

STAFF SUMMARY FOR DECEMBER 15-16, 2021

**15. WILDLIFE AND INLAND FISHERIES AND ADMINISTRATIVE REGULATIONS
CHANGE PETITIONS AND NON-REGULATORY REQUESTS****Today's Item**Information Action

This is a standing agenda item for FGC to act on regulation petitions and non-regulatory requests received from the public at previous meetings.

- (A) Consider whether to grant, deny, or refer for additional review, petitions for regulation change received under general public comment at previous meetings.
- (B) Consider and potentially act on wildlife non-regulatory requests received from members of the public at previous meetings.

Summary of Previous/Future Actions**(A) Regulation Change Petitions***I. New Petitions*

- FGC received new petitions Oct 14, 2021; Webinar/Teleconference
- **Today's action on new petitions Dec 15-16, 2021; Webinar/Teleconference**

II. Pending Petitions

- FGC received petition 2021-004 Dec 9-10, 2020; Webinar/Teleconference
- Petition 2021-004 referred to DFW Feb 10, 2021; Webinar/Teleconference
- **Today's action on petitions Dec 15-16, 2021; Webinar/Teleconference**

(B) Non-Regulatory Requests

- FGC received non-regulatory requests Oct 14, 2021; Webinar/Teleconference
- **Today's action on non-regulatory requests Dec 15-16, 2021; Webinar/Teleconference**

Background**(A) Petitions for Regulation Change**

Regulation change petitions received at an FGC meeting are scheduled for consideration at the next regularly-scheduled business meeting under (A)(I), unless the petition is rejected under 10-day staff review as prescribed in Title 14, subsection 662(b). A petition may be (1) denied, (2) granted, or (3) referred to a committee, staff, or DFW for further evaluation or information-gathering. Referred petitions are scheduled for action under (A)(II) once the evaluation is completed and a recommendation made.

- I. *New Petitions*. Four petitions received at the Oct 2021 meeting are scheduled for action.
- a. *Petition 2021-017*: Request to make multiple changes to big game hunting regulations (Exhibit A2)

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- b. *Petition 2021-018*: Request to implement a new permitting system for the take of barred owls (Exhibit A3)
- c. *Petition 2021-019*: Request to change Martis Creek Reservoir to catch and release only (Exhibit A4)
- d. *Petition 2021-020*: Request to adopt special regulations for the North Yuba River (Exhibit A5)

The staff recommendations and rationales, developed with input from DFW staff, are provided in Exhibit A1.

II. **Pending petitions.** This is an opportunity for staff to provide recommendations on petitions previously referred to staff, DFW, or a committee for review. One referred petitions are scheduled for action today.

- a. *Petition 2021-004*: Request to remove *Xenopus amieti* frog from the restricted species list (Exhibit A6)

DFW's recommends that FGC deny petition 2021-004 because *X. amieti* could become an invasive species and there does not appear to be an important need for the frog that cannot be fulfilled by other permitted species. More detail on DFW's recommendation is provided in Exhibit A7; FGC staff concurs with the rationale and recommendation in DFW's memorandum.

(B) **Nonregulatory Requests**

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

Non-regulatory requests scheduled for consideration today were received at the Oct 2021 meeting in one of three ways: (1) submitted by the comment deadline and published in a table in the meeting binder, (2) submitted by the supplemental comment deadline and delivered at the meeting, or (3) received during public comment at the meeting.

Today, six non-regulatory requests are scheduled for action. Exhibit B1 summarizes the requests and contains staff recommendations, developed with input from DFW staff.

Significant Public Comments

The Kern River Fly Fishers Council further explains its request to add Kern River issues to an FGC meeting agenda and provides data in support of its concerns (Exhibit B2).

Recommendation

FGC staff: Deny petitions 2021-004 and 2021-019, refer petitions 2021-18 and 2021-20 to DFW, and refer Petition 2021-017 to WRC. Adopt staff recommendations for non-regulatory requests as reflected in Exhibit B1.

DFW: Deny petition 2021-004 for the reasons set forth in Exhibit A7.

Exhibits

- A1. [Table of petitions for regulation change, updated Dec 6, 2021](#)

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- A2. [Petition 2021-017, received Aug 30, 2021](#)
- A3. [Petition 2021-018, received Sep 24, 2021](#)
- A4. [Petition 2021-019, received Sep 30, 2021](#)
- A5. [Petition 2021-020, received Oct 4, 2021](#)
- A6. [Petition 2021-004, received Mar 24, 2021](#)
- A7. [DFW memo regarding petition 2021-004, received Oct 19, 2021](#)
- B1. [Table of nonregulatory requests, updated Dec 6, 2021](#)
- B2. [Letter from Larry Elman, Kern River Fly Fishers Council, received Dec 1, 2021](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations to deny petitions 2021-004 and 2021-019, refer petitions 2021-18 and 2021-20 to the Department, and refer Petition 2021-017 to the Wildlife Resources Committee, as reflected in Exhibit A1. Additionally, the Commission adopts the staff recommendations for action on the December 2021 non-regulatory requests as reflected in Exhibit B1.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations as reflected in Exhibits A1 and B1, except for _____ for which the action is _____.



Tracking Number: **[(2021-017)]**

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, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Dan Ryan

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 203, 265, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code. Also see attached for more details

3. Overview (Required) - Summarize the proposed changes to regulations: See Attached. I was a part of an R# subcommittee with the department where we looked at creative ways to change the licensing system. Adding change to the big Game structure was one topic discussed but not finalized. I have been working with Department staff on new ideas for solving problems with the Big Game draw as well as providing additional opportunity for hunters. The Department needs to be adaptable and flexible. In the attachment I have provided a number of Big Game changes including new hunts and seasons. I am not asking that we try and implement all in 2022 however I would like to start the discussion and have a phased approach.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

Though the department has seen a decline in hunting license sales it has seen a substantial increase in hunter participation/demand in big game tags. To better serve the outdoor enthusiast in the state as well as provide additional opportunity with no incremental increase in harvest the department must adapt and make changes.

Why is this important?

- Millions of dollars are generated through the Big Game application and tag system. This system should evolve to meet demands and increase opportunity, or it will be at risk of losing participation. From 2014 to 2020 there has



been over 17,500 additional applications, this is a substantial amount of money and interest generated. It would not make sense to not try and adapt to the increase.

- CDFW needs to manage Big Game herds and hunters in a flexible manner. Not making adjustments on an annual or bi-annual basis is not effective, nor is that method of active management in responding to changing resource conditions/hunter preferences.
- The Big Game opportunities are stagnant and have not changed or been modified (other than annual season dates and tag allocations) for years. Stagnant environments tend to lead to decreased participation and missed opportunities for improvement.
- Other states such as Idaho, Nevada, Arizona and Wyoming are constantly adding opportunities based on biological resources and hunter demand and have been successful. The results speak for themselves and this approach has been proven to work.
- Big Game hunters as a whole are incredibly frustrated with the preference point system and the number of years it takes to draw a “premium hunt”.
- Simply changing dates or adding a few premium hunts in general zones can increase draw odds and spread the point pool of applicants.
- Builds rapport with hunters and CDFW. Adds to the benefit of active management and responsiveness of the department to hunters.
- By spreading the already allocated tags to new hunts, this method should result in little change to overall harvest.

SECTION II: Optional Information

5. **Date of Petition:** 8/30/2021

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: [\[Click here to enter text\]](#)

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

Amend Title 14 Section(s) [\[Sections 200, 203, 265, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code. Also see attached for more details \]](#)

Add New Title 14 Section(s): Sections 200, 203, 265, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code. Also see attached for more details

Repeal Title 14 Section(s): [\[Click here to enter text. \]](#)

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [\[Click here to enter text\]](#)

Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the emergency: [\[The 2022 changes should be voted on in December in order for implementation to occur.\]](#)



- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Attached proposal showing justification and work with CDFW, partners and members of the public.
- 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: All of these changes have direct and indirect impacts with communities, individuals, businesses, jobs and the department. They would generate additional revenue for the department as well as increase customer satisfaction.
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:

SECTION 3: FGC Staff Only

Date received:

FGC staff action:

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

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

Meeting date for FGC consideration:

FGC action:

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

Petition for Big Game Hunt changes

Submitted By: Dan Ryan

Coordination with:

CDFW:

Brian Ehler

Nathan Graveline

Mark Abraham

Lassen Fish and Game Commission

NGO:

Dale McDougal- California Deer Association

Kevin Vella- National Wild Turkey Federation

Public:

Over 15 members of the public have been apart of review and compilation of ideas going into this proposal.

Background:

I was a subcommittee leader for the 2019 R3 effort focusing on the Licensing restructuring. During this process our subcommittee generated creative ideas to simplify the licensing system and restructure some of the Big Game opportunities that have not been modified for decades.

Big Game opportunities are regulated through tag issuance. These tags are broken down throughout the state by locality, species, sex, time of year, method of take and whether its available for adults or apprentice (youth under 16). These tags/opportunities are allocated through the CDFW's online system where a user can purchase a hunting and fishing license as well as apply for tags.

Though the department has seen a decline in hunting license sales it has seen a substantial increase in hunter participation/demand in big game tags. To better serve the outdoor enthusiast in the state as well as provide additional opportunity with no incremental increase in harvest the department must adapt and make changes.

State	2014 Total Deer Applications	2019 Total Deer Applications	2020 Total Deer Applications
CA	71,810	81,513	89,403
*Estimates based on CDFW available data.			

What other states are doing:

This increase in demand is not unique to CA. All of the western states have seen substantial increases in the number of applicants entering the tag draws or purchasing tags. Nevada, Idaho and California are some that have seen the most substantial increases. Nevada and Idaho are looking of creative ways to provide additional opportunities without increasing harvest or negatively impacting big game populations long term. Changes are needed to reduce the increased frustration with the system as well

as ultimately not losing hunters/applicants in the future; the same hunters that will fund and advocate for conservation of our wildlife resources in the future.

Idaho adds, modifies, and removes big game tags/opportunities every season setting period (two years) based on local biologist recommendations and public input. This has allowed new hunts, season dates and opportunities to be provided and has in turn spread applications out based on hunter interest and changes in populations. Applicants are allowed one deer tag with an option to purchase second tags when available at a certain date or if tags are turned back by hunters that cannot participate in the hunt.

Nevada recently has seen a substantial increase in applicants in the past 5 years, they in turn have been implementing creative solutions for providing additional opportunity. Example: Starting in 2021, they are re-issuing tags that are turned back 30 days and less to hunters willing to go. This means if a tag is turned back the day before the season, they will work to reissue those, even if it happens during the season. It provides increased opportunity for hunters.

Why is this important?

- Millions of dollars are generated through the Big Game application and tag system. This system should evolve to meet demands and increase opportunity, or it will be at risk of losing participation. From 2014 to 2020 there has been over 17,500 additional applications, this is a substantial amount of money and interest generated. It would not make sense to not try and adapt to the increase.
- CDFW needs to manage Big Game herds and hunters in a flexible manner. Not making adjustments on an annual or bi-annual basis is not effective, nor is that method of active management in responding to changing resource conditions/hunter preferences.
- The Big Game opportunities are stagnant and have not changed or been modified (other than annual season dates and tag allocations) for years. Stagnant environments tend to lead to decreased participation and missed opportunities for improvement.
- Other states such as Idaho, Nevada, Arizona and Wyoming are constantly adding opportunities based on biological resources and hunter demand and have been successful. The results speak for themselves and this approach has been proven to work.
- Big Game hunters as a whole are incredibly frustrated with the preference point system and the number of years it takes to draw a “premium hunt”.
- Simply changing dates or adding a few premium hunts in general zones can increase draw odds and spread the point pool of applicants.
- Builds rapport with hunters and CDFW. Adds to the benefit of active management and responsiveness of the department to hunters.
- By spreading the already allocated tags to new hunts, this method should result in little change to overall harvest.

