

## STAFF SUMMARY FOR FEBRUARY 16-17, 2022

**30. REGULATION CHANGE PETITIONS AND NON-REGULATORY REQUESTS  
(WILDLIFE AND INLAND FISHERIES)****Today's Item**Information Action 

This is a standing agenda item for FGC to receive new regulation change petitions and act on regulation change petitions and requests for non-regulatory action received from the public at previous meetings. For this meeting:

- (A) Receipt of new petitions for regulation change
- (B) Action on previously received petitions for regulation change
- (C) Action on previously received non-regulatory requests

**Summary of Previous/Future Actions****(A) *New Petitions for Regulation Change – Receipt***

- Today receive new petitions **Feb 16-17, 2022; Webinar/Teleconference**

**(B) *Regulation Change Petitions – Scheduled for Action***

- FGC received new petitions Dec 15-16, 2021; Webinar/Teleconference
- Today's action on petitions **Feb 16-17, 2022; Webinar/Teleconference**

**(C) *Non-Regulatory Requests***

- FGC received new non-regulatory requests Dec 15-16, 2021; Webinar/Teleconference
- Today's action on non-regulatory requests **Feb 16-17, 2022; Webinar/Teleconference**

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

Pursuant to Section 662, any person requesting that FGC adopt, amend, or repeal a regulation must complete and submit form FGC 1. Regulation change petition forms submitted by the public are received at this FGC meeting under (A) if they are delivered by the supplemental comment deadline. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change received at today's meeting at the next regularly scheduled FGC meeting under (B), following staff evaluation (currently Apr 20-21, 2022), unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

A summary of petitions being received today is available as Exhibit A1. The petitions are also included as exhibits (exhibits A2-A3). Note that in the past, new petitions were received under "general public comment."

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**(B) Regulation Change Petitions Scheduled for Action**

Petitions received at the previous meeting are scheduled for FGC consideration at the next regularly scheduled business meeting under (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 once the evaluation is completed and a recommendation made.

Four wildlife and inland fisheries petitions are scheduled for action.

- I. *Petition 2021-024*: Request to amend western Joshua tree regulations to allow retention of some trees after disturbance, in consultation with a certified arborist (Exhibit B2)
- II. *Petition 2021-026*: Request to separate Ballona Channel regulations from Ballona Wetlands Ecological Reserve regulations (Exhibit B3)
- III. *Petition 2021-027*: Request to eliminate open hunting season for black bear until bear management plan is updated (Exhibit B4)
- IV. *Petition 2021-028*: Add spearfishing as a method of take for American Shad in the Valley District (Exhibit B5)

Staff recommendations and rationales, developed with input from DFW staff, are provided in Exhibit B1.

**(C) Non-regulatory Requests Scheduled for Action**

Requests for non-regulatory action are received by members of the public under general public comment. All non-regulatory requests follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests received in writing or public testimony during general public comment at previous meetings are scheduled for consideration at this meeting under (C).

There is one wildlife and inland fisheries non-regulatory request scheduled for action today. A summary of the request and FGC staff recommendation, developed with input from DFW staff, is provided in Exhibit C1.

**Significant Public Comments**

1. Two animal welfare organizations support granting Petition 2021-027, stating that black bears deliver critical ecosystem services once provided by grizzly bears and asking for additional research, respectively (Exhibit B6).
2. Ninety-six individuals advocate a temporary or permanent ban on bear hunting, and express a wide variety of views including holding that bear hunting is unethical, expressing concerns over declining populations and impacts of drought and wildfires to bears, and stating a belief that a majority of Californians oppose bear hunting. See Exhibit B7 for a sample of five emails.
3. Over 1300 individuals, via two form letters, support granting Petition 2021-017. They assert that there are declines in bear populations and state a belief that there is

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widespread opposition to bear hunting. A sample of each form letter version is provided in Exhibit B8.

4. The California Cattlemen's Association urges denial of Petition 2021-027, citing evidence of increasing populations, alternate explanations for lower bear estimates that may not reflect the true abundances, and the bear management plan and other policies that permit bear hunting (Exhibit B9).
5. One-hundred twenty-three individuals support denying Petition 2021-027, and express a wide variety of views, including advocating for science-based wildlife management, claiming adequate abundances of bears in California, stressing wildlife and human conflict values to bear removal, and holding that bear hunting is an ethical sport and a legitimate means of obtaining meat (Exhibit B10).
6. Over 4400 individuals, via form emails, support denying Petition 2021-027, claiming stable or increasing bear populations, emphasizing conservation benefits of funds provided by bear hunters, and noting the food gained by taking bears (Exhibit B11).

### Recommendation

**FGC staff:** Deny Petition 2021-024, and refer petitions 2021-026, 2021-027, and 2021-28 to DFW for review and recommendations. Approve the staff recommendations for non-regulatory requests as outlined in Exhibit C1.

### Exhibits

- A1. [Summary of new petitions for regulatory change, updated Feb 7, 2022](#)
- A2. [Petition 2022-01, received Jan 12, 2022](#)
- A3. [Petition 2022-02, received Jan 27, 2022](#)
- B1. [Table of petitions for regulatory change, updated Feb 7, 2022](#)
- B2. [Petition 2021-024, received Oct 8, 2021](#)
- B3. [Petition 2021-026, received Dec 6, 2021](#)
- B4. [Petition 2021-027, received Dec 10, 2021](#)
- B5. [Petition 2021-028, received Dec 10, 2021](#)
- B6. [Letters from Citizens for Los Angeles Wildlife, received Feb 2, 2022 and In Defense of Animals, received Feb 3, 2022](#)
- B7. [Sample letters from individuals, received between Jan 25 and Feb 3, 2022](#)
- B8. [Sample form letters submitted from individuals, received between Jan 24 and Jan 31, 2022](#)
- B9. [Letter from Kirk Wilbur, Vice President of Government Affairs, California Cattlemen's Association, dated Feb 3, 2022](#)
- B10. [Sample letters from individuals, received between Jan 19 and Feb 1, 2022](#)
- B11. [Sample form letter from individuals, received Jan 15, 2022](#)
- C1. [Table of nonregulatory requests, updated Feb 9, 2022](#)

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**Motion**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations to deny Petition 2021-024, and refer petitions 2021-026, 2021-027, and 2021-028 to DFW for review and recommendations as reflected in Exhibit B1, and approves the staff recommendations for non-regulatory requests as outlined in Exhibit C1.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations as reflected in Exhibit B1, except \_\_\_\_\_, and approves the staff recommendations for non-regulatory requests as outlined in Exhibit C1, except

\_\_\_\_\_.

## CALIFORNIA FISH AND GAME COMMISSION

### RECEIPT LIST FOR PETITIONS FOR REGULATION CHANGE: RECEIVED BY 5:00 PM ON FEBRUARY 3, 2022

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

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2022-01	1/12/2022	Cathy Bennett	Hunting: Restrict duck hunting in Benicia	Amend section 502 and 355 to make duck hunting off limits and not permissible along the shoreline of Benicia, the Benicia State Park waters, or the Southampton Bay waters.	2/16-17/2022	4/20-21/2022
2022-02	1/27/2022	Matthew White	Hunting: Heritage deer tags	Create new class of deer hunting tags for "Heritage Only" hunts, which would restrict method of take to traditional archery (not compound bow) and muzzleloading shotgun and rifle. Under this tag, hunters may not use modern weapons such as compound bows, in-line muzzleloader or telescopic sights.	2/16-17/2022	4/20-21/2022



Tracking Number: ( 2022-01 )

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: Cathy Bennett  
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: Authority cited: Sections 265 and 355, Fish and Game Code. Reference: Sections 265, 355 and 356, Fish and Game Code.**

**3. Overview (Required) - Summarize the proposed changes to regulations: Change section 502 & 355. Make duck hunting off limits & not permissible along the shoreline of Benicia, the Benicia State Park waters, or the Southampton Bay waters.**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change: The city of Benicia is located in the greater San Francisco bay. It is a waterfront and "Main Street" community. We are fortunate to showcase the natural beauty of our coastal waters, the adjacent tidal wetlands of the Benicia State Park, & waters of the Southampton Bay. On any given day, hundreds of visitors enjoy our shoreland, walk the 2.5 miles of paved paths & trails, & take respite in our shoreline parks & picnic areas. The SF Bay trail runs through Benicia, inviting everyone to partake in the majestic beauty of the area. Benicia is bordered by the Benicia/Martinez bridge on one side, and the Carquinez bridge at the far end. Benicia has its own marina, host to hundreds of sailboats, fishing boats & yachts, as does our neighboring city of Vallejo. The open water is known as the Carquinez straights and closer inland is the Southampton Bay. This is a lively water recreation oasis- full of sailboats, fishing vessels, small boat fishing, jet skiers, windsurfers, hang gliders, kayakers, paddleboarders & children swimming at the 9th Street beach. Benicia hosts several annual waterfront events, including**



sailboat parades & races, festivals & fishing competitions which flood our coastline with admirers & participants, sometimes serenaded by our local bag pipers, & musicians- all of which adds to the spirit & appreciation of the natural environment we are so fortunate to be the stewards of. Our shoreline parks are frequented by all of Solano county & are always filled with families & children, friends enjoying picnics & hosting outdoor celebrations. Benicia is a wonderful place to live or visit, and we pride ourselves on being a tourist destination & a draw to SF bay area travelers. Our city advertises itself & entices visitors as being “A Great Day by The Bay”. Yet sadly, the peaceful nature of our community has recently been undermined by a group of duck hunters that insist on hunting 150 yards from the shoreline in the Southampton Bay & the Benicia State Park waters.

It started in October 2020. A group of duck hunters began hunting just before sunrise about 150 yards from the backyards of homes situated along the waterfront in the Southampton bay. The blast of gunshots at 6:30 am seemed incredulous to everyone. Even when we were visually able to see the hunters, we couldn't believe it was actually taking place. In 50+ years no-one had witnessed duck hunting in these waters. Calls were made to the Benicia police, & to the Fish & Wildlife Dept. Yet the duck hunting continued. Benicians were soon to discover that pre-existing regulatory rules left it 'legal' to hunt off the residential shores of Benicia as long as the hunters were 150 yards from residential shores. Homeowners & waterfront frequenters pleaded with the duck hunters to stop hunting there, explaining how it disrupted their lives, interfered with their households & ruined the peaceful enjoyment of the waterfront. But the hunter's response was, “It's legal. We can hunt here if we want to.” Despite the horror of those living on the west side of town, exposed to the gunshots, the visual of ducks being shot from the sky, dead & injured ducks floating in the waters- eventually the duck hunting season ended, and peace returned to our neighborhoods & our waterfront. Most of Benicians assumed that due to the public protests about the duck hunting, that the duck hunters would not return.

But in October 2021, the duck hunters returned. Again, the community pleaded with the hunters, repeatedly asking for them to hunt in many of the nearby designated areas (Suisun, Grizzly Island, Mare Island, along the shores of San Pablo Bay, and the non-residential sections of the Napa river (all close by). But the hunters were indignant. I myself have encountered them when they were bringing their boat back to the 9th Street launch. When I told them how the neighbors feel about it, they glared at me, & folded their arms across their chests as if to warn me to “back off”. Many have approached them, but with no success or compassion from the hunters. The duck hunters have actually become rather aggressive & made verbal threats to file claims of 'harassment' against some of the folks who tried to engage with them. They have chased after the vehicles of those who took photos of their fishing boat & 'duck blind' equipment, & flipped their middle fingers at residents who watch with disapproval from the shores, their backyards & outdoor balconies & patios.

