

## STAFF SUMMARY FOR JUNE 24-25, 2020

**4. DELEGATIONS TO STAFF****Today's Item**Information Action 

Discuss and potentially approve delegations to the executive director to ensure staff can perform necessary responsibilities.

**Summary of Previous/Future Actions**

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|--|--|
| • Received draft delegations for consideration | Feb 21, 2020; Sacramento                       |
| • Continued item to a future FGC meeting       | Apr 15-16, 2020; Teleconference                |
| • <b>Today's potential approval</b>            | <b>Jun 24-25, 2020; Webinar/teleconference</b> |

**Background**

FGC's authorities require daily actions to meet its responsibilities and, hence, it employs an executive director and other staff to assist in conducting FGC's operations. Staff reviewed its delegated authorities from FGC and determined that it would be advisable to develop a more complete list of delegated tasks.

Staff presented a list to FGC at its Feb 21, 2020 meeting as a draft for initial consideration and to receive feedback; staff subsequently made several non-substantive revisions to the list and three substantive revisions:

1. added sections 1.h and 1.i regarding noticing amendments to rulemaking files and adopting, amending or repealing regulations consistent with FGC decisions;
2. added new sections 13.d and 13.e regarding reviewing and analyzing reports and declarations and circulating draft documents related to the California Environmental Quality Act; and
3. added a new section 19 regarding executing non-substantive amendments to leases for kelp beds or leases for state water bottoms.

The revised list of proposed delegations is in Exhibit 1.

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** Adopt the draft delegations to the executive director as proposed.

**Exhibits**

1. [Delegations to the Executive Director](#), draft dated Jun 12, 2020

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the draft document as the Commission's delegations to its executive director.

# California Fish and Game Commission

## Delegations to the Executive Director

*June 12, 2020 DRAFT*

The California Fish and Game Commission (Commission) has a wide range of responsibilities, some general in nature and some very specific. While the Commission meets at least once per month via committee or regular meetings, its authorities require daily actions to meet its responsibilities and, hence, employs an executive director and other staff to assist in conducting the Commission's operations.

The Commission believes that inherent in the employment of its executive director and other staff, those staff members have authority to carry out functions to help the Commission fulfill its responsibilities. However, the Commission adopts this document to explicitly authorize and ensure that its staff has the ability to maintain full functionality of the Commission. By adopting this document, the Commission grants power for future actions and ratifies past staff action consistent with this grant.

### **Conditions of Delegations**

1. The Commission reserves the power to continue to exercise all lawful authority and this action is not a relinquishment of any such authority.
2. The delegations herein are not exclusive and the Commission reserves the power to delegate other powers by other means on a temporary or permanent basis
3. These delegations do not supersede any previous delegations (including authority in regulation such as CESA petition processing in Section 670.1, regulatory petition processing in Section 662, and adding meeting agenda items in Section 665(a)(3)(B)4.).
4. The executive director is granted the power to further delegate to other Commission staff or legal counsel the authority provided herein to the extent not expressly prohibited by this delegation, or not expressly prohibited by law.
5. The executive director shall report to the Commission at each regular meeting on important delegated actions.

### **Delegations**

The Commission hereby grants authority upon its executive director for the functions listed herein.

### **Regulations**

1. Perform all functions necessary to carry out decisions of the Commission regarding regulatory actions; those functions include, but are not limited to:
  - a. Prepare and submit notices and other documents to the Office of Administrative Law (OAL) consistent with Commission action on a regulatory agenda item.
  - b. Communicate with OAL regarding submissions and responding to issues raised by OAL or the public.
  - c. Withdraw rulemaking submissions in response to OAL objections or proposed objections and resubmit revised documents addressing OAL issues or concerns

- d. Develop final statements of reason and associated responses to public comments.
- e. Draft and file statements of proposed emergency regulatory action, consistent with Commission actions.
- f. Submit to OAL amendments to Commission regulations in response to a final determination regarding the listing status of a species under the California Endangered Species Act.
- g. Submit to OAL amendments to Commission regulations for auto-conforming to federal regulations.
- h. Provide notice of amendments to the regulation or the rulemaking file pursuant to sections 11346.8 and 11347.1 after the Commission's final decision.
- i. Adopt, amend, or repeal a regulation consistent with a final decision and any notice provided in h. above.