Increased harvest from “late” hunts

- There would be higher success in some of the proposed hunts below which occur during the “rut” breeding season. If tags and harvest is modeled and tag allocations are spread between hunts there would not likely be an increase in take in the zones.
- Reducing general tags to accommodate increase in higher success hunts would be easily done and allow for not net increase harvest.

Proposals

While there are many potential proposals, we would like to move the following forward some of the following for consideration for the 2022 Big Game hunting season. **A table is also provided of a proposed roll out in order to alleviate large workload of implementing multiple changes in one season.**

General

Party Applications Return Tags Rule

Current rule:

To return an elk, pronghorn, or bighorn sheep tag, you must mail the tag along with a written request for your preference points to be reinstated. The tag and request must be postmarked before the earliest date that the tag is valid for hunting. If approved, tag will be refunded (minus the 2021 nonrefundable processing fee of \$31.93) and your preference points will be reinstated, plus one preference point for the species for the current license year (CCR T14-708.14(k)). To return a premium deer hunt tag, you must mail the tag along with a written request for your preference points to be reinstated. The tag must be postmarked before the earliest date the tag is valid for hunting. If the request is approved, your preference points will be reinstated, plus one preference point for deer for the current license year (CCR T14-708.14(j)). Premium deer hunt tags cannot be exchanged and are nonrefundable.

Proposed Change: Add Language

A person surrendering a tag awarded through a group application is eligible for the following:

(a) if all group members surrender their permits more than XX days before the start of the season for which the permit is valid, all group members may:

- (i) have previously acquired preference points reinstated plus one for that years application period;
- (ii) applicants may be eligible for a refund consistent with Section XXXX;

Notwithstanding the limitations in this section, a person who obtains a permit through a group application may surrender that permit after the opening date of the applicable hunting season and have previously acquired bonus points or preference points for the permit species restored, provided the person:

- (a) is a member of United States Armed Forces or public health or public safety organization and is deployed or mobilized in the interest of national defense or national emergency;
- (b) surrenders the permit to the department, with the tag attached and intact, or signs an affidavit verifying the permit is no longer in their possession within one year of the end of hunting season authorized by the permit; and
- (c) satisfies the requirements for receiving a refund in Subsections R657-42-5(3)(c) and (d).

What does this prevent? Many in the hunting community refer to this as the “Grandma Rule” and it is utilized to circumvent the draw system. Example: John Doe has 0 points and his grandma has 12 points. They apply as a party for deer and have an average of 6 points $(0+12/2)$. They are successful drawing X4. John Doe plans on hunting while Grandma returns tag and request for points to be reinstated. CDFW reinstates points she now has 13 points and John Doe has zero and goes on the hunt. John Doe can then apply with Grandma next year and split 13 points....This can be done over and over again allowing John to get tags year after year using grandmas points.

Party hunt members in a group application are able to return their party tag to the Department but will not receive a refund or Preference points unless all members of that party also return their tags to the Department.

Pro: Prevents the draw system from being circumvented, increases draw odds, creates fairness.

Con: Additional programming and workload to track.

Who else Does this? Nevada Department of Wildlife implemented this in 2020, Utah implemented in early 2000’s.

Returned Tag Reissuance

Current Rule:

Hunters who have been issued a premium deer, elk, antelope, or a Bighorn sheep tag and cannot hunt may return their unused tag to the license and revenue branch by mail before opening day of the hunt. To return one of these tags, you must mail the unused tag along with a written request for your preference points to be reinstated postmarked before the earliest date that the tag is valid. If approved, the tag will be refunded, minus a processing fee, and your points reinstated, plus one for the current year. These tags are then issued to alternates. If tag is not accepted by the alternative the tag goes unused.

Proposed Change:

Elk, Sheep, Premium deer, and antelope tags returned by successful tagholders would be issued to alternates. If the tag is not accepted by the alternates then the tag would be made available and can be purchased online on a first-come first-serve basis. Tags that have seasons that have already started would still be available for those willing to accept the shorter timeframe and planning. Those who receive tags in this manner would forfeit preference points.

Pro: Tags have a less likely chance of going unused. Additional opportunity for unsuccessful hunters. Additional sales.

Cons: Additional work, online programming, and overhead cost.

Second Bear Tag Option

Current Rule:

Qualified individuals may purchase one bear tag per year. Tag quota, must cease hunting if bear harvest reaches quota.

Proposed Change:

Successful bear hunters upon completion of harvest report and CDFW validation may purchase a second Bear tag at \$XX.XX. ***Potential addition: If bear harvest reaches 80% of quota no second tags would be issued.

Pro: Increases opportunity, sales, revenue, bear harvest.

Con: Additional work, could reach quota faster, preventing people with one bear tag to lose opportunity- Low probability since bear harvest have not reach quota since 2012.

General Deer Tag Archery/Rifle Separation

Background:

General A, B, D zones tags allow hunters to hunt during the general archery and general rifle seasons. There are three sets of hunters that utilize these tags:

1. Archery only hunters- Hunters that only participate in the archery season
2. Rifle only hunters- Hunters that only participate in the rifle season.
3. Combo Hunters- Hunters that participate in both archery and general seasons.

Problem:

- Wildland fires have closed public lands during the months of July through October. This has created a hardship for many of the hunters listed above as well as additional work for CDFW on returned tags.
- Many rifle hunters (#2) have been extremely upset since they cannot turn tags since the closures have happened after the archery season has already started.
- Archery hunters (#1) are upset that they are missing hunting opportunity with the early season being impacted.

Proposed Change

1. General A, B, D zones tags are only valid for the General rifle seasons.
2. Propose adding an additional date(s) to the Current AO (Archery Only) tag for each zone.

Example:

Hunters who purchase and Archery Only (AO) tag may hunt an additional 9* days starting the following day after the rifle season in that zone closes. *Days can be shorter

Zone D6 Example:

- General Rifle Tag Season- September 18 through October 31, 2021
- General AO Tag Season for D6- August 21 through September 12, 2021 & November 1-7
- Tag allocation: TBD

Pro

- Additional opportunity for Archery hunters.
- Additional opportunity for Archery hunters whose season was closed due to wildfire
- Allows general rifle only hunters to turn tags bag later since the season has not started.

Cons

- Combo hunters lose opportunity.
- Difficult to track /Confusing initial release to public.

***Propose doing this as a test in all zones or just some zones.

General Premium Zones

Proposed Change

Split rifle C Zones

Currently the C zones are lumped into one zone (C1-4). The zones currently have separate seasons established. While hunting occurs in all zones, C4 has the highest concentrations of hunters.

Current Tags

- C1-4- 8,150 tags

Proposed Tags- *Would be based on CDFW data.

- C1-1,766
- C2-1,766
- C3-1,766
- C4-2,852

Pros- C Zone tags are becoming harder to draw and if they were split it would allow hunters who want easier draw odds to look at the less popular zones such as C1-3. Spread applicants across zones, reduces hunter congestion and gives biologists better harvest data.

Cons- Reduces hunter flexibility by having to choose zone up front.

Split Zones X3b

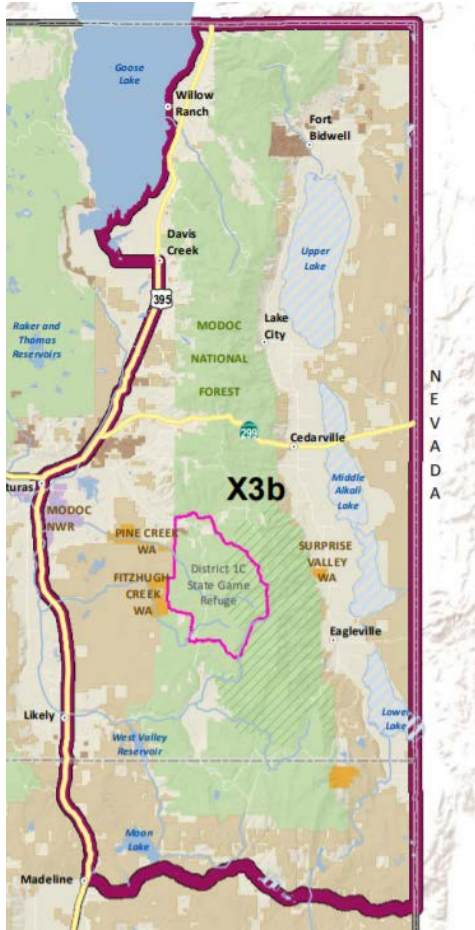
This zone is highly sought after and very large. There are high concentrations of use in specific portions of this zone leaving many portions of the unit not hunted or with low use. The zone has main roads that travers West to East through the Zone and could be used to split the zone into two. This would not result in a tag allocation increase but splits them based on population estimates.

Current Tag Allocations

- X3B-499

X3B North- Keep existing Northern, West and East Boundaries, however, change the southern boundary to Hwy 299. 220 tags

X3b South- Keep existing Southern, West and East Boundaries, however, change the Northern boundary to Hwy 299. 279 tags



Pros- Spreads draw applications. Adds two additional options for hunters to apply for therefore spreading the applications and cumulatively reducing preference point needed to draw other hunts.

Cons- Reduces tags in size and tag allocation in main unit. Reduces hunter's flexibility.

General Methods

Proposed Changes

1. **G40- A Zone North Late Rifle Tag**- 15-35 tags, Starts the following Saturday after A zone rifle and runs for 9 consecutive days. Tag is good for all public and private lands within the A North Zone. This tag allocation can be removed from the general 65,000 tags that are allocated for A zone.
2. **G41- A Zone South Late Rifle Tag** - 15-35 tags, Starts the following Saturday after A zone rifle and run for 9 consecutive days. Tag is good for all public and private lands within the A South Zone. This tag allocation can be removed from the general 65,000 tags that are allocated for A zone.
3. **G42- Snow Mountain Wilderness Early Rifle**- 5-15 tags, Starts the last Wednesday in July and runs for 5 consecutive days. Tag is good for all public and private lands within the B1 & B3 zone within the Snow Mountain Wilderness. This tag allocation can be removed from the general 35,000 tags that are allocated for B zone. Adds a unique opportunity for backcountry rifle hunters. Other states like Wyoming and Colorado have these same hunts.
4. **G43- Late Season Buck Hunt in d6**- 20-50 tags, Starts the first Saturday in November and runs for 5 consecutive days. Tag is good for all public and private lands within the D6 Zone. This tag allocation can be removed from the general 10,000 tags that are allocated for D6 zone.
5. **G44- Late Season Buck Hunt in d7**-20-50 tags, Starts the first Saturday in November and runs for 5 consecutive days. Tag is good for all public and private lands within the D7 Zone. This tag allocation can be removed from the general 9,000 tags that are allocated for D7 zone.