Again, calls were made to the local police, and to the Fish & Wildlife Dept. Residents began to organize, and consulted with the Benicia mayor, the city attorney, the city police chief, & the city manager. Calls & letters were sent to our local Supervisor Monica Brown, Representative Mike Thompson, Assembly Member Tim Grayson, & Senator Bill Dodds. Despite the outpouring of public protest, the bottom line is that as long as it is officially 'legal', there is nothing anyone could do to stop it. Eventually, the waters usually full of peaceful recreational sports, (windsurfing, kayaking & paddle boarding) succumbed to the duck hunters. (Who



wants to share the waters with men shooting guns?) It has now changed the very nature of our shoreline, and our experience of the Carquinez Straights & the Southampton Bay waters. It threatens to change the very nature of our town- our economy, & our dependence upon Benicia being a tourist destination & a “Main Street” community. It threatens to make our city motto “It’s a Great Day on the Bay”, a sad reminder of how quickly a natural haven can become a desecrated locale. Needless to say, it’s a ‘kill joy’ to our many shoreline restaurant diners whose appetites are lost while being exposed to gunshots from out across the water.

At the December 15th meeting of the Fish & Wildlife Commission, several Benicia residents including the Mayor of Benicia spoke to address this issue. It was obvious the level of distress these hunters are causing to this community. The mayor, Steve Young requested that the current duck hunting regulations be changed, &/or that the distance required from shore be increased. Actually, increasing the distance requirement from the shoreline will not solve the problem. The sound of gunshots will still reverberate in the channel of the straights, & the duck hunters will then be more visible & within greater earshot of an even larger section of the community. One of the residents who spoke at that meeting is a police officer of 30 years afflicted with PTSD, that suffers every time she hears the gunshots. Pushing the duck hunters further out into the straights would actually create an even more dangerous situation. The Carquinez straights are a major commercial shipping channel, & a fairly narrow one. Huge cargo ships carrying oil refinery products & automobiles traverse these waters daily. Men shooting guns in any direction out on these waters poses a potential hazard- be it to other watersport participants sharing the space, to the families peacefully enjoying the shoreline parks & trails, the residents of homes close enough to be traumatized by the sights & sounds they are exposed to, or to the nearby cargo ships transporting oil refinery products & automobiles. A handful of rogue duck hunters creating this kind of disturbance & potential environmental & human disaster is simply unacceptable.

So here we are- common sense has failed. Our efforts at diplomacy have failed. Our appeals to city & governing officials have proven pointless. Our only option at this point is to petition the Fish & Wildlife Commission to change the laws/regulations such that it prevents duck hunting off the Benicia shoreline, in the Southampton Bay & the Benicia State Park waters. Sometimes laws & regulations need to be changed in order to meet the needs & safety of society. This is one of those times.

Date of petition: January 11, 2022.]

**SECTION II: Optional Information**

5. **Date of Petition:** January 11, 2022 Click here to enter text.]

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing

**Hunting**

Other, please specify: Restrict duck hunting in the Benicia State Park, the Southampton Bay waters, & off the Benicia shoreline.



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): **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.
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: **As soon as possible.**
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: <http://beniciaindependent.com/oppose-gunfire-in-the-carquinez-strait-near-our-benicia-homes-and-recreation/>;



Benicia Herald  
article on duck hunti

If PDF won't open, please go online to read the article in the Benicia Herald Newspaper. **BeniciaHeraldOnline.com** (Sunday Dec 19<sup>th</sup>, 2021 edition). Cover story. Front page article written by the newspaper editor, Galen Kusic. Titled: **“Residents Reach Out For Help as Duck Hunting Continues in Southampton Bay”**.

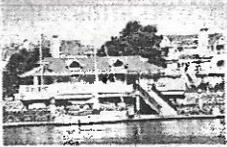
# BENICIA HE

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2021

*A special good morning to subscriber John Regalado*



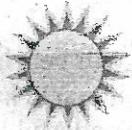
Sunrise 7:20 a.m.

Sunset 4:51 p.m.

High/Low Tides

2:43 a.m. 4.21' 12:39 p.m. 5.63'

7:04 a.m. 2.81' 8:43 p.m. -0.36'



High 48 Low 41

Winds E up to 10 mph  
Showers late

*"You'll never find a rainbow if you're looking down."*

- Charlie Chaplin

*A Different Drummer*

## Residents reach out for help as duck hunting continues in Southampton Bay



Benicia residents near Ninth St. Park along the waterfront to Benicia State Park have reported an uptick in duck hunting in Southampton Bay, causing major disturbances early in the morning, a decrease in wildlife viewing and water recreation use.

*Benicians call for Southampton Bay to be deemed wildlife sanctuary*

**Galen Kusic**  
Editor

For the past 40 years, Southampton Bay has been relatively quiet. Wildlife, kayakers, windsurfers and fisherman live in relative harmony as large ships pass

through the Carquinez Strait. According to residents over the past two years, that has all changed.

Largely in part they say due to a pair of duck hunters that insist on hunting the waters that used to be left alone "as a common courtesy to residents." The hunters begin at 6 a.m., waking up residents to the sounds of gunfire.

resulted in a less than favorable conclusion: the hunting is actually entirely legal. But they are demanding change.

On Wed., Mayor Steve Young and residents appealed to the California Fish and Game Commission for a change to the law after dozens of calls have fallen on deaf ears.

The uproar of residents has *See HUNTING, Page A9*

## HUNTING

*Continued from front*

Currently, hunters are allowed to hunt 150 yards from homes on the city limit line. Only CDFW has the authority to move the line or further restrict the location.

"It is disturbing hundreds of homes and residents," said Young. "They (two hunters) have been asked to move to any of the other nearby places like Mare Island or Suisun Bay, away from people, but they are resistant."

CDFW claimed that staff "will be in touch" after the meeting. Benicians have written letters and contacted representatives, including Solano County Supervisor Monica Brown, who represents Benicia. Brown drafted a letter to Charlton "Chuck" Bonham, Director of CDFW.

"This is a new issue to them (residents)," wrote Brown. "They are concerned with noise and guns being fired this close to their homes...I request that you take any available steps to stop duck hunting on any waterfront or wetland or similar area near residential neighborhoods."

Residents have noted that it is negatively affecting PTSD survivors and some of their children now "only talk about guns, how it scares them and their aggressive sound."

"Without some type of action to stop this, it may well grow to more and more hunters, eventually altering the personality and character of our town," said resident C. Bennett. "It will impact the type of tourists we attract and the type

of businesses that may or may not prosper. It will quite likely change the very nature of our town."

The community has met via online forum and in person to discuss options. Residents are now working to preserve Southamptton Bay's natural habitat by working to declare the area between the Carquinez and Benicia bridges as a wildlife sanctuary.

"This is a massive disturbance, discomfort and threat to safety and peace in our community," said resident Elizabeth Lewis, a 42-year resident of Benicia and mother to a four and one year old. "My children are woken up to gun shots every weekend and are left screaming and crying all before 6:30 a.m. some mornings. My children are terrified and now my daughter looks out to the water, having to witness them flipping off their neighbors, who have kindly asked to them stop."

A resident of W. K St. that wishes to remain anonymous in fear or retribution, notes that these hunters "bully residents" and have been "outright aggressive" toward people.

"What once was a peaceful community has been shattered by these unconscionable hunters," said the anonymous resident. "We have tried diplomacy with these hunters and it has failed."

Several residents claim that for the last 40 or more years hunters have been respectful of the homeowners and Benicia State Park visitors and have refrained from hunting Southamptton Bay. The area between 9th St. Park and Dillon

Point has always been heavily populated with ducks and other wildlife. Since the hunting began in Jan. 2020, residents see evidence that the duck population has diminished significantly.

"We have no issue with duck hunting itself," said an anonymous resident. "But what once was an unpopulated area 100 years ago is now an inhabited area with public use shoreline and waterways and the State Park Recreational Area. The time for duck hunting in these waters has passed."

Residents fear that if the hunting continues, Benicia's economy may suffer from unforeseen impacts.

"Because of these duck hunters, kayakers, windsurfers and paddle boarders have stopped using the waters for their recreational use," wrote resident Jean Walker. "After all, who wants to share the water with someone shooting guns?"

Residents of Glen Cove in the Vallejo city limits have reportedly also been negatively affected by the gunfire as well.

"We must therefore be prepared to designate the waters along the Benicia shoreline and the State Park off-limits to hunting," said Bennett. "We need to establish a legal basis to return to the common sense and courtesy that prevailed for much of the past four decades. To accomplish this will require us to combine our individual voices, to unify for a common cause, and be prepared to take the necessary steps to restore and protect the peaceful enjoyment of this beautiful oasis we call Benicia."

## The Benicia Independent ~ Eyes on the Environ...

CARQUINEZ STRAIT, GUN CONTROL

# OPPOSE GUNFIRE IN THE CARQUINEZ STRAIT NEAR OUR BENICIA HOMES AND RECREATION!

NOVEMBER 30, 2021 | ROGER STRAW

### Is Duck hunting off the Benicia residential shoreline really a good idea?



*By C Bennett, by email*

For those of you who haven't yet been woken at dawn by the sound of gunshots, for the second season in a row a group of local resident duck hunters have been hunting off the Benicia shoreline & State Park waters. Our beautiful straits that used to be filled with peaceful water recreation, have recently been overshadowed by duck hunters from late October to late January. Our usual mixture of kayakers, paddleboarders, windsurfers & hang gliders have reced-

ed. Who can blame them? Sharing the waterways with men shooting guns is a kill joy, not to mention unsafe.

It turns out it is technically legal. For the past 40+ years duck hunters have known that hunting was inappropriate so close to a residential community, so they hunted in nearby appropriate venues including Grizzly Island, Suisun Marsh, Mare Island & along the shores of San Pablo Bay & non-residential sections of the Napa River (all quite close by). Hunters respected the residential shoreline of Benicia & the State Park waters as off-limits to hunting. But a new generation of local hunters think differently, despite the polite request of their neighbors to hunt elsewhere. Their response is, "It's legal. We can hunt here if we want to." So they persist- 2-3 days a week, starting usually at sunrise, sometimes staying out on the water til noon, (or all day) returning at sunset.

Dozens of calls to the **Fish & Wildlife Dept** have failed to impart any change. Benicia police say, "It's out of our jurisdiction." Residents have consulted the mayor, the city attorney, the police chief, and the city manager. Apparently, as long as it is technically legal, there is nothing the city of Benicia, or its residents can do to stop it. Casual hikers along the SF Bay Trail, families & children playing or picnicking in the waterfront parks, bicyclists on the State Park pathways, & people whose houses look out upon the straits are unwittingly exposed to the jolting harshness of gunfire, & a visual of ducks being shot from the skies. On the west side of town it wakes and alarms children, sends dogs into a panic, and triggers those with PTSD. It is an intolerable affront to the peaceful enjoyment of our lives. Without some type of action to stop this, it may well grow to more & more hunters, eventually altering the personality & character of our town. It will impact the type of tourists we attract, & the type of businesses that may or may not prosper. It will quite likely change the very nature of our town. To most nature lovers, being viscerally exposed to duck hunting along the Benicia shoreline is not consistent with our motto

**"It's a Great Day by the Bay".**

All this said, 'duck hunting' itself is not the problem. Duck hunting off of the Benicia shoreline & the State Park waters is the problem. I'm calling upon all of our conscientious duck hunters in this town to speak to these younger duck hunters. Share with them your integrity, your knowledge of right from wrong, & help them understand the give & take of being part of a larger community. So far diplomacy has failed. We must therefore be prepared to designate the waters along the Benicia shoreline & the State Park off-limits to hunting. We need to establish a legal basis to return to the common sense and courtesy that prevailed for much of the past four decades. To accomplish this will require us to combine our individual voices, to unify for a

common cause, & be prepared to take the necessary steps to restore & protect the peaceful enjoyment of this beautiful oasis we call Benicia.