### ***Adjudicatory Matters***

- 2. Issue warnings in lieu of instituting a discretionary suspension or revocation of any license or permit.
- 3. Issue notice of revocation for instances of non-discretionary revocation (such as that under California Fish and Game Code Section 12155).
- 4. Assign hearing officers for the conduct of hearings on adjudicatory matters pending before the Commission (with a proposed decision resulting for the Commission's final consideration).
- 5. Entry of any orders that do not terminate the proceeding either in response to a party's motion or without prompting.
- 6. Issue notices regarding the status of adjudicatory matters pending before the Commission.
- 7. Reject untimely appeals.
- 8. Enter orders terminating any proceeding in response to settlement of the parties or in an otherwise uncontested matter.

### ***Ongoing and Pending Litigation***

- 9. Accept service of process on behalf of the Commission.
- 10. Refer litigation to the Office of the California Attorney General and request representation.
- 11. Make procedural determinations related to litigation strategy.
- 12. Negotiate terms of settlements in response to offers from other parties (with final approval reserved to the Commission).

### ***California Environmental Quality Act***

- 13. All actions necessary to comply with the California Environmental Quality Act (CEQA), the guidelines generally implementing CEQA, and the Commission's Certified Regulatory Program approved under CEQA, except that the following authority is not delegated: (1) reviewing and considering a final environmental impact report (EIR or a functional equivalent document under the Commission's Certified Regulatory Program) or approving

a negative declaration or mitigated negative declaration prior to approving a project, (2) making findings as required by Section 21081 of the Public Resources Code, and (3) approving a project under CEQA. This delegation includes but is not limited to:

- a. Determining whether a project is exempt.
- b. Conducting or causing to be conducted an initial study and deciding whether to prepare a draft EIR or negative declaration.
- c. Preparing a negative declaration, mitigated negative declaration, or EIR.
- d. Independently reviewing and analyzing any report or declaration required by CEQA that is prepared by anyone other than the Commission or its staff to determine whether those documents reflect the independent judgment of the Commission.
- e. Circulating draft documents that reflect the Commission's independent judgment.
- f. Determining that a negative declaration has been completed within a period of 180 days.
- g. Preparing responses to comments on environmental documents.
- h. Filing notices.

### ***Contracts and Procurement***

14. Obligate and manage Commission funds and all associated processing for the expenditure of those funds.
15. Execute contracts and amendments to contracts on behalf of the Commission or authorize the execution of those documents.
16. Acquire, maintain and dispose of tangible property, excluding real property, deemed appropriate for aiding in Commission and Commission staff functioning.
17. Execute leases and amendments to leases consistent with Commission approval to lease specific water bottoms for purposes of aquaculture.
18. Execute leases and amendments to leases consistent with Commission approval to lease kelp beds for the exclusive harvest of kelp.
19. Execute non-substantive amendments to leases for kelp beds or leases for water bottoms.

### ***Interagency and External Affairs***

20. Act as tribal liaison and engage in consultations and negotiations with California tribes and tribal communities.
21. Represent Commission interests on formal and informal interagency and stakeholder work groups, leadership teams, and committees.
22. Submit reports to the California State Legislature where required by California Fish and Game Code.
23. Meet with legislators, legislative staff, and legislative committees and caucuses concerning subjects related to the work of the Commission, consistent with Commission direction.
24. Meet with local, state and federal government entities concerning subjects related to the work of the Commission.

25. Meet with members of the public and representatives of organizations concerning subjects related to the work of the Commission.

***General Administration***

26. Administer all personnel rules and take any personnel actions relating to employees of the Commission, contractors, or volunteers.
27. Make all necessary preparations for conducting Commission meetings.
28. Receive and send correspondence.
29. Develop and maintain document retention schedules for all Commission records and maintain Commission records consistent with those schedules.
30. Authorize federal acquisitions through the Migratory Bird Conservation Commission, when the affected county/counties and the California Department of Fish and Wildlife are in support.
31. Perform other administrative actions as may be necessary to supervise, direct, conduct, and administer the operations of the Commission pursuant to its duties under the California Fish and Game Code and other provisions of California law applicable to the Commission.