Muzzleloader

Proposed Changes

1. **M8- Bass Hill Boundary Change**- Allow hunters access to all of the X6a zone. Current M8 zone boundary is the Lassen County portion of X6A. There was no management reasoning for this. Originally the boundary was set for weather access and location of majority of the deer.
2. **M13- D3 Late Muzzleloader Hunt**- 10-20 tags. Start the following Saturday after D3 rifle and run for 9 consecutive days. This tag allocation can be removed from the general 33,000 tags that are allocated for D3-5 zone.
3. **M14- D4 Late Muzzleloader Hunt**- 10-20 tags. Start the following Saturday after D3 rifle and run for 9 consecutive days. This tag allocation can be removed from the general 33,000 tags that are allocated for D3-5 zone.
4. **M15- D5 Late Muzzleloader Hunt**- 10-20 tags. Start the following Saturday after D3 rifle and run for 9 consecutive days. This tag allocation can be removed from the general 33,000 tags that are allocated for D3-5 zone.
5. **M16- Jackson State Forest Muzzleloader Buck Hunt**- 10-20 tags- Start the third Saturday in October and run for 9 consecutive days. Falls within the boundaries of the Jackson State forest in A Zone. This tag allocation can be removed from the general 65,000 tags that are allocated for A zone. Oregon has numerous late season blacktail hunts in dense forested zones. This could be similar.

Archery

Proposed Changes

Split Archery CZones

Currently the C zones are lumped into one zone (C1-4). The zones currently have separate seasons established. While hunting occurs in all zones, C4 has the highest concentrations of hunters.

Current Tags

- C1-4- 1,945 tags,

Proposed Tags- Would be based on CDFW data.

- C1-400
- C2-400
- C3-400
- C4-745

Pros- C Zone tags are becoming harder to draw and if they were split it would allow hunters who want easier draw odds to look at the less popular zones such as C1-3. Spread applicants across zones. Give biologist better harvest data.

Cons- Reduces hunter flexibility by having to choose zone up front.

New Hunts

1. **A26- Bass Hill Late Archery Boundary Change-** Allow hunters access to all of the X6a zone. Current A26 zone boundary is the Lassen County portion of X6A. There was no management reasoning for this. Originally the boundary was set for weather access and location of majority of the deer.
2. **A34- King Range Late Archery Buck-** 10-20 tags. Runs the last Saturday in October and runs for 9 consecutive days. Hunt falls within B4 zone. Can hunt private and public lands within the B4 zone. This tag allocation can be removed from the general 35,000 tags that are allocated for B zone. Oregon has numerous late season blacktail hunts in dense forested zones. This could be similar.
3. **A36- Late Archery buck in C1-C3-** 15-35 tags, Starts the following Saturday after C3 rifle (latest date) and runs for 14 consecutive days. Tag is good for all public and private lands within the C1-C3 Zones. This tag allocation can be removed from the 12,870 tags that are allocated for C1-4 zones (includes rifle, general, archery and apprentice).

Apprentice

Proposed Changes

New Hunts

- **J23-Honey Lake Wildlife Area Early buck Rifle Hunt**- 5-10 tags. Apprentice can hunt on CDFW lands (Dakin & Fleming) wildlife areas. Starting the First Saturday in August and runs for 9 consecutive days. This tag allocation can be removed from the tags that are allocated for X6a.
- **J24- Late Season X4 hunt**- 10-20 tags. Start the First Saturday in November and runs for 9 consecutive days. This tag allocation can be removed from the 599 tags that are allocated for X4 zone.

Elk

Proposed Changes

Change Antlerless hunts in Marble Mountains and Siskiyou units. Increases hunter pressure during Bull hunts creates many hunter conflicts during the hunts and a poor hunt experience. Cow Elk opportunity is generally better in the late fall. Northeastern Elk Zone made this exact change a few years ago. Hunting cows during the breeding seasons could affect breeding patterns.

- Hunt Code 301- Marble Mountain Antlerless- ~~September 8-19~~ October 2-10 or later.
- Hunt Code 401- Siskiyou Antlerless- ~~September 8-19~~ October 2-10 or later.

Archery Opportunity- Provide an additional Archery opportunity for Tule Elk

- Grizzly Island Period 1 Either Sex- August 7-9

Non-resident opportunity

- Many non-residents do not participate in the Big Game Draw due to the fact that there is only One tag available for Elk and Antelope and 10% allocated for Sheep. The 10% rule should be for all three species. This would drive more non-resident applications while not impacting resident odds dramatically.

Alternate Back-up Dates or longer seasons

- If Public lands are closed due to wildfire tagholders would be allowed to utilize their tags during the current season or during another date later in the year
- Example1- Marble Mountains Elk Tags- September 8-19- USFS is closed, tagholders can turn their tag back or hunt for 2-3 weeks in October or November***TBD by CDFW staff
- Example 2- Siskiyou Elk Tag Dates- September 8 through November 30. Longer season allows for more opportunity as well as better success to meet Elk population objectives.

Bighorn Sheep

Add 2-4 tags allocated for Archery and Muzzleloader hunts Zone wide (Zones 1, 3, 10). These could also be conducted outside of the general season to reduce congestion.

- Currently the state has ranges with excess sheep. Once Sheep herds reach a certain population, they become more susceptible to disease. Removing excess sheep in higher population units would assist in reducing likelihood of disease.
- The 2019 ED that was completed by the department allowed for the cdfw to allocate additional tags for specific units. Some of these units are at the max of their allocations however other are not.
- Archery and muzzleloader is a more difficult method of take and offering up to 4 more tags could result in 100% take however it is unlikely.
- As shown in the below table, many of the units have 100's of sheep and would justify additional harvest.

Appendix 5: Desert Bighorn Sheep Surveys

Zone	Year	Survey Type	Number of Lambs	Number of Ewes	Number of Rams	Number of Unclassified	Total Counted
Marble Mountains	2007	Helicopter	12	84	46	0	142
	2009	Helicopter	34	88	65	0	187
	2015	Helicopter	8	48	23	5	84
	2016	Ground	42	73	35	2	152
	2018	Ground	18	78	35	1	132
& Clipper Mountains	2007	Helicopter	0	8	11	0	19
	2009	Helicopter	4	13	16	0	33
	2015	Helicopter	4	20	22	0	46
Clark Mountain	2007	Helicopter	0	31	18	0	49
	2009	Helicopter	0	12	8	0	20
	2015	Helicopter	0	1	3	0	4
	2016	Helicopter	1	31	13	5	50
Kingston Range	2007	Helicopter	3	27	21	0	51
	2009	Helicopter	6	33	20	0	59
	2015	Helicopter	9	25	14	0	48
	2016	Helicopter	3	31	19	2	55
	2018	Helicopter	5	80	34	0	119
White Mountains	2008	Helicopter	16	59	52	0	127
	2009	Helicopter	16	60	29	2	107
	2015	Ground	46	69	82	20	217
	2016	Ground	26	43	9	22	100
	2018	Ground	36	124	62	1	223
Cady Mountains	2007	Helicopter	12	59	38	0	109
	2009	Helicopter	37	92	38	0	167
	2010	Helicopter	23	102	49	0	174
	2018	Helicopter	8	58	27	0	93
Newberry, Rodman and Ord Mountains	2016	Helicopter	49	70	52	0	171
	2018	Helicopter	35	95	72	0	202

Proposal Table

2022 Implementation

2023 Implementation

2024 Implementation

Proposal Number (not in ranking order)	Proposal Name	Page Reference	Year Implemented
1	Party Application Rule	4	2022
2	Tag reissuance	5	2023
3	2 nd Bear Tag	6	2022
4	General Rifle/Archery Deer tag separation	7	2023
5	Split C Zone General	8	2022
6	Split X3b	8	2023
7	G40- A Zone North Late Rifle Tag	10	2023
8	G41- A Zone South Late Rifle Tag	10	2023
9	G42- Snow Mountain Wilderness Early Rifle	10	2024
10	G43- Late Season Buck Hunt in d6	10	2023
11	G44- Late Season Buck Hunt in d7	10	2023
12	M8- Bass Hill Muzzleloader Boundary Change	11	2022
13	M13- D3 Late Muzzleloader Hunt	11	2022
14	M14- D4 Late Muzzleloader Hunt	11	2022
15	M15- D5 Late Muzzleloader Hunt	11	2022
16	M16- Jackson State Forest Muzzleloader Buck Hunt	11	2024
17	A26- Bass Hill Late Archery Boundary Change	12	2022
18	Split Archery (A1) C Zones	12	2022
19	A34- King Range Late Archery Buck	12	2023
20	A36- Late Archery buck in C1-C3	12	2022
21	J23-Honey Lake Wildlife Area Early buck Rifle Hunt	13	2022

22	J24- Late Season X4 hunt	13	2023
23	Marble & Siskiyou Antlerless Date Change	14	2022
24	Archery Grizzly Island Bull	14	2024
25	Alternate Elk dates for potential closures	14	2022
26	Archery BHS opportunity	15	2024

2022 Big Game Proposals

Completed by Dan Ryan in Coordination with Sportsman groups and
Local CDFW Biologist.



Background



- CDFW R3 Committee- Recruitment, Retention, Reactivation
- Licensing structure committee identified the Big Game tags/hunts were outdated and need reform.
- Over 15 years of working with hunter groups and hearing frustrations about CDFW hunts.
- Collaborated with CDFW to ensure proposals meet goals and objectives of department.

Why?

- Hunter environment is changing and CDFW should adapt to the needs.
- More applicants- Close to 20K new applicants in the Big Game drawing since 2014 making draw odds tough.
- Create better hunt opportunity and quality to continue to recruit and retain hunters.
- Increase revenue for CDFW.
- Increase Draw odds for Big Game Drawing
- Build Rappor with Sportsman- Shows that the Department is listening to the sportsman's complaints and request.

General Changes

- Party Applications Return Tags Rule

- Currently allows Any members of a party application to turn back a tag and get points reinstated.
- Many use this rule to their advantage by putting in party members that have no intent to hunt.
- Example: John Doe has 0 points, and his grandma has 12 points. They apply as a party for deer and have an average of 6 points $(0+12/2)$. They are successful drawing X4. John Doe plans on hunting while Grandma returns tag and request for points to be reinstated. CDFW reinstates points she now has 13 points and John Doe has zero and goes on the hunt. John Doe can then apply with Grandma next year and split 13 points...This can be done over and over again allowing John to get tags year after year using grandma's points.

Returned Tag Reissuance

- Currently tags that are turned back are given to the alternates that were assigned through the drawing.
- It is unclear if this occurs on tags that are turned back the day prior to the season.
- Propose that CDFW make available tags turned back later, where by the time CDFW process the season has started and alternates are now available.

Example:

- John Doe drew a X4 tag. He is planning on going however has an emergency the week before the hunt that prevents him from going. John follows CDFW rules and turns the tag back the day prior to the season. CDFW takes 3-4 days to process this return and places the tag back on the open market via Aspira where sportsman can purchase first come first serve.
- Colorado, Idaho and Nevada do this process and it works nice for providing additional opportunity as well as additional revenue for the department.

Big Game Proposals

- **Second Bear Tag Option**

Qualified individuals may purchase one bear tag per year. Tag quota, must cease hunting if bear harvest reaches quota.

- **Proposed Change:**

Successful bear hunters upon completion of harvest report and CDFW validation may purchase a second Bear tag at \$XX.XX. ***Potential addition: If bear harvest reaches 80% of quota no second tags would be issued.

