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## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

**Melissa Miller-Henson**  
**Executive Director**  
P.O. Box 944209  
Sacramento, CA 94244-2090  
(916) 653-4899  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

### Meeting Outcomes for December 15-16, 2021

This document was prepared by staff as a courtesy to the public.

Official meeting minutes – video and audio recordings – may be obtained at [www.cal-span.org](http://www.cal-span.org).

**Note:** *In this document, the California Department of Fish and Wildlife is identified as Department.*

#### 1. Consider approving agenda and order of items

***The Commission approved four agenda changes, though the items are summarized in this document in the original order as noticed:***

- *continued item 11 to a future meeting,*
- *moved item 29(C) to immediately after item 17,*
- *moved item 31(A) to immediately after item 18, and*
- *moved item 29(A) to immediately after item 29(B).*

#### 2. General public comment for items not on the agenda

***No action taken.***

#### 3. Temblor legless lizard

Receive a petition to list Temblor legless lizard (*Anniella alexanderae*) as endangered or threatened under the California Endangered Species Act (CESA).  
(Pursuant to Section 2073.3, Fish and Game Code)

***No action taken.***

#### 4. Southern California steelhead

Receive the Department's 90-day evaluation report on the petition to list southern California steelhead (*Oncorhynchus mykiss*) as endangered under CESA.  
(Pursuant to Section 2073.5, Fish and Game Code)

***No action taken.***

**5. Lime Ridge eriastrum**

Receive the Department's 90-day evaluation report on the petition to list Lime Ridge eriastrum (*Eriastrum erterae*) as endangered under CESA.  
(Pursuant to Section 2073.5, Fish and Game Code)

***No action taken.***

**6. Shasta snow-wreath**

Receive the Department's one-year status review report on the petition to list Shasta snow-wreath (*Neviusia cliftonii*) as endangered under CESA.  
(Pursuant to Section 2074.6, Fish and Game Code)

***No action taken.***

**7. San Bernardino kangaroo rat**

Receive the Department's one-year status review report on the petition to list San Bernardino kangaroo rat (*Dipodomys merriami parvus*) as endangered under CESA.  
(Pursuant to Section 2074.6, Fish and Game Code)

***No action taken.***

**8. Western Joshua tree**

- (A) Discuss and consider adopting a 90-day extension of emergency regulations for a process to take western Joshua tree (*Yucca brevifolia*) during the CESA candidacy period. (Amend Section 749.11, Title 14, CCR; pursuant to sections 399 and 2084, Fish and Game Code)
- (B) Discuss and consider adopting a 90-day extension of emergency regulations for incidental take of a limited number of western Joshua tree during its candidacy period under certain circumstances. (Amend Section 749.12, Title 14, CCR; pursuant to sections 399 and 2084, Fish and Game Code)

***The Commission approved 90-day extensions for both regulations.***

**9. Commission executive director and Department reports**

Receive updates on items of note since the previous Commission meeting.

- (A) Commission executive director's report
- (B) Department director's and Law Enforcement Division reports.
  - I. Management actions to protect whales and sea turtles  
(Pursuant to subsection 29.80(c)(7)(G), Title 14, CCR)

***No action taken.***

**10. Upper Klamath-Trinity river spring Chinook salmon**

Consider ratifying findings on the decision to list upper Klamath-Trinity river spring Chinook salmon (*Oncorhynchus tshawytscha*) as threatened under CESA.  
(Pursuant to Section 2075.5, Fish and Game Code)

***The Commission adopted the CESA findings as presented, with the addition of:***

***This is reflected in traditional knowledge about the ecological and morphological distinctiveness of upper Klamath-Trinity river spring Chinook salmon and in linguistic distinctiveness of the fall and spring ecotypes (Karuk June 16 presentation, public comment on June 16).***

**11. Northern California summer steelhead**

Consider ratifying findings on the decision to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as endangered under CESA. (Pursuant to Section 2075.5, Fish and Game Code)

***This item was continued to a future meeting.***

**12. Waterfowl hunting**

Consider authorizing publication of notice of intent to amend waterfowl hunting regulations. (Amend Section 502, Title 14, CCR)

***The Commission authorized the publication of notice as proposed.***

**13. Big game preference points reinstatement and tag refunds**

Discuss proposed amendments to big game regulations to include preference points reinstatement and tag refunds due to public land closures. (Amend Section 708.14, Title 14, CCR)

***No action taken.***

**14. Emergency low flow inland sport fishing restrictions**

Discuss and consider adopting emergency regulations for low flow inland sport fishing restrictions due to drought conditions. (Amend subsections 7.40(b)(40)(A)1., 8.00(a), and 8.00(b), Title 14, CCR)

