB 1148 was, according to the bill’s author Fran Pavley, was “intended to be a vehicle to address recommendations of the recently released California Fish and Wildlife Strategic Vision,”<sup>17</sup> whereby “this bill [SB 1148] implements numerous changes designed to implement broad policy recommendations arising out of a Strategic Vision process facilitated this past year to improve the *capacity of DFG and the FGC to carry out their public trust mandates for protection and management of fish and wildlife.*”<sup>18</sup> The Strategic Vision report specifically identified “funding [as] a major issue” and recommended that the Commission and Department be “more aggressive when seeking higher fees for under-funded programs” due to fees being a “highly political issue.”<sup>19</sup> Further, legislative hearings evidence that the Senate intended enforcement to play a key role in effectuating the Commission and Department’s public trust responsibilities. As stated in a legislative hearing document, SB 1148:

States legislative intent to focus more of the work of the FGC on implementing state hunting and fishing laws, and to enhance DFG’s ability to focus on managing its lands, *its enforcement responsibilities*, its conservation programs, and enhancing the scientific basis of DFG’s decisions.<sup>20 21</sup>

Taken together, the protection and management of the State’s wildlife necessarily involves enforcement as a means of implementing effective wildlife programs. Therefore, this broader purpose of SB 1148 counsels toward a broader reading of “administrative and implementation costs” to include enforcement costs in order to meet the Commission and Department’s management and protection responsibilities per the spirit of SB 1148. The Department’s alternative narrow interpretation contravenes the statute’s purpose to empower the Department and Commission with sufficient funds to carry out their

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<sup>16</sup> California Assembly Committee on Water, Parks, and Wildlife, Hearing re: SB 1148 (Pavley) (June 26, 2012), 6, 1, *available at*: [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148).

<sup>17</sup> California Senate Committee on Natural Resources and Water, Hearing re: SB 1148 (Pavley) (April 10, 2012), 1, *available at*: [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148).

<sup>18</sup> California Assembly Committee on Water, Parks, and Wildlife, Hearing re: SB 1148 (Pavley) (June 6, 2012), 5, *available at*: [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148).

<sup>19</sup> California Fish and Wildlife Vision Project. California Fish and Wildlife Strategic Vision: Barriers to Implementation Report. April 2012. Available at: [http://www.vision.ca.gov/docs/CFWSV\\_Barriers\\_120404.pdf](http://www.vision.ca.gov/docs/CFWSV_Barriers_120404.pdf). The purpose of the project was to fulfill the legislative mandate of Assembly Bill 2376 (Huffman), Stats 2010, Ch. 424 (Sep. 28, 2010), which called for the California Natural Resources Agency to convene a committee to develop and submit to the governor and legislature a strategic vision of the Department and Commission in order to “improve and enhance the capacity and effectiveness of [the Department] and [the Commission] in fulfilling their public trust responsibilities for protecting and managing the state’s fish and wildlife.” *Id.* at 1.

<sup>20</sup> California Senate Rules Committee, Hearing re: SB 1148 (Pavley) (August 31, 2012), 3, *available at*: [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148).

<sup>21</sup> Earlier amendments to the FGC articulate the intent of the Legislature for passing these fee adjustment regulations. FGC § 710.5 explicitly states that “[i]t is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees,” but that the “department’s revenues have been limited due to a failure to maximize user fees . . . .” The “principal causes” of the department’s inadequate funding “have been the fixed nature of the [D]epartment’s revenues in contrast with the rising costs resulting from inflation” and “the increased burden on the department to carry out its public trust responsibilities,” which taken together has “prevented proper planning and manpower allocation” and has resulted in “inadequate wildlife and habitat conservation and wildlife protection programs.” FGC § 710.

broad management responsibilities—and therefore counsels rejection of the Department’s Analysis and narrow interpretation.

Second, the legislative history of SB 1148 and related statutes further warrants a broad reading of “administrative and implementation costs”—that includes enforcement costs; the Department’s narrow interpretation of the phrase directly undermines the legislative history and thereby counsels against applying the Department’s interpretation. *See Wells*, 39 Cal. 4th at 1190 (“In cases of uncertain meaning, the court may also consider the consequences of a particular interpretation, including its impact on public policy.”) Under the Department’s Analysis that excludes enforcement from the total trapping program costs, there is no gap between revenue generated from trapping license fees and total trapping program costs, leading to the conclusion that no substantial change in license fees is warranted. In fact, the Analysis estimates that license fees should be \$107—which is even less than the current fee of \$117 for the 2017-2018 season. The Analysis’s conclusion leading to no substantial change in trapping license fees wholly contravenes the legislative history of SB 1148, which evidences Legislature’s conclusion that the trapping program and other similar licensing programs were grossly underfunded and require substantial fee adjustments to achieve cost recovery. The Department’s Analysis and its conclusion to not substantially adjust fees—based on a faulty economic Analysis—flies in the face of these legislative findings. Accordingly, the Department’s narrow interpretation of “administrative and enforcement costs” robs the statute—and its purported revolutionary shift of fee setting authority—of its public policy purpose and should thus be rejected.

Specifically, the legislative history of SB 1148 clearly shows that the Senate found the trapping program to be grossly underfunded and failed to achieve cost recovery. This legislative conclusion is undermined by the Department’s narrow interpretation and Analysis that would prolong the status quo of the ill-funded trapping program. According to a legislative hearing on SB 1148 in the Assembly (emphasis added),

*Inadequate funding was identified in the Strategic Vision process as one of the greatest barriers to implementation of [the Department]’s mission, and it was acknowledged that meaningful change must include fiscal reforms. The provisions in this bill giving DFG and the FGC authority to adjust fees as necessary to recover program costs is consistent with recent legislative actions giving more fee setting authority for fishing and hunting to the FGC which would set the fees through a regulatory process under the Administrative Procedures Act (APA). Information provided by DFG and FGC staff early on in the Strategic Vision process emphasized the need for financial stability, and the difficulty both entities face with unfunded mandates. In particular, DFG and the FGC noted that 57% of the fees for licenses and permits in the Fish and Game Code require legislative action in order to adjust fees to bridge the gap between revenues and operational costs. The Legislature has frequently imposed new statutory mandates on DFG without providing the funding necessary for implementation. This bill begins the process of correcting that problem by shifting authority from the Legislature to the FGC and DFG*

*to make adjustments in fees as necessary to recover but not exceed reasonable administrative and implementation costs relating to the particular license or permit.*<sup>22</sup>

Another Senate Committee hearing further described the dire economic situation of the Department and Commission: “For many years, DFG has been hampered by budgetary constraints which were driven both by widely variable General Fund appropriations (in some years partially offset by bond funds) but also by an increase in statutory responsibilities.”<sup>23</sup> These legislative history documents evidence the legislative conclusion that the trapping and the several other programs targeted by SB 1148 (and its sister legislation) failed cost recovery in 2012.

Further, Legislature assumed that the fee adjustments would be substantial, as it purposefully tailored amended language to gradually phase in the fee adjustments over a period of five years.<sup>24</sup> Separately, legislative history of SB 1148’s sister statute AB 2402 also evince that the Senate had considered the adjustment of fees to be substantial—again, undermining the Department’s current Analysis that no such adjustments are necessary based on a faulty economic analysis. According to a hearing regarding AB 2402,<sup>25</sup> the description of the statute states that the mandated increase in user fees was expected to be substantial: “Increased annual revenue beginning in 2013-14 to DFG of an unknown but *substantial amount, likely in millions of dollars*, resulting from adjustments to various license fees.”<sup>26</sup> This demonstrates the legislative understanding that the fee adjustment to meet cost recovery was intended to be large—and not *de minimis* as purported by the Department’s Analysis and current narrow interpretation of “administrative and implementation costs.”

Taken together, the Department’s narrow interpretation of “administration and implementation costs” and its corollary of the faulty Analysis directly contradict these legislative findings and the overall public policy sought to be achieved by SB 1148. Trapping license fees since 2012 have only been adjusted for inflation, as fees amounted to \$108 in 2012-2013 season and \$117 for 2017-2018 season. Under the Department’s current Analysis, the current trapping license fees recoup the cost of the trapping program, leading to no substantial adjustments in fees. Given that the Department has failed to adjust the trapping fees in response to the SB 1148 mandate other than for inflation, the Department’s Analysis directly contradicts the legislative finding that the trapping program is grossly underfunded and fails cost recovery. Both the Analysis and the Department’s narrow interpretation of costs that supports the

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<sup>22</sup> California Assembly Committee on Water, Parks, and Wildlife, Hearing re: SB 1148 (Pavley) (June 26, 2012), 6, available at: [http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148).

<sup>23</sup> California Senate Committee on Natural Resources and Water, Hearing re: SB 1148 (Pavley) (April 10, 2012), 1, available at: [http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148).

<sup>24</sup> California Assembly Committee on Water, Parks, and Wildlife, Hearing re: SB 1148 (Pavley) (June 6, 2012), 3, available at: [http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120SB1148](http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1148). The hearing describes SB 1148 as seeking to “Provide[] that except where the Fish and Game Code expressly prohibits the adjustment of statutorily imposed fees, the FGC may establish a fee or the amount thereof by regulation. Requires that fees established by the FGC shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the FGC and DFG relating to the program for which the fee is paid. Authorizes the FGC to establish a fee structure to phase in fee adjustments to provide for full cost recovery within 5 years.”

<sup>25</sup> Stats 2012, Ch. 559 (Sep. 25, 2012).

<sup>26</sup> California Assembly Committee on Appropriations, Hearing re: AB 2402 (Huffman) (May 25, 2012), 2, available at: [http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201120120AB2402](http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120AB2402).

Analysis should be rejected because they contradict legislative conclusions that outlined the purpose of SB 1148.

***C. The Department itself has consistently interpreted “administrative and implementation costs” to encapsulate enforcement costs***

Despite the Department’s current public statements regarding the exclusion of enforcement costs from the definition of “administrative and implementation costs,” past Department practice evinces the agency’s clear inclusion of enforcement costs in the definition.

First, the Department, through internal documents, has repeatedly interpreted FGC 4006(c) to include enforcement costs as part “administrative and implementation costs.” For example, in internal meeting notes acquired through Public Records Act requests (See Exhibit 2), Department staff stated “how do we estimate costs of enforcement” with respect to “fee setting” for “trapping program costs” in 2012, in reaction to SB 1148. Further, in the Department’s own words, SB 1148 enacted a number of changes in how fees are to be set, including FGC § 4006(c), with the ultimate goal of meeting the “expectation that the [Department] and [Commission] will use this authority to ensure that programs *are adequately funded by users.*” (See Exhibit 3) (emphasis added).

Second, in stark contrast to the Analysis presented, the Department’s prior analyses regarding trapping program costs have always included enforcement as the primary cost bucket. For example, in the AB 1213 Fiscal Impact Memo (Exhibit 1 (*Exhibit C*)) for implementing the 2013 Bobcat Protection Act, the Department explicitly included enforcement as a cost line item, citing the budget for “fish and game wardens” whose functions included “field surveillance of trap lines” and “investigat[ion of] bobcat commercialization.” Consistent with the Fiscal Impact Memo, the Initial Statement of Reasons for AB 1213 (“AB 1213 ISOR”) (Exhibit 1 (*Exhibit D*)) the Department initiated the cost analysis with a thorough and robust discussion of enforcement costs, which include calculations of a substantial number of law enforcement officers, their hours, and vehicle mileage. See, e.g., ISOR at 8 (Fish and Game Code section 4155(e) requires the Commission to set trapping license fees and associated fees at the levels necessary to fully recover *all reasonable administrative and implementation costs* associated with the trapping of bobcats in the state. Based on factors such as . . . *law enforcement effort*, . . . the Department recommends that new fees be applied to the Trapping License for those intending to take of bobcats . . .”); *id.* at 16 (The Department currently incurs approximately \$161,000 in *enforcement*, management, and administrative costs to implement the bobcat trapping program, under existing regulations.)

### **III. CONCLUSION**

In sum, the Analysis is inaccurate, inconsistent with previous Department analyses, and unjustified as to excluding enforcement and other bedrock program costs. Further, both basic canons of statutory construction and legislative history demonstrate that the Department’s narrow interpretation of “administrative and implementation costs” that excludes enforcement costs is legally untenable and contravenes the statute’s purpose. We urge the Commission to reject the Analysis, direct the Department

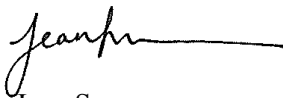


California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
April 5, 2018

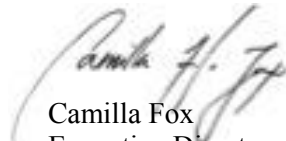
to prepare a lawful and adequate analysis that actually captures the full range of program costs, and proceed with its currently calendared rulemaking to raise trapping fees so as to actually come into compliance with the mandate of FGC § 4006(c).

Thank you for your consideration. If you have any questions, please feel free to contact us directly.

Sincerely,



Jean Su  
Associate Conservation Director & Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
(510) 844-7139  
[jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)



Camilla Fox  
Executive Director  
Project Coyote  
P.O. Box 5007  
Larkspur, CA 94977  
(415) 945-3232  
[cfox@projectcoyote.org](mailto:cfox@projectcoyote.org)



California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
April 5, 2018

**Exhibit 1**

**February 2, 2018 Comment Letter re: Trapping License Fees Economic Analysis**

*[See attached.]*



*Sent via electronic mail*

February 2, 2018

California Fish and Game Commission (“the Commission”)  
Executive Director Valerie Termini  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Russell Burns  
Commissioner Peter Silva  
Commissioner Anthony Williams

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

CC: Director Charles Bonham, California Department of Fish & Wildlife (“the Department”)  
Chief David Bess, Law Enforcement Division  
Mr. Stafford Lehr, Deputy Director, Wildlife and Fisheries Division  
Ms. Kari Lewis, Chief, Wildlife Branch  
Mr. Scott Gardner, Senior Environmental Scientist, Wildlife Branch  
Mr. Matt Meshriy, Environmental Scientist, Wildlife Branch

**Re: Trapping License Fees Economic Analysis (Item #30) - February 8, 2018 Fish and Game Commission Meeting**

Dear President Sklar, Vice President Hostler-Carmesin, and Commissioners Burns, Silva, and Williams, and Executive Director Termini:

On behalf of the Center for Biological Diversity (“the Center”) and Project Coyote and our over 100,000 members and supporters in California, we write to urge the Commission to compel an objectively accurate and far more robust economic analysis from the Department with respect to the costs of the State trapping program. The Department’s economic analysis on the State trapping program, issued on February 1, 2018 (“Analysis”), contains several fatal flaws that are not only wholly inconsistent with the Department’s own past economic analyses of the trapping program, but also fails to include fundamental and substantial program costs like enforcement. It is critical that this economic analysis be accurate and robust because it informs the Commission’s and Department’s efforts to raise trapping license fees in order to comply with section 4006(c) of the California Fish and Game Code (“FGC”), which requires that trapping license fees be set at the levels necessary for the full recovery of the reasonable administrative

*Alaska • Arizona • California • Florida • Minnesota • Nevada • New Mexico • New York • Oregon • Vermont • Washington, DC*

Jean Su, Staff Attorney • 1212 Broadway, Suite 800 • Oakland, CA 94612  
Phone: 510-844-7100 x 339 • Fax: 510-844-7150 • [jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

and implementation costs of the trapping program incurred by the Commission and Department. Should the Commission rely on this fatally flawed Analysis to justify a failure to proceed with an administrative rulemaking adjusting license fees pursuant to FGC § 4006(c), such a decision would constitute an arbitrary and capricious final agency action subject to legal challenge.

## **I. PROCEDURAL BACKGROUND AND LEGAL ISSUE**

Specifically, FGC § 4006(c), enacted through Senate Bill Number 1148 (Pavley),<sup>1</sup> directs the Commission to raise trapping license fees as follows (emphasis added):

The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to *fully recover*, but not exceed *all reasonable administrative and implementation costs of the department and the commission* relating to those licenses.

In spite of FGC § 4006(c) taking effect in January 2013, the Commission has repeatedly failed to implement this provision for the past five trapping seasons (seasons 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018), resulting in unlawfully low license fees that have failed to recoup the Department's and Commission's actual costs of operating the trapping program.<sup>2</sup> The Commission is legally obligated to comply with FGC requirements for the upcoming 2018-2019 trapping season, and any further noncompliance *should not* be countenanced.

In December 2015, the Center and Project Coyote submitted a rulemaking petition (FGC Petition No. 2015-009) (see Exhibit A) requesting that the Commission raise commercial trapping license fees to comply with FGC § 4006(c). In September 2017, in response to the lack of action taken on the rulemaking petition, the Center and Project Coyote filed a petition for writ of mandate in the Alameda County Superior Court seeking to compel both the Commission and Department to raise trapping fees in accordance with the FGC statutory mandate and common law public trust duties. In October 2017, the Commission denied the administrative rulemaking petition and, separately, set out a proposed rulemaking timeline to undertake the trapping license fee setting to come into compliance with FGC § 4006(c). The Commission has revised its rulemaking timetable to specify that a rulemaking process dedicated to raising trapping license fees to comply with FGC § 4006(c) would proceed at the June, August, and October

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<sup>1</sup> Stats. 2012, ch. 565, p. 91, § 17. The Pavley bill specifically required the Commission to recoup program and implementation costs from fee-based programs in an effort to “enable the Department and the Commission to do a better job as public trustees for the state’s fish and wildlife, and for the people they serve.” See “Legislature Passes Huffman and Pavley Bills to Improve Fish & Wildlife Conservation” (Sep. 6, 2012). Available at: <http://sd27.senate.ca.gov/news/2012-09-06-legislature-passes-huffman-and-pavley-bills-improve-fish-wildlife-conservation>. Subsequent to the enactment of the Pavley bill, the Legislature added F&G Code § 4155(e) which references § 4006(c) and specifically charges the Commission with the duty to “set trapping license fees and associated fees . . . at the levels necessary to fully recover all reasonable administrative and implementation costs of the Department and commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.” Given this clear legislative directive, there can be no reasonable dispute that the “administrative and implementation costs” of § 4006(c) include enforcement costs.

<sup>2</sup> See Exhibit A (the Petition) for further details on evidence of the Commission’s noncompliance with the cost recovery mandate.

2018 meetings—contingent an initial economic analysis showing that trapping license fees fail to cover trapping program costs. The Department has been tasked with presenting its trapping license fees analysis and will discuss this analysis at the February 8, 2018 Commission meeting in Sacramento.

## II. THE DEPARTMENT’S ECONOMIC ANALYSIS CONTAINS SEVERAL FATAL FLAWS

There are several fatal flaws in the Department’s economic analysis, rendering it unsuitable for the Commission’s deference and, ultimately, reliance to make an informed decision as to whether to proceed with a rulemaking regarding the adjustment of license fees compliant with FGC § 4006(c).