General Premium Deer Hunts

Split rifle C Zones

Currently the C zones are lumped into one zone (C1-4). The zones currently have separate seasons established. While hunting occurs in all zones, C4 has the highest concentrations of hunters.

Current Tags

- C1-4- 8,150 tags

Proposed Tags- *Would be based on CDFW data.

- C1-1,766
- C2-1,766
- C3-1,766
- C4-2,852

- **Pros-** C Zone tags are becoming harder to draw and if they were split it would allow hunters who want easier draw odds to look at the less popular zones such as C1-3. Spread applicants across zones, reduces hunter congestion and gives biologists better harvest data.

- **Cons-** Reduces hunter flexibility by having to choose zone up front.

Split Zones X3b

- This zone is highly sought after and very large. There are high concentrations of use in specific portions of this zone leaving many portions of the unit not hunted or with low use. The zone has main roads that travers West to East through the Zone and could be used to split the zone into two. This would not result in a tag allocation increase but splits them based on population estimates.

Current Tag Allocations

- X3B-499

X3B North- Keep existing Northern, West and East Boundaries, however, change the southern boundary to Hwy 299. 220 tags

X3b South- Keep existing Southern, West and East Boundaries, however, change the Northern boundary to Hwy 299. 279 tags

Pros- Spreads draw applications. Adds two additional options for hunters to apply for therefore spreading the applications and cumulatively reducing preference point needed to draw other hunts.

Cons- Reduces tags in size and tag allocation in main unit. Reduces hunter's flexibility.

General Methods Deer Hunts

1. **G40- A Zone North Late Rifle Tag**- 15-35 tags, Starts the following Saturday after A zone rifle and runs for 9 consecutive days. Tag is good for all public and private lands within the A North Zone. This tag allocation can be removed from the general 65,000 tags that are allocated for A zone.
2. **G41- A Zone South Late Rifle Tag** - 15-35 tags, Starts the following Saturday after A zone rifle and run for 9 consecutive days. Tag is good for all public and private lands within the A South Zone. This tag allocation can be removed from the general 65,000 tags that are allocated for A zone.
3. **G42- Snow Mountain Wilderness Early Rifle**- 5-15 tags, Starts the last Wednesday in July and runs for 5 consecutive days. Tag is good for all public and private lands within the B1 & B3 zone within the Snow Mountain Wilderness. This tag allocation can be removed from the general 35,000 tags that are allocated for B zone. Adds a unique opportunity for backcountry rifle hunters. Other states like Wyoming and Colorado have these same hunts.
4. **G43- Late Season Buck Hunt in d6**- 20-50 tags, Starts the first Saturday in November and runs for 5 consecutive days. Tag is good for all public and private lands within the D6 Zone. This tag allocation can be removed from the general 10,000 tags that are allocated for D6 zone.
5. **G44- Late Season Buck Hunt in d7**-20-50 tags, Starts the first Saturday in November and runs for 5 consecutive days. Tag is good for all public and private lands within the D7 Zone. This tag allocation can be removed from the general 9,000 tags that are allocated for D7 zone.

Deer Muzzleloader Hunts

1. **M8- Bass Hill Boundary Change**- Allow hunters access to all of the X6a zone. Current M8 zone boundary is the Lassen County portion of X6A. There was no management reasoning for this. Originally the boundary was set for weather access and location of majority of the deer.
2. **M13- D3 Late Muzzleloader Hunt**- 10-20 tags. Start the following Saturday after D3 rifle and run for 9 consecutive days. This tag allocation can be removed from the general 33,000 tags that are allocated for D3-5 zone.
3. **M14- D4 Late Muzzleloader Hunt**- 10-20 tags. Start the following Saturday after D3 rifle and run for 9 consecutive days. This tag allocation can be removed from the general 33,000 tags that are allocated for D3-5 zone.
4. **M15- D5 Late Muzzleloader Hunt**- 10-20 tags. Start the following Saturday after D3 rifle and run for 9 consecutive days. This tag allocation can be removed from the general 33,000 tags that are allocated for D3-5 zone.
5. **M16- Jackson State Forest Muzzleloader Buck Hunt**- 10-20 tags- Start the third Saturday in October and run for 9 consecutive days. Falls within the boundaries of the Jackson State forest in A Zone. This tag allocation can be removed from the general 65,000 tags that are allocated for A zone. Oregon has numerous late season blacktail hunts in dense forested zones. This could be similar.

Archery Deer Hunts

Split Archery C Zones

Currently the C zones are lumped into one zone (C1-4). The zones currently have separate seasons established. While hunting occurs in all zones, C4 has the highest concentrations of hunters.

Current Tags

- C1-4- 1,945 tags,

Proposed Tags- Would be based on CDFW data.

- C1-400
- C2-400
- C3-400
- C4-745

Pros- C Zone tags are becoming harder to draw and if they were split it would allow hunters who want easier draw odds to look at the less popular zones such as C1-3. Spread applicants across zones. Give biologist better harvest data.

Cons- Reduces hunter flexibility by having to choose zone up front.

1. **A26- Bass Hill Late Archery Boundary Change-** Allow hunters access to all of the X6a zone. Current A26 zone boundary is the Lassen County portion of X6A. There was no management reasoning for this. Originally the boundary was set for weather access and location of majority of the deer.
2. **A34- King Range Late Archery Buck-** 10-20 tags. Runs the last Saturday in October and runs for 9 consecutive days. Hunt falls within B4 zone. Can hunt private and public lands within the B4 zone. This tag allocation can be removed from the general 35,000 tags that are allocated for B zone. Oregon has numerous late season blacktail hunts in dense forested zones. This could be similar.
3. **A36- Late Archery buck in C1-C3-** 15-35 tags, Starts the following Saturday after C3 rifle (latest date) and runs for 14 consecutive days. Tag is good for all public and private lands within the C1-C3 Zones. This tag allocation can be removed from the 12,870 tags that are allocated for C1-4 zones (includes rifle, general, archery and apprentice).

Apprentice Deer Hunts

- **J23-Honey Lake Wildlife Area Early buck Rifle Hunt-** 5-10 tags. Apprentice can hunt on CDFW lands (Dakin & Fleming) wildlife areas. Starting the First Saturday in August and runs for 9 consecutive days. This tag allocation can be removed from the tags that are allocated for X6a.
- **J24- Late Season X4 hunt-** 10-20 tags. Start the First Saturday in November and runs for 9 consecutive days. This tag allocation can be removed from the 599 tags that are allocated for X4 zone.

Elk Hunts

Change Antlerless hunts in Marble Mountains and Siskiyou units. Increases hunter pressure during Bull hunts creates many hunter conflicts during the hunts and a poor hunt experience. Cow Elk opportunity is generally better in the late fall. Northeastern Elk Zone made this exact change a few years ago. Hunting cows during the breeding seasons could affect breeding patterns.

- Hunt Code 301- Marble Mountain Antlerless- ~~September 8-19~~ October 2-10 or later.
- Hunt Code 401- Siskiyou Antlerless- ~~September 8-19~~ October 2-10 or later.

Archery Opportunity- Provide an additional Archery opportunity for Tule Elk

- Grizzly Island Period 1 Either Sex- August 7-9

Non-resident opportunity

- Many non-residents do not participate in the Big Game Draw due to the fact that there is only One tag available for Elk and Antelope and 10% allocated for Sheep. The 10% rule should be for all three species. This would drive more non-resident applications while not impacting resident odds dramatically.

Alternate Back-up Dates or longer seasons

- If Public lands are closed due to wildfire tagholders would be allowed to utilize their tags during the current season or during another date later in the year
- Example1- Marble Mountains Elk Tags- September 8-19- USFS is closed, tagholders can turn their tag back or hunt for 2-3 weeks in October or November***TBD by CDFW staff
- Example 2- Siskiyou Elk Tag Dates- September 8 through November 30. Longer season allows for more opportunity as well as better success to meet Elk population objectives.

Sheep Hunts

Add 2-4 tags allocated for Archery and Muzzleloader hunts Zone wide (Zones 1, 3, 10). These could also be conducted outside of the general season to reduce congestion.

- Currently the state has ranges with excess sheep. Once Sheep herds reach a certain population, they become more susceptible to disease. Removing excess sheep in higher population units would assist in reducing likelihood of disease.
- The 2019 ED that was completed by the department allowed for the cdfw to allocate additional tags for specific units. Some of these units are at the max of their allocations however other are not.
- Archery and muzzleloader is a more difficult method of take and offering up to 4 more tags could result in 100% take however it is unlikely.
- As shown in the below table, many of the units have 100's of sheep and would justify additional harvest.

Phased Approach

Proposal Number (not in ranking order)	Proposal Name	Page Reference	Year Implemented
1	Party Application Rule	4	2022
2	Tag reissuance	5	2023
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21	J23-Honey Lake Wildlife Area Early buck Rifle Hunt	13	2022
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23	Marble & Siskiyou Antlerless Date Change	14	2022
24	Archery Grizzly Island Bull	14	2024
25	Alternate Elk dates for potential closures	14	2022
26	Archery BHS opportunity	15	2024

Thank you!





Tracking Number: (2021-018_)

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, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Tom Wheeler, Environmental Protection Information Center

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:

3.

Fish and Game Code sections 3503.5 and 3800 provide ample authority for the Commission to issue the requested regulations. While section 3503.5 ordinarily prohibits taking of "any birds in the orders Falconiformes or Strigiformes," the same section provides an explicit exception for any regulation adopted pursuant thereto the code. The Department of Fish and Wildlife already understand that this prohibition on take is not complete, as the Department currently issues take scientific collection permits for species otherwise protected by this section. The same logic applies for section 3800. Section 3800 prohibits the taking of nongame birds except "in accordance with regulations of the commission."

The Fish and Game Code should also be read in its entirety, as a whole, and to give effect to every word of the statute. Further, to the extent possible, the code should be harmonized and not read as creating a conflict. In reading the Fish and Game Code together, as a whole, the Commission's authority likewise becomes clearer. Fish and Game Code § 200 gives the Commission broad authority to regulate the taking of wildlife within the state.

4. Overview (Required) - Summarize the proposed changes to regulations: The proposed regulation would allow for the taking of barred owls, a non-native species that is endangering the northern spotted owl, as a wildlife management tool if authorized by the California Department of Fish and Wildlife through a revocable permit.



Add 14 CCR § 486:

(a) Application. A person who is a property owner or tenant may apply to the department for a permit to take barred owls (*Strix varia*) for the purposes of benefiting northern spotted owls or California spotted owls.

(b) Permit Period. Permits shall be valid for a period not to exceed three years.

(c) Required Information and Conditions of Permit.

(1) The department shall collect the following information before issuing a barred owl take permit:

(A) The name, mailing address, and contact information of the property owner, including telephone, facsimile, and email. If the owner is a business entity, contact information for the person acting on behalf of the business.

(B) The name, mailing address, and contact information of the person(s) responsible for removing barred owls.

(2) The department may add terms and conditions to the permit necessary to protect wildlife and ensure public safety. To be valid, the permit shall contain a statement signed by the applicant that he/she has read, understands, and agrees to be bound by all the terms of the permit.

(d) Methods of Take.

(1) The Department shall prescribe the method of taking as part of the permit.