Respectfully submitted,

C Bennett

F T E S

◀ BENICIA CA ◀ CARQUINEZ STRAIT ◀ GUN CONTROL



# Benicia

**WHIMSICAL PUBLIC  
ART INITIATIVE  
BRINGS COLOR  
TO OUR TOWN**

**THURSDAY  
EVENINGS  
SAILBOAT  
RACING &  
FARMERS  
MARKET**



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Downtown businesses



Benicia Kite & Paddleboard rentals



Downtown Benicia at night



Southampton Bay- Benicia State Park



Commercial shipping channel next to Southampton Bay



Benicia is "A Great Day by the Bay"



Benicia State Park looking out at Southampton Bay  
Benicia waterfront homes





Benicia shoreline park overlooking Southampton Bay

C.)

**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: Duck hunting off the shoreline of Benicia changes not only the peaceful nature of our community, but it will impact our economy as well. In addition to being a waterfront community & a “Main Street” town, Benicia is also a town of historical significance. Benicia was the 3rd capitol of the state from early 1853 to late 1854. Benicia is the site of a historical military arsenal built before the civil war. Ulysses S Grant was stationed here. Jack London wrote about the Southampton Bay in his book, “Tales of the Fish Patrol”. Benicia hosts multiple museums & historical structures that draw tourists & classroom field studies from all over the SF bay area.

In 1960 when the military arsenal was decommissioned, it was repurposed as a community of artists & craftsmen. We are proud of our “Arts Benicia” newly located in the historic Commandant’s Residence in the Arsenal. Benicia is home to hundreds of artists of every genre & has over a dozen art galleries & event venues dotting our downtown. Benicia not only draws artists, but art lovers & art students. Scattered along the shoreline you can find Plein Air painters set up in groups of classes. We also have more than a dozen nature photographers



who make their living capturing the natural beauty of our land, water & the wildlife that inhabit it. Benicia’s colorful history & the artist community are celebrated as part of our attractiveness as a tourist destination. Visitors enjoy “A Great Day by the Bay” with visits to our museums, galleries, shops, & dining in our restaurants. The sound of gunshots, &/or the visual encounter of men shooting ducks from the sky & falling dead or injured to the water is a threat to Benicia’s tourist viability. It diminishes our appeal & attractiveness to those seeking to enjoy nature- not witness its carnal destruction. As with other SF Bay area destinations, the Benicia business community depends of the steady flow of tourists. Duck hunting has no place off the waters of Sausalito or San Francisco. Why should it be acceptable in Benicia?

Another fiscal impact related to duck hunting is the need for increased oversight by the Fish & Game wardens. Currently there is little (if any) monitoring of duck hunters in Benicia. What started as only a few hunters has this year turned into a handful, and it is only likely to increase as the “tolerance” is tested. Oversight of licensing, permits, & adherence to limits have been left to chance. Benicia will require additional Fish & Game warden visits & supervision. It may require that the Fish & Wildlife Commission hire additional staff to man the phone lines, & respond to resident complaints. Those complaints are only likely to increase unless the duck hunting is stopped. Duck hunters who choose to defy the strongly stated objections of their neighbors, cannot be trusted in an “honor system”. We have little faith that these hunters will adhere to proper protocol & regulations. Residents have already reported seeing “breasted” ducks, left for dead & floating up onto the shore. This is abhorrent to anyone who comes upon it.

Another potential impact to our community is that these duck hunters are hunting alongside a busy & narrow commercial shipping channel that borders the Southampton Bay. As I stated previously, if the hunters move further away from the shoreline out toward the open waters they then become a bigger danger to the cargo ships transferring automobiles & oil refinery products. It would be reckless & a potential environmental disaster should these hunters accidentally cause damage to a container ship, or get too close or in the path of one of these tanker ships causing an accident. There is simply no justification to continue to allow duck hunting in these waters. Period.

**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: 1/12/2022

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: 1/26/22

Meeting date for FGC consideration: Receive 2/16-17/22, consider 4/20-21/22



FGC action:

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



Tracking Number: ( \_2022-02\_ )

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: Matthew White. 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: [CCR T14]
3. **Overview (Required)** - Summarize the proposed changes to regulations: [This proposal is for the issuing of a new deer tag, Heritage Only, which would allow holders of the tag to hunt the A, B and D zones during their specified seasons. The additional geographic flexibility for these tag holders would come with a restriction of using only traditional weapons, defined as a longbow or recurve during the archery seasons or muzzleloading rifle in sidelock configuration only (matchlock, wheellock, flintlock or percussion) during the general seasons. Under this tag, deer hunters may not use modern weaponry, such as compound bows, in-line muzzleloaders or telescopic sights. See attached narrative for details.]
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: This tag is being proposed to offer more hunters the flexibility to adapt to the closures of large swaths of public lands during the deer hunting seasons. Currently, only archery hunters hunting under an Archery Only tag have such flexibility. This proposed Heritage Only tag, with its restricted method of take of traditional archery or traditional muzzleloading rifle/shotgun, places similar limits on the hunters’ effective range and ability to harvest a deer as a hunter using modern archery gear under an Archery Only tag. It is unlikely to affect the current harvest numbers in any zone. See attached narrative for details.



**SECTION II: Optional Information : See enclosed proposal narrative.**

5. **Date of Petition:** 01/27/2022

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>)*

- XX  Amend Title 14 Section(s):  
354 Archery Equipment and Crossbow Regulations  
361 Archery Deer Hunting
- Add New Title 14 Section(s):  
355 Muzzleloading Equipment and Regulations for Heritage Only Tags  
362 Muzzleloader Hunting with Heritage Only Tags.
- 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: July 1, 2023

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

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: No known impacts. Possible increase in deer tag revenue if more hunters decide to purchase an additional, Heritage Only tag, as a backup option if their primary hunting zone is closed. Revenue might be somewhat offset by the additional expense of creating any new educational materials, though those could be substantially mitigated by help from various non-profit organizations. See attached narrative for additional information.

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

[Deer tag application would be amended to offer this additional tag.](#)



**SECTION 3: FGC Staff Only**

Date Received: 1/27/22

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: [Receive 2/16-17/22; \_\_\_ |

FGC action:

- Denied by FGC
- Denied - same as petition \_\_\_\_\_ |
- Granted for consideration of regulation change

Tracking Number

# Proposal for New Deer CA Deer Tag – Heritage Tag

January 27, 2022

## Objectives

1. To allow CA deer hunters to adapt to new public land closures by allowing them to hunt multiple zones.
2. To allow hunters who employ more difficult methods of take the ability to hunt multiple zones.
3. To ensure that these increased opportunities do not adversely impact local deer herds by significantly increasing success rates.

## Summary

The proposed Heritage deer tag would allow hunters to hunt the A, B and D zones during the existing seasons and with the same bag and possession limits of one buck, forked horn or better as holders of zone specific tags for these areas. In this respect, it would be similar to the current Archery Only tag. However, the key feature of this tag would be a method of take restriction that limits hunters to traditional weapons, defined as either longbow or recurve during the archery seasons and sidelock (wheel, match, flint or percussion ignition) muzzleloaders during the general seasons. This would expand the geographic flexibility that many archery hunters currently enjoy to some rifle hunters, though with equally restrictive methods of take to ensure that deer populations are not adversely impacted in any zone that remains open during a public land closure.

## Why do we need another tag?

The last 2 years have seen both local and statewide closures of public lands during the deer hunting seasons. These closures are sometimes short in duration but can also last into the following season in areas within the burn scar. California's current tag system for non-lottery tags is geographically based – meaning that hunters are restricted to a tightly-defined geographic area when hunting deer. Because many people cannot simply move their hunt dates to accommodate these unpredictable events and may not be able to access their zone at all during the limited season, many tag holders must simply forego their planned hunts.

In 2013 the Rim Fire caused a tag quota reduction in zone D6, which ultimately led to the zone moving to a lottery drawing, locking some hunters out of this zone who would have otherwise hunted there. In 2020, the USFS closed down most of the D7 zone during the rifle season and parts of several other zones. 2021 several other fires closed down multiple D zones during the deer hunting season.

As fires and fire closures become more commonplace, we can expect that similar events will occur over the next decade that will adversely impact deer hunters who are limited to a tightly-defined geographic area. This may ultimately cause some hunter attrition or force hunters to conduct future hunts in other states, which may adversely affect tag revenues.

Although the public land closures that have occurred over the last two years are not instituted by CDFW or the FGC, the public often places the blame on CDFW since they are the main source of information about hunting. By offering a tag for rifle hunters that has more geographic opportunity, The FGC and

CDFW can show that they are listening and being responsive to hunters' needs under this new fire protocol while still acting responsibly in keeping harvest rates within allowable limits. While the current AO tag gives this geographic flexibility to those who limit themselves to any kind of archery equipment, there is no equivalent tag option for rifle hunters.

### **Why Traditional Weapons?**

Modern compound bows have greatly expanded the effective range of bowhunters far beyond the effective range that was normal when archery seasons were first implemented. While this has given higher probability of harvesting a deer to those who use modern archery gear, it places traditional archers at a comparative disadvantage, especially during the general seasons. In general, traditional archers have an effective range of about 20-25 yards if they dedicate a significant amount of the year to practice. Modern archers, using compound bows, sighting aids and mechanical releases can double that effective range with just a few practice sessions per year. Success rates of hunters using modern archery gear are notably higher than those using traditional archery gear.

Similarly, technological developments in modern muzzleloaders offer little handicap to any open-sighted, single-shot, centerfire rifle. The shorter lock-time and simplicity of components allows these rifles to be quickly mastered, both expanding their effective range and lowering the required knowledge and skill barriers for their use in the field. In general, traditional, sidelock muzzleloaders have an effective range of about 80 yards while modern muzzleloaders are effective out to about 100-150 yards, assuming open sights are used.

As it happens, modern compound bows offer little disadvantage to traditional muzzleloaders since they have similar effective ranges. As hunting weapons, they are rough equivalents since the disadvantages of a compound bow, such as the extra motion of drawing the bow and the arrow flight time, also come with some significant advantages over traditional muzzleloaders, such as a bow's quieter flight (for possible follow-up shots), its resilience in wet weather and its more reliable firing. Yet, under the current tag offerings, hunters with modern archery equipment can hunt multiple zones under an AO tag while hunters wishing to use traditional muzzleloaders with similarly-limiting equipment cannot. If implemented, this proposal would allow hunters using similarly-limiting equipment a more similar opportunity.

### **Would a Heritage tag replace the current AO tag?**

No. The proposed Heritage tag would be an additional tag offering, not a replacement of the current AO tag.

### **Does this proposal create a special season?**

No. The Heritage tag would mirror the current season dates for each A, B and D zone.

### **Are there any changes proposed to the bag limit or possession limit?**

No. Hunters would still be restricted to harvesting only one buck, forked-horn or better per tag, as is the norm for all the A, B and D zones.

### **What equipment would be permitted for the proposed Heritage tag holders?**

As proposed, During the archery seasons, only recurve bows or longbows (including Asiatic horsebows and short, plains-style longbows) of 40 lb draw weight or greater would be permitted. Bows should have only a single string or cable that is attached to the limb tips, flexible limbs, an increasing tension (stack) as the bow is drawn (no let-off of draw weight) and have no solid “wall” that limits the draw length. Clickers or other draw checks that alert the archer that a specific draw length has been reached would be permitted so long as they don’t prevent the bow from being drawn any further. Arrows should conform to existing regulations for archery deer hunting, as described in CCR T14-353.