### ***A. The Analysis’s \$75,000 estimate for total trapping program costs is wholly inconsistent with and undermined by the Department’s prior cost estimates for the trapping program***

Before delving into the micro components of the Analysis, it is clear that the overall total cost of \$75,000 falls exponentially below all prior estimates of trapping program costs offered by the Department in prior economic analyses. Specifically, in the Initial Statement of Reasons for Regulatory Action regarding the Implementation of the Bobcat Protection Act of 2013, dated April 14, 2015 (“AB1213 ISOR”) (Exhibit B), the Department estimated that its own costs (excluding the Commission’s costs) to manage and implement the commercial trapping program for just *one* species—the bobcat—amounted to \$161,000.<sup>3</sup> Even more, the Department assigned a partial cost figure to a trapping program in which commercial trapping of all bobcats was banned (i.e. today’s current regulations) of \$211,006.<sup>4</sup>

Assuming the accuracy of the Department’s previous cost estimates regarding bobcats (themselves likely gross underestimates of actual costs as described in our previous comment letters), , the trapping program costs incurred by both the Department and Commission to implement and administer the entire trapping program targeting *over one dozen species for commercial trapping and pest control trapping* are certainly substantially higher than these two figures already provided by the Department. First, the total trapping costs must be at least \$211,006 because that amount accounts solely for implementing the trapping program as it pertains to enforcing the commercial bobcat trapping ban. Second, total trapping program costs should exponentially exceed \$161,000, which implements a *solely commercial* trapping program for a *single species*. Given bobcats were only *one of a dozen species* targeted by commercial trappers in California, program costs for the enforcement, management and administration of the entire trapping program—including *both commercial and pest control trapping*—are likely to greatly exceed the figure generated by the Department for just bobcats. The failure of the Analysis to be remotely consistent with these prior analyses demonstrates its inherent inadequacy.

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<sup>3</sup> Fish and Game Commission, Initial Statement of Reasons for Regulatory Action re: Implementation of the Bobcat Protection Act of 2013, AB 1213 (2015), at 16. *Available at:* <http://www.fgc.ca.gov/regulations/2015/478isor.pdf>. ) (“AB1213 ISOR”).

<sup>4</sup> *Id.* at 19.

***B. The Analysis entirely ignores enforcement costs***

The current economic analysis fails to include costs regarding a bedrock function of the Department's program: enforcement. Rather, the analysis only includes Department costs falling into the following three categories: (1) issuing of trapping licenses, which includes administering trapping exams and issuing trapping certification documents; (2) monitoring of trapping harvests, including compiling commercial trapping and fur trader reports; and (3) operating the trapping license suspension and appeals process.

The Analysis's failure to include enforcement costs is unexplained and unjustifiable. Enforcement is fundamental to any Department program, as Department wardens are charged with the critical mission "to protect California natural resources and provide public safety through effective and responsive law enforcement."<sup>5</sup> The State trapping program is anything but an exception to this mission, as California's trapping regulations and laws regarding which species can and cannot be trapped, the means and circumstances by which species may and may not be trapped, the geographic boundaries of trapping, and the penalties for such actions are numerous, complex, and necessary to enforce the State trapping program sufficiently. (See California's Trapping Laws and Regulations, Exhibit C.)

In stark contrast to the Analysis presented, the Department's prior analyses regarding trapping program costs have always included enforcement as the primary cost bucket. For example, in the AB 1213 Fiscal Impact Memo (Exhibit D) for implementing the 2013 Bobcat Protection Act, the Department explicitly included enforcement as a cost item, citing the budget for "fish and game wardens" whose functions included "field surveillance of trap lines" and "investigat[ion of] bobcat commercialization." Similarly, in AB1213 ISOR, the Department initiated the cost analysis with a thorough discussion of enforcement costs, which include calculations of a substantial number of law enforcement officers, their hours, and vehicle mileage.

This Analysis's failure to include enforcement costs yields a grossly inaccurate total program cost estimate because enforcement costs are substantial. In the AB1213 ISOR, the Department estimated that enforcement costs for the trapping program for a single species—the bobcat—already totaled \$154,000, which included twelve officers, including a supervising lieutenant, who collectively expended over 2,000 hours in a single bobcat trapping season, along with vehicle mileage. It would be safe to assume that enforcement costs to manage commercial trappers seeking over one dozen species and over 500 pest control trappers would yield a far heftier price tag on enforcement.

In addition to general enforcement costs, any further Department analysis must also factor in the costs of enforcement specifically targeting illicit trapping. The Department asserted that enforcement

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<sup>5</sup> CA DEPARTMENT OF FISH AND WILDLIFE, Mission of Law Enforcement, *available at*: <https://www.wildlife.ca.gov/Explore/Organization/LED>.

needs would increase due to the commercial bobcat trapping ban enacted in 2015,<sup>6</sup> stating that the ban would spur “[u]nlawful trappers using illicit techniques [to] trap earlier in the season and well past the normal end of the trapping season, resulting in *increased law enforcement effort*” and thus “require *significant increases* in investigative work to detect and prove.”<sup>7</sup> In the AB1213 ISOR, the Department estimated that a single illicit bobcat trapping case costs the Department approximately \$63,000, which includes 800 hours of officer personnel time over a period of 4.7 months and almost 12,000 vehicle miles.<sup>8</sup> The Department predicted that wildlife officers would pursue an average of three such illegal bobcat trapping cases per year—yielding \$189,000 in extra enforcement costs alone. Clearly, any further revisions to the Analysis or the Commission’s own economic considerations must include enforcement costs dealing exclusively with illicit trapping cases—at a price tag that is nearly three times the current Analysis estimate for the total program cost.

***C. The Analysis fails to include permit and citation appeals costs and grossly underestimates license suspension and appeals process costs***

Even though the Analysis includes trapping license suspension and appeals process, it fails to include individual permit or citation appeals costs. The latter was specifically identified as a cost in a 2014 Department memo from Director C. Bonham to Assemblymember R. Bloom (“2014 CDFW Memo”) (Exhibit E) detailing the trapping program’s administration and implementation costs.<sup>9</sup> Such costs are missing in the Analysis.

Moreover, the current estimated costs for the license suspension and appeals process in the current analysis are grossly below the estimated costs for permit and citation appeals costs previously cited by the Department. The costs required for license suspension and appeals are assumed to be similar to the costs associated with permit and citation appeals, as both involve staff time to notify trappers of a violation and attorney time to defend any appeals. However, in the 2014 CDFW Memo, the Department estimated that *each* individual permit and citation appeals cost averaged \$3,000 to 4,000 per violation, accounting for staff time and administrative hearing fees.<sup>10</sup> In stark contrast, the Analysis estimates a mere \$996.96 *in total* for *all* administrative appeals of license suspensions and appeals, accounting for DFW representation by an attorney in the Office of the General Counsel but failing to cite any staff time.

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<sup>6</sup> AB1213 ISOR, at 7. (The Department further explained that enforcement activities would “shift routine patrol and enforcement of existing trapping regulations to focus on investigative efforts aimed at detecting and preventing unlawful bobcat trapping,” noting that intelligence gathered indicates that both in-state and out-of-state unlawful trappers “may move into areas wherever bobcat trapping is banned, especially those with high bobcat trapping success.”)

<sup>7</sup> *Ibid.*

<sup>8</sup> *Id.*, at 18.

<sup>9</sup> 2014 CDFW Memo, at 2.

<sup>10</sup> *Id.*, at 2.

Even assuming that the 2014 CDFW Memo was accurate in its cost estimates for citation appeals, the Analysis must substantially bolster its cost estimates for the license suspension and appeals process to be consistent with prior Department estimates.

***D. The Analysis fails to include additional costs of the trapping program***

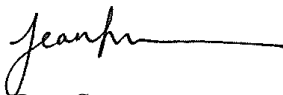
The Analysis fails to include numerous additional costs of the trapping program, including the costs of the Department in preparing the cost analysis itself, the costs of the Commission related to setting fees and any other regulations, initiatives, or administrative appeals related to the trapping program, the costs of Department and Commission staff time and travel expenses associated with the Wildlife Resources Committee and the Predator Policy Working Group that have been directed toward the modification of regulations and policies that implicate trapping, and perhaps most importantly, the costs of Department scientists, economists, and other staff associated with studying and monitoring the populations and trends of various species subject to trapping so as to ensure that any take of these species that is allowed is consistent with the Department's and Commission's stewardship responsibilities.<sup>11</sup>

**III. CONCLUSION**

In sum, the Analysis is inaccurate, inconsistent with previous Department analyses, and unjustified as to excluding enforcement and other bedrock program costs. We urge the Commission to reject the Analysis, direct the Department to prepare a lawful and adequate analysis that actually captures the full range of program costs, and proceed with its currently calendared rulemaking to raise trapping fees so as to actually come into compliance with the mandate of FGC § 4006(c).

Thank you for your consideration. If you have any questions, please feel free to contact us directly.

Sincerely,



Jean Su  
Associate Conservation Director & Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
(510) 844-7139  
[jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)



Camilla Fox  
Executive Director  
Project Coyote  
P.O. Box 5007  
Larkspur, CA 94977  
(415) 945-3232  
[cfox@projectcoyote.org](mailto:cfox@projectcoyote.org)

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<sup>11</sup> While the Analysis includes costs related to compiling information for preparation of the annual trapping report, surely that task alone does not encompass the breadth of work on trapping that scientists, economists, and the Department and Commission's other staff undergo related to the trapping program to enforce the bevy of trapping regulations and mandates.

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
February 2, 2018

**Exhibit A**  
**Petition on Raising Trapping License Fees (Petition #2015-009)**

*[See attached.]*





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: Jean Su on behalf of Petitioners Center for Biological Diversity and Project Coyote  
Address: 1212 Broadway St, Suite 800, Oakland, CA 94612  
Telephone number: (510) 844-7139  
Email address: [jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

### **2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: FGC §§ 200, 202, 203, 4006(c) and 4009..**

### **3. Overview (Required) - Summarize the proposed changes to regulations: Petitioners submit this petition to the California Fish and Game Commission ("the Commission") to raise commercial trapping license fees to the levels necessary for full recovery of the Commission's and Department's reasonable administrative and implementation costs of the trapping program so as to comply with section 4006(c) for the California Fish and Game Code ("FGC") and SB 1148 (Pavley). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban commercial fur trapping of fur-bearing and nongame mammals. .**

### **4. Rationale (Required) - Describe the problem and the reason for the proposed change: Based on information readily available on the Commission's and Department's websites, public statements by the Commission and Department, as well as from Public Record Act responses from the Department, it is undisputable that the Commission has failed to comply with the mandates of FGC § 4006(c) when setting trapping license fees. Prior to the Department's issuing trapping licenses for the 2016-2017 season, the Commission must either raise fees to legally-required levels, or, alternatively, implement a ban on commercial fur trapping in order to meet this legal mandate. See attached for more details.**

## **SECTION II: Optional Information**



5. **Date of Petition: Dec 4, 2015**
6. **Category of Proposed Change**  
☐ Sport Fishing  
☐ Commercial Fishing  
Hunting  
x Other, please specify: Trapping
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): Proposal is to enforce FGC § 4006(c), or in the alternative, ban commercial trapping of all fur-bearing and nongame mammals.  
☐ 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 NA**  
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: Immediate.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached..
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: None.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
NA.

### 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:



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 3 of 3

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

**BEFORE THE CALIFORNIA FISH AND GAME COMMISSION**

**PETITION TO RAISE TRAPPING LICENSE FEES IN COMPLIANCE WITH FEE  
RECOVERY MANDATE PURSUANT TO FGC § 4006(c) and SB 1148**

**CENTER FOR BIOLOGICAL DIVERSITY and PROJECT COYOTE  
December 4, 2015**

## **I. NOTICE OF PETITION**

Pursuant to Title 14, Section 662 of the California Code of Regulations (“CCR”) (*Petitions for Regulation Change*), the Center for Biological Diversity (“the Center”) and Project Coyote (collectively “Petitioners”) submit this petition to the California Fish and Game Commission (“the Commission”) to raise commercial trapping license fees to the levels necessary for full recovery of the Commission’s and Department’s reasonable administrative and implementation costs of the trapping program so as to comply with section 4006(c) for the California Fish and Game Code (“FGC”) and SB 1148 (Pavley). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban commercial fur trapping of fur-bearing and nongame mammals.

### **A. LEGAL AUTHORITY**

The Commission possesses the authority to make such amendments pursuant to FGC §§ 200, 202, 203, 4006(c) and 4009.

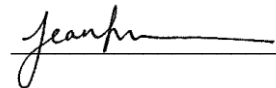
### **B. PETITIONERS**

The Center for Biological Diversity is a non-profit, public interest environmental organization dedicated to the protection of species and their habitats through science, policy and environmental law. The Center has over 900,000 members and online activists worldwide, including over 100,000 members and supporters in California.

Project Coyote is a national nonprofit wildlife conservation organization with more than 25,000 advocates dedicated to promoting coexistence between people and wildlife through education, science and advocacy.

Authors: Jean Su, Brendan Cummings, Center for Biological Diversity  
Address: 1212 Broadway St, Suite 800, Oakland, CA 94612  
Phone: (510) 844-7139  
Email: jsu@biologicaldiversity.org

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.



Jean Su  
Staff Attorney  
Center for Biological Diversity

*Submitted on behalf of Petitioners*

Date submitted: December 4, 2015

## II. INTRODUCTION AND RECOMMENDED ACTION

Pursuant to Title 14, Section 662 of the California Code of Regulations (“CCR”) (*Petitions for Regulation Change*), the Center for Biological Diversity (“the Center”) and Project Coyote (collectively, “Petitioners”) submit this petition to the California Fish and Game Commission (“the Commission”) to raise existing fur trapping license fees to levels necessary to fully recover the Commission’s and the California Department of Fish and Wildlife’s (“the Department”) reasonable administrative and implementation costs of commercial fur trapping programs for fur-bearing and nongame mammals, as required under FGC § 4006(c). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban all commercial trapping of fur-bearing and nongame mammals.

Based on information readily available on the Commission’s and Department’s websites, public statements by the Commission and Department, as well as from Public Record Act responses from the Department, it is undisputable that the Commission has failed to comply with the mandates of FGC § 4006(c) when setting trapping license fees. Prior to the Department’s issuing trapping licenses for the 2016-2017 season, the Commission must either raise fees to legally-required levels, or, alternatively, implement a ban on commercial fur trapping in order to meet this legal mandate.<sup>1</sup>

## III. TRAPPING IN CALIFORNIA

In California, trapping of certain furbearing and nongame mammals is permitted, subject to license requirements. FGC §§ 4005, 4006. Among the most commonly trapped species are badger, beaver, coyote, gray fox, mink, muskrat, opossum, raccoon, spotted skunk, striped skunk and weasel. By regulation, the Commission has previously banned the trapping of fisher, marten, river otter, desert kit fox and red fox. *See* 14 CCR § 460. Earlier this year, the Commission banned all commercial trapping of bobcats. 14 CCR § 478(c).

Currently, a trapping license is required for both trapping for commerce in fur as well as for those engaged in trapping for depredation purposes. FGC § 4005. For administrative purposes, the Department classifies commercial fur trapping as “recreational”, and for depredation purposes as “pest control”. In 2014, the Department sold 860 trapping licenses, with the overwhelming majority being for pest control purposes.<sup>2</sup> In 2015, the Department sold 675 trapping licenses, with the overwhelming majority again being for pest control purposes. Of the 2015 licenses, 506 were for pest control purposes, 99 were for commercial fur trapping, while 70 were for both purposes.

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<sup>1</sup> Given the fee-recovery mandatory of FGC § 4006 is a non-discretionary provision of law, Petitioners believe that a petition for rulemaking prior to the Commission implementing this provision should not be required. Additionally, the fee increase can be implemented administratively rather than through regulation. Nevertheless, because Plaintiffs believe that the existing fur trapping program is highly unlikely to be fiscally viable even with a mandated fee increase, Petitioners submit this petition seeking regulations prohibiting commercial fur trapping. By submitting this petition, Petitioners do not waive their right to seek immediate judicial relief to compel compliance with the requirements of FGC § 4006 and other provisions of law.

<sup>2</sup> Generally, data on license sales and revenues is available at <http://www.dfg.ca.gov/licensing/statistics/>. *See* California Department of Fish and Wildlife, “Special Permits: Fees Reported by License Year.” *Available at:* <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59826&inline>.

#### IV. JUSTIFICATION FOR RECOMMENDED ACTION

##### A. The Commission is legally mandated to adjust license fees to fully recover trapping program costs

Trappers in California are required to procure a trapping license. FGC § 4005. Trapping license fees are governed by FGC § 4006. FGC § 4006(a) sets a base level fee for trapping licenses and requires the Department to increase that fee based on federal inflation statistics pursuant to FGC § 713. Under this regime, trapping license fees have increased from \$45 several decades ago to \$117.16 for the 2015-2016 license year.

However, in addition to the inflation-related increases contemplated by FGC §§ 4006(a) and 713, FGC § 4006(c) requires that fees also be adjusted to recover the costs of the Department and Commission in managing the trapping program. Specifically, FGC § 4006(c) states:

(c) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

FGC § 4006(c). This provision was added to the FGC as a result of the passage of SB1148 (Pavley) and should have been operative in California commencing with the 2013-2014 trapping season. SB 1148 specifically required the Commission to recoup program and implementation costs from fee-based programs in an effort to “enable the Department and the Commission to do a better job as public trustees for the state’s fish and wildlife, and for the people they serve.”<sup>3</sup>

As detailed below, the reality that the existing trapping program is not self-financing plainly violates SB 1147, as codified in FGC § 4006(c). The legal arguments aside, the practical implications of perpetuating an unsustainable trapping program presents an equally compelling reason to either raise fees or eliminate the program: insufficient financial resources will inevitably lead to the program’s inadequate implementation. As noted by the Legislature in enacting F&G Code §§ 710-711, the Department has failed to adequately meet its regulatory mandates due, in part, to “a failure to maximize user fees and inadequate non-fee related funding”, which has “prevented proper planning and manpower allocation” to carry out its “public trust responsibilities” and the “additional responsibilities placed on the Department by the Legislature.” F&G Code § 710-710.5. As a result, the Department is burdened with “the inability . . . 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.” F&G Code § 710.5. As a matter of public policy, the Commission should ensure that fees are raised sufficiently to cover the trapping program’s costs, or if it is determined that such costs cannot realistically be recovered, to eliminate the program.

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<sup>3</sup> See “Legislature Passes Huffman and Pavley Bills to Improve Fish & Wildlife Conservation” (Sep. 6, 2012). Available at: <http://sd27.senate.ca.gov/news/2012-09-06-legislature-passes-huffman-and-pavley-bills-improve-fish-wildlife-conservation>.

**B. Current and past license fees have been woefully inadequate to recover trapping program costs and thus violate SB 1148 and FGC § 4006(c)**

In spite of the cost recovery mandate of SB1148, the Commission has failed to implement FGC § 4006(c) for the past three trapping seasons, resulting in unlawfully low license fees that have failed to recoup the actual costs of the Department and Commission. As is clear from the 2015-2016 trapping license application, the Department is charging \$117.16 for the resident trapping fee for the current year.<sup>4</sup> While the marginal increase of \$3.91 over the 2014-2015 season fee may be consistent with the inflation adjustment requirements of FGC §§ 4006(a) and 713, clearly, these fee adjustments do not comply with FGC § 4006(c).

According to the 2014-15 trapping license data available, the Department issued 671 resident licenses (at \$113.75/license), 3 junior licenses (at \$38.25/license), and 1 non-resident license (at \$570/license), recouping a total revenue of around \$77,000 for the entire trapping program.<sup>5</sup> Based on the Department's documents released over the course of the AB 1213 rulemaking process, a single Department warden, who is fundamental to field surveillance of trap lines and investigations, costs the Department over \$100,000 annually in salary and related expenses.<sup>6</sup> Given that the 2014-2015 license revenue of approximately \$77,000 fails to cover the cost of a single full-time warden<sup>7</sup>, it is clear that the existing fee structure fails to recoup the costs of California's entire trapping program. Moreover, this amount is for both commercial fur trappers and pest control trappers; licenses fees from purely commercial trappers total less than \$12,000 for the season. Similar low fees and consequently low revenue totals for prior seasons show that the Commission has affirmatively violated FGC § 4006(c) for the past three trapping seasons, including the current one ending on June 30, 2016.