(2) The permittee and/or agent shall ensure that all animals are killed in a humane manner instantly and prevent any injured animal from escaping.

(3) The Department shall ensure that the applicant or their agent will follow all best available management practices for locating and removing barred owls.

(e) Utilization of Carcass. Barred owls taken pursuant to this permit must be disposed of as required in the permit.

(f) Suspension and Revocation of Permits. The Department may suspend or revoke a barred owl take permit at any time.

(g) It is unlawful for a permittee or agent to violate any of the terms or conditions of a permit issued pursuant to this section.

(h) The permit does not invalidate any city, county, or state firearm regulation.

Amend 14 CCR § 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, barred owls 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.

(f) The take or attempted take of any nongame bird or nongame mammal with a firearm shall be in accordance with the use of nonlead projectiles and ammunition pursuant to Section 250.1 of these regulations.

5. Rationale (Required) –

Barred owls are not native to the Western United States and are a threat to our native northern spotted owl and likely a threat to California spotted owls. The science is clear: Barred owl removal is necessary to prevent the extinction of the northern spotted owl. Current state law broadly prohibits the taking “any nongame bird” (FGC § 38000) and “any birds in the orders Falconiformes or Strigiformes” (FGC § 3503.5). Both prohibitions limit the ability of wildlife managers to take invasive barred owls to benefit native species, like the northern spotted owl and California spotted owl. The proposed regulation would allow for the California Department of Fish and Wildlife to permit the taking of non-native barred owls for the benefit of northern spotted owls or California spotted owls.

SECTION II: Optional Information

6. Date of Petition: September 24, 2021

7. Category of Proposed Change

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Take prohibitions for non-game species

8. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

Amend Title 14 Section(s): 475

Add New Title 14 Section(s): 486

Repeal Title 14 Section(s):

9. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition

Or Not applicable.

10. Effective date: If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the emergency:

11. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

Attached to this petition, please find:



Peery, Zach; Wiens, David; Bown, Robin; Carlson, Peter C.; Dugger, Katie; Dumbacher, Jack; Franklin, Alan B.; Hamm, Keith A.; Higley, Mark; Keane, John J. 2018. Barred owl research needs and prioritization in California. Sacramento, CA: California Department of Fish and Wildlife.

Wiens, J. David, Katie M. Dugger, J. Mark Higley, Damon B. Lesmeister, Alan B. Franklin, Keith A. Hamm, Gary C. White et al. "Invader removal triggers competitive release in a threatened avian predator." Proceedings of the National Academy of Sciences 118, no. 31 (2021).

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

13. Forms: If applicable, list any forms to be created, amended or repealed:
Permit application for barred owl removal permit.

SECTION 3: FGC Staff Only

Date received: Oct 14, 2021 |

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: 10/5/21 _____

Meeting date for FGC consideration: Dec 15-16, 2021 _____

FGC action:

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

Tracking Number



Received by CA Fish and Game Commission on 9/30/21

Tracking Number: ()

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, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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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: John Riina
Address:
Telephone number:
Email address:

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: [Click here to enter text]

California Fish and Game Commission

3. Overview (Required) - Summarize the proposed changes to regulations: [Click here to enter text]

For 30 years it was catch and release. This year it went to kill 5 fish and bait

4. Rationale (Required) - Describe the problem and the reason for the proposed change: [Click here to enter text]

why did it go from catch and release no bait to catch and kill in 2021?

SECTION II: Optional Information

5. Date of Petition: [Click here to enter text] 9/2/2021

6. Category of Proposed Change Martis Creek Reservoir

- [X] Sport Fishing
[] Commercial Fishing
[] Hunting
[] Other, please specify: [Click here to enter text]



Mantis Creek Reservoir

7. The proposal is to: (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)

- Amend Title 14 Section(s): Click here to enter text.
- Add New Title 14 Section(s): Click here to enter text.
- Repeal Title 14 Section(s): Click here to enter text.

change the Regulations back to what they were in 2020

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition Click here to enter text.
Or Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text. April 1st, 2022

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.

last years regulations - zero limit halt

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: Click here to enter text.
none

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

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

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

Tracking Number

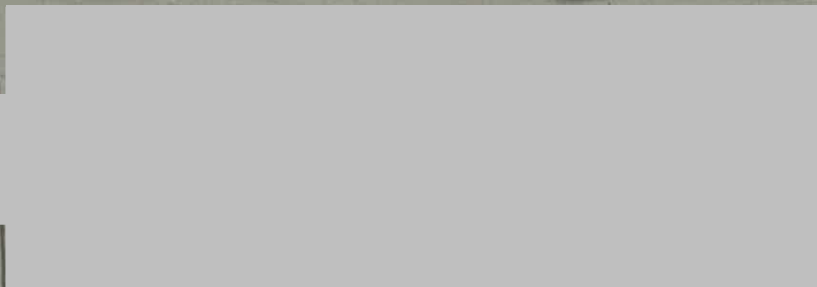
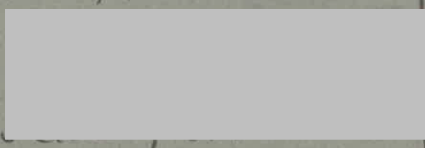
Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

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

TO: |
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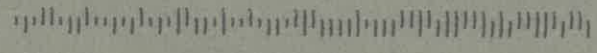


1 sical -

California Fish and Game
Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

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9/30/21

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RECEIVED AT FISH & GAME
COMMISSION OCTOBER 4, 2021

Tracking Number: (2021-020)

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, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person:

Robert Latta, Chairperson, Sierra County Fish and Wildlife Commission

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:

Fish and Game Code

Division 1. Fish and Game Commission (101-500)

Chapter 2. Regulation of Take and Possession Generally (200-275)

Article 1. Authority (200-219)

200. (a) There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles.

205. Any regulation of the commission pursuant to this article which relates to fish, amphibia and reptiles, may apply to all or any areas, districts or portion thereof, at the discretion of the commission, and may do any or all of the following as to any or all species or subspecies:

- (a) Establish, extend, shorten, or abolish bag open seasons and closed seasons.
- (b) Establish, change, or abolish bag limits, possession limits, and size limits.
- (c) Establish and change areas or territorial limits for their taking.
- (d) Describe the manner and means for their taking.



219. Any regulation adopted pursuant to this article may supersede any section of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation. A regulation which is adopted pursuant to this section shall be valid only to the extent that it makes additions, deletions, or changes to this code under the following circumstances:

- (a) The regulation is necessary for the protection of fish, wildlife, and other natural resources under the jurisdiction of the commission.

3. Overview (Required) - Summarize the proposed changes to regulations

The purpose of this petition is to correct what appears to be an unintended consequence of the process of simplifying the CDFW freshwater Sport Fishing Regulations that were adopted for the 2021-2022 season as described on page 76 of this year's publication. The proposed changes are in reference to the Special Regulation Section of the North Yuba which is from the western boundary of Sierra City to the confluence with Ladies Canyon. This is an approximately 5-mile reach which lies entirely in Sierra County. The proposal is to restore the text of future regulations related to this reach to as how they were written prior to the 2021-2022 changes. In other words, we propose that for the Special Regulation Section of the North Yuba, which is from the western boundary of Sierra City to the confluence of Ladies Canyon, the following regulations should be adopted:

Special Regulations for this section apply from the last Saturday in April through November 15. The bag limit is 2 fish. Only artificial lures with barbless hooks may be used.

From November 16 through the Friday preceding the last Saturday in April, a zero bag limit applies. Only artificial lures with barbless hooks may be used.

The following table is provided to add clarity:

Table 1. Regulations for Yuba River, North Fork from the western boundary of Sierra City to the confluence with Ladies Canyon - Old, Current, and Proposed Regulations.

Regulation Status	Body of Water	Open Season and Special Restrictions	Daily Bag and Possession Limit
OLD	(211) Yuba River, North Fork (Sierra and Yuba cos.) (A) From the western boundary of Sierra City to the confluence with Ladies Canyon Creek.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	2 trout
		Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0 trout
CURRENT	(169) Yuba River, North Fork (Sierra and Yuba cos.) from the western boundary of Sierra City to the confluence with Ladies Canyon Creek.	All year. Only artificial lures maybe used. *	2 trout *
PROPOSED	(169) Yuba River, North Fork (Sierra and Yuba cos.) from the western boundary of Sierra City to the confluence with Ladies Canyon Creek.	Last Saturday in April through November 15. Only artificial lures with single barbless hooks may be used.	2 trout
		From Nov. 16 through the Fri. preceding the last Sat. in Apr., a zero trout bag limit applies, and only artificial lures with barbless hooks may be used. **	0 trout **

*Not consistent with statewide stream regulations during any time period.

**Consistent with statewide stream regulations from Nov. 16 through the Fri. preceding the last Sat. in April



4. Rationale (Required) - Describe the problem and the reason for the proposed changes

There are three main reasons for this proposal:

--Simplicity. Restoring the regulations as to how they were written prior to 2021-2022 would help to achieve the objective of simplicity as the regulations would only be "special" or different from the statewide stream regulations during the "summer" (last Saturday in April through November 15) season. They would be identical to the statewide stream regulations during the remainder of the year or "winter" (November 16 through the Friday before the last Saturday in April) season—which is substantially simpler with respect to take and equipment than how the regulations for that season are written currently.

The critical inconsistencies and therefore the major complications in the regulations as they stand today are related to the "winter" season when the regulations in the "restricted" section of the North Yuba are less restrictive by allowing lures with any number of barbed hooks per lure and a bag limit of 2 fish. Also, those regulations are different from the North Yuba and other streams covered by the general statewide regulation for that "winter" period. Our proposal would improve on that by making the "winter" regulations the same for the entire fork of the river and its tributaries and consistent with the general statewide regulations for the "winter" period.

--Protection of the fishery. The special regulations were the result of research that was initiated approximately 30 years ago under the direction and leadership of Region II biologist John Hiscox. John's regular reports to the Sierra County Fish and Wildlife Commission included data that supported the idea that the special regulations assigned to this section resulted in fish counts that reflected increased fish numbers and sizes.

--Economics. The health of western Sierra County's economy is largely determined by the varied interests of its visitors. Anecdotal evidence provided by those in the region's hospitality industry suggest that fishing attracts visitors, and that opportunities which might include waters restricted to artificial lure and catch and release fishing are attractive to many who might not be interested otherwise.

SECTION II: Optional Information

5. **Date of Petition:** [Click here to enter text.](#)

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: [Click here to enter text.](#)



7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
 - Amend Title 14 Section(s):
 - Add New Title 14 Section(s):
 - Repeal Title 14 Section(s):

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**
 Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency:

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

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:

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

SECTION 3: FGC Staff Only

Date received:

FGC staff action:

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

Date petitioner was notified of receipt of petition and pending action: Tracking Number

Meeting date for FGC consideration:

FGC action:

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



Tracking Number: (2021-004_)

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, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Paul Rudnick

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: ~~14 CCR §671.1 (a)~~ Sections 2118 and 2120, Fish and Game Code. Reference: Sections 1002, 2116, 2118, 2118.2, 2118.4, 2119, 2120, 2122, 2123, 2124, 2125, 2126, 2127, 2150, 2190 and 2271, Fish and Game Code

3. Overview (Required) - Summarize the proposed changes to regulations:

All species of the Genus *Xenopus* tadpoles and frogs are prohibited in the State.