During the general seasons only, muzzleloading rifles or shotguns with a closed breach and sidelock action that uses one of the following ignition sources:

- Wheel-lock
- Match-lock
- Flintlock
- Percussion/Cap-lock

Muzzleloading rifles and shotguns must also conform to the existing restrictions for caliber and projectiles, as described in CCR T14-353.

Archery equipment, as described above for use during the archery season under a Heritage tag would also be permitted during the general season.

#### **Non-toxic and other projectile regulations**

No changes to the current requirement for lead-free projectiles are proposed. Lead free projectiles are available from manufacturers. There are also lead free casting alloys that can be cast from home and effectively fired from traditional muzzleloaders. Likewise, arrows flung from traditional bows should conform to current regulations for archery equipment.

#### **What equipment would be excluded for Heritage tag holders?**

Compound bows, crossbows (except under a disabled archer’s permit), sling bows, centerfire firearms, in-line muzzleloaders, underhammer muzzleloaders, electronic-ignition muzzleloaders, centerfire firearms that have been converted to muzzleloaders, telescopic sights or any sighting systems other than open or peep sights (except under a disabled scope permit).

#### **What about access for the disabled?**

Current regulations allow for hunters to obtain a disabled archer’s permit to allow them to use a crossbow during the archery season or for hunting under an AO tag. No change is proposed to this system. However, a restriction of traditional crossbow (single string, no cams or pulleys, no let-off) can be used if desired.

Similarly, a disabled scope permit allows vision-impaired hunters to use a 1x scope during the state’s muzzleloading-only hunts. Therefore, similar rules should be in place for Heritage tag holders.

#### **Who benefits from this opportunity?**

The main beneficiaries of this proposed Heritage tag are rifle hunters, who stand to gain an opportunity to hunt multiple zones if they limit themselves to these traditional weapons. Secondly, traditional

archers would be able to continue to use their longbows and recurves during the archery seasons but would gain the ability to use traditional muzzleloaders during the general seasons. CDFW may see a nominal increase in tag sales if more deer hunters choose to purchase this Heritage tag as a second, backup option in case their regular zone is closed. The USFS may be granted a little bit of relief from hunters' complaints of forest closures if there are more geographically flexible options available.

### **Who is likely to lose from this opportunity?**

Since no changes are proposed to the current AO tag and since AO tag holders already compete with rifle hunters during the general seasons, no archery deer hunter, whether using traditional or modern archery equipment, stands to lose any part of their existing hunting access or opportunities. Although users of modern muzzleloaders would not lose any of their existing opportunities, they would not benefit from this proposed Heritage tag.

### **What is being promoted by this new Heritage tag opportunity?**

By making the Heritage tag available, CDFW will be promoting:

1. Responsiveness to the needs of our state's deer hunters to be able to move hunting locations based on fire closures.
2. Responsiveness to the USFS needs for localized closures due to wildfires.
3. Better woodsmanship among deer hunters.
4. Respect and reverence for ancestral and historical hunting methods over modern technological advantages.

### **Enforcement**

Our regulatory system is largely based on voluntary compliance. Wardens may, when present, check hunter equipment and documentation. But there are few impediments to hunters using a firearm while hunting under an AO tag or for a hunter to possess a tag for one zone but take a deer in another. Therefore, since it is largely an honor-system now, the proposed Heritage tag does not cause any additional burden on law enforcement and no change is proposed to this system. Traditional archery and muzzleloading firearms are easily recognizable with distinct features that will not be an impediment to our wardens' understanding of the Heritage tag's restrictions.

### **What about potential increases in crippling losses?**

By and large, crippling from hunter error is largely an issue of the hunter's mindset. In other words, hunters lacking in discipline or judgment will take unethical shots with whatever weapon they hold in their hands at the time. Those who are unwilling to invest the time and attention to learning the limits of traditional equipment are better suited to using the AO tag and a modern compound bow, which can be more quickly mastered. It is more likely that these unskilled hunters will simply fail to get close enough to take a shot at a legal buck at all than that they will take a shot and wound their prey since the limits imposed by traditional equipment give the animal a significant opportunity for escape without a single arrow loosed or shot fired.

### **What educational resources should be available for the public to learn about the proposed Heritage tag, its regulations and the limits of this kind of equipment?**

The CA Hunter Education Program is currently building its library of webinars for the public and posting them on its website. Some of these videos are being produced by CDFW but there are also efforts to use videos made by non-profit conservation organizations, such as Backcountry Hunters and Anglers, at little to no cost to CDFW. While no deer tag offered today requires additional coursework, some area-specific hunts require a meeting to explain the limits and methods of these hunts. Similar orientation meetings may be offered for a Heritage tag system whereby hunters must participate in an online briefing before being issued their tag. Again, while there would be some cost to CDFW to produce such a video, working with non-profit conservation organizations could significantly reduce this expense. While requiring coursework may or may not be feasible, the Hunter Education Program should make every effort to educate hunters about this type of equipment, safety, its use and its limitations to promote safe and ethical practices.

### **Fire risks from muzzleloading firearms**

Since the Heritage tag is being proposed as a partial response to public land closures stemming from wildfires, it is important to address the potential risk from sparks issuing from muzzleloading firearms. Thankfully, the USFS has published a research paper on this issue.<sup>1</sup> They determined that the risk was extremely low and they were unable to simulate a wildfire ignition during their tests. Therefore, it is very unlikely that the USFS would voice an objection based on increased risk of wildfire. The USFS report should be referenced if or when any other agency voices an objection based on fire risk.

### **Tag Quota**

Like the the current AO tag, the proposed Heritage tag should have a generous quota. Success rates are likely to be very low – low enough to grant wide availability without any lottery. Currently there are 100,000 Archery Only Tags available for purchase with less than 10,000 purchased during the 2020 deer season. If the Commission or CDFW does not wish to create any additional tags, the proposed Heritage Only tag quota could be taken from the remaining 90,000 unused Archery Only tags with no effect on their availability. Splitting the 100,000 quota into 50,000 Archery Only and 50,000 Heritage Only would grant the wide availability of both and neither is likely to sell out.

### **Do other states have similar tags?**

No other state has a tag that is identical to the proposed deer Heritage tag. However, several states have geographically-limited hunt units that allow extended seasons for hunters using only traditional archery or traditional muzzleloading rifles. A few examples are:

- *West Virginia Mountaineer Heritage Season* – an extended season in January for deer, bear and turkey hunters using recurve bow, longbow, flintlock rifle or percussion cap-lock rifle.<sup>2</sup>
- *Oklahoma* – McAllister Army Ammunition Plant – a deer hunt unit under a lottery system that has dedicated seasons for traditional archery only. Initially, the unit allowed any archery equipment to be used during the archery season. However, compound bows were excluded in 1989 due to the higher success rates (17.8% compound vs 10.7% traditional) of hunters using them.<sup>3</sup>

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<sup>1</sup> [https://www.fs.fed.us/rm/pubs\\_other/rmrs\\_2009\\_haston\\_d001.pdf](https://www.fs.fed.us/rm/pubs_other/rmrs_2009_haston_d001.pdf)

<sup>2</sup> <https://wv.dnr.gov/wp-content/uploads/2021/07/2021-22-Hunting-Regulations.pdf>, page 34

<sup>3</sup> <http://wp.auburn.edu/deerlab/wp-content/uploads/2014/05/591997-SEAFWA.pdf>

- Idaho – dedicated primitive weapons hunts for elk, available by lottery within a specified geographic area.
- Pennsylvania – dedicated, 2-week flintlock-only season. Season has been in place since 1974.

**Submitted by:**

Matthew D White



**CALIFORNIA FISH AND GAME COMMISSION PETITIONS FOR REGULATION CHANGE - ACTION**

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

Grant: FGC is willing to consider the petitioned action through a process   Deny: FGC is not willing to consider the petitioned action   Refer: FGC needs more information before the final decision

Tracking No.	Name of Petitioner	Subject of Request	Short Description	FGC Receipt	FGC Initial Action	Initial Staff Recommendation
2021-024	Kelsey Kaszas	Western Joshua tree	Request to amend western Joshua tree regulations to allow retention of some trees after disturbance, in consultation with a certified arborist	12/15-16/2021	2/16-17/2022	DENY: FGC has already readopted the regulation twice, and it expires in April, which does not leave enough time to implement a regulation change. Additionally, when there are immediate ground disturbing activities and anticipated future use of the area within 10 feet of a western Joshua tree there is a high likelihood of negative impacts to the tree, particularly to root systems. Relocation of trees is a favorable alternative to removing a tree; however, full avoidance of trees is preferred, and there is no fee if activities do not occur within 10 feet of a western Joshua tree under the regulation. As a broadly applicable regulation, the Department is unable to consider and individually verify where, in particular circumstances, trees may have been able to be saved.
2021-026	Patricia McPherson, Grassroots Coalition	Ballona Wetlands boundaries	Request to separate Ballona Channel regulations from Ballona Wetlands Ecological Reserve regulations	12/15-16/2021	2/16-17/2022	REFER to DFW for review and recommendation.
2021-027	Sabrina Ashjian, Humane Society of the United States	Hunting: Black bear	Request to eliminate open hunting season for black bear until bear management plan is updated	12/15-16/2021	2/16-17/2022	REFER to DFW for review and recommendation.
2021-028	Ben Wehrle	Sport Fishing: Shad Spearfishing	Request to add spearfishing as an allowable method of take for American Shad	12/15-16/2021	2/16-17/2022	REFER to DFW for review and recommendation.



Tracking Number: **[(2021-024)]**

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](mailto:FGC@fgc.ca.gov). Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

### **SECTION I: Required Information.**

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

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Kelsey Kaszas  
Address: [REDACTED]  
Telephone number: [REDACTED]  
Email address: [REDACTED]

Staff Note: The petitioner has clarified that the requested change is to the regulation that underlies Ordinance 291, not the ordinance itself.

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:** State of California – Fish and Game Commission

**3. Overview (Required) - Summarize the proposed changes to regulations:** The proposed changes are to Ordinance No. 291, as it pertains to the Western Joshua Tree. As the law is currently written, any digging at depth of greater than 12” within 10 ft of a Joshua Tree would then trigger the requirement to either relocate or remove the Joshua Tree. The proposed change to this regulation is that based on the evaluation of Native Desert Plant Specialist, there should be an option to protect the tree in place.

**4. Rationale (Required) - Describe the problem and the reason for the proposed change:** The reason for the proposed change is that not in all cases is it in the best interest of the Joshua Tree to relocate or remove it. In many cases it is better for the Joshua Tree to be left in place. The act of relocating a Joshua Tree is a highly traumatic event for the tree, especially if the tree is a large and mature tree. It is obviously much worse for the Joshua Tree to be destroyed than left in place, that goes without saying. As the law currently stands, there is literally no option to save the Joshua Tree, it's either move it...or kill it. Why not add an option to SAVE IT with the approval of a licensed arborist?! I am encountering this very issue on my own property right now. I brought an arborist out to perform the native plant census in order to complete the “Western Joshua Tree Application” for the town of Yucca Valley, his name is Mike Murphy and he is a renowned arborist in Joshua Tree. He has evaluated literally thousands of Joshua Trees in his career. In his professional opinion, based on the size and location of our Joshua Tree, it is in the best interest of this particular tree to be left as is.