Overall, these figures demonstrate that the Commission has been and remains in gross noncompliance with the unambiguous requirements of the Fish & Game Code. It is critical that the Commission comply with code requirements for the upcoming 2016-2017 trapping season. Further violations of law should not be countenanced.

**C. License fees for the upcoming 2016-2017 trapping season must be substantially raised in order to comply with cost recovery provisions of SB 1148 and FGC § 4006(c)**

While the exact costs of California's trapping program are not publicly available, the extrapolation of existing data shows that license fees will need to increase substantially in order to meet the cost recovery mandate of FGC § 4006(c) and SB 1148.

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<sup>4</sup> California Department of Fish and Wildlife, "2015-2016 Trapping License Application." *Available at:* <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=84525&inline>.

<sup>5</sup> See <https://www.wildlife.ca.gov/Licensing/Statistics>. The majority of these licenses were purchased for pest-control purposes rather than for fur trapping purposes.

<sup>6</sup> See Memorandum from Charlton Bonham, Director, Cal. Dep't of Fish and Wildlife and Sonke Mastrup, Executive Director, Cal. Fish and Game Comm'n to the Assemblymember Richard Bloom, Member of the Assembly, 50<sup>th</sup> District, California, "Re: Assembly Bill 2013" (June 13, 2014). *Available at:* [http://www.fgc.ca.gov/meetings/2015/Aug/Exhibits/0805\\_Item\\_20\\_Bobcat.pdf](http://www.fgc.ca.gov/meetings/2015/Aug/Exhibits/0805_Item_20_Bobcat.pdf). Given the overlap in the fee recovery provisions of § 4006(c) and AB1213, all fee related documents before the Commission in the bobcat rulemaking should be considered part of the administrative record of the Commission's actions on this petition.

<sup>7</sup> *Id.*



### Total Cost of Trapping Program

During the administrative rulemaking process for AB 1213, the Department stated that existing enforcement, management, and administrative costs of implementing the bobcat trapping program alone amounted to \$161,000.<sup>8</sup> This total figure included enforcement costs consisting of salaries and vehicle mileage of 12 officers spending approximately 2,000 hours on field patrols over the course of the bobcat trapping season alone. As we demonstrated in the bobcat rulemaking, this cost estimate is unreasonably low. Nevertheless, given bobcats were only one of a dozen species targeted by commercial trappers in California, program costs for the enforcement, management and administration of the overall commercial trapping program likely greatly exceed the figure generated by the Department for just bobcats. A reasonable estimate is likely at least \$200,000, and more likely substantially greater than that. Additionally, enforcement, management, and administrative costs related to pest control trapping likely also exceed the costs attributable to the commercial bobcat trapping program.

### Number of Trappers

The critical factor in determining an appropriate license fee is an accurate estimate of the number of trappers who will purchase the license. According to Department license statistics, the total number of trapping licenses issued in the 2014-2015 trapping season was 675, with 506 licenses obtained for pest control only purposes, 99 licenses for commercial fur trapping, and 70 for both purposes.<sup>9</sup> Given the different purposes as well as logistical, administrative, management and enforcement costs between commercial fur trapping and pest control trapping, Petitioners believe that setting fees separately for these two groups of trappers is appropriate.<sup>10</sup>

To accurately estimate the number of commercial fur trappers who will purchase trapping licenses for the 2016-2017 trapping season and beyond, the Commission must reduce the total number of trappers to exclude those trappers primarily trapping bobcats in prior years, as it can be assumed that these individuals will no longer purchase trapping licenses given the implementation of the statewide commercial bobcat trapping ban. Given a maximum of 169 individuals who bought licenses for purposes of fur-trapping in the 2014-2015 season, the number seeking fur trapping licenses for 2016-2017 will likely be fewer than 150, and most likely fewer than 100. Absent a substantial fee increase, the number of pest control trappers would presumably remain roughly the same.

### Trapping License Cost

Assuming a total commercial fur trapping program cost of \$200,000 (again, likely an underestimate) and the number of fur trappers to be 100 (again, likely an overestimate), a resident trapping license fee would be approximately \$2,000—seventeen times the license fee for the 2015-2016 trapping season. Even if 150 fur trappers were expected to purchase a license, the fee would need to be set at \$1,333. At the very least, these numbers illustrate that the existing license fee of \$117 for the 2015-2016 season will need to be exponentially increased to meet the cost recovery mandate of the trapping program.

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<sup>8</sup> See “Initial Statement of Reasons for Regulatory Action re: Implementation of the Bobcat Protection Act of 2013” (herein, “AB 1213 ISOR”), at 16. Available at: <http://www.fgc.ca.gov/regulations/2015/478isor.pdf>.

<sup>9</sup> See <https://www.wildlife.ca.gov/Licensing/Statistics>.

<sup>10</sup> Through this petition, Petitioners at this stage seek that the Commission only address fees for, and/or termination of, the trapping program for commercial (*i.e.* “recreational”) trappers. Setting lawful fees for pest control trappers is likely best done through a separate process.

Given the costs of administering and enforcing the commercial fur trapping program and relatively low number of current fur trappers, we do not see how the program can ever be self-funding. The average income of trappers in the 2014-2015 trapping season was \$1,239, but that figure includes income from bobcat trapping. Absent bobcat trapping, the average income per trapper was well below \$1,000. At a program cost of \$200,000 and 150 trappers paying a \$1,333 trapping fee, the average trapper would still make less from trapping than necessary to pay for the cost of the license. Given this difficulty of breaking even, it is not rational to expect 150 individuals to pay a license fee so as to engage in a commercial enterprise when that enterprise generates on average less money than the cost of the fee. Consequently, the number of trappers supporting the program would be fewer and the fee would need to be raised accordingly. At 50 trappers, the fee would be \$4,000, an amount likely none would be willing to pay.

**D. Implementing a statewide ban on all commercial fur trapping is a compelling alternative solution to meeting the cost recovery mandate**

This basic economic analysis, based on logical assumptions of cost and viable number of trappers, plainly illustrates that much higher prices of trapping licenses need to be set in order to recover the costs of a commercial fur trapping program in accordance with F&G Code § 4006(c). It is also clear, though, that setting such fees at the required levels would result in a far lower number of trappers (likely approaching zero) willing to pay such fees, leading to a cost-recovery shortfall. Yet setting fees at a level low enough that significant numbers of trappers will pay the fees will simply not recoup program costs. This is also legally impermissible.

In short, given the substantial administrative and enforcement costs associated with fur trapping, and the relatively low numbers of commercial trappers operating in the state, such trapping simply cannot continue in California without a substantial subsidy. Consequently, operating as it must under the cost recovery mandates of F&G Code § 4006(c), we do not see how the Commission can lawfully adopt fees that allows continued commercial fur trapping in California. A statewide ban on commercial and recreational trapping is a compelling alternative and practical solution to meet the statutory cost recovery mandate.

**E. The existing trapping fee schedule perpetuates a pattern of fiscal irresponsibility that the Legislature has cautioned against**

The reality that the existing trapping program is not self-financing plainly violates SB 1147, as codified in FGC § 4006(c). The legal arguments aside, the practical implications of perpetuating an unsustainable trapping program presents an equally compelling reason to raise fees: insufficient financial resources will inevitably lead to the program's inadequate implementation. As noted by the Legislature in enacting F&G Code §§ 710-711, the Department has failed to adequately meet its regulatory mandates due, in part, to "a failure to maximize user fees and inadequate non-fee related funding", which has "prevented proper planning and manpower allocation" to carry out its "public trust responsibilities" and the "additional responsibilities placed on the Department by the Legislature." F&G Code § 710-710.5. As a result, the Department is burdened with "the inability . . . 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." F&G Code § 710.5. As a matter of public policy, the Commission should ensure that fees are raised accordingly for, at the bare minimum, the subsequent trapping season 2016-2017.

## V. CONCLUSION

The Commission, presumably by oversight rather than design, is in clear noncompliance with unambiguous requirements of the Fish and Game Code. To rectify these violations, the Department and Commission should perform a cost analysis of the fur trapping program and implement license fees that adequately recoup the cost of that program. However, should the Commission determine that license fees are unlikely to generate sufficient revenue to cover the costs of the program, Petitioners urge the Commission to implement a state-wide ban on all commercial trapping of fur-bearing and nongame mammals.

Respectfully submitted on behalf of Petitioners,



Jean Su  
Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
Phone: (510) 844-7139  
[jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
February 2, 2018

**Exhibit B**

**Initial Statement of Reasons for Regulatory Action regarding  
the Implementation of the Bobcat Protection Act of 2013**

*[See attached.]*

Amend Sections 478, 479 and 702  
Title 14, California Code of Regulations  
Re: Implementation of the Bobcat Protection Act of 2013

- 1 -

*limited to, shipping tags required pursuant to Section 479 of Chapter 6 of Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for the 2014–15 season, and any subsequent seasons in which bobcat trapping is allowed, at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.*

*(f) This section does not limit the ability of the department or the commission to impose additional requirements, restrictions, or prohibitions related to the taking of bobcats, including a complete prohibition on the trapping of bobcats pursuant to this code.”*

This rulemaking proposes to amend sections 478, 479 and 702, Title 14, CCR to restrict the take of bobcats by trapping in all or portions of the state. The proposed regulatory changes will not affect the take of bobcats with a hunting license and bobcat hunting tags under subsection 478.1, or under a depredation permit issued pursuant to Section 401.

## **BOBCAT TRAPPING IN CALIFORNIA**

### **Trapping Regulations Generally**

In California, bobcats are classified as a nongame mammal (FGC § 4150). Under current regulations, bobcats may be trapped under the authority of a general trapping license (Title 14 § 478). The Department of Fish and Wildlife (Department) requires that individuals successfully pass a written test of competence and proficiency in trapping before applicants can be issued a trapping license (FGC § 4005). A trapping license fee of \$115 is required for residents over 16 years of age; non-resident trapping license fees are set at \$570 (FGC §4006). Licensed trappers may take bobcats during the open season for trapping (Nov. 24 through Jan. 31; Title 14 § 478) and no additional trapping license validation is currently required. It is unlawful for any person to trap for the purposes of recreation or commerce in fur any furbearing or nongame mammal with any body-gripping trap (Title14 § 465.5). The only legal trap for bobcat is a live box trap and all traps must be visited daily. Each trap is uniquely identified with the Trapper's ID number (Title14 § 465.5). Trappers are required to report all of their harvest annually to the Department (Title 14 § 467).

### **Shipping Tags**

A shipping tag is required to be affixed to bobcat furs (pelts) or products that are sold or traded interstate or out of the country in accordance with the *Convention on International Trade in Endangered Species of Wild Flora and Fauna* (CITES) and Title 14 Section 479. In California, only licensed trappers (or licensed fur dealers) may purchase shipping tags and engage in commerce in bobcat furs or products. The Department makes these shipping tags available to licensed trappers during, and for

two weeks following, the open season for bobcats. Trappers must supply information on the place, time, date and method of take as part of the tagging process. The Department currently charges an administrative fee of \$3 per pelt for the issuance of shipping tags.

### Bobcat Trapping Data

The Department monitors the number of trappers and requires all trappers to report their harvest at the end of each license year (fiscal year) in order to maintain a valid trapping license. Together, these data are used to compile the Licensed Fur Trapper and Dealer's Report and the Bobcat Harvest Assessment each year. These reports monitor annual bobcat harvest relative to the quotas established in accordance with the requirements of CITES and allow the Department to understand trends in the amount and distribution of bobcat harvest. These reports are available to the public on the Department's website:

<https://www.dfg.ca.gov/wildlife/hunting/uplandgame/reports/bobcat.html>

In 1981, the Department developed sustainable harvest quotas for bobcats in response to bobcat trapping levels that exceeded 20,000 animals per year in the late 1970's. Estimates of bobcat density were based on data obtained through targeted scientific studies of bobcat populations in San Diego County, Eastern Siskiyou County, and the Mojave Desert region. In accordance with CITES, the Department developed a maximum harvest quota of 14,400 bobcats per year which was submitted to and approved by the U.S. Fish and Wildlife Service Office of Scientific Authority. The quota was established to ensure that trade in bobcat furs was not a potential detriment to the health of the state's bobcat population.

The level of bobcat trappers has declined over for the past two decades (2013-14 Bobcat Harvest Assessment) and the number of all trappers has declined dramatically from an average of over 2,500 trapping licenses sold annually during the 1980's to an average of less than 800. Of these, about 200 trap bobcats, over the past 20 years (refer to Exhibit A). Bobcat trappers have comprised an average of 25 percent of all trappers over this period and harvest by trappers in California has been less than 20% of the annual quota since 1989.

### **PROPOSED REGULATIONS**

The Department is providing two options for the Commission to consider in implementing the Bobcat Protection Act:

#### **OPTION 1 (RECOMMENDED):**

#### **PARTIAL CLOSURE OF THE STATE TO BOBCAT TRAPPING AND ESTABLISHING CLOSURE BOUNDARIES AROUND PROTECTED AREAS.**

As required in subsection 4155(b)(1) of the FGC, the Department identified each national or state park and national monument or wildlife refuge that would require closure areas in accordance with the statute. The Department's initial assessment based on the Lands Coverage in the Department's Geographic Information System identified 283 individual management units for wildlife refuges and parks. These represent a total of 186 designated national and state parks, national monuments and wildlife refuges (refer to Exhibits B and C). Pursuant to FGC section 4155(b)(2), the Commission may consider whether to prohibit bobcat trapping adjacent to additional conservation areas in 2016.

For clarity, this ISOR will refer to "national or state park and national monument or wildlife refuge" inclusively as "protected area(s)."

**Option 1** prohibits trapping of bobcats surrounding all protected areas identified above by: 1) closing certain large areas of the state where harvest of bobcats by trapping has historically been low; and 2) delineating closure boundaries adjacent to 23 specific protected areas in remaining portions of the state.

Delineation of specific highway and road boundaries surrounding each of the 186 protected areas in the state would require dozens of additional pages of regulation resulting in a very complex and difficult to understand mosaic of areas where trapping would be prohibited. By proposing a larger, contiguous closure encompassing most of the 186 protected areas, this proposal fully implements the statute while resulting in a less complicated system of closures that should be clearer to the public, the trapping community, and the Department's enforcement staff.

The map depicted in Exhibit C represents the cumulative distribution of bobcat trapping harvest by county between November 2003 and January 2013. These data indicate that relatively low numbers of bobcats have been harvested over a large part of the central and southwestern portion of the state over the past decade. Trapping harvest is concentrated in two areas in the northeastern and southeastern portions of the state. Therefore, the Department is recommending that a large area of the central and southwestern portion of the state be closed to bobcat trapping. As mentioned above, development of individual closure regulations surrounding all 186 properties in areas with low levels of trapping creates an unnecessarily complicated regulatory scheme that would be both difficult to understand and to enforce. Under the proposed approach, approximately 60% of the state would be closed to bobcat trapping, and the number of protected areas requiring property-specific closure boundaries is reduced from 186 to 23 properties. Exhibit B specifies which protected areas (indicated by reference to the new subsection number) will have delineated closures. Exhibit D shows the location of the "Bobcat Trapping Closure Area" and the 18 "Property-Specific Closure Areas" surrounding the remaining 23 protected areas (note that some protected areas have been grouped within a single property-specific closure).



## **Effect of a Partial Closure on the Department's Bobcat Program**

The Department will incur costs associated with managing bobcat harvest under both options. However, if Option 1 is adopted, the Department anticipates greater costs associated with the development of a bobcat management plan compared to current efforts. Management plan costs under Option 1 are anticipated to be about twice those under Option 2 because of the higher levels of take associated with an ongoing trapping program. Under the recommended option, the Department would:

- 1) Report annual harvest from trapping, hunting, and depredation including compliance with CITES.
- 2) Develop a new management plan for bobcat trapping and hunting.
- 3) Collect biological information from harvested bobcats as identified through the development of the management plan.

Because trapping accounts for the majority of bobcat harvest statewide, costs associated with each of these categories would be higher than those under Option 2 (below). The management plan and harvest reporting would be of greater breadth and more expensive under Option 1.

The implementation costs presented in detail in Table 1 of the Economic Impact Assessment (refer to Section VII) do not include the costs that the Department would incur in developing and implementing a bobcat population survey as proposed in the Governor's signing message. Necessary surveys and monitoring of bobcat populations would likely only be possible with additional funding from the legislature or other sources.

## **Effect of a Partial Closure on the Department's Law Enforcement Program**

Imposing new trapping closures will require learning where bobcat trapping is legal versus prohibited in California by all who are affected. There may be initial uncertainty in distinguishing between areas legal to trap and those that are closed. Enforcement staff anticipates an increase in false reports of illegal trapping activity, and therefore the Department anticipates an increase of approximately ten percent in enforcement costs for at least the first few years.

## **Proposed Amendments to Existing Regulations (Option 1):**

- Amend Section 478, Bobcat, by adding descriptions of a "Bobcat Trapping Closure Area" and 18 "Property-Specific Closure Areas" surrounding 23 protected areas and incorporate editorial changes and re-numbering of the text for clarity.

Necessity: Adding boundary descriptions to the regulations implements the statutory requirement that the protected area around each national or state

park and national monument or wildlife refuge be identified using readily identifiable features, such as highways or other major roads, §4155(b)(1) and (b)(3), FGC.

## **OPTION 2:**

### **PROHIBIT BOBCAT TRAPPING THROUGHOUT CALIFORNIA.**

**(Requested for consideration by the Commission on December 3, 2014)**

Fish and Game Code subsection 4155(f) affirms the Commission's authority to impose greater restrictions including a complete prohibition on bobcat trapping. The Commission, at its December 2014 meeting, directed the Department to include in this proposal an option to prohibit bobcat trapping in California. The regulatory change proposed in Option 2 implements this directive by prohibiting bobcat trapping in California.

### **Effect of a Prohibition on Bobcat Trapping in California**

The Department will incur costs associated with managing bobcat harvest under both options. Option 2 proposes a complete ban on bobcat trapping in California. The take of bobcats with a hunting license and take of bobcats under a depredation permit would continue to be allowed. Under Option 2, the Department would:

- 1) Report annual harvest from hunting and depredation.
- 2) Develop a new management plan focused primarily on bobcat hunting.
- 3) Collect biological information from harvested bobcats as identified in the management plan.

Hunting of bobcats is less likely to result in impacts to the population because the total take is considerably lower than trapping and there are limits on the number of animals each hunter can take. Effort related to harvest reporting costs is projected at approximately 50 percent of existing baseline costs. Similarly, the preparation of a bobcat management plan under Option 2 is projected to be approximately half the cost of a management plan under Option 1. Without trapping, the lower level of bobcats taken under Option 2 will result in a less complicated management plan.

The implementation costs presented in detail in Table 1 of the Economic Impact Assessment (refer to Section VII) do not include the costs that the Department would incur in developing and implementing a bobcat population survey as proposed in the Governor's signing message. Necessary surveys and monitoring of bobcat populations would likely only be possible with additional funding from the legislature or other sources.