***The Commission adopted the emergency action as proposed.***

**15. Wildlife and inland fisheries and administrative regulation petitions and non-regulatory requests**

(A) Consider whether to grant, deny, or refer for additional review, petitions for regulation change and non-regulatory requests received under general public comment at previous meetings. Note: New petitions for regulation change will be received under general public comment. Any petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration. (Pursuant to Section 662, Title 14, CCR)

I. Action on current petitions

- a. Petition 2021-017: Request to make multiple changes to big game hunting regulations
- b. Petition 2021-018: Request to implement a new permitting system for the take of barred owls
- c. Petition 2021-019: Request to change Martis Creek Reservoir to catch and release only
- d. Petition 2021-020: Request to adopt special regulations for the North Yuba River

***The Commission referred petition 2021-017 to the Wildlife Resources Committee.***

***The Commission referred petitions 2021-018 and 2021-020 to the Department.***

***The Commission denied petition 2021-019.***

- II. Action on pending regulation petitions referred to staff or the Department for review
  - a. Petition 2021-004: Request to remove *Xenopus amietii* frog from the restricted species list

***The Commission denied petition 2021-004.***

- (B) Consider and potentially act on wildlife non-regulatory requests received from members of the public at previous meetings.

***The Commission adopted the staff recommendations.***

**16. California Waterfowlers Hall of Fame**

Commission recognition of newly-inducted members of the California Waterfowlers Hall of Fame.

***The Commission recognized six new inductees into the Waterfowlers Hall of Fame with resolutions.***

**17. Committee and Department reports**

Receive updates on items of note since the previous Commission meeting.

- (A) Wildlife Resources Committee: Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on January 13, 2022.

***The Commission approved the draft WRC agenda topics as proposed and added discussion of a restricted species rulemaking to the May WRC meeting.***

- (B) Department Wildlife and Fisheries Division, and Ecosystem Conservation Division

***No action taken.***

**18. General public comment for items not on the agenda (Day 2, December 16)**

Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

***No action taken.***

**19. Recreational groundfish emergency**

Discuss and consider adopting emergency regulations for the 2022 recreational fishing season for copper, quillback and vermilion rockfish bag limits, to conform state regulations with federal in-season changes to the 2022 recreational groundfish regulations. (Amend Section 28.55, Title 14, CCR)

***The Commission adopted the emergency regulation as proposed.***

**20. Recreational clam, sand crab, and shrimp gear**

Consider authorizing publication of notice of intent to implement a certificate of compliance to make permanent the emergency regulations prohibiting use of hydraulic pump gear for recreational take of clams, sand crab and shrimp.  
(Amend sections 29.05, 29.20 and 29.80, Title 14, CCR)

***The Commission authorized the publication of notice as proposed.***

**21. Commercial kelp and other aquatic plants**

Consider authorizing publication of notice of intent to amend regulations for commercial harvest of kelp and other aquatic plants.  
(Amend sections 165 and 165.5 and add Section 705.1, Title 14, CCR)

***The Commission authorized the publication of notice as proposed.***

**22. Recreational California grunion**

Discuss proposed amendments to regulations for grunion limit and season changes.  
(Amend subsection 27.60(b) and Section 28.00, Title 14, CCR)

***No action taken.***

**23. Experimental Fishing Permit (EFP) Program, Phase II**

Consider adopting Experimental Fishing Permit (EFP) Program, Phase II regulations.  
(Add Section 91, amend sections 90, 120.1, 149, 180, and 704, and repeal Section 149.3, Title 14, CCR)

***The Commission adopted the regulation as proposed.***

**24. Pink (ocean) shrimp fishery management plan**

Receive and discuss the Department's *Draft Pink (Ocean) Shrimp, Pandalus jordani, Fishery Management Plan*.  
(Pursuant to Section 7075, et seq., Fish and Game Code)\

***No action taken.***

**25. Recreational ocean salmon and Pacific halibut**

Receive and discuss an update on the Pacific Fishery Management Council process and timeline for recreational ocean salmon and Pacific halibut recommendations, and automatic conformance to federal regulations. (Pursuant to Section 1.95, Title 14, CCR)

***No action taken. Salmon and Pacific halibut recreational fishing regulations are expected to automatically conform to federal regulations for 2022.***