- 5. He would be willing testify and write a letter supporting this amendment to the law.

ArborPro  
 Mike Murphy  
 Contractor License #799469  
 Certified Arborist #WE-4587  
 58036 Desert Gold Drive, Yucca Valley, CA 92284  
 deserttreedoc3@gmail.com

**SECTION II: Optional Information**

- 6. **Date of Petition:** 10/8/2021
- 7. **Category of Proposed Change**
  - Sport Fishing
  - Commercial Fishing
  - Hunting
  - x Other, please specify: Western Joshua Tree
- 8. **The proposal is to:** ( To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)
  - x Amend Title 14 Section(s): ~~Division 1: Ordinance No. 294~~ Sections 399 and 2084 ]
  - Add New Title 14 Section(s): [Click here to enter text.]
  - Repeal Title 14 Section(s): [Click here to enter text.]
- 9. **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.
- 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: This requires immediate implementation. This is holding up the possibility of acquiring our permits.
- 11. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Mike Murphy would be willing testify on behalf of this change.
- 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: No impact.
- 13. **Forms:** If applicable, list any forms to be created, amended or repealed:

[Western Joshua Tree Application]

**SECTION 3: FGC Staff Only**



Date received: [10/8/2021. ]

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 [ \_11/18/21\_ ]

Meeting date for FGC consideration: [ \_Receipt Oct 14, 2021; \_\_action Feb 16-17, 2022 ]\_\_

FGC action:

- Denied by FGC
- Denied - same as petition [ \_\_\_\_\_ ]
- Granted for consideration of regulation change

Tracking Number



Tracking Number: (2021-026)

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

Address: [here to enter text.](#)

Telephone number: [here to enter text.](#)

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

**2. Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: **CCR Title 14, Section 630 ; CCR Div. 3, Article 3.7 Safe Harbor Agreement ; CCR Chap.1.5,Art. 1, 2052; Div.12,Chap.5 15400-15415; CCR General Provisions 2050-2068; 1666 Destruction of Gov. Property 18 USC 1361** [Click here to enter text.](#)

**3. Overview (Required)** - Summarize the proposed changes to regulations: 1) Remove regulations assigned to the Title 14, Section 630 Ecological Reserve, Ballona Wetlands Ecological Reserve that do not apply to the Ballona Wetlands Ecological Reserve boundaries. 2) CDFW as Board Member of private Playa Vista business known as Ballona Wetlands Conservancy, provide Safe Harbor agreements; 3) Div. 12, Chap. 5 leasing of/ Streambed Agreement per Playa Vista Freshwater Marsh System additional regulation language to add:  
a) The management of the FWM System(CDFW Streambed Agreement) shall not create significant adverse cumulative impacts upon BWER and to abide by BWER Section 630 Purpose and Goals for best management practices of no wasting of freshwater resources. b) To reduce adverse effects on BWER ecological systems, the use of freshwater resources shall be for the health and well-being of BWER where feasible.; [Click here to enter text.](#)

b) **Rationale (Required)** - Describe the problem and the reason for the proposed change: The Ballona Wetlands Ecological Reserve has specific boundaries that are distinct geographic areas. Certain FGC/ CDFW Section 630 Ballona Wetlands Ecological Reserve regulations have been assigned to areas that are outside the boundaries of the Ballona Wetlands



Ecological Reserve (BWER) and are outside the authority of FGC & CDFW. Title 14, Section 630 ER, regulations that are outside the boundaries of the BWER need to be removed as regulations assigned to the Ecological Reserve itself. Confusion arises for the public, agencies and Los Angeles city and county department personnel, when FGC and CDFW extend their Section 630 ER regulatory language for areas that are not a part of the Ecological Reserve and are outside CDFW jurisdictional authority. The federal and LA County Ballona Channel and its levee areas that are outside the Ecological Reserve boundaries are under the jurisdiction of city/county/state and federal jurisdictions. The Ca. Dept of Fish & Wildlife does have certain Fish & Wildlife Codes as fishing regulations or boating regulations on certain bodies of water and/or regulations for activities in areas that are within boundaries of an Ecological Reserve and/or a Marine Preserve. However, in areas that are not within Ecological Reserve boundaries, such as Ballona Wetland Ecological Reserve boundaries, the Title 14, Section 630 site specific regulations should not include regulations for areas not within the boundaries of the Ecological Reserve as a Ballona specific Section 630 Ecological Reserve regulation. The separate, distinguishable CDFW code regulations provide for clarity and for authority of enforcement potentials in areas that are within the authority of CDFW but are outside the Ecological Reserve. And, general Ecological Reserve regulations provide additional oversight regulations that include provisions for further Fish & Game Commission approval needs if potentially required.

Specifically: 1. The Ballona Channel is not a part of the BWER. The Ballona Channel is outside boundaries of the BWER. Therefore, any, all CDFW regulations that may appropriately apply to fishing etc interests, in any particular water body is governed under CDFW Code regulations and should not be a part of the Ballona Wetlands Ecological Reserve's set of Section 630 regulations. Should future fishing or boating etc. be allowed within the Ballona Wetlands Ecological Reserve, the general ER regulations provide notice of need for further approvals by the Fish and Game Commission. Whether CDFW has regulatory authority of what types of boats, or floatation devices may be used or not used on the Ballona Channel, is not at issue. However, any and all current BWER CCR Title 14 Section 630 language that applies to boat use or non- use in the Ballona Channel should be removed, as the Ballona Channel is outside the boundaries of the Ecological Reserve. (It is however, believed that the County of Los Angeles and the US Army Corps of Engineers (not CDFW or FGC) have jurisdiction over boats or floatation devices that can be utilized or not utilized in the Ballona Channel.). 2. Similarly, the US Army Corps of Engineers and the County of LA have jurisdiction over the levees of Ballona Channel which include the roadways/bike paths that are outside the boundary fencing of the Ballona Wetlands Ecological Reserve itself. The CCR Title 14, Section 630 regulations and any/all CDFW regulations pertaining to the use of bicycles and/or vehicular traffic on these levee roadways outside the Ecological Reserve itself, need to be removed as such regulations are outside the authority of FGC and/or CDFW. 3. Additionally, the Playa Vista flood control catch basin, aka the freshwater marsh area is public trust land/water that was removed from the Ecological Reserve and therefore the boundary identification of BWER needs to be updated to reflect the actual boundaries of BWER, inclusive of the removal of the catch basin in the Title 14, Section 630 ER boundary language. 4. CDFW maintains a Streambed Alteration Agreement with Playa Vista which provides CDFW regulations for the entirety of the flood control, catch-basin system, which is outside the boundaries of the BWER but for the CDFW Unpermitted Drains and their connections to the Main Drain and the Main Drain to Ballona Channel. 4.a. Grassroots Coalition requests the insertion into CDFW Streambed Alteration regulation language that stipulates CDFW is a board member of the Playa Vista Ballona Conservancy as cited by CDFW's Rich Burg in communications with the Ballona Wetlands Landtrust. b. Grassroots Coalition requests specific



identification of CDFW's role as a board member of the Ballona Wetlands Conservancy, including its specific requirements or lack thereof of surface and groundwater disposal into the LA City Sanitary Sewer System or the ocean via National Pollutant Discharge System (NPDES) permits for the catch basin/ freshwater marsh system inclusive of the riparian corridor; the Main Drain to Ballona Channel & the unpermitted drains to the Ballona Channel (both of which are within the Ecological Reserve). c. Grassroots Coalition requests specific regulation language additions per its Purpose and Goals stipulations of protection to Ballona's freshwater resources for Ballona within the Ballona specific CCR Section 630, Title 14. The additional language would stipulate that the freshwater marsh's Main Drain ( located within the ER) shall not convey and/or waste freshwater to the Channel that can be safely utilized by Ballona Wetlands Ecological Reserve, without threat of the freshwater overtopping and/or flooding roadways. Similarly, additional regulation language requested is as follows:

That ponding rainwater within the Ecological Reserve, including ponding that moves via numerous drain ditches, shall remain in the ER to provide for both surface ponding and to recharge the underlying aquifers, providing that the drainways can still be allowed to exit the water to the ocean if threat of overtopping or flooding roadways may occur. The CDFW Streambed Alteration Agreement between CDFW and Playa Vista, alongside CDFW's Ballona Wetlands Conservancy's Board membership provides an ability for CDFW to abide by the Fish and Game Commission's stipulations of protection to Ballona's freshwater resources as intended in Ballona's Section 630 Purpose and Goals. Grassroots Coalition believes the board membership of CDFW as part of a private Ballona Wetlands Conservancy to be a conflict of interest, hence the request for Safe Harbor Agreement for transparency purposes and to ensure a mission of protection to BWER.

CDFW also has authority as a board member of the Ballona Wetlands Conservancy with Playa Vista/Brookfield/ Playa Capital LLC-- of CDFW's oversight jurisdiction and /or regulatory governance over the University City Syndicate oilwell (continuous thermogenic outgassing occurs over this well, Playa Vista reabandoned in 2001. ( University City Syndicate is located within the catch-basin outside the ER.) The oilfield gas contaminants and fire/explosion hazards are contrary to CDFW's mission of protection to BWER and its Streambed Agreement per the FWM System.

Grassroots Coalition is unaware of any agreements with either the Army Corps of Engineers and/or the County of Los Angeles that would allow for CDFW to create regulations governing property use under the jurisdiction and dominion of the USACE or the County of LA. If such exists, please provide for clarity.

Information Digest/Policy Statement Overview of CDFW cites its 132 ecological reserves designated in Section 630, Title 14 CCR, for the purpose of protecting sensitive habitats and species. Barclay's official CCR lists Section 630, Ballona specific additional use regulations as **“(10) Ballona Wetlands Ecological Reserve, Los Angeles County.**

Grassroots Coalition believes the following language should be removed and changed to appropriate Ecological Reserve specific language:

**“(B) Bicycle use is allowed only on the designated bike path on the north side of the Ballona Creek flood control channel.”**

For example the Ecological Reserve language should instead read as follows: Bicycle use is not allowed within the Ecological Reserve.

**“(D) Boating shall be allowed only within the Ballona Creek flood control channel.”**

The Ecological Reserve language should eliminate this language altogether as the Channel's boating use or non-use is within the jurisdiction of the County of LA and federal authorities.



Example of CDFW and Section 630 language that does not address boating-- Boating is used within the freshwater marsh area by employees of Playa Vista and no language of either CDFW or the Section 630 language addresses this area's lease agreements or usage for boating/non boating or fishing/non fishing. The freshwater marsh is also outside the boundaries of the Ecological Reserve.

**“(C) Fishing from shore is allowed only in designated areas along Ballona Creek flood control channel. Fishing from boats is allowed only within the Ballona Creek flood control channel. Only barbless hooks may be used.”**

Why is this language contained within the Section 630 ER language? The language pertains to areas outside the BWER boundaries and we request its removal. If CDFW has jurisdiction over whether hooks may or may not be used in the Channel area, is this not a CDFW Code Regulation that is better placed within the CDFW Code of Regulations? The Ballona Channel is within federal and LA County jurisdiction for its usage that does not pertain to wildlife.