## **The Effect of a Complete Prohibition on the Department's Law Enforcement Program**

Under a complete prohibition on bobcat trapping, the nature of the Department's enforcement activities is projected to shift from routine patrol and enforcement of existing trapping regulations to focus on investigative efforts aimed at detecting and preventing unlawful bobcat trapping. Intelligence gathered indicates some in-state and some out-of-state unlawful trappers may move into California in areas wherever bobcat trapping is banned, especially those with historically high bobcat trapping success. Reasons include reduced or no competition, no daily trap check requirement, use of illegal leg-hold traps which are deployed in much greater numbers and are much more difficult to find, and no seasonal restrictions

Unlawful trappers using illicit techniques may trap earlier in the season and well past the normal end of the trapping season resulting in increased law enforcement effort. Banning bobcat trapping will not eliminate the cost of bobcat trapping enforcement. The Law Enforcement Division anticipates that the enforcement effort will increase for at least the first few years after a ban is implemented.

Additionally, there would be no other trappers in the field to provide the tips wildlife officers rely upon to make many good cases. Lawful trappers are keenly aware of other trappers who work in their areas and provide many tips of unlawful activities that wildlife officers would not always discover on their own. Under Option 2, the Department expects some level of illegal take to continue due to the demand for pelts and the potential profits from their sale.

Conclusion: Wherever bobcat trapping is banned (whether a partial or full ban), the Department anticipates illegal trapping will continue based largely upon the high prices derived from bobcat pelts over the last few years. Because California's Sierra Nevada mountains, particularly the southern and east side, have a healthy bobcat population with high-value pelts, this region may continue to attract commercial bobcat trappers. Though unlawfully taken in California, these pelts could be easily transported across state lines and sold in another state where trapping is lawful. This action would violate state and federal laws but would require significant increases in investigative work to detect and prove.

### **Proposed Amendments to Existing Regulations (Option 2):**

- Amend Section 478 by prohibiting bobcat trapping throughout California.

Necessity: Prohibiting bobcat trapping would implement the Commission's authority to regulate take of bobcats pursuant to FGC sections 200, 202, and 4150, and affirmed in subdivision (f) of FGC section 4155.

- Amend Section 479 eliminating pelt tags, fees and department marks for bobcats

taken by trapping.

Necessity: If prohibited, there is no reason for the Department to continue to offer tags or marks, or to collect fees for pelt shipping tags.

### **Department Recommendation**

The Department recommends Option 1. This would include establishment of designated bobcat trapping closures, monitoring bobcat take levels, participation of trappers, enforcement effort and costs, and administration of the new regulation for a period of at least two years. The Department last reviewed its bobcat harvest strategy in its 2004 Environmental Document assessing Furbearing and Nongame Mammal Hunting and Trapping, which concluded that the level of take associated with bobcat trapping in California is insignificant relative to natural production and mortality in the species. Bobcats are a renewable resource, provide opportunity for the public to use and enjoy wildlife, and the Department considers the current levels of take to continue to be sustainable. The history of trapping in California illustrates that the population has sustained significantly higher levels of annual harvest in the past with no lasting consequence.

### **COST RECOVERY**

Fish and Game Code section 4155(e) requires the Commission to set trapping license fees and associated fees at the levels necessary to fully recover all reasonable administrative and implementation costs associated with the trapping of bobcats in the state. Based on factors such as past effort by bobcat trappers, law enforcement effort, and ongoing administrative costs, the Department recommends that new fees be applied to the Trapping License for those intending to take of bobcats and also to the shipping tags for bobcat pelts. Since many licensed trappers do not pursue bobcats, the Department proposes to establish a new "Bobcat Trapping Validation." The range of fees proposed to recover the costs of the Department and the Commission associated with the bobcat trapping program is presented in Section VII of this ISOR.

In evaluating the proposed fees the Department considered the following:

1. The Department will incur ongoing costs even under a full prohibition on bobcat trapping (Option 2). Enforcement costs are projected to increase due to the increased investigation time required to deter unlawful bobcat trapping. Because legal trapping will no longer occur, there would be no mechanism to recover these ongoing costs.
2. Under a partial closure (Option 1), the complex boundary descriptions and unfamiliarity with the regulation could lead to initial difficulty in enforcement, including some unintended illegal take of bobcat, and mistaken reports of illegal activity. These will result in some added cost to current operations which may subside over time.

3. Whether a partial or full ban of trapping is adopted, the Department would pursue development of a management plan for bobcats in California.
4. To fully recover costs of the trapping program under Option 1, the Department proposes that trappers pursuing bobcats be required to purchase an annual trapping license, an annual Bobcat Trapping Validation, and pay a higher per pelt shipping tag charge.
5. It is not possible to accurately predict the outcome of higher fees and reduced trapping opportunity on the viability of bobcat trapping as a business enterprise. A new assessment should be made following at least two seasons with the partial ban and fees in place to determine if the Bobcat Trapping Validation Fee and shipping tag fees require adjustment in order to fully recover costs associated with the trapping of bobcats.
6. The 'no cost' for personal use and "department mark" provisions in Section 479 are proposed to be removed in accordance with the statutory requirement that the Commission "set trapping license fee and associated fees" to fully recover all reasonable costs associated with trapping bobcats. (FGC § 4155(e)). The Department mark is no longer necessary since shipping tags will be attached to every pelt as proposed in amended subsection 479(a)(2). (Note: Up to five bobcat pelts may be taken for personal use (not for sale) each year under a hunting license and bobcat hunting tags).

### **New Bobcat Trapping Validation and Fee**

The Department proposes to establish a new "Bobcat Trapping Validation." At this point the Department is not proposing an increase in the general trapping license fee, but the validation will be required if the licensed trapper intends to take bobcats. A separate fee is proposed to be paid annually for the validation and issued through the Automated License Data System (ALDS) in the same manner as the license.

### **Increased Fee for Shipping Tags**

Bobcat pelt shipping tags (refer to Exhibit E) are required to be placed by the Department on each pelt in order to transport or ship pelts out of state or country. The Department issues the tag in accordance with CITES. (Note: While the bobcat is not listed as a threatened or endangered species, it is included in Appendix II of CITES to control trade and limit opportunity for illegal take). The present fee is \$3.00 per pelt. The Department proposes to increase the fee and require that all bobcat pelts taken under a trapping license shall be tagged.

### **Fee Determination**

In determining the proposed fee schedule to recover its costs, the Department considered how different price points on either item may influence trapper response. Any change in fees designed to recover Department costs must consider that price increases may induce substantial drops in participation such that cost recovery

objectives are defeated. Additionally, in general, fee increases for commercial licenses have been shown to induce an increase in effort that may result in an increase in tagged pelts. Those with lower levels of commitment to trapping may drop out; the moderately committed, may also reduce effort; but the most enterprising may continue to trap but with an increase in trapping effort by placing more traps in more areas over more days during the season.

The cost of a trapping license and the proposed bobcat validation may be perceived as an initial entry cost. The validation is in that way, a “sunk cost” that will effectively diminish as a per unit operating cost with each additional pelt taken. In contrast, shipping tags are a variable cost depending on the number of pelts taken by each trapper. As such, each shipping tag is a recurring cost that may be perceived as more directly cutting into an individual trapper’s profit per pelt.

If the tag price is too high, some may seek to evade that final cost by illegally transferring pelts to other states for shipping. On the other hand, if the combined bobcat validation and license fee exceeds neighboring states’ non-resident trapping fees, California trappers may choose to go out-of-state. At some level, higher license fees may encourage unlawful behavior. While most people are law-abiding, fee setting should be mindful of any possible unintended consequences.

The Department will incur a certain level of bobcat-related enforcement, management and administrative costs whether or not bobcat trapping continues in California. The Department will logically incur incremental increases in enforcement, management, and administrative costs under the partial bobcat trapping closure proposed under Option 1. Total program costs under Option 1 are estimated at approximately \$212,000 per year (refer to Table 1 on page 19).

As described in the Economic Impact Assessment (refer to Section VII), the Department assumed an annual sale of 160 bobcat validations and 860 shipping tags for purposes of calculating cost recovery. At these volumes, the proposed fee for the bobcat trapping validation would range from \$0 to \$1,325 and the proposed fee for each shipping tag would range from \$0 to \$245 per pelt. A range of potential fees is presented with the recommended fee combination of \$35 per shipping tag and \$1,137 for the proposed Bobcat Trapping Validation.

### **Proposed amendments to fee regulations**

- Amend Section 702, Fees, by adding a new subsection (d)(1) to require (in addition to the trapping license fee set forth in the Fish and Game Code) the payment of a Bobcat Trapping Validation Fee set at \$[ 0 – 1,325 ] and subject to annual adjustment.

Necessity: Adding the new Bobcat Trapping Validation fee implements the statutory requirement that the Commission set trapping license fees and

associated fees to fully recover all reasonable costs associated with trapping bobcats. (FGC § 4155(e)).

- Amend Section 479, Bobcat Pelts, by deleting the current bobcat pelt shipping tag fee from subsection (c)(5); and Amend Section 702, Fees, adding a new subsection (d)(2), Shipping Tags, and increasing the fee from \$3 to \$[ 0 - 245 ] and subject to annual adjustments. Additionally, there are editorial changes and re-numbering of the text for clarity.

Necessity: Increasing the current fee for a bobcat shipping tag implements the statutory requirement that the Commission set trapping license fees and associated fees, including, but not limited to, shipping tags to fully recover all reasonable costs associated with trapping bobcats. (FGC, §4155(e)). The Commission established Section 702 as the location for tags and fees; this section is the logical place for new bobcat fees.

- Amend Section 479 by deleting the ‘no cost’ provision and ‘department mark’ on pelts not for sale in subsection (a)(1) and by eliminating the listed Method of Take in subsection (c)(4).

Necessity: Removing the ‘no cost’ is in accordance with the statutory requirement that the Commission “set trapping license fee and associated fees” to fully recover all reasonable costs associated with trapping bobcats. (FGC § 4155(e)). The Department mark is no longer necessary since shipping tags will be attached to every pelt as amended in subsection 479(a)(2). The use of hounds is prohibited in FGC Section 3960(b), so specifying the method of take is no longer necessary.

### **Department Fee Recommendation**

Price allocation between the two items supports shipping tag fees set at \$35, and bobcat validation fee set at \$1,137.

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

Authority: Sections 200, 202, 4150, and 4155, Fish and Game Code. Reference: Sections 3960, 4150, and 4155, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None

(d) Identification of Reports or Documents Supporting Regulation Change:

2004 Environmental Document

2013-14 Bobcat Harvest Assessment

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The Commission and Department received comments from interested parties regarding bobcat trapping regulations at the Wildlife Resources Committee (WRC) meetings in Sacramento in July and September of 2014. The WRC recommended that the Commission authorize staff to work with the Department to prepare a rulemaking to implement the Bobcat Protection Act mandate. The recommendations of the WRC and CDFW staff were further discussed and accepted at the Commission meetings on October 8, 2014 in Mount Shasta; in Sacramento on December 3, 2014 and February 12, 2015; and in Santa Rosa on April 9, 2015.

Prior to publication of the Notice of Proposed Rulemaking, the Commission and Department received more than 49,000 emails and other correspondence from the public largely expressing their desire to have the Fish and Game Commission ban bobcat trapping throughout the entire state, consistent with FGC Section 4155(f). Some alternatives were proposed, such as the use of Global Positioning System (GPS) coordinates to delineate closure areas, but none were found to be consistent with the statutory requirements. Suggestions were made for additional protected areas that were beyond the scope of the current rulemaking. Other areas may be considered by the Commission in 2016 pursuant to FGC Section 4155(b)(2) if the Commission adopts Option 1.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Prohibit trapping adjacent to protected areas by delineating closure boundaries using highways and roads surrounding all protected areas.

The Department has determined that there are 186 protected areas within the state where trapping must be further prohibited to implement the statute. While meeting the letter of the statute, delineation of specific highway and road boundaries surrounding each of the 186 protected areas would require dozens of additional pages of regulation and result in a very complex and difficult to understand mosaic of areas where trapping would be prohibited or authorized.

This alternative would create an unnecessarily complicated regulatory scheme that would be both difficult for the public to understand and for the Department to enforce. The Department does not recommend this as an alternative for further consideration.

2. Prohibit trapping within a predetermined distance adjacent to protected areas and requiring trappers to use GPS technology to determine the location of



traps.

GPS technology is highly effective and in wide use by the public in many applications. With proper equipment trappers may determine their location with adequate precision in a matter of seconds. Trappers have recommended this method as an effective alternative in establishing a closure boundary surrounding each protected area.

The Department has determined that using GPS technology to define closure boundaries is inconsistent with the requirement of the statute to use “readily identifiable features, such as highways or other major roads.” Therefore, the Department does not recommend this as an alternative for further consideration.

(b) No Change Alternative:

The statutory mandate to promulgate regulations is set forth in Fish and Game Code Section 4155(b)(1):

“Through the commission’s next regularly scheduled mammal hunting and trapping rulemaking process occurring after January 1, 2014, the commission shall amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries of each national or state park and national monument or wildlife refuge in which bobcat trapping is prohibited.”

Therefore the Commission has no discretion to consider the no change alternative.

(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 have 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 Commission does not anticipate significant statewide adverse economic impact directly affecting business, although the proposed fee increases may reduce the ability of California bobcat trapping businesses to compete with businesses in other states.

The principle businesses that are expected to be impacted by the proposed regulatory changes are approximately 200 licensed trappers which Department records indicate have historically taken bobcat and paid the current shipping tag fee. Their income is not derived solely from the take of bobcat pelts during the relatively short bobcat trapping season, but also from other animals lawfully taken for profit. Whether the increase in fees or the reduction in opportunity from limitations on trapping areas, as described in Option 1, or a complete ban as described in Option 2, the economic loss to the state as a whole is expected to be very small and would not significantly affect California businesses or their ability to compete with businesses in other states.

(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 significant impacts on the creation or elimination of jobs within the State because a partial or full ban would affect only a small number of licensed commercial trappers whose income is not derived solely from bobcat pelts but also from other animals lawfully taken for profit.

The Commission anticipates potential benefits to the health and welfare of California residents through the enhancement of non-consumptive use benefits. Non-consumptive uses that could increase include: the observation of bobcats in the wild and the perceived value of the bobcat population's contribution to ecosystem functioning.

The Commission does not anticipate benefits to worker safety because this regulatory action will not impact health, welfare or worker safety.

The Commission anticipates possible benefits to bobcat populations because the regulations required by statute will place further limitations on the take of bobcats.

(c) Cost Impacts on a Representative Private Person or Business:

If Option 1 is adopted, the Commission anticipates increased costs to the business of commercial trappers because of the additional fees for the Bobcat Trapping Validation and increased fees for shipping tags on pelts. The Commission expects these fees to be entirely absorbable by passing on this cost to the consumers of bobcat pelts. Private persons, not involved in commerce in bobcat products will not be impacted by any cost.

A statewide ban would impact a small number of licensed trappers who will no longer derive any income from the sale of bobcat pelts. However, licensed trappers could continue to derive income from the legal take of other animals.

(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

For purposes of this Economic Impact Assessment the Department considered cost recovery figures based on the statewide 5-year average of 200 licensed bobcat trappers taking an average of 1,070 pelts annually. However given that any increase in fees for trapping bobcats may deter participation in trapping, we have chosen to evaluate the proposed fee structure assuming a 20% decline in both numbers of trappers and numbers of shipping tags sold.

Currently, each trapper is required to purchase an annual trapping license at a cost of \$115 (2014) and a CITES shipping tag at a cost of \$3 (2014) per pelt. There are a very small number of non-resident and junior trappers who do not contribute significantly to the revenues derived from such sales. It should also be noted that the majority of licensed trappers do not target bobcat. In addition, many trappers are licensed for pest control which does not provide allowance to sell any bobcat pelts taken for depredation purposes. The proposed regulatory requirements and fee changes will not affect the take of bobcats under the authority of a depredation permit issued by the Department.

The total revenue received from bobcat trappers, apart from pest control trappers, over the 2013-2014 commercial bobcat trapping season was about \$27,500. The majority of this revenue (\$23,000) came from the sale of licenses, and shipping tag sales accounted for an additional \$4,500.

Subsection 4155(e), FGC, requires the Commission to:

*“set trapping license fees and associated fees, including, but not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for the 2014–15 season, and any subsequent seasons in which bobcat trapping is allowed, at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.”*

## **Existing Costs**

The Department currently incurs approximately \$161,000 in enforcement, management, and administrative costs to implement the bobcat trapping program under existing regulations.

### **Enforcement Costs**

Under current regulations, the Law Enforcement Division expends substantial enforcement effort during the 69 day bobcat trapping season. Twelve officers including a supervising lieutenant put in about 2,000 hours in the field over the season. Along with vehicle mileage, the current costs incurred by the Department in the enforcement and administration of bobcat trapping regulations are approximately \$154,000 annually.

### **Wildlife Program Costs**

In addition to enforcement, environmental scientists and scientific aides in the Department's Wildlife Branch and regional offices currently expend about 160 hours annually compiling bobcat harvest data for the annual Bobcat Harvest Report. Total Department costs for this effort are estimated at \$6,700.

## **Option 1 Costs**

### **Regulation Development and Startup Costs**

Initial costs associated with both options include Department and Commission

costs associated with the development of the rulemaking. Total rulemaking costs, including overhead, are estimated at approximately \$31,300. Although both options are considered in the current rulemaking, much of this effort has been directed at Option 1. We therefore allocated 75% of the total rulemaking cost, or \$23,500, to development of Option 1 and \$7,800 to Option 2.

The Automated Data License System (ALDS) will incur an item-specific startup cost of approximately \$715 to develop and test the proposed bobcat trapping validation item. The ALDS startup cost and non-recurring regulation development and review costs are amortized over a five-year period in the proposed cost recovery fee schedule.

#### Enforcement Costs

The proposed bobcat trapping closures under Option 1 are projected to increase annual enforcement costs by about 10% to approximately \$169,000. This increase is anticipated to result from the increased effort to enforce the new closure areas. Additional investigative time is also likely to be necessary to detect and deter unlawful trapping activity within closure areas supporting high bobcat populations.

#### Wildlife Program Costs

Bobcat Harvest Reports will continue to be prepared under both options. Under Option 1, the Department will continue to incur the same level of costs as under the existing program, or approximately \$6,700 per year. Both options also include development of a Bobcat Management Plan. Under Option 1, the Department envisions developing a more detailed plan requiring approximately three months of staff time at a total cost of approximately \$31,600.

### **Option 2 Costs**

#### Regulation Development and Startup Costs

Initial costs associated with both options include Department and Commission costs associated with the development of the rulemaking. Because the regulatory effort under Option 2 is less complicated than under Option 1, rulemaking costs were estimated at 25% of the total initial rulemaking cost, or \$7,800 for Option 2. Since Option 2 proposes a complete ban on bobcat trapping, no further startup costs are expected.

#### Enforcement Costs

Enforcement costs under a complete trapping ban were estimated based on the anticipated shift from routine patrol activities to a focus on detailed investigative

work necessary to detect and deter unlawful bobcat trapping activity. Wildlife enforcement costs under this scenario were derived using data from past investigations targeting unlawful trappers. A typical recent case involved over 800 hours of officer personnel time over a period of 4.7 months and almost 12,000 vehicle miles. The total cost for this single case was approximately \$63,100. If wildlife officers pursue an average of 3 cases per year under Option 2, then total enforcement costs would be approximately \$189,000.