The well documented *Xenopus laevis* is the largest *Xenopus* species and an invasive species in California and elsewhere around the Globe.

However, the current regulation 14 CCR §671.1 (a) prohibits ALL species of the Genus *Xenopus*.

Many of the prohibited species were not even described until years after the regulations were enacted.

There are many species within the Genus *Xenopus* which are completely non – invasive.

The rule prohibits the non invasive species *Xenopus amieti* based upon the fact that *Xenopus amieti* is 'related to' the invasive *Xenopus laevis*. It is true these two



frog species share the same Genus as the also shared a common ancestor millions of years ago.

The rule CLEARLY is enacted to prohibit species based upon *their level of invasiveness* and **not** enacted to prohibit amphibian species based upon evolution.

Xenopus amieti is legally prohibited from sharing classroom space with students in the State and it's only 'crime' is that it had a common ancestor with the invasive *Xenopus laevis* millions of years ago.

We are respectfully requesting a review of the now nearly half century old statute to reflect the realities of the much-changed challenge to native amphibians in local ecosystems and the implications for study in K-12 classrooms.

We are proposing to leave the Statute in place prohibiting 'all species of the Genus *Xenopus*' *with the single exception of Xenopus amieti*.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

The study of tadpole to frog metamorphosis is K-12 Core curriculum and 'one of the fondest memories of childhood.'

As per current Statute the completely non invasive little 'Volcano frog' *Xenopus amieti* is legally prohibited from classrooms in the State yet the highly invasive bullfrog and highly invasive Cuban tree frog are legally permitted.

It seems to us that non – invasive, harmless tadpoles should be permitted in classrooms and 'not the other way around' as is the case per current Statutes.

In order to provide students with a positive Natural History lesson in classroom while allowing native diminishing tadpole populations to remain 'undisturbed' we propose a change to 14 CCR §671.1 (a) to allow the completely harmless non invasive I.U.C.N. Vulnerable Volcano frog to be allowed for classroom study in the State.

For the past 42 years Three Rivers Mail Order Corporation (a.k.a. Growafrog) has proudly facilitated education by providing captive bred see thru tadpoles and 'living staged tadpole to frog life cycle kits' so that a child may study metamorphosis in classroom without removing a native tadpole from the wild. A child may literally observe a live heartbeat and study anatomy WITHOUT the 'need' to dissect a live frog. In now 42 years there has never been a feral population of any of our frogs - anywhere - ever !

Currently *Xenopus amieti* is listed as an invasive species.

The little frog has zero invasive characteristics:



1. It is NOT a predator. It is prey.
2. It is NOT Invasive – it is endangered.
3. I.U.C.N. Red list status VULNERABLE
4. Endemic to one region on earth the Cameroon highlands.
5. Extreme low fecundity: *Xenopus laevis* perhaps 10,000 eggs per clutch. *Xenopus amieti* approx. 200 per clutch
6. Extreme small size. Adults are approximately the same size as the permitted dwarf frog *Hymenochirus*.
7. Poor predator avoidance. *Xenopus amieti* is endemic to Volcanic lakes of the Cameroon highlands which are devoid of fish. The little frog has zero chance of surviving much less being an invasive species if introduced anywhere with many common larger fish such as largemouth bass.
8. No I.S.S.G.org listing of an invasive population of *Xenopus amieti* anywhere in the world. Indeed there are no listings of ANY *Xenopus* species on the Globe with the exception of the largest species *Xenopus laevis*.

Unfortunately, the simple act of a child going to the pond to obtain a tadpole for metamorphosis observation is no longer simple. The tadpole could easily be a highly invasive *Lithobates catesbeiana* (common American Bullfrog) tadpole which is well established in multiple regions in California. American Bullfrogs are a highly invasive I.U.C.N. species infested with Chytrid fungus.

In Southern California the tadpole is likely the Giant Cuban tree frog which is an I.S.S.G. highly invasive Non native species.

As per current Statutes, the American bullfrog is listed as a highly invasive species, yet it is PERMITTED.

Currently the Cuban tree frog is not even listed as an invasive species in the State. However, *Osteopilus septentrionalis* is a well documented invasive predator and ‘bad news’ for native amphibians. The Department will never be able to get rid of it – ever. The best that can be hoped for is to limit it’s spread through legislation.

As per current Statute we are providing the permitted *Hymenochirus* and this frog is a ‘poor choice’ for education. *Hymenochirus* tadpoles are extremely small aprox 7mm. The tadpoles do not survive well in classroom. They are not transparent. We have already had a bevy of very upset educators who for decades have ‘counted on’ our company and our reputation to provide healthy, vigorous B.d. negative captive bred staged tadpoles for classroom observation.

In contrast to *Hymenochirus* tadpoles the Volcano frog *Xenopus amieti* **tadpoles** are EXCELLENT in size ! Volcano frogs are also transparent thus allowing classroom anatomy study without the ‘need’ to dissect and ‘sacrifice’ a diminishing live frog ! Volcano frogs compare very favorably with *Xenopus laevis* tadpoles for study !

*The student is getting ALL of the educational value of *Xenopus laevis* transparent tadpoles with ZERO risk of invasiveness!*



Our risk assessment of Not allowing the proposed rule change:

1. Continued harm to native California frog populations via predatory invasive species likely being released after classroom study.
2. An entire generation of students statewide will be 'shut out' from study of core curriculum in classroom.
3. Opening up the 'Potpourri' of unknown tadpole species via Ebay / biological supply companies / pet shops suppliers who simply collect wild tadpoles and ship. These tadpoles are often 'mystery' tadpoles and the State, the student and supplier often have 'no clue' what tadpole species are being provided.
4. The possible capture of native California frogs such as the Mountain Yellow-legged frog and / or Red Legged frog for classroom study. We *fervently* are of the opinion that this is a very poor idea. Native diminishing tadpole populations should be allowed to remain in the pond ! Mountain Yellow-legged frog tadpoles take 2-4 years to morph ! The California Red Legged frog is a threatened species ! Let's NOT do this !

Our assessment of allowing the proposed rule change:

1. The State 'knows' the tadpole source for education – a harmless B.d. negative captive bred tadpole of a single species *Xenopus amieti* HIGHLY suitable for classroom observation.
2. Every student in California would have access to the study of core curriculum instead of 'shutting down' education for an entire generation of students.
3. Stopping or at least not contributing to the spread of invasive species which would likely be used as a 'substitute' for classroom study.
4. Save a species ! The plight of diminishing 'bell weather' amphibians is a huge worldwide concern. In our humble opinion there is NO better way of 'raising awareness' of the plight of Vulnerable amphibian species than studying one in classroom !

If the application is denied and captive bred B.d. negative harmless tadpoles remain restricted and not permitted in the State the tadpoles which are permitted are

highly likely to be invasive species

OR

native species of concern which need to remain in the pond.

Our company is based upon a strong commitment to education **and** to native frog populations ! We provide captive bred B.d. negative see thru tadpoles *because* we wish to allow native amphibians to remain 'undisturbed.' It is our understanding that we could legally provide invasive bullfrog or Cuban tree frog tadpoles as per Statute. We wish to inform the Commission that we will NOT do this ! We do not provide invasive species to California or anywhere else. It is our fervent hope that the legal issues can be resolved however our commitment to the environment is unwavering and we will NOT provide invasive species even if permitted.

We respectfully thus petition the Commission to leave the door open to education by allowing the Volcano frog *Xenopus amieti* to be the single *Xenopus* species permitted in the State.

To summarize, this simple, single change to regulation is:



1. WIN for native frog populations
2. WIN for Elementary / Secondary Education
3. WIN for raising awareness for the plight of amphibians worldwide.

We wish to **thank** the Commission for allowing us to submit application for review.

SECTION II: Optional Information

5. Date of Petition: March 7, 2021

6. Category of Proposed Change

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: Invasive species reclassification: Remove *Xenopus amieti* from the restricted invasive species classification.

7. The proposal is to: (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)

- Amend Title 14 Section(s):
- Add New Title 14 Section(s):
- Repeal Title 14 Section(s):

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition
Or Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as possible.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

<https://www.biodiversitylibrary.org/page/41421231#page/949/mode/1up>



<https://www.iucnredlist.org/species/58168/16929588>

<http://www.iucngisd.org/gisd/search.php>

[https://cdfgnews.wordpress.com/2014/07/15/california-red-legged-frog-named-state-amphibian/#:~:text=\(Rana%20draytonii\)%2Ca%20state,legged%20frog%2C%20official%20State%20Amphibian.](https://cdfgnews.wordpress.com/2014/07/15/california-red-legged-frog-named-state-amphibian/#:~:text=(Rana%20draytonii)%2Ca%20state,legged%20frog%2C%20official%20State%20Amphibian.)

<https://wildlife.ca.gov/Regions/6/Amphibians/Mountain-Yellow-legged-Frog>

<https://nhm.org/stories/los-angeles-being-invaded-frogs>

<http://www.iucngisd.org/gisd/speciesname/Osteopilus+septentrionalis>

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: Certainly, a negative impact upon schools by denying a child’s core curriculum, source.

Possible increased costs to the Department due to costs associated with attempting to curtail the spread of the highly invasive Cuban tree frog which in our opinion would become the ‘substitute’ tadpole for ‘education.’ They are cheap and widely available. The tadpoles morph quickly and they are ‘interesting’ for students. This is about an invasive a frog as it gets and there are already populations established in Southern California.

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

[Click here to enter text.]

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.]

FGC staff action:

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

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____



State of California – Fish and Game Commission

PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE

FGC 1 (Rev 06/19) Page 7 of 7

Tracking Number

Granted for consideration of regulation change

Memorandum

Original on file at FGC
Received 10/19/21

Date: November 9, 2021

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Petition #2021-004: *Xenopus amieti***

A petition submitted by Mr. Paul Rudnick to the Fish and Game Commission (Commission) proposes to make an exception to the Restricted Species list for *Xenopus amieti*, the Volcano Clawed Frog. The California Department of Fish and Wildlife (Department) has reviewed the petition and recommends that the Commission deny the petition.

X. amieti was first described in 1980 and appears to be endemic to high-elevation volcanic lakes, swamps, and other wetlands in western Cameroon. While the species is considered vulnerable due in part to its small overall range and exposure to various threats, *X. amieti* is abundant and can reach high densities in areas where it is currently found. This species is not well-studied, and research is needed on its taxonomy, distribution, population status, natural history, and threats. Within its currently understood range, *X. amieti* is distributed across different biotypes ranging from dense rainforest in the lowlands to dry mountain forests and savanna, suggesting its ecological tolerance is not restricted beyond water-dependence.

The Department consulted with the following experts in native and nonnative herpetofauna in California:

- Dr. H. Bradley Shaffer, Distinguished Professor in the Department of Ecology and Evolutionary Biology and Director of the La Kretz Center for California Conservation Science, Institute of the Environment and Sustainability, at the University of California, Los Angeles;
- Dr. Gregory Pauly, Curator of Herpetology and Co-Director of the Urban Nature Research Center at the Natural History Museum of Los Angeles County;
- Dr. Robert Fisher, Supervisory Research Biologist, Western Ecological Research Center, U.S. Geological Survey; and
- Mr. Ian Recchio, Curator of Reptiles, Amphibians, and Birds at the Los Angeles Zoo.