In fact, per a **“Meeting 12-20-04, Agenda Item #6, Department of Fish and Game Ecological Reserves**

**NOTE: The following language is taken directly from section 360 (CDFW typo error) of Title 14 of the California Code of Regulations regarding the general rules and regulations associated with ecological reserves. “**

**The language for Section 630 Ecological Reserves covers ie.**

**“(2) Fishing. Fishing shall be allowed in accordance with the general fishing regulations of the commission except that the method of taking fish shall be limited to angling from shore. No person shall take fish for commercial purposes in any ecological reserve except by permit from the commission.”**

Therefore, as can be noted above, the ER language pertains to ERs . This language has been determined as sufficient for the Ecological Reserves' general rules and regulations. The Ballona Wetlands Ecological Reserve has no visitation access except for educational touring from certain organizations, therefore no fishing or non fishing language applies to this particular Reserve within its boundaries. And, should fishing ever be allowed in the canal areas of the Reserve, then that would be within the boundaries of the Reserve and need to be approved by the commission.

Another example is:

**“(B). Boating. No person shall launch or operate a boat or other floating device within an ecological reserve except by permit from the commission.”**

Ballona Wetlands Ecological Reserve has no visitation access except for educational touring via certain organizations with permits for such. Ballona's seasonal ponding and its canal areas would also be covered by this general rule that is mindful of the boundaries of the ER.

Ballona's unique and specific Section 630 language should not contain any further language than is already provided by the general rules for ecological reserves. And, should boating ever be allowed, then it would need to be approved by the commission for within the boundaries of the ER itself.



## SECTION II: Optional Information

c) **Date of Petition: December 6, 2021**

d) **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: CCR Title 14, Ecological Reserve Section 630 Boundary identification changes & attendant regulation removal for areas not under the authority of FGC or CDFW. Addition of Ballona specific Section 630 freshwater, usage protective regulation as cited above for the Main Drain to the Ballona Channel and for numerous drainage channels that currently allow for syphoning off freshwater to the ocean from the BWER.; CDFW Ballona Wetlands Conservancy board membership regulation additions, if under the authority of FGC as necessary approvals for use of BWER. [Click here to enter text.](#)

e) **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 Ballona specific 630 regulations; removal of regulations for areas outside the BWER and not under the jurisdiction of FGC or CDFW; update of actual BWER boundaries 2021 [lick here to enter text.](#)

Add New Title 14 Section(s): Fish & Wildlife regulations in tandem with CDFW's Ballona Wetlands Streambed Alteration Agreement to specify the volumes of freshwater sent into the Freshwater Marsh System to be utilized for the benefit of Ballona's ecosystems and BWER, and to recharge the underlying aquifers. Add regulations per CDFW's board membership in the Ballona Wetlands Conservancy (a Playa Vista business) that provide stipulations for clarity of CDFW's authority and a stipulation to provide updates to the public for full disclosure of CDFW's communications with and authority as a board member of the Ballona Wetlands Conservancy. [ck here to enter text.](#)

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

f) **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [This is a Petition for specific changes to regulations Title 14, Section 630 BWER& CCR. A previously submitted Petition pertaining to BWER was not approved for clarification of Purpose and Goals \(not regulation change\) language of the Section 630 ER language. \[Click here to enter text.\]\(#\)](#)

Or  Not applicable.

g) **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: ASAP per boundary identification and regulations removal that is not under the authority of FGC or CDFW in order to remove confusion to the public/agencies . And, the rainy season is here. Current CDFW management of BWER allows for harm to BWER due to their participation and allowance of Ballona's freshwater resources to be diverted away from BWER and wasted in the ocean and sanitary sewer system. [lick here to enter text.](#)



- h) **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Ballona Wetlands Ecological Reserve Section 630, Title 14 CCR specific language; General Ecological Reserve language; CA. Fish & Game Code language. Ca. Coastal Commission 2014 Letter re: harm to Ballona’s hydrology via CDFW non permitted drains. CDFW B. Courtney letter to Playa Vista acknowledging harm to hydrology due to freshwater diversion away from Ballona Wetlands. GC v CDFW lawsuit re: the unpermitted Drains.
- i)
- j) **As cited in the California Coastal Commission (CCC) Letter (4/11/14) to Playa Vista and CDFW ... draining Ballona is harmful to the ecosystem:**

• • **2017 California Department of Fish & Wildlife, (CDFW) Betty Courtney Cites Harm to Ballona Due to Reduced Water Flow From Playa Vista**

- k) Click here to enter text.]
- l) **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.]
- m) **Forms:** If applicable, list any forms to be created, amended or repealed:  
[Click here to enter text. ]

**SECTION 3: FGC Staff Only**

Date received: [12/6/2021 ]

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: \_\_\_\_\_ ]

Meeting date for FGC consideration: [Receive 12/15-16/21; action 2/16-17/21\_\_\_\_\_ ]

FGC action:

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



Tracking Number: ( 2021-027 )

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: Sabrina Ashjian, California State Director, The Humane Society of the United States

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:**

Cal. Fish & Game Code §§ 200, 203, 203.1, 302.

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

We request that the California Fish and Game Commission ("Commission") amend existing black bear (*Ursus americanus*) hunting regulations to eliminate open hunting season until (1) an empirical study is conducted of the state's black bear populations, (2) the effects of drought and recent wildfires on the state's bear populations are adequately studied, and (3) the state's bear management plan is updated to include the best available science, including social science.

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

As detailed more fully in the letter included as Attachment A, we are gravely concerned about the status of California's black bear population given the numerous threats these bears face and recent data released by the Department of Fish and Wildlife ("DFW") indicating a steep decline in the state's bear population. We therefore request that the Commission take urgent regulatory action to protect black bears.



Black bears in California are threatened by numerous factors. To start, California has experienced record-level fires and drought in recent years. In 2021 alone, more than three million acres burned from intense wildfires. Yet, to date, DFW has not analyzed the effects these fires—and future fires— or California’s well-documented drought will have on the state’s black bears, their food sources, or their habitats. Climate change exacerbates these issues and poses a further threat to bears both because erratic weather events limit the availability of natural foods and because warmer weather causes bears to spend less time in their dens, increasing the potential for human-wildlife conflict. As a result, bear biologists warn we must do more to avoid attracting bears to human food sources by implementing bear-aware campaigns, but we should certainly not increase bear mortalities to reduce conflicts. Killing bears to reduce conflict risks extirpating local populations *and* multiple studies warn that hunting bears does nothing to reduce conflicts with them.

Human persecution of bears, such as through hunting and predator control, not only does not stop human-bear conflict, it also threatens these animals because it causes “super-additive” mortality, meaning that kill rates exceed mortalities that would occur naturally. This is because hunters typically target adult breeding animals, which disrupts animals’ social structure and leads to indirect effects, particularly increased infanticide resulting in decreased recruitment of young. Because bears are slow to reproduce, compared to other mammals, this super-additive mortality can be especially devastating to bear populations. Another form of human persecution, poaching, is of major concern in California; the current bear management plan suggests that poaching numbers equal that of legal killings in some areas of the state.

In the face of these threats to bears, we are alarmed by worrisome indications of a steep decline in California’s black bear population. In late October 2021, DFW posted its black bear “take” reports for the years 2017, 2018, 2019 and 2020. In the 2020 report, the agency suggests that the black bear population is 15,934 ( $\pm 6,163$ ), a marked decrease from the estimated population of 30,000-40,000 that DFW has suggested for years. DFW now believes that the California bear population could be as low as 9,771 individuals, which would indicate a 67% decline in the number of bears from the previously reported lowest population range of 30,000 bears.

Equally troublesome is DFW’s unempirical approach to estimating the state’s bear population. Although many large-carnivore biologists recognize that using kill levels to estimate bear populations is unreliable, DFW uses the number of hunted bears to approximate the live bear population in the state. In other words, DFW has no empirically based estimate of the state’s bear population. What we do know is that the numbers of black bears killed annually is in decline while the number of bear hunters themselves has increased with a record 30,388 in 2020, providing further indication that the state’s bear population is declining.

Under California’s Constitution and the Fish and Game Code, the Commission has a clear obligation to provide for the conservation of the state’s wildlife. California’s Constitution creates the Commission and gives the California legislature the authority to “delegate to the commission such powers relating to the *protection and propagation of fish and game*” as the legislature sees fit. Cal. Const. art. IV, § 20 (emphasis added). The legislature has accordingly granted the Commission “the power to regulate the taking or possession of . . . mammals.” Cal. Fish & Game Code § 200. More specifically, the Commission has regulatory authority to “establish, extend, shorten, or abolish open seasons and closed seasons” for game mammals,



such as black bears. *Id.* § 203. The legislature has provided specific factors that the Commission must consider when adopting such regulations, including “populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony.” *Id.* § 203.1.

Further, the Commission has specific obligations with respect to its regulation of the black bear hunting season. The Commission must “annually determine whether to continue, repeal, or amend regulations establishing hunting seasons for black bears.” *Id.* § 302. This determination “shall include a review of factors which impact the health and viability of the black bear population.” *Id.*

Given the threats California black bears face and the indications of their population decline—factors that the Commission is *required* to consider in making its annual determination of whether to continue the black bear hunting season—we ask the Commission to eliminate the season until (1) an empirical study is conducted of the state’s black bear populations, (2) the effects of drought and recent wildfires on the state’s bear populations are adequately studied, and (3) the state’s bear management plan is updated to include the best available science, including social science. More specifically, the updated bear management plan should also consider the additional effects from climate change, including stochastic weather events (late freezes affecting mast crops), insect-borne diseases and parasites, sexually selected infanticide resulting from human persecution, and it should include plans to prevent human-bear conflicts, such as through bear-smart or bear-aware campaigns.

Our request to suspend bear hunting season until these conditions are met is not only consistent with the Commission’s legal obligations, it also honors the will of the people of California—70% of California voters do not want black bears killed for sport.

**SECTION II: Optional Information**

5. **Date of Petition:** December 10, 2021

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify:

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): 365, 366, see Attachment B for proposed revisions
- 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.



**Attachment A**  
**November 22, 2021 Letter to Commission**



November 22, 2021

Peter S. Silva, President  
Samantha Murray, Vice President  
Jacque Hostler-Carmesin, Member  
Eric Sklar, Member  
Erika Zavaleta, Member  
**California Fish and Game Commission**  
715 P Street, 16th floor, Sacramento, 95814  
P.O. Box 944209, Sacramento, CA 94244-2090

**Re: Urgent request to review black bear (*Ursus americanus*) hunting in California, draft an updated black bear management plan, and conduct a population study to avoid jeopardizing California's black bears**

Dear President Silva and Commissioners:

In light of the historic wildfires over the past several years (including the loss of more than a record three million acres from wildfires in 2021 alone<sup>1</sup>), and data recently released by the California Department of Wildlife (DFW), we are deeply concerned about the state of black bears in California.

In late October 2021, DFW posted its black bear “take” reports for the years 2017, 2018, 2019 and 2020. From the 2020 report, we are alarmed to see the agency suggest that the black bear population is 15,934 ( $\pm 6,163$ ) rather than the estimated population of 30,000 – 40,000 that DFW has suggested for years.<sup>2</sup> DFW now believes that *the California bear population could be as low as 9,771 individuals*, which would indicate a 67% decline in the number of bears from the previously reported lowest population range of 30,000 bears. A nearly 70% decrease in California's black bear population should spur the Commission to take urgent action to protect California's black bears from all harms, including an update to the 1998 black bear management plan.

#### **A. California's climate crisis is acute and harms black bears**

In 2021, California experienced record-level fires. According to CalFire, more than three million acres burned,<sup>3</sup> and in some areas, even soils experienced severe burn.<sup>4</sup> Because of erratic weather events from the climate crisis, including late season frosts or droughts, natural foods are increasingly unavailable to bears. For instance, in a Colorado bear study, the female cohort of the population declined by 57% because of human-caused mortalities from vehicle collisions, hunting and predator control, which coincided with widespread unavailability of natural foods. This would not have been detected by wildlife managers without the rigorous population monitoring study in place.<sup>5</sup> California has no such equivalent in population monitoring as we discuss below.