#### Wildlife Program Costs

Bobcat Harvest Reporting would continue under Option 2, although at a reduced level. Without trapping, the annual report would focus on take of bobcats under a hunting license and bobcat hunting tags as well as bobcats taken under the authority of a depredation permit issued by the Department. The Department's cost of preparing the annual report is estimated at 50% of the current effort, or approximately \$3,300. A Bobcat Management Plan is proposed under Option 2, but at a similarly reduced level; without trapping, the plan would focus on general habitat conditions and monitoring the level of human-caused mortality through hunting and depredation take. The Department's costs for preparing the Bobcat Management Plan under Option 2 are estimated at 50% of the effort under Option 1, or approximately \$16,700.

Table 1. Bobcat Protection Act Implementation Costs by Option

Start up Costs							
Cost Description	Hours (Option 1)	Hours (Option 2)	Rate <sup>1</sup>	Existing Baseline Costs	Total Costs (Option 1)	Total Costs (Option 2)	
<b>CDFW Startup Costs</b>							
Regulation Development & Review				\$ -	\$ 17,400	\$ 5,800	
Validation Item ALDS Development	12	0	\$ 59.58	\$ -	\$ 715	\$ -	
<b>Startup Subtotal</b>				\$ -	\$ 18,115	\$ 5,800	
<b>Overhead</b>			35%	\$ -	\$ 6,340	\$ 2,030	
<b>Total Startup Costs</b>				\$ -	\$ 24,455	\$ 7,830	
<b>Amortized over 5 years:</b>				\$ -	\$ 4,891	\$ 1,566	
<b>Ongoing Costs</b>							
Cost Description	Baseline Hours	Hours (Option 1)	Hours (Option 2)	Rate	Existing Baseline Costs	Total Costs (Option 1)	Total Costs (Option 2)
<b>Law Enforcement Costs</b>							
<b>Routine Patrol</b>							
Officer	1,400	1,540		\$ 49.21	\$ 68,894	\$ 75,783	\$ -
Lieutenant	200	220		\$ 56.38	\$ 11,276	\$ 12,404	\$ -
Vehicle costs (Mileage)	18,750	20,625		\$ 0.565	\$ 10,594	\$ 11,653	\$ -
<b>Case Investigation</b>							
Officer Investigation	400	440	2,445	\$ 49.21	\$ 19,684	\$ 21,652	\$ 120,318
Vehicle costs (Mileage)	6,250	6,875	35,331	\$ 0.565	\$ 3,531	\$ 3,884	\$ 19,962
<b>Enforcement Subtotal</b>					\$ 113,979	\$ 125,377	\$ 140,280
<b>Overhead</b>				35%	\$ 39,893	\$ 43,882	\$ 49,098
<b>Total Enforcement Costs</b>					\$ 153,872	\$ 169,259	\$ 189,379
<b>Wildlife Program Costs</b>							
<b>Harvest Report</b>							
Harvest Report: Data Entry Staff - Scientific Aid	80	80	40	\$ 13.90	\$ 1,112	\$ 1,112	\$ 556
Harvest Report: Data Analysis - Environmental Scientist C	80	80	40	\$ 48.08	\$ 3,846	\$ 3,846	\$ 1,923
<b>Management Plan</b>							
Management Plan: Data Analysis - Environmental Scientist C		400	200	\$ 48.08	\$ -	\$ 19,232	\$ 9,616
Management Plan: GIS - Research Program Specialist II		60	40	\$ 55.24	\$ -	\$ 3,315	\$ 2,210
Management Plan: Scientific Aid		60	40	\$ 13.90	\$ -	\$ 834	\$ 556
<b>Wildlife Program Subtotal</b>					\$ 4,958	\$ 28,338	\$ 14,860
<b>Overhead</b>				35%	\$ 1,735	\$ 9,918	\$ 5,201
<b>Total Wildlife Program Costs</b>					\$ 6,693	\$ 38,256	\$ 20,062
<b>Ongoing Costs Total</b>					\$ 160,565	\$ 207,515	\$ 209,440
<b>Amortized Startup Costs (from Above)</b>					\$ -	\$ 4,891	\$ 1,566
<b>Regulatory Option Annual Costs</b>					\$ 160,565	\$ 212,406	\$ 211,006

1 Rates include wages and benefits together and overhead separately

Sources: California Department of Human Resources, California Department of Fish and Wildlife Accounting Branch, Law Enforcement Division, Wildlife Branch, Regulations Unit Analysis.

## Proposed Future Work

The implementation costs presented in detail in Table 1 do not include the costs that the Department would incur in developing and implementing an additional bobcat population study as proposed in the Governor's signing message. Extensive field research on bobcat population dynamics would likely only be possible with additional outside funding from the legislature and/or other sources.

## Proposed Fee Schedule for Cost Recovery

As shown in Table 1, the Department's implementation costs under Option 1 are approximately \$212,000 per year. The Department proposes to recover these costs by apportioning fees between the sales of a new bobcat trapping validation and shipping tags required for bobcat pelts. The Department considered a range of fee combinations for the bobcat trapping validation and the shipping tags based on the assumption that the number of commercial bobcat trapping licenses and tags sold will decline by approximately 20% from the 5-year average of 200 trappers and 1,070 tags sold.

Table 2: Range of potential fee combinations for cost recovery under proposed Option 1 based on projected annual sales of 160 Trapping Validations and 860 Shipping Tags.

Recovery Ratio Tags / Validations		CITES Tag	Bobcat Validation
0%	100%	\$0	\$1,325
1%	99%	\$3	\$1,309
2%	98%	\$5	\$1,298
4%	96%	\$10	\$1,271
6%	94%	\$15	\$1,244
8%	92%	\$20	\$1,218
10%	90%	\$25	\$1,191
12%	88%	\$30	\$1,164
14%	86%	\$35	\$1,137
16%	84%	\$40	\$1,110
18%	82%	\$45	\$1,083
22%	78%	\$55	\$1,029
26%	74%	\$65	\$976
30%	70%	\$75	\$922
34%	66%	\$85	\$868
39%	61%	\$95	\$814
43%	57%	\$105	\$761
47%	53%	\$115	\$707
51%	49%	\$125	\$653
55%	45%	\$135	\$599
59%	41%	\$145	\$546
63%	37%	\$155	\$492
67%	33%	\$165	\$438
71%	29%	\$175	\$384
75%	25%	\$185	\$331
79%	21%	\$195	\$277
83%	17%	\$205	\$223
87%	13%	\$215	\$169
91%	9%	\$225	\$116
95%	5%	\$235	\$62
100%	0%	\$245	\$0

All fees are subject to annual price indexing in accordance with Section 713, FGC.



The Department's recommended range of allocation options is highlighted in Table 2. The bobcat validation fee is proposed as an additional authorization for any licensed trapper intending to take bobcats, whether for personal use or pelt sales. This charge is proposed to be in addition to the basic resident trapping license fee of \$115. The shipping tag fee is charged for each pelt taken under a trapping license with a bobcat validation, and thus will be a variable cost depending on the number of pelts shipped by each trapper.

The proposed price change on the shipping tag is anticipated to be perceived as more directly cutting into an individual trapper's profit per pelt. The validation is in a sense a "sunk cost" and will effectively diminish as a per unit operating cost with each additional pelt taken. How many bobcats a trapper will take is an unknown at the beginning of the season, so how much the validation expense cuts into a trapper's profit per pelt is also an unknown. Since the tag price is a more readily apparent per pelt levy on a trapper's net income, it is anticipated that higher shipping tag fees may incentivize unlawful behavior to evade the additional charges. For comparison, the price for a shipping tag is \$5 in Nevada and \$3 in Arizona. Some trappers may be willing to take the risk of transferring their pelts to states with lower shipping tag fees. While this violates several laws, fee setting should be mindful of any possible unintended consequences.

Given the potential for unlawful out-of-state pelt transfers, the maximum tag fee is proposed to be around \$35 per pelt. Assuming 160 bobcat validations sold and 860 shipping tags sold, the constraints of price allocation between the two items supports shipping tag fees set at \$35, and the bobcat validation fee set at \$1,137. Conceivably the combinations of shipping tags and bobcat validation fees to either side of the \$35/\$1,137 combination might also be feasible without disrupting trapping activity to the point that declining participation would impact the Department's ability to recover program costs. These other combinations are a \$30 shipping tag fee with a bobcat validation at \$1,164 or a \$40 shipping tag fee with the bobcat validation at \$1,110.

Bobcat pelts prices vary depending on market demand, supply of pelts, and pelt quality. Reported prices for quality pelts have reached highs of \$1200. Bobcat pelts sold at the 2015 fur auction in Fallon, Nevada, had an average price of \$330 ([http://www.nvtrappers.org/Fur%20Sale%20Reports/fallon\\_2015.htm](http://www.nvtrappers.org/Fur%20Sale%20Reports/fallon_2015.htm)). At the \$35 rate, the proposed shipping tag fee would represent about 10% of the average pelt price.

Under the proposed fee structure of \$35 per shipping tag and \$1,137 per validation, the compliance cost to an individual bobcat trapper with the median take of 10 bobcat pelts would be:

General trapping license	\$115
Bobcat trapping validation	\$1,137

Pelt shipping tag (\$35 each x10)	\$350
Total Compliance Cost (10 pelts)	\$1,602

The market price for bobcat pelts would affect the reasonableness of these costs for each trapper. With the assumption of 10 pelts per season, the trapper cost per pelt would be approximately \$160. The three percent ALDS fee, individual trapper travel and equipment costs are not included in this illustration as this regulatory action does not affect those costs directly.

The response of trappers to new fees will impact the probable revenue collected to recover the costs of this regulatory action. The Option 1 partial closure will have increased costs over current Department costs but the proposed new fees are intended to fully recoup those new costs. Under a complete prohibition, Department costs are projected to be somewhat higher than those incurred currently, with no commercial bobcat trapping fee revenue to offset costs.

(a) Effects of the regulation on the creation or elimination of jobs within the State

Option 1 - The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of jobs in California. Although some decrease in trapping effort may result from the increase in fees, no effects on the creation or elimination of jobs are expected because of the relatively small number of bobcat trappers affected.

Option 2 - The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of jobs in California. A statewide ban on bobcat trapping will only affect those licensed trappers seeking bobcat and then only to the extent that this seasonal part of their business is eliminated.

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

Option 1 - The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of businesses in California. Although some decrease in trapping effort may result from limiting the areas of the state where bobcat trapping is permitted and the increase in fees, no effects on the creation or elimination of jobs are expected because the regulatory action will affect a limited season (2.5 months) for a relatively small number of bobcat trappers.

Option 2 - The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of businesses in California. A statewide ban on bobcat trapping will only affect the small number of licensed trappers seeking bobcat and then only to the extent that this seasonal part of their business is eliminated.

(c) Effects of the regulation on the expansion of businesses currently doing business

within the State

Option 1 - The cumulative effects of the changes statewide are estimated to be neutral to the expansion of businesses in California. The regulation may have a limiting effect on trappers and is unlikely to expand business.

Option 2 - The cumulative effects of the changes statewide are estimated to be neutral to the expansion of businesses in California. A statewide ban on bobcat trapping may have a limiting effect on trappers and is unlikely to expand business.

(d) Benefits of the regulation to the health and welfare of California residents

The proposed regulations are anticipated to potentially increase the welfare of California residents through the enhancement of non-consumptive use benefits. Non-consumptive uses that could increase include: the sighting of bobcats in the wild and the perceived value of the bobcat population's contribution to ecosystem functioning.

(e) Benefits of the regulation to worker safety

The proposed regulations are not anticipated to impact worker safety conditions.

(f) Benefits of the regulation to the State's environment

The proposed regulations are in response to the requirements of Section 4155, Fish and Game Code. The statute and regulations will benefit the state's bobcat population by either: Option 1 - extending the protected area where bobcat trapping is already prohibited within national and state parks, national monuments and wildlife refuges; or, Option 2 – a statewide ban on bobcat trapping.

## Informative Digest/Policy Statement Overview

Amend sections 478, 479, and 702, Title 14, California Code of Regulations.

The statutory mandate to promulgate regulations to place restrictions on bobcat trapping is set forth in Fish and Game Code Section 4155, the Bobcat Protection Act of 2013, which states in subsection (b)(1):

“Through the commission’s next regularly scheduled mammal hunting and trapping rulemaking process occurring after January 1, 2014, the commission shall amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries of each national or state park and national monument or wildlife refuge in which bobcat trapping is prohibited.”

In addition, Fish and Game Code Section 4155(e) directs the Commission to set trapping license fees and associated fees at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs. A range of potential fees is presented with the recommended fee combination of \$35 per shipping tag and \$1,137 for the proposed Bobcat Trapping Validation. The proposed regulatory changes will not affect the take of bobcats with a hunting license and bobcat hunting tags under subsection 478.1, or under a depredation permit issued pursuant to Section 401.

### PROPOSED REGULATORY CHANGES

Option 1: Partial closure of the state to bobcat trapping and establishing property-specific closure boundaries around protected areas.

- Amend Section 478, Bobcat, by adding descriptions of a statewide “Bobcat Trapping Closure Area” and 18 “Property-Specific Closure Areas” surrounding 23 protected areas and incorporate editorial changes and re-numbering of the text for clarity.
- Amend Section 702, Fees, by adding a new subsection (d)(1) to require (in addition to the trapping license fee set forth in the Fish and Game Code) the payment of a Bobcat Trapping Validation Fee set at \$[ 0 – 1,325 ] and subject to annual adjustment.
- Amend Section 479, Bobcat Pelts, by moving the current bobcat pelt shipping tag fee from subsection (c)(5); and Amend Section 702, Fees, adding a new subsection (d)(2), Shipping Tags, and increasing the fee from \$3 to \$[ 0 - 245 ] and subject to annual adjustments. Additionally, there are editorial changes and re-numbering of the text for clarity.
- Amend Section 479 by deleting the ‘no cost’ provision and ‘department mark’ on pelts not for sale in subsection (a)(1), each pelt will be required to have a Department issued shipping tag; and, by eliminating the listed Method of Take in subsection (c)(4).

## Option 2: Total prohibition on bobcat trapping in California.

- Amend Section 478 by prohibiting bobcat trapping throughout California.
- Amend Section 479 eliminating pelt tags, fees, and department marks for bobcats taken by trapping.

### BENEFITS OF THE PROPOSED ACTION:

The benefits of the proposed regulations to the environment, whether of a partial trapping ban as described in Option 1, or a full ban as described in Option 2, will be through the improved protection of bobcat populations and the enhancement of non-consumptive use benefits. Non-consumptive uses anticipated to potentially increase include: the observation of bobcats in the wild and the perceived value of the bobcat population's contribution to ecosystem functioning.

### EVALUATION OF INCOMPATIBILITY WITH EXISTING 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 trapping of bobcat. No other State agency has the authority to promulgate such regulations. The Commission has searched the CCR for any regulations regarding bobcat trapping and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
February 2, 2018

**Exhibit C**  
**California's Trapping Laws and Regulations**

[*See attached.*]



## TRAPPING LAWS AND REGULATIONS

This document is designed to provide essential information about trapping. It **does not** provide complete coverage of all trapping laws and regulations.

Although this document contains excerpts from the Fish and Game Code, and/or the California Code of Regulations, Title 14, it is the licensee's responsibility to know and obey **all** laws and regulations in effect while he/she is participating in trapping activity. Changes to either code may occur at any time during the year.

Any discrepancies between this document and the codes(s) from which it was prepared will be enforced and adjudicated according to the official code(s) in effect on the date the activity takes place.

**Effective November 20, 2015, regulations to ban recreational and commercial bobcat trapping statewide have been adopted.**

### Fish and Game Code Excerpts

#### **§3003.1. Use of Body-Gripping Traps Prohibited; Buy, Sell, Barter, Etc. Fur from Animal Trapped with Prohibited Trap**

Notwithstanding Sections 1001, 1002, 4002, 4004, 4007, 4008, 4009.5, 4030, 4034, 4042, 4152, 4180, or 4181:

(a) It is unlawful for any person to trap for the purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal with any body-gripping trap. 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.

(b) It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005, of any fur-bearing mammal or nongame mammal that was trapped in this state, with a body-gripping trap as described in subdivision (a).

(c) It is unlawful for any person, including an employee of the federal, state, county, or municipal government, to use or authorize the use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, protected mammal, or any dog or cat. The prohibition in this subdivision does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leghold trap is the only method available to protect human health or safety.

(d) For purposes of this section, fur-bearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997.

#### **§3003.2. Use of Sodium Fluoroacetate to Poison Any Animal Prohibited**

Notwithstanding Sections 4003, 4152, 4180, or 4180.1 of this code or Section 14063 of the Food and Agricultural Code, no person, including an employee of the federal, state, county, or municipal government, may poison or attempt to poison any animal by using sodium fluoroacetate, also known as Compound 1080, or sodium cyanide.

#### **§3003.5. Pursue, Drive, or Herd Any Bird or Mammal with Motorized Vehicle; Exceptions**

It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water, land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:

(a) On private property by the landowner or tenant thereof to drive or herd game mammals for the purpose of preventing damage by such mammals to private property.

(b) Pursuant to a permit from the department issued under such regulations as the commission may prescribe.

(c) In the pursuit of agriculture.

#### **§3032. Definitions; Hound Tag Program**

(1) "Bear" and "pursue" have the same meanings as defined in Section 3960.

(2) "Hound" means a dog used to pursue mammals.

(b) The commission may establish a hound tag program.

(c) If a hound tag program is established, the commission may require all of the following:

(1) That each hound be issued a license tag bearing a unique identifying number that is to be worn at all times by the hound while pursuing mammals.

(2) That all relevant local and state laws pertaining to dogs are being followed while the hound is being used to pursue mammals.

(3) That each hound be microchipped with an implanted transponder that has a unique identification code.

(4) That the owner maintain documentation showing that the hound is current on all required vaccinations and treatments for the prevention of rabies and any other disease specified by the department.

(5) That the owner report, within 24 hours of its last sighting, any hound that is lost during hunting, pursuing, or tracking activities.

(6) That the hound's tag identification number be recorded on the hunting tag of any animal taken using the services of the hound.

(d) If a hound tag program is established, the commission may adjust the amount of the fees for the hound tag as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to the program.

### **§3039. Sale or Purchase of Wild Animals; Exceptions**

(a) Except as otherwise provided in this section and Sections 3087 and 4303, or any other provision of this code, or regulations adopted pursuant thereto, it is unlawful to sell or purchase any species of bird or mammal or part thereof found in the wild in California.

(b) Products or handicraft items made from furbearing mammals and nongame mammals, their carcass or parts thereof, lawfully taken under the authority of a trapping license, may be purchased or sold at any time.

(c) Shed antlers, or antlers taken from domestically reared animals that have been manufactured into products or handicraft items, or that have been cut into blocks or units which are to be handcrafted or manufactured into those articles may be purchased or sold at any time. However, complete antlers, whole heads with antlers, antlers that are mounted for display, or antlers in velvet may not be sold or purchased at any time, except as authorized by Section 3087.

(d) Notwithstanding Section 3504, inedible parts of domestically raised game birds may be sold or purchased at any time.

(e) Any person who illegally takes any bird or mammal for profit or for personal gain by engaging in any activity authorized by this section is subject to civil liability pursuant to Section 2582.

### **§3960. Allow Dogs to Pursue Big Game Mammals; Conditions; Disposition of Dog**

(1) "Pursue" means pursue, run, or chase.

(2) "Bear" means any black bear (*Ursus americanus*) found in the wild in this state.