**26. Marine regulation change petitions**

(A) Consider whether to grant, deny, or refer for additional review, petitions for regulation change received under general public comment at previous meetings.  
Note: New petitions for regulation change will be received under general public comment. Any petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration. (Pursuant to Section 662, Title 14, CCR)

- I. Action on current petitions
  - a. Petition 2021-015: Establish size limit for shortfin corvina and include in list of California game fish species
  - b. Petition 2021-021: Consider reducing recreational California halibut bag limit between Point Reyes and Bodega Head
  - c. Petition 2021-022: Consider authorizing low-volume open access commercial take of market squid using jig, brail or lampara gear north of Point Arena
  - d. Petition 2021-023: Consider authorizing recreational take of gooseneck barnacles

***The Commission referred petition 2021-015 to the Department.***

***The Commission denied petitions 2021-021, 2021-022, and 2021-023. However, the Commission also requested that the Department consider petition 2021-021 during the California halibut management review and consider petition 2021-022 during the market squid management review.***

- (B) Action on pending regulation petitions referred to staff or the Department for review – *none scheduled at this time*

**27. Marine Protected Areas Management Program**

Receive annual update from the Department on the State's Marine Protected Areas Management Program activities.

***No action taken.***

**28. Marine items of interest from previous meetings**

These items are updates on agenda topics recently heard before the Commission.

- (A) Committee workload prioritization tool and application to Marine Resources Committee topics
- (B) Status of findings on the petition to list the Pacific leatherback sea turtle (*Dermochelys coriacea*) as an endangered species under CESA. (Pursuant to Section 2075.5, Fish and Game Code)

***No action taken.***

**29. Committee and Department reports**

Receive updates on items of note since the previous Commission meeting.

- (A) Marine Resources Committee: Receive summary and consider approving recommendations from the November 9, 2021 committee meeting. Discuss referred topics and consider revisions to topics and timing.

***The Commission approved the recommendations from the November 9, 2021 Marine Resources Committee meeting.***

- (B) Department Marine Region
  - I. Update on box crab experimental fishing permit activities
  - II. Update on the federal CARES Act implementation

***No action taken.***

- (C) Tribal Committee: Receive summary and consider approving recommendations from the December 14, 2021 committee meeting. Discuss referred topics and consider revisions to topics and timing.

***The Commission approved the recommendations from the December 14, 2021 Tribal Committee meeting and approved changes to the work plan as proposed.***

**30. Justice, equity, diversity and inclusion**

Receive and discuss an update on developing the justice, equity, diversity and inclusion plan.

***No action taken.***

**31. Commission administrative items**

- (A) Legislation and other agency regulations

***The Commission directed staff to work with President Silva and Vice President Murray to draft a letter to the legislature generally supporting the reinstatement of appropriate penalties and probation terms for wildlife crimes.***

- (B) Rulemaking timetable updates

***The Commission approved the proposed changes to the rulemaking timetable.***

- (C) Next meeting – February 16-17, 2022

***The Commission approved the agenda items for its February 16-17, 2022 meeting as presented, with the addition of:***

- ***an update on a potential rulemaking stemming from approved petition 2017-008 (to ban neonicotinoid insecticides on Department lands), and***
- ***a presentation from the Department on California Fish and Game Code Section 5937, related to water flows below dams.***

- (D) New business

***No action taken.***

Adjourn

## Executive Session

(Not Open to Public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about actions taken during closed session.

- (A) Pending litigation to which the Commission is a Party
  - I. Almond Alliance of California et al. v. California Fish and Game Commission and California Department of Fish and Wildlife (bumble bees California Endangered Species Act determination)
  - II. The Ballona Wetlands Land Trust v. California Fish and Game Commission (Ballona Wetlands Ecological Reserve petition for regulation change)
  - III. California Construction and Industrial Materials Association et al. v. California Fish and Game Commission (western Joshua tree California Endangered Species Act determination)
  - IV. Albert Thomas Paulek v. California Fish and Game Commission (CEQA determination regarding Section 749.10, Title 14, CCR authorizing take of western Joshua tree under 2084)
  - V. Albert Thomas Paulek v. California Fish and Game Commission (CEQA determination regarding Sections 749.11 and 749.12, Title 14, CCR authorizing take of western Joshua tree under section 2084)
  - VI. Fall River Conservancy and California Trout v. California Fish and Game Commission and California Department of Fish and Wildlife (CEQA determination regarding amendments to inland trout regulations)
- (B) Possible litigation involving the Commission
- (C) Staffing
  - I. Executive director performance review process
- (D) Deliberation and action on license and permit items

***The Commission recessed to executive session. The deliberation and actions in executive session are generally not reported.***