Climate change has resulted in a warmer climate, which causes bears to spend less time in their dens.<sup>6</sup> Because of all these factors, black bear biologists warn that wildlife managers must limit recreational black bear killing to reduce total mortality, and especially during years of poor natural food production, which is readily predicted by weather events.<sup>7</sup>



## B. Bears are slow to reproduce and thus are susceptible to overkill

Black bear biologists suggest that the total annual human-caused mortality that a black bear population can sustain is only between 4% and 10% of the population; more than that is simply super-additive mortality.<sup>8</sup> In other words, when there is additive mortality, the population will decline in number, and sometimes that decline is unsustainable because of black bear biology. For example, female bears rarely migrate—they prefer to live near their natal areas, and this compounds the harms to their populations from hunting, chronic wildfires and other sources of mortality that affect their populations.<sup>9</sup> The loss of females reduces a bear population’s ability to bounce back as they are the key to sustaining the population.<sup>10</sup>

Human persecution of bears, such as through hunting and or predator control, causes “super-additive” mortality, meaning that kill rates exceed mortalities that would occur naturally.<sup>11</sup> This is because hunters like to target adult breeding animals,<sup>12</sup> which disrupts animals’ social structure and leads to indirect effects, particularly increased infanticide resulting in decreased recruitment of young.<sup>13</sup>

Compared to other mammals, bears are slow to reproduce. Generally, females are not considered to be adults until they are 3 to 6 years old—and in the arid West, that timeframe is generally older at 4 to 5 years—but females are capable of breeding until age 21.<sup>14</sup> Fecundity varies with age.<sup>15</sup> Females generally give birth to litters of cubs only every 2-3 years. Cub survival in one Colorado study was about 55%.<sup>16</sup> Cubs die from many factors including vehicle collisions, predation or starvation.<sup>17</sup> The intervals are dictated by both bear biology and weather and climate. Bears will keep their cubs to 15-24 months (or longer if they are underweight). But if there are droughts or frosts, bears’ foods can be unavailable to them—which both reduces reproduction potential and increases the intervals between litters of cubs and cub survival itself.<sup>18</sup> Thus, bears reproduce slowly,<sup>19</sup> and are highly susceptible to overkill<sup>20</sup>—including by hunters and predator-control agents.

Large-bodied carnivores such as black bears are sparsely populated across vast areas, invest in few offspring, provide extended parental care to their young and reproduce slowly. Bears are capable of self-regulation<sup>21</sup> and are regulated by habitat and climatic conditions. Considering these biological factors, they rely on social stability to maintain resiliency.<sup>22</sup>

Without social stability, bears experience sexually selected infanticide; that is, when a resident, adult male is removed, subadult males vie for his home range and mates. These newcomers kill the adult male’s offspring in order to spur females back into breeding so the newcomers can pass on their genetic materials.<sup>23</sup> Gosselin et al. (2015) state: “In species with sexually selected infanticide (“SSI”), hunting may decrease juvenile survival by increasing male turnover.” This study and others show that hunting mortality can harm social organization of species, because it promotes male turnover and thus increases sexually selected infanticide upon cubs of deceased males.<sup>24</sup>

Welfelt et al. (2019) in their study of Washington bears found bear densities range widely by region, and that managers had over-estimated the population of bears in western Washington—including cubs—by 50 percent.<sup>25</sup> The implications for California are particularly salient, given that black bear habitat in California is also widely varied by region, and black bears are a forest obligate.<sup>26</sup> Density estimates from studies conducted in optimal quality habitats where animals are abundant can only be extrapolated cautiously to larger areas with similar habitats and landscape characteristics.<sup>27</sup> DFW has failed to accommodate differences in vegetation, land use and topography to avoid overestimating bears, and particularly females.<sup>28</sup>



**THE HUMANE SOCIETY  
OF THE UNITED STATES**

In sum, around the world and in California, large carnivores face extinction from human factors,<sup>29</sup> thus it is incumbent upon the Commission to conserve California's black bears now, so they are not extirpated like grizzly bears had been. Expanded human development into bear habitats during the climate crisis (including wildfires) exacerbates bear mortalities; thus, the Commission should act to curb black bear mortalities and especially by hunting.<sup>30</sup>

### **C. DFW's black bear census does not rely upon best available science**

Garshelis and Hristienko (2006) caution that many state wildlife managers fail to adequately investigate population sizes and trends, but rather rely on guesswork to estimate bear numbers.<sup>31</sup> Population trends must be determined using reliable methodologies; however, sightings, depredation events and kill levels are not reliable means to indexing a population.<sup>32</sup> In contravention to these principles for enumerating bears, the DFW's 2020 take report provides:

To produce a population estimate for a given year, the Department uses an age-at-harvest model reliant on the age and sex of bears harvested that year. In 2013, the use of hounds in the sport take of bears was prohibited, which violated a key assumption in that model regarding consistent hunter effort. Annual bear harvests have been relatively lower since this ban . . . resulting in correspondingly lower population estimates . . . . The average population growth rate in the years following the ban (1.00 in 2013-2020) remains steady and on par with the average population growth rate in years before the ban (1.03 in 1993-2012) . . . . The Department estimates approximately 15,934 ( $\pm 6,163$ ; 95% CI) bears inhabited the black bear hunt area prior to the start of the 2020 bear hunting season . . .

In short, DFW admits it uses dead, hunted bears to estimate the number of live bears in California. This is not empirical science, according to many large-carnivore biologists.<sup>33</sup> And ignores the many benefits bears confer on their forest ecosystems<sup>34</sup> and their intrinsic worth.<sup>35</sup>

What we do know is: the numbers of black bears killed annually is in decline while the number of bear hunters themselves were a record 30,388 in 2020. See: Figures 1, 2 and 3. In the absence of empirical population data, the Commission must act to prevent the overkill of California's bear populations.

Also, the average number of bears hunted in California from 1998 to 2012 was 1,777 bears, and for the years 2013 to 2020, the average was 1,258 bears. On average, 519 bears *were not* killed by hunters each year since 2013 – making DFW's model particularly doubtful – because less bears were killed by hunters and yet the population is likely in decline.

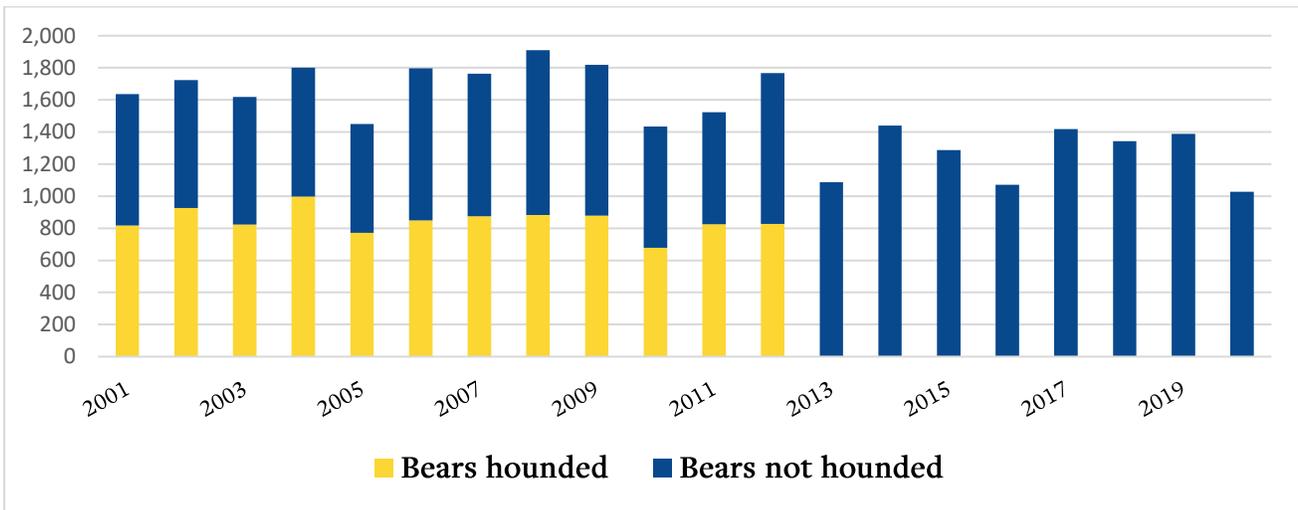
What we do know is: the numbers of black bears killed annually is in decline while the number of bear hunters themselves has increased with a record 30,388 in 2020. See: Figures 1, 2 and 3. In the absence of empirical population data, the Commission must act to prevent the overkill and jeopardy of California's bear populations.

DFW's bear population analyses have no basis in sound science because they are not based on traditional population enumeration methods, but rather on a discredited method of using the numbers of dead, hunted bears to guess at the number of live bears. Yet, the agency had claimed between 30,000 to 40,000 bears in California on its website, then in its 2020 Annual Bear Take Report precipitously dropped that population figure

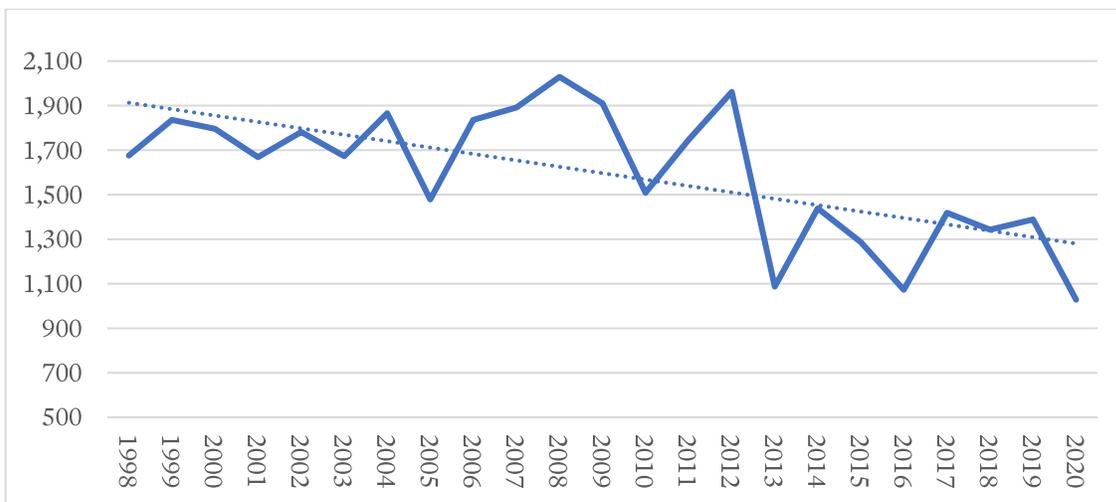


to 15,934 (±6,163) – a population range between 9,771 to 22,097 individuals – even as the numbers of bears killed by hunters has simultaneously declined in California. Figs. 1, 2 and 3.