(b) It is unlawful to permit or allow any dog to pursue any big game mammal during the closed season on that mammal, to pursue any fully protected, rare, or endangered mammal at any time, to pursue any bear or bobcat at any time, or to pursue any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(c) (1) The department may take any of the following actions:

(A) Capture any dog not under the reasonable control of its owner or handler, when that uncontrolled dog is pursuing, in violation of this section, any big game

mammal, any bear or bobcat, or any fully protected, rare, or endangered mammal.

(B) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any big game mammal during the closed season on that mammal, and the department may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury on any bear or bobcat at any time, or any fully protected, rare, or endangered mammal at any time.

(C) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(2) No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section.

(3) This section does not apply to the use of dogs to pursue bears or bobcats by federal, state, or local law enforcement officers, or their agents or employees, when carrying out official duties as required by law.

(4) Owners of dogs with identification, that have been captured or dispatched, shall be notified within 72 hours after capture or dispatch.

### **§3960.2. Pursue Bear or Bobcat – Requirements for Permit; Requirements After Taking Bear; Sale of Parts of Bear; Submission of Skull to Department**

(a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, not more than three dogs may be used to pursue bears or bobcats pursuant to a depredation permit issued by the department, if all of the following conditions are met:

(1) The applicant demonstrates, in writing, that nonlethal and avoidance measures were undertaken prior to requesting the depredation permit.

(2) The applicant demonstrates, in writing, the specific need for the use of dogs in carrying out the depredation permit.

(3) The depredation permit authorizing the use of dogs is valid for the take of one bear or one bobcat.

(4) The depredation permit authorizing the use of dogs is valid for a period not to exceed 20 consecutive days.

(5) The depredation permit specifies the name and address of any dog handler who will be utilized in the pursuit or taking.

(6) The dog handler has the depredation permit in his or her possession at all times during the pursuit or taking.

(7) The dog handler does not pursue a bear or bobcat more than one mile off the property on which the depredation activity occurred.

(c) After any taking of a bear, the applicant is required to submit the skull to the department as described in the department's Black Bear Management Plan. No part of any bear taken pursuant to a depredation permit may be sold, purchased, or possessed for sale, as described in Section 4758.

(d) No holder of a depredation permit may solicit or receive compensation from any person in exchange for carrying out the terms of the permit. For these purposes,



“compensation” means remuneration paid in money, property, or anything else of value.

(e) The holder of a depredation permit, within 30 days of its issuance, shall report to the department detailing the use of the permit and the results of any pursuits, including information about bear or bobcat pursued and whether the bear or bobcat was or was not harmed, but not killed.

**§3960.4. Use of Dogs to Pursue Bears or Bobcats for Scientific Research; Requirements for Permit: Memorandum of Understanding Required**

(a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, the department may authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to use dogs to pursue bears or bobcats for the purpose of scientific research, provided that the research project is designed to do all of the following:

(1) Contribute to knowledge of natural wildlife ecosystems.

(2) Follow best practices and minimize disruptions in the lives and movements of bears, bobcats, and other wildlife, as well as impacts to the habitat while maintaining the applicant’s objectives.

(3) Directly or indirectly support the sustainability and survival of bear or bobcat populations and healthy ecosystems.

(4) Not include the intentional injury or killing of any bear or bobcat.

(5) Not include the intentional relocation of any bear or bobcat other than to areas suitable to them in the state. Any relocation shall comply with the requirements of Section 4190.

(c) Any research project authorized pursuant to subdivision (b) shall be undertaken pursuant to a memorandum of understanding between the department and the authorized research entity that addresses all of the following:

(1) Trapping and anesthetizing of the animals pursued, collection of diagnostic samples, attaching or surgically implanting monitoring or recognition devices or markings, and providing veterinary care or euthanasia, as required, for the health, safety, and humane treatment of the animals.

(2) Qualifications of onsite field supervisors necessary for carrying out authorized research procedures.

(3) Immediate reporting of any incidental mortality or injury to a bear or bobcat as a result of authorized research activities. Reports of any incidental mortality or injury to a bear or bobcat shall be made available to the public upon request.

(4) Filing of annual and final progress reports of research involving pursuit by dogs. Annual and final progress reports shall be made available to the public upon request.

(d) The department shall provide notice to the public of any bear or bobcat research project authorized pursuant to subdivision (b) at least 30 days prior to its initiation, and, upon request, shall make available to the

public copies of the memorandum of understanding between the department and the authorized research entity required pursuant to subdivision (c).

**§3960.6. Pursuit of Bears or Bobcats by Dogs Guarding or Protecting Livestock or Crops; Limitations**

(a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, the pursuit of bears or bobcats by dogs that are guarding or protecting livestock or crops on property owned, leased, or rented by the owner of the dogs, is not prohibited if the dogs are maintained with, and remain in reasonable proximity to, the livestock or crops being guarded or protected.

**§4000. Definition of Fur-bearing Mammals**

The following are fur-bearing mammals: pine marten, fisher, wolverine, mink, river otter, gray fox, cross fox, silver fox, red fox, kit fox, raccoon, beaver, badger, and muskrat.

**§4002. Methods for taking fur-bearing Mammals**

Fur-bearing mammals may be taken only with a trap, a firearm, bow and arrow, poison under a proper permit, or with the use of dogs.

**§4003. Use of Poison to Take – Permit Required**

It is unlawful to use poison to take fur-bearing mammals without a permit from the department. The department may issue such a permit upon a written application indicating the kind of poison desired to be used and the time and place of use.

**§4004. Unlawful Methods of Taking**

It is unlawful to do any of the following:

(a) Use a steel-jawed leghold trap, or use any trap with saw-toothed or spiked jaws.

(b) Use a body-gripping trap, as defined in subdivision (a) of Section 3003.1, for the purpose of recreation or commerce in fur.

(c) Set or maintain traps that do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency, except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner specified by the department. No registration fee shall be charged pursuant to this subdivision.

(d) Fail to visit and remove all animals from traps at least once daily. If the trapping is done pursuant to Section 4152 or 4180, the inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

(e) Use a conibear trap that is larger than 6 inches by 6 inches, unless partially or wholly submerged in water. Unless prohibited by the department as a permit condition, a lawfully set conibear trap that is 10 inches by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5 of Title 14 of the California Code of Regulations.

(f) When any conibear trap is set on publicly owned land or land expressly open to public use, fail to post signs at every entrance and exit to the property indicating the presence of conibear traps and at least four additional signs posted within a radius of 50 feet of the trap, one in each cardinal direction, with lettering that is a minimum of three inches high stating: "Danger! Traps Set For Wildlife. Keep Out." Signs shall be maintained and checked daily.

(g) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set partially or wholly submerged in water for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.

#### **§4005. Take with Traps or Sell Raw Furs; License Required**

(a) Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license. "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.

(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. No person shall be issued a license until he or she has passed a test of his or her knowledge and skill in this field.

(c) Persons trapping mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license except when providing trapping services for profit.

(d) No raw furs taken by persons providing trapping services for profit may be sold.

(e) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, are exempt from the license requirement of this section.

#### **§4006. License Fees**

(a) A trapping license shall be issued as follows:

(1) To any resident of this state over the age of 16 years upon payment of a base fee of forty-five dollars (\$45), as adjusted under Section 713.

(2) To any resident of this state under the age of 16 years upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713.

(3) To any person not a resident of this state upon payment of a base fee of two hundred twenty-five dollars (\$225), as adjusted under Section 713.

(b) A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license to California residents. Also, a nonresident issued a license under

this subdivision may take only those species, and may take or possess only that quantity of a species that a resident of California may take or possess under a nonresident trapping license or permit in the state of residence of that nonresident.

(c) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

#### **§4007. License Term and Authorizations**

A trapping license authorizes the person to whom it is issued to take, during the open season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of such term, for the remainder thereof and to sell the raw fur of any such animal.

#### **§4008. License Applicant's Statement of Previous Trapping, etc.**

No trapping license shall be issued to any applicant within one year following the expiration of any trapping license previously issued to such applicant unless he has submitted to the department a sworn statement showing the number of each kind of fur-bearing mammals and nongame mammals taken under the previous license and the names and addresses of the persons to whom they were shipped or sold.

#### **§4009. Traps; Remove or Disturb**

It is unlawful to remove or disturb the trap of any licensee while the trap is being used by the licensee on public land or on land where the licensee has permission to trap. This section does not apply to any employee of the department while engaged in the performance of official duties.

#### **§4009.5. Trapping License – Adoption of Regulations by Commission**

The commission may adopt such regulations as it determines to be necessary to regulate the taking and sale of fur-bearing mammals or nongame mammals taken under a trapping license.

#### **§4010. Confined Fur-bearing Mammals**

The provisions of this chapter do not apply to, or prohibit the propagation of, fur-bearing mammals which are confined in accordance with the regulations of the commission.

#### **§4011. Taking of Mammals Involved in Dangerous Disease Outbreaks**

(a) Fur-bearing mammals, game mammals, and nongame mammals, when involved in dangerous disease outbreaks, may be taken by duly constituted officials of any of the following:

- (1) The United States Department of Agriculture.
- (2) The United States Department of the Interior.
- (3) The United States Department of Health and Human Services.
- (4) The Department of Food and Agriculture.
- (5) The State Department of Public Health.
- (6) The department.

(b) A county official may take fur-bearing mammals, game mammals, and nongame mammals pursuant to this section, upon the prior approval of the director or his or her designee and in a manner approved by the director or his or her designee.

#### **§4012. Taking of Fox for Profit**

It is unlawful to take any cross fox, silver fox, or red fox for profit making purposes.

#### **§4030. License Requirements for Fur Dealer**

Every person engaging in, carrying on, or conducting wholly or in part the business of buying, selling, trading or dealing in raw furs of fur-bearing mammals or nongame mammals is a fur dealer and shall procure a fur dealer license. No fur dealer license shall be required of a licensed trapper selling raw furs which he has lawfully taken, or a domesticated game breeder selling raw furs of animals which he has raised.

#### **§4031. License Fee**

A revocable fur dealer license shall be issued to any person upon payment of a base fee of seventy dollars (\$70), as adjusted under Section 713.

#### **§4032. License Requirements for Fur Agent**

Any person who is employed by a licensed fur dealer to engage in the business of buying, selling, trading, or dealing in raw furs only on behalf of the fur dealer and not on his own behalf is a fur agent and shall procure a fur agent license.

#### **§4033. Fur Agent Revocable License**

A revocable fur agent license shall be issued to any person who is employed by a licensed fur dealer upon payment of a base fee of thirty-five dollars (\$35), as adjusted under Section 713.

#### **§4034. Authority and Term of Fur Dealer License**

A fur dealer license authorizes the person to whom it is issued to buy, sell, barter, exchange, or possess raw furs or parts thereof of fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of such term, for the remainder thereof.

#### **§4035. Display of Licenses**

A fur dealer or fur agent license shall be shown upon request to any person authorized to enforce the provisions of this code.

#### **§4036. Raw Fur Purchase Restrictions**

It shall be unlawful for any fur dealer to purchase the raw fur of any fur-bearing mammal or nongame mammal from any person who does not hold a valid trapping license, fur dealer license, or fur agent license.

#### **§4037. Raw Fur Transfer Record Requirements**

Every fur dealer licensed pursuant to this article shall maintain a true and legible record of any transfer of raw furs to show:

(a) The license number, name, and address of the seller.

(b) The signature, name, and license number, if applicable, of the buyer.

(c) The number and species of raw furs transferred, by county of take.

(d) The price paid or terms of exchange.

(e) The date of transfer.

(f) Such other information as the department may require.

#### **§4038. Records – Available for Inspections at All Times**

The record of sale, exchange, barter, or gift shall be available for inspection at any time by the department.

#### **§4040. Annual Report by Dealers of Fur Transfers**

Each licensed fur dealer shall submit an annual report to the department on the sale, exchange, barter, or gift of raw furs, on forms furnished by the department. No license shall be renewed until such a report is received.

#### **§4041. Confidentiality of Receipts, Records, and Reports**

The receipts, records, and reports required by this article and the information contained therein, shall be confidential, and the records shall not be public records. Any information which is published shall be published in such a manner as to preserve confidentiality of the persons involved.

#### **§4042. Regulation of Raw Fur Business by Commission**

The commission may regulate the business of buying, selling, trading, or dealing in raw furs, or parts thereof, of all fur-bearing mammals or nongame mammals under a fur dealer license.

#### **§4043. License Revocation**

Any license issued under this chapter may be revoked by the commission at one of the commission's regularly scheduled meetings, upon the licensee's conviction of a violation of this article.

#### **§4150. Definition of Nongame Mammals; Take or Possess**

All mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals, are nongame mammals. Nongame mammals or parts thereof may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

#### **§4152. Taking of Nongame Mammals Found Injuring Crops or Property**

Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code by the owner or tenant of the premises or employees thereof, except that if leghold steel-jawed traps are used to take those mammals, the traps and the use thereof shall be in accordance with subdivisions (a), (b), and (d) of Section 4004. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city, officers or employees when acting in their official capacities pursuant to the provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section

are exempt from the requirements of Section 3007. Raw furs, as defined in Section 4005, that are taken under this section, may not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the trap shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

#### **§4155. Bobcat Protection Act of 2013**

(a) Beginning January 1, 2014, it shall be unlawful to trap any bobcat, or attempt to do so, or to sell or export any bobcat or part of any bobcat taken in the area surrounding Joshua Tree National Park, defined as follows: East and South of State Highway 62 from the intersection of Interstate 10 to the intersection of State Highway 177; West of State Highway 177 from the intersection of State Highway 62 to the intersection with Interstate 10; North of Interstate 10 from State Highway 177 to State Highway 62.

(b) (1) Through the commission's next regularly scheduled mammal hunting and trapping rulemaking process occurring after January 1, 2014, the commission shall amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries of each national or state park and national monument or wildlife refuge in which bobcat trapping is prohibited.

(2) Commencing January 1, 2016, the commission shall consider whether to prohibit bobcat trapping within, and adjacent to, preserves, state conservancies, and any additional public or private conservation areas identified to the commission by the public as warranting protection. The commission, as necessary, shall amend its regulations through its next subsequently scheduled mammal hunting and trapping rulemaking process to prohibit bobcat trapping in any area determined by the commission to warrant protection.

(3) The commission shall delineate the boundaries of an area in which bobcat trapping is prohibited pursuant to paragraph (1) or (2) using readily identifiable features, such as highways or other major roads, such as those delineated for Joshua Tree National Park in subdivision (a).

(c) The prohibition on the trapping of bobcats in the areas designated pursuant to subdivisions (a) and (b) shall not apply to the taking of any bobcat by employees of the department acting in an official capacity, to a taking in accordance with the conditions of a scientific, educational, or propagation permit pursuant to Section 1002 by the holder of that permit, or to the lawful taking of bobcats found to be injuring crops or other property pursuant to Section 4152 or other provisions of this code or regulations adopted pursuant to this code.

(d) Notwithstanding Section 2016 or any other provisions of this code, on and after January 1, 2014, it shall be unlawful to trap any bobcat, or attempt to do so, on any private land not belonging to the trapper without the express written consent of the owner of that property. The placing or possession of any trap or the possession of a bobcat or part thereof on any land is prima facie evidence of a violation of this subdivision.

(e) Consistent with the requirements of subdivision (c) of Section 4006, the commission shall set trapping

license fees and associated fees, including, but not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for the 2014-15 season, and any subsequent seasons in which bobcat trapping is allowed, at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.

(f) This section does not limit the ability of the department or the commission to impose additional requirements, restrictions, or prohibitions related to the taking of bobcats, including a complete prohibition on the trapping of bobcats pursuant to this code.

#### **§4180. Take Fur-bearing Mammals; Conditions; Use of Leghold Steel-jawed Traps; Removal of Animals in the Trap**

(a) Except as provided in Section 4005, fur-bearing mammals that are injuring property may be taken at any time and in any manner in accordance with this code, except that if leghold steel-jawed traps are used to take those mammals, the traps and the use thereof shall be in accordance with subdivisions (a), (b), and (d) of Section 4004. Raw furs, as defined in Section 4005, that are taken under this section, may not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the trap shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

##### **§4180.1. Manners of Taking Immature Depredator Mammals**

It is unlawful to use snares, hooks, or barbed wire to remove from the den, or fire to kill in the den, any immature depredator mammal.

Nothing in this section shall prohibit the use of fire-ignited gas cartridges or other products registered or permitted under the Federal Insecticide, Rodenticide, and Fungicide Act (7 U.S.C. 135 et seq.).

#### **§4700. Take or Possess Fully Protected Mammals Prohibited**

(a) (1) Except as provided in Section 2081.7 or 2835, fully protected mammals or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected mammal, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully

protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected mammals or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

(2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (*Mirounga angustirostris*).

(4) Guadalupe fur seal (*Arctocephalus townsendi*).

(5) Ring-tailed cat (genus *Bassariscus*).

(6) Pacific right whale (*Eubalaena sieboldi*).

(7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

(8) Southern sea otter (*Enhydra lutris nereis*).

(9) Wolverine (*Gulo luscus*).

#### California Code of Regulations, Title 14 Excerpts

#### **§460. Fisher, Marten, River Otter, Desert Kit Fox and Red Fox.**

Fisher, marten, river otter, desert kit fox and red fox may not be taken at any time.

#### **§461. Badger and Gray Fox.**

(a) Badger may be taken as follows:

(1) Season and Area: November 16 through the last day of February, statewide.

(2) Bag and Possession Limit: No limit.

(b) Gray fox may be taken as follows:

(1) Season and Area: November 24 through the last day of February, statewide.

(2) Bag and Possession Limit: No limit.

(3) Dogs may be permitted to pursue gray fox in the course of breaking, training, or practicing dogs in accordance with the provisions of Section 265 of these regulations.

#### **§462. Muskrat and Mink.**

Except as noted in Section 4180, Fish and Game Code, muskrat and mink may be taken only as follows:

Season and Area: November 16 through March 31, statewide. (This regulation supersedes Section 4001 of the Fish and Game Code.)

Bag and Possession Limit: No limit.

#### **§463. Beaver.**

Beaver may be taken only as follows:

(a) Season and Area: November 1 through March 31 in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado,

Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Monterey, Nevada (except Sagehen Creek), Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba; and those portions of Riverside and San Bernardino counties within 10 miles of the Arizona-California border. (This regulation supersedes Section 4001 of the Fish and Game Code.)

Bag and Possession Limit: There is no bag or possession limit in these areas for the taking of beaver.

(b) Beaver or any part thereof may not be taken in the balance of the state including the counties of Los Angeles, Marin, Mendocino, Napa, Orange, San Benito, San Diego, San Francisco, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sonoma, and Ventura; and those portions of Riverside and San Bernardino counties further than 10 miles from the California-Arizona border. (This regulation supersedes Section 4001 of the Fish and Game Code.)

#### **§464. Raccoon.**

(a) Seasons and Areas:

(1) Raccoon may be taken from July 1 through March 31 in the following area: All of Imperial County and those portions of Riverside and San Bernardino counties lying south and east of the following line: Beginning at the intersection of Highway 86 with the north boundary of Imperial County; north along Highway 86 to the intersection with Interstate 10; east along Interstate 10 to its intersection with the Cottonwood Springs Road in Section 9, T6S, R11E, S.B.B.M.; north along the Cottonwood Springs Road and the Mecca Dale Road to Amboy; east along Highway 66 to the intersection with Highway 95; north along Highway 95 to the California-Nevada state line.

(2) November 16 through March 31 in the balance of the state.