These experts unanimously disputed the petitioner's assertion and rationale that *X. amieti* poses no threat to California fauna and the ecosystems on which they depend.¹

Nearly all of California's high elevation frogs and toads are listed under (or are candidates for listing under) the California Endangered Species Act and/or the federal Endangered Species Act, as are several lower elevation species. Even if there are no known extralimital established populations of *X. amieti* currently, that does not mean there are none, nor that there will never be any. Many invasive species are threatened or endangered in their native range, but the release from natural predation and competition pressures in their introduced range affords them the opportunity to become established and spread. For example, *X. laevis*, the African clawed frog, is already impacting lower elevation wetlands in southern California. There is not enough known about the ecological tolerance and natural history of *X. amieti* to adequately predict its establishment and invasibility potential at higher elevation sites in southern California or elsewhere in the state. The prospect of establishment is particularly concerning for a species like *Rana muscosa*, the southern mountain yellow-legged frog, which occurs in southern California and is arguably California's most endangered amphibian.

The restricted species designation is intended, in part, to reduce depletion of wildlife populations collected for market and to protect California's native wildlife. Given *X. amieti*'s vulnerable designation in its native range and the potential threat it may pose to California's listed frogs, granting the petitioned action would be inconsistent with the law's intent. In addition, millions of dollars are spent annually in California to recover threatened and endangered species that are at least partially imperiled by impacts from nonnative species and the diseases they spread, making the petitioned action imprudent. In contrast, the Department is unaware of any demand by California educators for use of *X. amieti* over their current alternatives. Moreover, the Washington Fish and Wildlife Commission received a similar petition from the same petitioner and rejected it in 2018. Denying Petition 2021-04 will maintain consistency with our West Coast state partners in minimizing the threats posed by introduced species to the extent practicable. In conclusion, the Department recommends the Commission deny Petition 2021-04.

¹ In addition to advocating for maintaining the "restricted" status of *X. amieti*, one expert recommended adding Cuban Treefrogs (*Osteopilus septentrionalis*), the tadpole the petitioner apparently sends to classrooms in Southern California instead of *X. amieti*, to the Restricted Species list as part of a broader re-evaluation of whether to continue to allow importation of any frogs for classroom use because the ultimate disposition of the fully transformed frogs is often release into California's waterways. This position is consistent with the Department's 2014 report "Implications of Importing American Bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*) into California" which asserts that adopting a live animal importation policy that addresses not just bullfrogs, but multiple species and introduction pathways, would be a more comprehensive approach to minimizing threats posed to California wildlife.

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 9, 2021
Page 3 of 4

Please direct further questions to Scott Gardner, Wildlife Branch Chief, at (916) 801-6257 or by email at [REDACTED].

Sources:

California Department of Fish and Wildlife. 2014. Implications of Importing American Bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*) into California.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=93830>

IUCN SSC Amphibian Specialist Group. 2018. *Xenopus amieti*. The IUCN Red List of Threatened Species 2018: e.T58168A16929588. Accessed August 27, 2021 at

<http://dx.doi.org/10.2305/IUCN.UK.2018-1.RLTS.T58168A16929588.en>.

Kobel, H. R., L. Du Pasquier, M. Fischberg, and H. Gloor. 1980. *Xenopus amieti* sp. nov. (Anura: Pipidae) from the Cameroons, another case of tetraploidy. Rev. Suisse Zool. 87:919-92

Washington Department of Fish and Wildlife. 2018. Summary Sheet: Petitions – Listing Status for *Xenopus civili* and *Xenopus amieti* (African Clawed Frogs) – Decision.

https://wdfw.wa.gov/sites/default/files/about/commission/meetings/2018/07/jul_2018_a_summary.pdf

Dr. Robert Fisher. August 12, 2021. Personal communication to Ms. Laura Patterson.

Dr. Gregory Pauly. August 24, 2021. Personal communication to Ms. Laura Patterson.

Mr. Ian Recchio. August 12, 2021. Personal communication to Ms. Laura Patterson.

Dr. H. Bradley Shaffer. August 25, 2021. Personal communication to Ms. Laura Patterson.

cc: Garry Kelley, Acting Deputy Director
Wildlife and Fisheries Division
[REDACTED]

Scott Gardner, Chief
Wildlife Branch
[REDACTED]

Valerie Cook, acting Chief
Fisheries Branch
[REDACTED]

Martha Volkoff, Environmental Program Manager
Invasive Species Program
[REDACTED]

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 9, 2021
Page 4 of 4

Erin Chappell
Environmental Program Manager
Wildlife Diversity Program
[REDACTED]

Daniel Applebee
Conservation and Recovery Unit Supervisor
Wildlife Diversity Program
[REDACTED]

Laura Patterson
Statewide Amphibian and Reptile Conservation Coordinator
Conservation and Recovery Unit
Wildlife Diversity Program
[REDACTED]

[v](#)

CALIFORNIA FISH AND GAME COMMISSION - NON-REGULATORY REQUESTS - ACTION

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

Name/Organization of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Initial Action Scheduled	Initial Staff Recommendation
Jeanne Panek	Suspend hunting season this year	Requests that hunting season be suspended this year due to wildfire impacts.	10/14/21	12/15-16/21	This request would require a regulation change petition; however, DFW has provided input to WRC and FGC on similar requests. They have explained they are monitoring conditions, and though no changes to hunting seasons or quotas are currently necessary due to wildfires, they will recommend action if/when warranted.
James Ahrens	Kern River fisheries management	Asks to place on the next FGC meeting agenda a discussion of Kern River management issues, including diversions to the Kern River Hatchery, reintroduction of rainbow trout, enforcement, relicensing of the diversion dam known as Fairview Dam, and a fisheries management plan.	10/14/21	12/15-16/21	Requester should work with DFW regarding the management concerns and goals. Request that DFW provide FGC an update on Kern River management plan development at a future meeting.
Emily Parker	Meeting Document Access	Requests that meeting documents be posted before the comment deadline, or at least before the supplemental comment deadline to support meaningful public input.	10/14/21	12/15-16/21	FGC concurs and staff is working to identify ways to ensure materials are available by at least the supplemental comment deadline.
Patricia McPherson	Ballona Wetlands Ecological Reserve	Requests to have a workshop with the Commission regarding Ballona Wetlands	10/14/21	12/15-16/21	Direct staff to schedule a meeting among FGC staff, DFW, and requester.
Russell Walsh	Loveland Reservoir	Requests a dialogue with DFW/FGC regarding Loveland Reservoir and how it is excessively drained and adversely affecting a large part of the surrounding riparian habitat.	10/14/21	12/15-16/21	REFER to DFW for review and recommendation.

Kern River Fly Fishers Council

December 1, 2021

California Fish and Game Commission

RE: QUANTITY AND QUALITY OF WATER IN THE KERN RIVER NOT PRODUCING AND SUSTAINING
MAXIMUM NUMBER OF FISH

Dear California Fish and Game Commissioners,

The Kern River Fly Fishers Council's mission is to help anglers fish and enjoy the natural beauty of The Wild and Scenic Kern River. The problem is that decades of neglect have led to low river flows that make fishing The Kern unenjoyable. In addition, the Kern River Hatchery is closed. It produces no fish, but is still diverting water from The Kern. We believe this is just wrong and that The Kern River and the surrounding communities deserve better.

Our experience as anglers on the Kern River is that the quantity and quality of the waters are not being apportioned and maintained respectively so as to produce and sustain maximum numbers of fish. However, we are anglers, not professionals in river management or determining minimum river flows for an enjoyable fishing experience.

That's why we need your help.

The Commission's own policies, as referenced below, state that the Commission should "Recommend and seek the adoption of proposals necessary or appropriate for the protection and enhancement of fish and wildlife and their Inhabitant"

Recommend and seek the adoption of proposals necessary or appropriate for the protection and enhancement of fish and wildlife and their habitat. The primary habitat objective is the maintenance of natural conditions in state waters, the adaption of impounded waters for fish and wildlife purposes, and the creation of new waters or areas which will support fish and wildlife, provided that such new waters enhance fish and wildlife. (Commission Policy II Quantity B)

KRFF believes that the current minimum in stream flows on the Kern are woefully inadequate. These current requirements are part of the licensure agreement that allows Southern California Edison (SCE) to generate electricity from the Fairview Dam (KR-3). These monthly flows need to be increased.

KRFF's request to the Commission is this: We ask that The California Fish And Wildlife Commission Request that the California Department of Fish and Game (CDFW) conduct a study on the Kern River that would determine what reasonable and adequate flows are necessary to maintain a viable and enjoyable fishery. Our correspondence with CDFW indicates that they have the capability to conduct this study, but to date, have refused to conduct the study.

Southern California Edison (SCE) has begun the relicensing process for the Kern River No. 3 (KR3) Hydroelectric Project (FERC No. 2290). We have attached studies that lead to only one conclusion: ***The KR3 Hydroelectric Project has severely impacted the quantity and quality of water on The Kern and has led to a major decline of the fish population and created an unenjoyable angler experience.***

The Commission needs to be involved in this relicensing process to determine consistency with Commission policy.

Oppose the issuance of permits or licenses, or the authorization of appropriation of funds for water use projects which have not prevented or adequately compensated for damage to fish and wildlife resources. (Commission Policy II Quantity C)

Specifically, The Kern River Fly Fishers Council would also like to ask the Commission to: prepare, render, or request reports on Kern River No. 3 (KR3) Hydroelectric Project (FERC No. 2290) in relation to KR3's effect on fish and minimal flows for an enjoyable angler experience

Take an active part in the relicensing of Kern River No. 3 (KR3) Hydroelectric Project (FERC No. 2290) and take appropriate action designed to ensure adequate water supplies to maintain and enhance the fishery.

Seek an allocation of water for fish in the Kern River on an equitable basis with other uses, and protect fish from the hazards created by such other uses.

Reassess the license terms and conditions of Kern River No. 3 (KR3) Hydroelectric Project (FERC No. 2290) and where feasible, seek corrective action where original terms and conditions were inadequate.

By requesting a study on minimal flows for an enjoyable angler experience you can help restore the quality and quantity of water on The Kern. We respectfully ask that the Commission make this a formal agenda item for discussion at your February 2022 meeting.