(b) Bag and Possession Limit: No limit.

(c) Method of Take: When taking raccoon after dark, pistols and rifles not larger than .22 caliber rim fire and shotguns using shot no larger than No. BB are the only firearms which may be used during this night period. (This regulation supersedes Sections 4001 and 4002 of the Fish and Game Code.) (See Sections 264 and 264.5 for light regulations.)

(d) Dogs may be permitted to pursue raccoons in the course of breaking, training or practicing dogs in accordance with the provisions of Section 265 of these regulations.

#### **§465. Methods for Taking Furbearers.**

Furbearing mammals may be taken only with a firearm, bow and arrow, or with the use of dogs, or traps in accordance with the provisions of Section 465.5 of these regulations and Section 3003.1 of the Fish and Game Code.

#### **§465.5. Use of Traps.**

(a) Traps Defined. Traps are defined to include padded-jaw leg-hold, steel-jawed leg-hold, and conibear traps, snares, dead-falls, cage traps and other devices

designed to confine, hold, grasp, grip, clamp or crush animals' bodies or body parts.

(b) Affected Mammals Defined. For purposes of this section, furbearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997, in sections 3950, 4000, 4150 and 4700 of the Fish and Game Code.

(c) Prohibition on Trapping for the Purposes of Recreation or Commerce in Fur. It is unlawful for any person to trap for the purposes of recreation or commerce in fur any furbearing mammal or nongame mammal with any body-gripping trap. A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leg-hold traps, padded-jaw leg-hold 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 and may be used to trap for the purposes of recreation or commerce in fur any furbearing or nongame mammal.

(d) Prohibition on Exchange of Raw Fur. It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005 of the Fish and Game Code, of any furbearing mammal or nongame mammal that was trapped in this state, with a body-gripping trap as described in subsection (c) above.

(e) Prohibition on Use of Steel-jawed Leg-hold Traps by Individuals. It is unlawful for any person to use or authorize the use of any steel-jawed leg-hold trap, padded or otherwise, to capture any game mammal, furbearing mammal, nongame mammal, protected mammal, or any dog or cat.

(1) Exception for Extraordinary Case to Protect Human Health or Safety. The prohibition in subsection (e) does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leg-hold trap is the only method available to protect human health or safety.

(A) Leg-hold Trap Requirements. Leg-hold traps used to implement subsection (e)(1) must be padded, commercially manufactured, and equipped as provided in subsections (A)1. through (A)5. below.

1. Anchor Chains. Anchor chains must be attached to the center of the padded trap, rather than the side.

2. Chain Swivels. Anchor chains must have a double swivel mechanism attached as follows: One swivel is required where the chain attaches to the center of the trap. The second swivel may be located at any point along the chain, but it must be functional at all times.

3. Shock Absorbing Device. A shock absorbing device such as a spring must be in the anchor chain.

4. Tension Device. Padded leg-hold traps must be equipped with a commercially manufactured pan tension adjusting device.

5. Trap Pads. Trap pads must be replaced with new pads when worn and maintained in good condition.

(f) Use of Non-Body-Gripping Traps for Purposes of Recreation or Commerce in Fur. Any person who utilizes non-body-gripping traps for the take of furbearing

mammals and nongame mammals for purposes of recreation or commerce in fur must comply with the provisions of subsections (g)(1) through (3) below.

(1) Trap Number Requirement. Any person who traps furbearing mammals or nongame mammals shall obtain a trap number issued by and registered with the department. All traps, before being put into use, shall bear only the current registered trap number or numbers of the person using, or in possession of those traps. This number shall be stamped clearly on the trap or on a metal tag attached to the chain of the trap or to any part of the trap.

(g) Use of Conibear Traps, Snares, Cage and Box Traps, Nets, Suitcase-type Live Beaver Traps and Common Rat and Mouse Traps for Purposes Unrelated to Recreation or Commerce in Fur. Conibear traps, snares, cage and box traps, nets, suitcase-type live beaver traps and common rat and mouse traps may be used by individuals to take authorized mammals for purposes unrelated to recreation or commerce in fur, including, but not limited to, the protection of property, in accordance with subsections (1) through (5) below. Except for common rat and mouse traps, all traps used pursuant to this subsection must be numbered as required by subsection (f)(1) above. The prohibitions of subsections (c) and (d) above shall apply to any furbearing or nongame mammal taken by a conibear trap or snare pursuant to this subsection (g).

(1) Immediate Dispatch or Release. All furbearing and nongame mammals that are legal to trap must be immediately killed or released. Unless released, trapped animals shall be killed by shooting where local ordinances, landowners, and safety permit. This regulation does not prohibit employees of federal, state, or local government from using chemical euthanasia to dispatch trapped animals.

(2) Trap Visitation Requirement. All traps shall be visited at least once daily by the owner of the traps or his/her designee. Such designee shall carry on his/her person written authorization, as owner's representative, to check traps. In the event that an unforeseen medical emergency prevents the owner of the traps from visiting traps another person may, with written authorization from the owner, check traps as required. The designee and the person who issues the authorization to check traps shall comply with all provisions of Section 465.5. Each time traps are checked all trapped animals shall be removed.

(3) Trap Placement Requirement. Traps may not be set within 150 yards of any structure used as a permanent or temporary residence, unless such traps are set by a person controlling such property or by a person who has and is carrying with him written consent of the landowner to so place the trap or traps.

(4) Placement of Conibear Traps. Traps of the conibear-type with a jaw opening larger than 8" x 8" may be used only in sets where the trap is wholly or partially submerged in water or is:

(A) Within 100 feet of permanent water.

(B) Within 100 feet of seasonally flooded marshes, pastures, agricultural lands or floodways when standing or running water is present.

(C) Within the riparian vegetation zone, characterized by, but not limited to, willow, cottonwood, sycamore, salt cedar, cattail, bulrush and rushes, when found within the area defined in section 463(a) where the take of beaver is permitted.

(5) Zones Prohibited to the Use of Conibear-type Traps and Snares. Conibear-type traps and snares, except those totally submerged, and deadfall traps are prohibited in the following zones.

(A) Zone 1: Beginning at Interstate 5 and Highway 89, east on Highway 89 to Harris Springs Road near Bartle, north on Harris Springs Road (primary U.S. Forest Service Road 15) to Powder Hill Road (primary U.S. Forest Service Road 49), northeast on Powder Hill Road to Road 42N56, east on Road 42N56 to the Siskiyou/Modoc county line, north on the Siskiyou/Modoc county line to the boundary of the Lava Beds National Monument, north along the eastern boundary of the Lava Beds National Monument, then west then south along the western boundary of the Lava Beds National Monument to Road 46N21, west along Road 46N21 over Gold Digger Pass to the western boundary of the Modoc National Forest, south along the western boundary of the Modoc National Forest to the boundary of the Shasta National Forest, west along the northern boundary of the Shasta National Forest to Highway 97, southwest on Highway 97 to Interstate 5, northwest on Interstate 5 to Old Highway 99, northwest on Old Highway 99 to Stewart Springs Road, southwest on Stewart Springs Road to the Yreka Ditch, west along the Yreka Ditch to the Gazelle/Callahan Road, southwest on the Gazelle/Callahan Road to Highway 3, south on Highway 3 to Ramshorn Road, northeast on Ramshorn Road to Castle Creek Road, east on Castle Creek Road to Interstate 5, north on Interstate 5 to the point of beginning.

(B) Zone 2: Beginning in Tehama County at the intersection of Highway 36 and the western boundary of the Lassen National Forest, south along the western boundary of the Lassen National Forest to the boundary of the Plumas National Forest, south along the western boundary of the Plumas National Forest to the boundary of the Tahoe National Forest, south along the western boundary of the Tahoe National Forest to the boundary of the El Dorado National Forest, south along the western boundary of the El Dorado National Forest to the boundary of the Stanislaus National Forest, south along the western boundary of the Stanislaus National Forest to the boundary of the Sierra National Forest, south along the western boundary of the Sierra National Forest to the boundary of the Sequoia National Forest, south along the western boundary of the Sequoia National Forest to Highway 245, southwest on Highway 245 to Road 168, southwest on Road 168 to County Road J40, west on County Road J40 to Henderson Road, northwest on Henderson Road to Lincoln Avenue, west on Lincoln Avenue to Highway 145, north on Highway 145 to Avenue 7, west on Avenue 7 to Road 21, north on Road 21 to Avenue 12, west on Avenue 12 to Road 16, north on Road 16 to Avenue 18 1/2, west on Avenue 18 1/2 to Road 9, north on Road 9 to Highway 152, west on Highway 152 to Highway 59, north on Highway 59 to Highway 99, northwest on Highway 99 to

Highway 140, west on Highway 140 to Highway 33, north on Highway 33 to Interstate 5, north on Interstate 5 to County Road J4, west on County Road J4 to County Road J2, north on County Road J2 to Highway 4, west on Highway 4 to Lone Tree Way, west on Lone Tree Way to James Donlon Boulevard, west on James Donlon Boulevard to Somersville Road, south on Somersville Road to Nortonville Road, north on Nortonville Road to Kirker Pass Road, southwest on Kirker Pass Road to Clayton Road, southeast on Clayton Road to Mitchell Canyon Road, south on Mitchell Canyon Road to the boundary of Mount Diablo State Park, south along the western boundary of Mount Diablo State Park to Mt. Diablo Scenic Boulevard, south on Mt. Diablo Scenic Boulevard to Blackhawk Road, southeast on Blackhawk Road to Camino Tassajara, west on Camino Tassajara to Dougherty Road, south on Dougherty Road to Interstate 580, west on Interstate 580 to Interstate 680, south on Interstate 680 to Highway 84, northeast on Highway 84 to Holmes Street, south on Holmes Street to Wetmore Road, east on Wetmore Road to Arroyo Road, south on Arroyo Road to Del Valle Regional Park, southeast along the western boundary of Del Valle Regional Park to Arroyo Del Valle Creek, southeast on Arroyo Del Valle Creek to the Alameda/Santa Clara county line, east on the Alameda/Santa Clara county line to San Antonio Valley Road, south on San Antonio Valley Road to Del Puerto Canyon Road, east on Del Puerto Canyon Road to Santa Clara/Stanslaus county line, south along the Santa Clara/Stanslaus county line to the Santa Clara/Merced county line, south along the Santa Clara/Merced county line to the San Benito/Merced county line, south along the San Benito/Merced county line to Little Panoche Road, south on Little Panoche Road to Panoche Road, east on Panoche Road to New Idria Road, south along New Idria Road to Clear Creek Road, southwest on Clear Creek Road to Coalinga Road, southeast on Coalinga Road to Coalinga-Mineral Springs Road, south on Coalinga-Mineral Springs Road to Highway 198, east on Highway 198 to Parkfield Grade, south on Parkfield Grade to Vineyard Canyon Road, west on Vineyard Canyon Road to Highway 101, north on Highway 101 to Bradley Road, north on Bradley Road to Sargents Road, north on Sargents Road to Pancho Rico Road, west on Pancho Rico Road to Cattleman's Road, north on Cattleman's Road to Highway 198, west on Highway 198 to Highway 101, north on Highway 101 to County Road G13, northeast on County Road G13 to Highway 25, north on Highway 25 to Browns Valley Road, north on Browns Valley Road to Santa Anita Road, northwest on Santa Anita Road to Santa Ana Valley Road, north on Santa Ana Valley Road to Fairview Road, north on Fairview Road to Highway 156, north on Highway 156 to Highway 152, southwest on Highway 152 to County Road G7, southwest on County Road G7 to Highway 25, west on Highway 25 to Highway 101, south on Highway 101 to the San Benito/Monterey county line, south on the San Benito/Monterey county line to Highway 146, west on Highway 146 to Highway 101, south on Highway 101 to Paraiso Springs Road, south on Paraiso Springs Road to County Road G17, south on County Road G17 to

County Road 16, northeast on County Road 16 to Central Avenue, southeast on Central Avenue to Highway 101, south on Highway 101 to County Road G14, south on County Road G14 to Milpitas Road, west on Milpitas Road to the boundary of Fort Hunter Liggett, south along the western boundary of Fort Hunter Liggett to the Nacimiento River, southeast along the Nacimiento River to Nacimiento Reservoir, southeast along the western boundary of Nacimiento Reservoir to Chimney Rock Road, south on Chimney Rock Road to Klau Mine Road, south on Klau Mine Road to Adelaida Road, east on Adelaida Road to Vineyard Drive, southeast on Vineyard Drive to Highway 101, south on Highway 101 to Highway 41, east on Highway 41 to Highway 229, south on Highway 229 to Creston O'Donovan Road, southeast on Creston O'Donovan Road to Highway 58, east on Highway 58 to the boundary of the Los Padres National Forest, south and east along the eastern boundary of the Los Padres National Forest to Highway 33, south on Highway 33 to Quatal Canyon Road, east on Quatal Canyon Road to Cerro Noroeste Road, east on Cerro Noroeste Road to Cuddy Valley Road, east on Cuddy Valley Road to Interstate 5, north on Interstate 5 to Wheeler Ridge Road, east on Wheeler Ridge Road to Laval Road, east on Laval Road to Rancho Road, north on Rancho Road to Sycamore Road, east on Sycamore Road to Tejon Highway, north on Tejon Highway to Highway 223, northeast on Highway 223 to Highway 58, east on Highway 58 to Caliente Bodfish Road, north on Caliente Bodfish Road to Highway 155, northeast then west on Highway 155 to the eastern boundary of the Sequoia National Forest, north and east along the southern boundary of the Sequoia National Forest to the Dome Land Wilderness, north along the eastern boundary of the Dome Land Wilderness to the boundary of the Inyo National Forest, north along the eastern boundary of the Inyo National Forest west of Highway 395 to the intersection of Inyo National Forest and Highway 395 near Sherwin Summit in Mono County, north on Highway 395 to the California/Nevada state line, north on the California/Nevada state line to Highway 395 in Sierra County, north on Highway 395 to Long Valley Road, south on Long Valley Road to the boundary of the Toiyabe National Forest, west along the Toiyabe National Forest boundary to the Tahoe National Forest boundary, west then south then west then north along the Tahoe National Forest boundary to the Plumas National Forest boundary, north then east then north along the eastern boundary of the Plumas National Forest to the Lassen National Forest boundary, north along the eastern boundary of the Lassen National Forest to the northern boundary of the Lassen National Forest, west along the northern boundary of the Lassen National Forest to the western boundary of the Lassen National Forest, south along the western boundary of the Lassen National Forest to the point of beginning.

(h) Statutory Penalty for Violation of Provisions. Violation of Section 3003.1 or 3003.2 of the Fish and Game Code, or any rule or regulation, including this Section 465.5 adopted pursuant thereto, is punishable by a fine of not less than three hundred dollars (\$300) or more than two thousand dollars (\$2,000), or by

imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

#### **§467. Trapping Reports.**

All holders of trapping licenses must submit to the department a sworn statement or report by July 1 of his/her annual take of fur for the preceding trapping season. Statement or report shall show the number of each kind of furbearing mammals and nongame mammals taken, number sold, county in which furs were taken and the names and addresses of the persons to whom furs were shipped or sold. If the annual report is not received by July 1 following the most recent trapping year, or if it is not completely filled out, the trapper's license will be suspended. The commission shall be notified of any suspension and, subsequently, may revoke or reinstate applicant's license renewal application after written notice is given to the applicant and after he has been afforded an opportunity to be heard.

#### **§472. General Provisions.**

Except as otherwise provided in Sections 478 and 485 and subsections (a) through (d) below, nongame birds and mammals may not be taken.

(a) The following nongame birds and mammals may be taken at any time of the year and in any number except as prohibited in Chapter 6: English sparrow, starling, coyote, weasels, skunks, opossum, moles and rodents (excluding tree and flying squirrels, and those listed as furbearers, endangered or threatened species).

(b) Fallow, sambar, sika, and axis deer may be taken only concurrently with the general deer season.

(c) Aoudad, mouflon, tahr, and feral goats may be taken all year.

(d) American crows (*Corvus brachyrhynchos*) may be taken only under the provisions of Section 485 and by landowners or tenants, or by persons authorized in writing by such landowners or tenants, when American crows are committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance. Persons authorized by landowners or tenants to take American crows shall keep such written authorization in their possession when taking, transporting or possessing American crows. American crows may be taken only on the lands where depredations are occurring or where they constitute a health hazard or nuisance. If required by Federal regulations, landowners or tenants shall obtain a Federal migratory bird depredation permit before taking any American crows or authorizing any other person to take them.

American crows may be taken under the provisions of this subsection only by firearm, bow and arrow, falconry or by toxicants by the Department of Food and Agriculture for the specific purpose of taking depredating crows. Toxicants can be used for taking crows only under the supervision of employees or officers of the Department of Food and Agriculture or federal or county pest control officers or employees acting in their official capacities and possessing a qualified applicator certificate issued pursuant to sections 14151-14155 of



the Food and Agriculture Code. Such toxicants must be applied according to their label requirements developed pursuant to sections 6151-6301, Title 3, California Code of Regulations.

#### **§473. Possession of Nongame Animals.**

Any nongame bird or mammal that has been legally taken pursuant to this chapter may be possessed.

#### **§474. Hours for Taking.**

Nongame mammals may be taken at any time except as provided in this section.

(a) Area Closed to Night Hunting. Nongame mammals may be taken only between one-half hour before sunrise and one-half hour after sunset in the following described area: Beginning at a point where Little Panoche Road crosses Interstate 5 near Mendota; south on Interstate 5 to Highway 198; east on Highway 198 to Highway 99; south on Highway 99 to Interstate 5; south on Interstate 5 to the Los Padres National Forest boundary in Section 8, T 9 N, R 19 W, S.B.B.M near Fort Tejon Historical Monument; west along the National Forest boundary to Cerro Noroeste Road; northwest on Cerro Noroeste Road to Highway 33-166; north on Highway 33-166 to the Soda Lake Road; northwest on the Soda Lake Road and on the Simmler Soda Lake San Diego Creek Road to Highway 58 at Simmler; west on Highway 58 to the Cammotti Shandon Road; north on the Cammotti Shandon Road to the Shandon San Juan Road; north on the Shandon San Juan Road to Highway 41; northeast on Highway 41 to the Cholame Valley Road; northwest on Cholame Valley Road and Cholame Road to the Parkfield Coalinga Road in Parkfield; north on Parkfield Coalinga Road and Parkfield Grade to Highway 198; northwest on Highway 198 to the Fresno-Monterey county line; north along the Fresno-Monterey county and Fresno-San Benito county lines to the Little Panoche Road; north and east on the Little Panoche Road to the point of beginning at Interstate 5.

This section does not pertain to the legal take of nongame mammals with traps as provided for by Sections 461-480 of these regulations, and by Sections 4000-4012, 4152 and 4180 of the Fish and Game Code. (This regulation supersedes Section 3000 of the Fish and Game Code.)

(b) On privately-owned property, not included in (a) above, nongame mammals may be taken from one-half hour after sunset to one-half hour before sunrise only by the landowner or his agents, or by persons who have in their immediate possession written permission issued by the landowner or tenant that states the permittee can trespass from one-half hour after sunset to one-half hour before sunrise on property under the ownership or control of such landowners or tenants.

(c) Fallow deer, axis deer, sambar deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only from one-half hour before sunrise to one-half hour after sunset.

#### **§475. Methods of Take for Nongame Birds and Nongame Mammals.**

Nongame birds and nongame mammals may be taken in any manner except as follows:

(a) Poison may not be used.

(b) Recorded or electrically amplified bird or mammal calls or sounds or recorded or electrically amplified imitations of bird or mammal calls or sounds may not be used to take any nongame bird or nongame mammal except coyotes, bobcats, American crows and starlings.

(c) Fallow deer, sambar deer, axis deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only with the equipment and ammunition specified in Section 353 of these regulations.

(d) Traps may be used to take nongame birds and nongame mammal only in accordance with the provisions of Section 465.5 of these regulations and sections 3003.1 and 4004 of the Fish and Game Code.

(e) No feed, bait or other material capable of attracting a nongame mammal may be placed or used in conjunction with dogs for the purpose of taking any nongame mammals. Nothing in this section shall prohibit an individual operating in accordance with the provisions of Section 465.5 from using a dog to follow a trap drag and taking the nongame mammal caught in that trap.

#### **§478. Bobcat.**

(a) It shall be unlawful to pursue, take or possess any bobcat without first procuring a hunting license and bobcat hunting tags. This section shall not apply to bobcats taken pursuant to Section 4152 of the Fish and Game Code and Section 401 of these regulations.

(b) Hunting: The pursuit, take, or possession of a bobcat under the authority of a hunting license and a bobcat hunting tag shall be in accordance with the provisions of Section 3960 of the Fish and Game Code, this Section, and sections 472, 473, 474, 475, 478.1 and 479 of these regulations. Bobcats may be taken statewide under the authority of a hunting license and bobcat hunting tags between October 15 through February 28. The bag and possession limit is five bobcats per season.

(c) Trapping: It shall be unlawful to trap any bobcat, or attempt to do so, or to sell or export any bobcat or part of any bobcat taken in the State of California. Any holder of a trapping license who traps a bobcat shall immediately release the bobcat to the wild unharmed.

#### **§478.1. Bobcat Hunting Tags.**

(a) Any person who possesses a valid hunting license may, upon payment of \$11.50, procure only five revocable, nontransferable bobcat hunting tags. Such tags shall be acquired at designated department offices. These tags do not act as shipping tags as required in Section 479 for pelts taken under a trapping license.

(b) Bobcat hunting tags are valid only during that portion of the current hunting license year in which bobcats may be legally harvested as provided in Section 478.

(c) The holder of a bobcat hunting tag shall fill in his/her name, address, and hunting license number prior to hunting, and carry the tag while hunting bobcats. Upon the harvesting of any bobcat, the hunter shall immediately fill out both parts of the tag and cut out and completely remove appropriate notches that clearly indicate the date of harvest. One part of the tag shall be immediately attached to the pelt and kept attached until

it is tanned, dried or mounted. The other part of the tag shall be sent immediately to the department.

(d) Possession of any untagged bobcat taken under the authority of the hunting license shall be a violation of this section except that the provisions of this section shall not apply to the owner or tenant of land devoted to the agricultural industry nor to authorized county, state or federal predatory animal control agents operating under a written trapping agreement with the appropriate landowner while on such land and in connection with such agricultural industry. It is unlawful for any person to sell, offer for sale, barter, trade, purchase, transport from this state, or offer for out-of-state shipment by any common carrier any bobcat pelts, or parts thereof taken pursuant to this provision.

(e) Any person who is convicted of violating any provision of this chapter shall forfeit his bobcat hunting tags, and shall not apply for additional tags during the then current hunting license year.

#### **§479. Bobcat Pelts.**

(a) Except for bobcats taken under a hunting license and tagged with a bobcat hunting tag as set forth in Section 478.1, or as provided in subsection 479(b), it shall be unlawful for any person to possess, whether for sale, export, or personal use, any bobcat pelt or part thereof taken in California without a department mark or shipping tag affixed to the pelt or part. Beginning November 20, 2015, the department shall not affix a department mark or shipping tag on any bobcat pelt.

(b) It is unlawful for any person to import, receive from out-of-state, or receive for sale, any bobcat pelt, or parts thereof that is not:

(1) Marked with the current export or shipping tag from the state of origin.

(2) Accompanied by an import declaration in accordance with Section 2353 of the Fish and Game Code, and specifying the number and kind of raw pelts in the shipment, the state in which the bobcats were taken, the license number under which they were taken and attesting that they were legally taken. Demonstration of the declaration of entry, pelt ownership and proof of legal take and marking is required of anyone receiving bobcat pelts from out-of-state upon the request of the department.

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
February 2, 2018

**Exhibit D**  
**AB 1213 Fiscal Impact Memo**

*[See attached.]*

### **AB 1213 FISCAL IMPACT (06/20/13 Version)**

This bill would require the Wildlife Branch to develop a regulatory package for the Commission to protect a number of national and state parks, monuments and national wildlife refuges from bobcat trapping as outlined in the bill. This would require 0.5 Environmental Scientist to identify numerous protection zones and create regulations. It would also require an additional two Fish and Game Wardens to conduct field surveillance of trap lines to determine if bobcats are unlawfully trapped. The additional wardens will also investigate incidents of bobcat commercialization.

The Department estimates the need for a total of 2.5 positions to develop the regulatory actions for the Commission stipulated in the bill and enforce the no trapping zones for bobcats. The bill stipulates that the Commission shall set trapping license fees for the 2014-2015 season and any subsequent seasons in which trapping is allowed, at a level necessary to fully recover all reasonable administrative and implementation costs of the Department and Commission associated with the trapping of bobcats in the state. The Department currently generates under one hundred thousand per year in trapping license and shipping tag fees. In fiscal year 2012-13, the Department issued 733 trapping licenses of which 723 were for residents (at \$115.50), 5 for non-residents (at \$549.25), and 5 for juniors (at \$37.34). The Department issues between one and three thousand shipping tags per year, each costing only \$3. These fees would need to be increased by about 2.5 times their current price to recover the minimal costs associated with the bill.

#### **Projected Costs by Expenditure Category**

<b>Expenditure Category</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>Funding</b>
Staffing	247,026	247,026	Fish & Game Preservation Fund
OE&E	94,741	94,741	Fish & Game Preservation Fund
One Time	263,306		Fish & Game Preservation Fund
Total Expenditures	605,073	341,767	Fish & Game Preservation Fund

#### **Projected Costs by Classification**

<b>Positions</b>	<b>Classification</b>	<b>Function</b>	<b>Estimated Costs</b>
2.0	Fish and Game Warden	Field surveillance of trap lines, Investigate bobcat commercialization	200,321
0.5	Environmental Scientist	Provide expertise on bobcat management	46,705
2.5	Totals		247,026

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
February 2, 2018

**Exhibit E**

**2014 Memo from C. Bonham to R. Bloom re: AB 1213**

*[See attached.]*



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
FISH AND GAME COMMISSION  
1416 Ninth Street  
Sacramento, CA 95814

**EDMUND G. BROWN JR., Governor**  
**CHARLTON H. BONHAM, Director**  
**SONKE MASTRUP, Executive Director**



June 13, 2014

The Honorable Richard H. Bloom  
Member of the Assembly, 50<sup>th</sup> District  
California State Capitol, Suite 2179  
Sacramento, CA 95814

Dear Assemblymember Bloom:

ASSEMBLY BILL 1213 (BOBCAT PROTECTION ACT OF 2013)

Thank you for your recent letter inquiring about the status of the California Department of Fish and Wildlife's (CDFW) and California Fish and Game Commission's (FGC) plans and efforts to implement the AB 1213 the Bobcat Protection Act of 2013. We have responded to your questions in the order you posed them.

1. *What measures have the Department and/or Commission taken to notify individuals holding trapping licenses for the 2013/14 season of this new provision?*

CDFW has posted information about the Joshua Tree National Park closure on its website: <http://www.dfg.ca.gov/wildlife/hunting/uplandgame/trappinginfo.html>. Individual communication with trappers regarding potential impacts to them from implementing the legislation and associated regulations continue to be provided through phone conversations and/or emails.

2. *What measures has the Department taken to enforce this provision of law?*

The various CDFW Law Enforcement Division squads located throughout the state have been educated about the requirements of this law and are enforcing it as part of regular patrol duties.

3. *What measures has the Department and/or Commission taken to come into compliance with these requirements?*

CDFW has completed a preliminary estimate (attached) regarding the scope of this effort and an estimate of the resources necessary to complete it. Given that this level of support is not currently available, CDFW is: 1) reassigning existing staff to develop maps of the potential closure areas; 2) updating harvest data to write the annual bobcat take report; and, 3) coordinating with FGC staff to develop an initial statement of reasons for regulations to fully implement the legislation.

4. *Will the setting of new trapping license fees for 2014/2015 be subject to a public process through Commission meetings or otherwise?*

*Conserving California's Wildlife Since 1870*



Yes. Outreach to constituents will take place this summer, including the September FGC Wildlife Resources Committee meeting. The public will have an opportunity to provide input at the FGC "notice" meeting currently scheduled for December 3, 2014. Public comments will be accepted in written form as well as public testimony at two subsequent FGC meetings. Final adoption of regulations is anticipated at the FGC's April 2015 meeting.

5. *What are the Department's estimated costs for administering, implementing and enforcing the trapping program, both overall and specifically as to bobcats?*

When AB 1213 was being considered by the legislature, CDFW estimated that it would cost an additional \$605,000 to administer, implement and enforce the provisions of the bill in its first year and \$342,000 annually thereafter, above and beyond its existing costs to administer, implement and enforce the overall trapping program.

6. *What are the Commission's estimated costs for administering and implementing the trapping program, both overall and specifically as to bobcats?*

Costs for administering and implementing the trapping program are primarily incurred through developing and amending regulations and through the appeals program. In general, this type of regulatory package is estimated to cost about \$10,000, future amendments needed to adjust or modify the program would cost in the range of \$5,000 to \$10,000, and individual permit or citation appeals cost on average \$3,000 - \$4,000 each for staff time and administrative hearing fees.

7. *How are the Department and Commission incorporating such costs into their calculations of the appropriate trapping license fee for 2014/2015?*

CDFW develops cost estimates that are based on cost recovery if fees are not specifically established in statute. These become fee proposals and are submitted to FGC for consideration. A preliminary analysis suggests that a trapping license would have to cost in excess of \$2,250 to cover CDFW program costs, well above the current \$111.00 license fee. These calculations do not include any costs incurred by FGC. Implementation of new fees will be included in the regulatory process expected to be completed and effective in 2015.

8. *On what schedule and by what process do the Department and Commission intend to implement these provisions of law and when do you anticipate there will be opportunities for public participation.*

Outreach to constituents will take place this summer, including the September FGC Wildlife Resources Committee meeting. The public will have an opportunity to

The Honorable Richard Bloom  
Member of the Assembly  
June 13, 2014  
Page 3

provide input at an FGC "notice" meeting currently scheduled for December 3, 2014. Public comments will be accepted in written form as well as public testimony at two subsequent FGC meetings. Final adoption of regulations is anticipated at the FGC's April 2015 meeting.

Thank you for the opportunity to provide this information. If you have any further questions please contact Susan LaGrande, Deputy Director for Legislation at 916-653-5581 or at [Susan.LaGrande@wildlife.ca.gov](mailto:Susan.LaGrande@wildlife.ca.gov).

Sincerely,



Charlton H. Bonham, Director  
California Department of Fish and Wildlife



Sonke Mastrup, Executive Director  
California Fish and Game Commission

Enclosure

cc: Dan Yparraguirre, Deputy Director  
CDFW Wildlife and Fisheries Division  
[Dan.yparraguirre@wildlife.ca.gov](mailto:Dan.yparraguirre@wildlife.ca.gov)

Mike Carion, Deputy Director  
CDFW Law Enforcement Division  
[Mike.carion@wildlife.ca.gov](mailto:Mike.carion@wildlife.ca.gov)

Susan LaGrande, Deputy Director  
CDFW Legislative Affairs Division  
[Susan.lagrande@wildlife.ca.gov](mailto:Susan.lagrande@wildlife.ca.gov)

Eric Loft, Ph.D., Chief  
CDFW Wildlife Branch  
[Eric.loft@wildlife.ca.gov](mailto:Eric.loft@wildlife.ca.gov)



**California Department of Fish and Wildlife**  
**Fiscal impact associated with implementation AB 1213**  
**The Bobcat Protection Act of 2013**

The Wildlife Branch will incur costs to develop a regulatory package for the Commission to protect a number of national and state parks, monuments and national wildlife refuges from bobcat trapping as outlined in the bill. This will require 0.5 Environmental Scientist to identify numerous protection zones and create regulations. It will also require an additional two Fish and Game Wardens to conduct field surveillance of trap lines to determine if bobcats are unlawfully trapped. The additional wardens will also investigate incidents of bobcat commercialization.

The Department estimates the need for a total of 2.5 positions to develop the regulatory actions for the Commission stipulated in the bill and to enforce the no trapping zones for bobcats. The bill required that the Commission set trapping license fees for the 2014-2015 season and any subsequent seasons in which trapping is allowed, at a level necessary to fully recover all reasonable administrative and implementation costs of the Department and Commission associated with the trapping of bobcats in the state. The Department currently generates under one hundred thousand per year in trapping license and shipping tag fees. In Fiscal Year 2012-2013, the Department issued 733 trapping licenses of which 723 were for residents (at \$115.50), 5 for non-residents (at \$549.25), and 5 for juniors (at \$37.34). The Department issues between one and three thousand shipping tags per year, each costing only \$3. These fees would need to be increased by about 2.5 times their current price to recover the minimal costs associated with the bill.

**Projected Costs by Expenditure Category**

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**California Fish and Game Commission**  
**Fiscal impact associated with AB 1213**  
**The Bobcat Protection Act of 2013**

The Fish and Game Commission (Commission) will also incur costs to develop and amend regulations as well to hear appeals for individual permits and citations. This type of regulatory package is estimated to cost approximately \$15,000 to \$20,000 (\$10,000 for initial development and \$5,000 to \$10,000 for amendments). Individual permits and citation appeals cost on average \$3,000 to \$4,000 each for staff time and administrative hearing fees.

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
April 5, 2018

**Exhibit 2**  
**2012 Department Notes on SB 1148**

*[See attached.]*

Fee Setting Meetings

11-29-2012

How do we estimate costs of enforcement, overhead

TRAPPING PROGRAM COSTS

KELP PROGRAM

1PY  $\rightarrow$  4PY

What is overhead?

Bus & contracts mgmt.

GIS (except for special projects)

HRB

ALDS

Accounting

Audits

Leg.

Budget

Executive

California Fish & Game Commission  
Re: Trapping License Fees Economic Analysis  
April 5, 2018

**Exhibit 3**

**2012 Department Notes re: SB 1148 Implementation**

*[See attached.]*

**Implementation Plan  
SB 1148 (Pavley)  
Fish and Game Commission:  
Department of Fish and Game**

**Summary of Legislation:** This is one of two bills enacted in 2012 that in part reflect the outcome of the Department of Fish and Game (the Department) Strategic Vision Process undertaken by the Department and the Natural Resources Agency. This bill enacts three major provisions that impact the Department:

**Fee authority**

This bill enacted a number of changes in how fees are to be set including:

- requires the Fish and Game Commission to adjust fees pursuant to changes in the implicit Price Deflator;
- requires the Fish and Game Commission to adjust the amount of the fee for a Lifetime Sportsman's License, to fully recover, but not exceed, all reasonable administrative implementation costs of the department and commission relating to the licenses;
- Fish and Game Code section 1050 enacts broad fee authority requiring the Fish and Game Commission and Department to adjust existing regulatory fees to recover all reasonable administrative and implementation costs for the program. The Fish and Game Commission can adjust statutorily set fees to cover costs, unless specifically prohibited. The Department can establish or adjust fees for filings, permits, determinations or other actions including filing fees, scientific collecting permits or streambed alteration agreements. Provides for 5 year phase in of fee adjustments;
- requires the Fish and Game Commission to adjust hunting license fees to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and the Fish and Game Commission relating to the licenses;
- requires the Fish and Game Commission to adjust trapping license fees to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and Fish and the Fish and Game Commission relating to the licenses;
- requires the Fish and Game Commission to adjust ocean enhancement stamp fees, both for anglers and Commercial Passenger Fishing Vessel's, to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and the Fish and Game Commission relating to the licenses;

- requires the Fish and Game Commission to adjust sport fishing license fees to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and the Fish and Game Commission relating to the licenses;
- requires the Fish and Game Commission to adjust commercial fishing license fees to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and the Fish and Game Commission relating to the licenses;
- requires the Fish and Game Commission to adjust commercial boat registration fees to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and the Fish and Game Commission relating to the licenses;
- requires the Fish and Game Commission to adjust commercial fish business license fees to fully recover, but not exceed, all reasonable administrative implementation costs of the Department and the Fish and Game Commission relating to the licenses;

### **Implementation Plan:**

This section of the bill creates the expectation that the Department and the Fish and Game Commission will use this authority to ensure that programs are adequately funded by users.

The Department is in the process of determining its priorities to implement fee adjustments.

Adjusting fees via regulation either through the Department or the Fish and Game Commission is time consuming. The workload involved in calculating the cost of the various fee supported programs is significant. No resources were identified for this purpose.

The Department is in the process of identifying a few fees to begin exercising this new authority. The intent is to pick a few fees, consumptive and non-consumptive, and go through the process of developing the model under which costs can be identified. It is important that this process is accurate, comprehensive and transparent. Once the model of determining the reasonable administrative and implementation costs is established the Department will identify the process it will use, including significant public and stakeholder involvement.

The Fish and Game Commission is a major component in this process and their staff will be involved in the evolution of this process. Regular updates will be provided during Fish and Game Commission meetings. The Fish and Game Commission is also authorized to adopt a fee structure that provides for phasing in new fees leading up to full cost recovery within five years. This will be helpful in brand new fees and in fees that have been significantly increased.

## ***Sample Form Email***

Dear California Fish and Game Commission,

I'm writing to urge you to ban night hunting of coyotes and the use of lethal traps and snares in territory that the California Department of Fish and Wildlife has identified as suitable wolf habitat -- some of which is occupied by wolves at immediate risk of injury or death posed by these activities. Because wolves are fully protected as endangered under both state and federal law, it is incumbent upon the Department and California Commission of Fish and Wildlife to prevent clear risk of harm or death to these magnificent, ecologically important animals.

The state has full authority to take this step; furthermore, a state precedent exists to ban night hunting and the use of lethal traps and snares in the habitat of other species protected under state and federal law. Such bans, still in place, were enacted by this commission to protect the highly endangered San Joaquin Valley kit fox and the Sierra Nevada red fox.

I'm also asking you to raise the fees which the state charges for trapping licenses and permits. State law requires that the administration of the state's trapping program be fully covered by those fees. However, the trapping program is not in compliance; state fees are minimal and as a result, taxpayers are shouldering most of the cost of program operations. The commission and department must comply with state law and raise the trapping fees to make the program self-funding. Most taxpayers, myself included, would be horrified to know that their money was being used to support a program and practice which is archaic, unethical and cruel.

Last year several conservation groups filed administrative petitions with the commission urging action on these two issues. But you have made little to no progress. This is unacceptable. With each passing day, wolves are placed at risk, coyotes are unethically shot, and taxpayers are unwittingly funding the killing of animals with cruel traps and snares.

Please take action and set the wheels in motion to enact the requested regulatory changes. Any continued delay leaves the lives of many species of wildlife, endangered and non-endangered alike, hanging in the balance.

Thank you for taking my concerns into consideration. I look forward to hearing from you.

Sincerely,

Brian Tindall