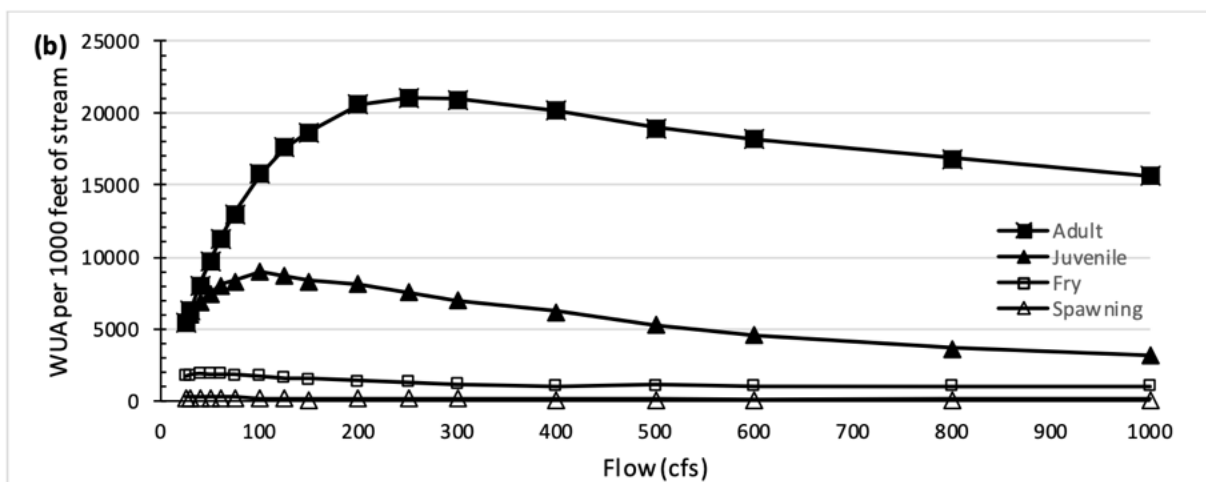
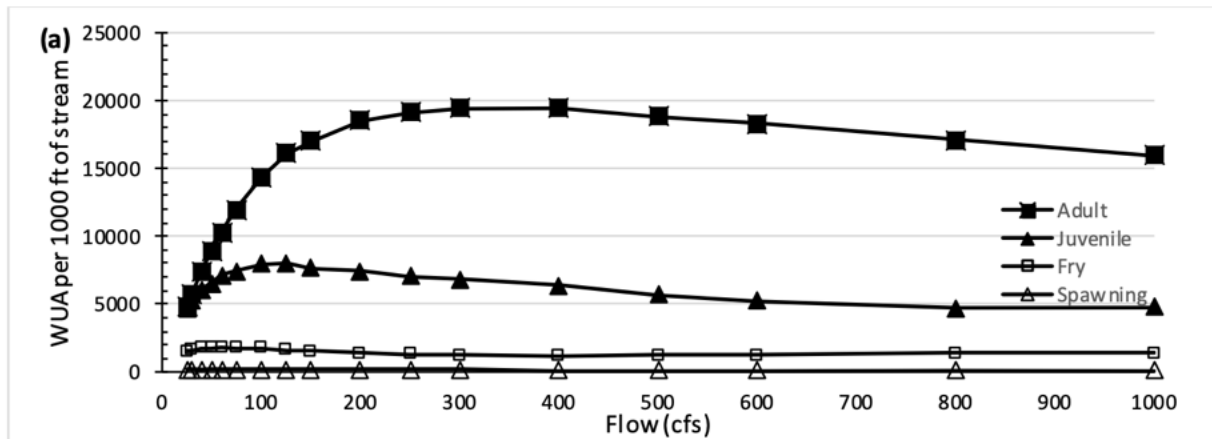
Thank you for your help in maintaining the diversified recreational uses of wildlife in The Golden State and specifically the Wild and Scenic Kern River.

Sincerely,
Larry Elman
Kern River Fly Fishers Council

Exhibits:

1. Declining Fish Population

According to Southern California Edison, life prospects for Rainbow Trout in the fishery begin to decline as flows in the dewatered reach decline from 300 to 200 cfs, and then plummet as flows drop below 200 cfs. These figures show that a minimum flow of at least 200 cfs should be targeted and provided for the fishery.



Also according to Southern California Edison, between 2011 and 2016 — a period that included a four-year drought when minimum instream flows were put to the test — **trout abundance declined by only 49% at two sites upriver of its diversion of water at Fairview Dam (Part of KR3) whereas trout abundance declined by 95% in the dewatered reach.** This shows the current minimum flow regime to be insufficient for the fishery below Fairview Dam.

Table 5.3-3. Estimates of Fish Abundance at Five Direct Observation Sites on the North Fork Kern River During the Current License Period (1998, 2006, 2011, 2016)

Abundance (fish/kilometer)					
Site/Species	1998	2006	2011	2016	Mean
Above Johnsondale Bridge (RM 26.1)					
Rainbow trout	420	233	215	47	229
Sacramento pikeminnow	N/A	N/A	0	0	0
Sacramento sucker	240	234	254	281	252
Total for Site	660	467	469	328	481
Above Fairview Dam (RM 23.3)					
Rainbow trout	140	140	48	38	92
Sacramento pikeminnow	N/A	N/A	0	1,243	622
Sacramento sucker	320	60	1,401	334	529
Total for Site	460	200	1,449	1,615	931
Roads End (RM 19.8)					
Rainbow trout	33	76	486	0	149
Sacramento pikeminnow	N/A	N/A	0	662	331
Sacramento sucker	67	173	1,397	265	476
Total for Site	100	249	1,883	927	790
Goldledge (RM 14.2)					
Rainbow trout	340	220	324	17	225
Sacramento pikeminnow	N/A ^a	N/A ^a	162	34	98
Sacramento sucker	1,480	1,260	1,515	0	1,064
Total for Site	1,820	1,480	1,839	51	1,298
Hospital Flat (RM 10.0)					
Rainbow trout	556	33	310	30	232
Sacramento pikeminnow	N/A	N/A	526	122	324
Sacramento sucker	1,900	967	898	0	941
Total for Site	1,456	1,000	1,208	152	954

Source: SCE, 2012a, 2017

N/A = data not available; RM = River Mile

2011-2016 decline:

Above Fairview

78%

21%

Below Fairview

100%

95%

90%

Total Percentage Decline

Above Fairview: 49%

Below Fairview: 95%

Predominate Variable Between

Above & Below = KR3 Hydroproject

(PAD, Vol. 1, at p. 5-63.)

According to the scientific literature on the question of minimum instream flows (MIF), the fishery below Fairview Dam is extremely under-watered. The current regime provides for minimum flows solidly below those identified by the 1976 Tennant method, and the gulf between the KR3 MIF regime and one supported by science widens under more contemporary methods (Environmental Agency, Sustainability Boundary, and Flow Duration Boundary) used throughout the EU, UK, Canada, and Australia.

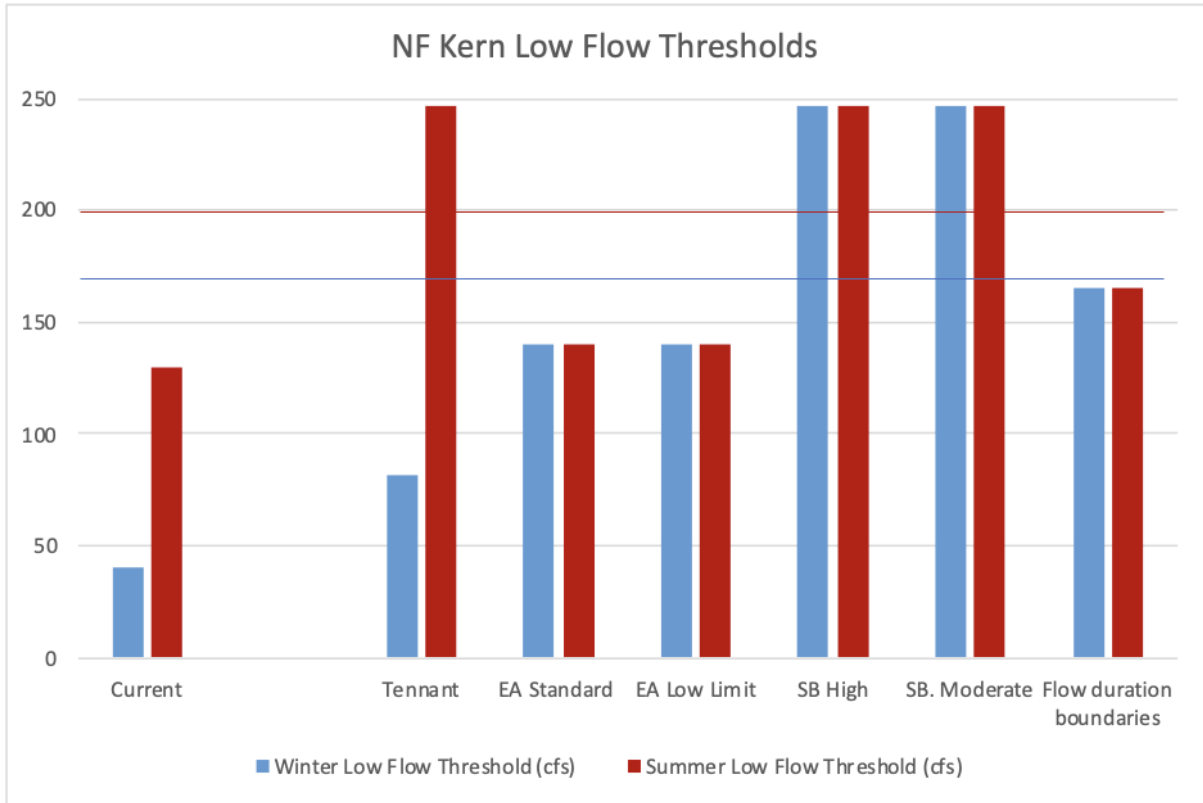


Figure 8: Bars show recommended winter and summer low flow thresholds compared to current. The lines indicate average of recommended methods.

(Draft KR3 MIF analysis, Liz Duxbury.)

Even CDFW’s metrics from its own Instream Flow program show that minimum flows on the dewatered reach of the North Fork Kern River are too low. The USGS has continuous annual flow data on the incoming flow at Fairview Dam for the last 45 years, and it shows a mean annual discharge (“MAD”) of 796.8 cfs. The winter minimum flow below Fairview Dam is only 5% of MAD and the summer MIF is just 16% of MAD. CDFW characterizes the winter MIF as entailing “severe degradation” to the environment; the summer flow, a bit higher, results in a “poor or minimum habitat.”

Department of Fish and Wildlife Water Branch Instream Flow Program

Narrative Description of Flow	April to September	October to March
Flushing or maximum flow	200% from 48 to 72 hours	
Optimum range of flow	60-100%	60-100%
Outstanding habitat	60%	40%
Excellent habitat	50%	30%
Good habitat	40%	20%
Fair or degrading habitat	30%	10%
Poor or minimum habitat	10%	10%
Severe degradation	<10%	<10%



(<https://wildlife.ca.gov/Conservation/Watersheds/Instream-Flow>.) Further, CDFW is aware that many of this state's rivers are under-watered due to hydropower and has sought to identify them in its new draft strategic management plan:

Objective:

- By 2023, Fisheries Branch in conjunction with Regional staff will create a list of high-quality trout waters currently impaired from dam and diversion operations, or those that could benefit from revised flow regimes.

(CDFW Draft SMP (2021).)

To sum up, all the evidence points to one conclusion: the dewatered reach of the North Fork Kern below Fairview Dam is greatly under-watered as a direct consequence of the KR3 hydro project. We at KRFFC ask that CDFW recognize this fact and act upon it in the present relicensing proceeding and elsewhere, for the good of our supposedly "Wild and Scenic" fishery.

2. Kern River Hatchery Closure

On December 1, 2020, after 3 years of extensive renovations, the hatchery was closed down by [California Department of Fish and Wildlife](#), just 20 months after being reopened.^[41] According to CDFW, the hatchery is closed for repairs with the primary focus on the "replacement of a pipeline that is more than 50 years old and no longer adequately provides a reliable water supply for fish production."^[42] There is currently no date set for reopening the hatchery. Despite the closure of the hatchery, the hatchery still diverts 35 CFS year-round^[43] from the North Fork Kern River at the expense of the North Fork Kern fishery and its biome.

Source: Wikipedia Page - Kern River