**Figure 1. Black bears hunted in California, 2001-2020**



**Figure 2. Trend of black bears killed by hunters in California**

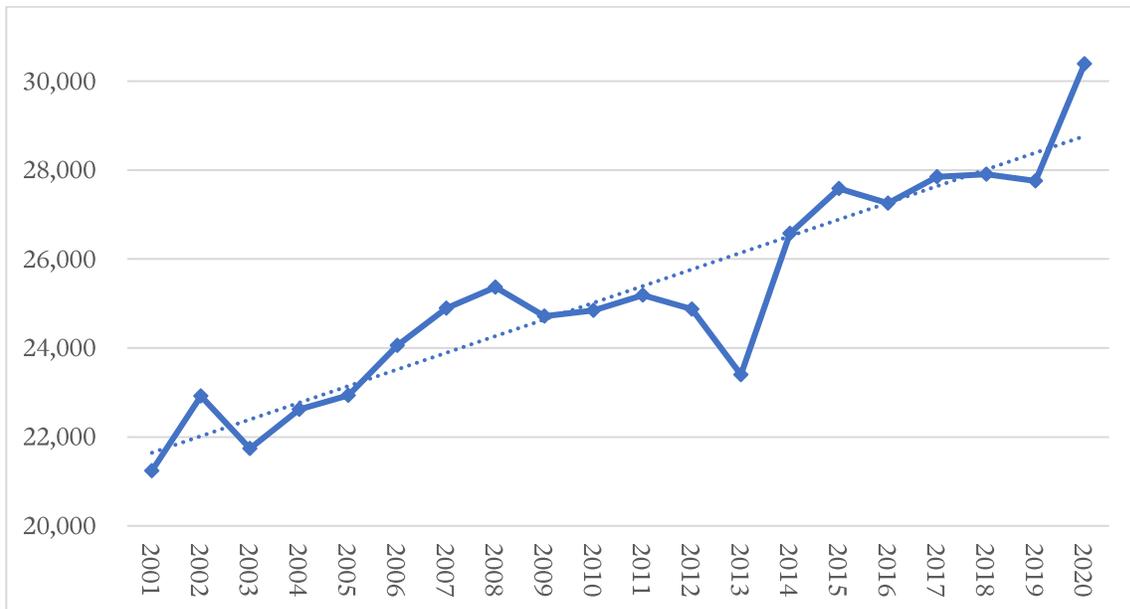


**A. DFW’s bear hunter data show that bear hunters are increasing while bears killed are decreasing**

In the absence of bear population studies, the only data relied upon by DFW are the numbers of dead bears per year in California. While a record number of hunters turned out in 2020, 30,387 bear hunters, they killed an all-time low number of bears, 1,028, compared to most other years since 1998. Figs. 1 and 2.



**Figure 3. Trend of black bear hunters in California**



DFW's data also show that since 2013 when hounding was banned, most California bear hunters are opportunistic deer hunters, 58%. Since 2013, only ~43% of bear hunters are dedicated to the activity. The DFW classifies 2% of bear hunters as "other."

Bear poaching is a major issue of concern in California. The 1998 black bear management plan, citing Sitton (1982), suggests that in some areas of California, poaching numbers equal that of legal killing.<sup>36</sup> The DFW's bear reports are silent as to the extent of poaching in California, so the public and the Commission are in the dark on this grievous issue. Again, the best available science indicates that bear populations can only withstand offtake in an amount under ten percent annually.<sup>37</sup>

### **B. Black bear hunting is unpopular amongst California residents**

Bear hunting is highly unpopular with Californians. A 2020 Remington Research poll of likely 2022 California voters found<sup>38</sup>:

- A supermajority, 70%, do not want California black bears killed for sport. This includes majorities of residents in the top two bear hunting counties from 2020 – Shasta County and Trinity County – who oppose the hunting of bears for sport.
- A supermajority, 71%, agree that wildlife officials should place a priority of non-lethal methods to reduce conflicts between bears and people (e.g., public education, trash management or frightening devices used by game officers) rather than killing bears
- A majority, 62%, would support legislation to stop the hunting of black bears



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Figure 4. DFW's black bear hunt data

Year	DFW's bear population estimate	Bear-hunter mortality	% Female bears	# Bear tags sold	% Deer & bear hunters	% Bear Hunters only	% Other hunters	Hunter success rate (%)
2008	37,150	2,029	37	25,631	34	44	8	7.9
2009	31,432 (± 7,991)	1,910	40	24,805	34	56	10	ND
2010	31,432 (± 7,991)	1,508	40	24,859	37	56	8	ND
2011	26,390 (±6,889)	1,745	42	21,581	28	56	16	8
2012	34,002 (±5,561)	1,962	38	24,872	32	67	2	7.9
2013	34,385 (±6,443)	1,087	37	23,397	53	47	1	4.6
2014	35,101 (±6,444)	1,439	42	26,576	51	49	0	5.4
2015	35,484 (±6,444)	1,287	40	27,578	57	39	5	4.7
2016	35,867 (±6,444)	1,072	40	27,253	69	41	2	3.9
2017	23,397 (±7,176)	1,418	40	27,864	63	50	1	5.1
2018	20,801 (±6,269)	1,342	37	27,885	61	39	0	4.8
2019	21,529 (±6,231)	1,389	40	27,755	59	35	6	5
2020	15,934 (±6,163)	1,028	38	30,387	54	45	2	3

## Conclusion

The harms from the recent wildfires on California's bear population are currently unknown, as are the effects of hunting and poaching on California's bear population, and the reason behind such a dramatic decline in the estimated population. Therefore, we respectfully request that the 2022 bear hunt be suspended by the Commission until an empirical population study can be conducted, the effects of the wildfires on California's bear population adequately studied, and the bear management plan updated to include the best available science, including social science.

Sincerely,

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**Attachment B**  
**Proposed Regulatory Amendments**

**Cal. Code Regs. tit. 14, § 365 Bear.**

Except as provided in Section 366, bear may be taken only as follows:

(a) Areas:

- (1) Northern California: In the counties of Del Norte, Humboldt, Plumas, Shasta, Siskiyou, Tehama and Trinity; and those portions of Lassen and Modoc counties west of the following line: Beginning at Highway 395 and the Sierra-Lassen county line; north on Highway 395 to the junction of Highway 36; west on Highway 36 to the junction of Highway 139; north on Highway 139 to Highway 299; north on Highway 299 to County Road 87; west on County Road 87 to Lookout-Hackamore Road; north on Lookout-Hackamore Road to Highway 139; north on Highway 139 to the Modoc-Siskiyou county line; north on the Modoc-Siskiyou county line to the Oregon border.
- (2) Central California: In the counties of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lake, Mendocino, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo and Yuba and those portions of Napa and Sonoma counties northeast of Highway 128.
- (3) Southern Sierra: That portion of Kern County west of Highway 14 and east of the following line: Beginning at the intersection of Highway 99 and the Kern-Tulare county line; south on Highway 99 to Highway 166; west and south on Highway 166 to the Kern-Santa Barbara county line; and those portions of Fresno, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne counties east of Highway 99.
- (4) Southern California: In the counties of Los Angeles, Santa Barbara and Ventura; that portion of Riverside County north of Interstate 10 and west of Highway 62; and that portion of San Bernardino County south and west of the following line: Beginning at the intersection of Highway 18 and the Los Angeles-San Bernardino county line; east along Highway 18 to Highway 247; southeast on Highway 247 to Highway 62; southwest along Highway 62 to the Riverside-San Bernardino county line.
- (5) Southeastern Sierra: Those portions of Inyo and Mono counties west of Highway 395; and that portion of Madera County within the following line: Beginning at the junction of the Fresno-Madera-Mono county lines; north and west along the Madera-Mono county line to the boundary of the Inyo-Sierra National Forest; south along the Inyo-Sierra National Forest boundary to the Fresno-Madera county line; north and east on the Fresno-Madera county line to the point of beginning. Also, that portion of Inyo county west of Highway 395; and that portion of Mono county beginning at the intersection of Highway 6 and the Mono county line; north along Highway 6 to the Nevada state line; north along the Nevada state line to the Alpine county line; south along the

Mono-Alpine county line to the Mono-Tuolumne county line and the Inyo National Forest Boundary; south along the Inyo National Forest Boundary to the Inyo-Sierra Forest boundary; south along the Inyo-Sierra Forest boundary to the Fresno-Madera county line; north and east along the Fresno-Madera county line to the junction of the Fresno-Madera-Mono county line; south along the Mono-Fresno county line to the Mono-Inyo County line; east along the Mono-Inyo county line to the point of beginning.

~~(b) Seasons: Except in the deer hunt areas designated as zones X-1 through X-7b in subsection 360(b), the bear season shall open on the opening day of the general deer season as described in subsections 360(a) and (b) and extend until the last Sunday in December in the areas described in subsections 365(a)(1), (2), (3) (4) and (5) above. In those areas designated as deer hunting zones X-1 through X-7b, the bear season shall open on the second Saturday in October and extend for 79 consecutive days. The bear season shall be closed when the department determines that 1,700 bears have been taken pursuant to the reporting requirement in subsection 708.12(d). The department shall notify the commission, the public via the news media and bear tag holders via the U.S. mail and the news media when implementing this closure.~~

- (1) There is no open season for the hunting of bear in those portions of the state described in subsection (a) above.
- (2) The Commission may adopt regulations establishing an open season for the hunting of bear in those portions of the state described in subsection (a) above only after the Department:
  - (A) Using the best available science, completes an empirical and peer-reviewed study of the state's bear population, including but not limited to, developing updated population estimates;
  - (B) Completes a peer-reviewed study on the effects of drought and wildfires since 2018 on the state's bear populations, their habitat, and their food sources; and
  - (C) After completing the studies described in subsections (A) and (B) above, updates the current bear management plan utilizing the best available science, including but not limited to, science related to bear social structure.

(c) Bag and Possession Limit: One adult bear per hunting license year. Cubs and females accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) No open season for bear in the balance of the state not included in subsection (a) above.

(e) Bait: No feed, bait or other materials capable of attracting a bear shall be placed or used for the purpose of taking or pursuing a bear. No bear shall be taken over such bait. No person may take a bear within a 400-yard radius of a garbage dump or bait.

### **Cal. Code Regs. tit. 14, § 366 Archery Bear Hunting.**

Bear may be taken with bow and arrow during the bear season as specified in Section 365 and as follows:

(a) Areas: Those portions of the state as described in subsection 365(a).

~~(b) Season: The archery bear season shall open on the third Saturday in August and extend for 23 consecutive days. There is no open season for taking bear with bow and arrow in the balance of the state.~~

(1) There is no open season for taking bear with bow and arrow in those portions of the state described in subsection 365(a).

(2) The Commission may adopt regulations establishing an open season for taking bear with bow and arrow in those portions of the state described in subsection 365(a) only after the Department:

(A) Using the best available science, completes an empirical and peer-reviewed study of the state's bear populations, including but not limited to, developing updated population estimates;

(B) Completes a peer-reviewed study on the effects of drought and wildfires since 2018 on the state's bear populations, their habitat, and their food sources; and

(C) After completing the studies described in subsections (A) and (B) above, updates the current bear management plan utilizing the best available science, including but not limited to, science related to bear social structure.

(3) There is no open season for taking bear with bow and arrow in the balance of the state not included in subsection 365(a).

(c) Bag and Possession Limit: One adult bear per hunting license year. Cubs and female accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) The use of dogs is prohibited during the archery season for bear.

(e) Bait. No feed, bait or other materials capable of attracting a bear to a feeding area shall be placed or used for the purpose of taking or pursuing a bear. No bear shall be

taken over such bait. No person may take a bear within a 400 yard radius of a garbage dump or bait.

**Attachment A**  
**November 22, 2021 Letter to Commission**



November 22, 2021

Peter S. Silva, President  
Samantha Murray, Vice President  
Jacque Hostler-Carmesin, Member  
Eric Sklar, Member  
Erika Zavaleta, Member  
**California Fish and Game Commission**  
715 P Street, 16th floor, Sacramento, 95814  
P.O. Box 944209, Sacramento, CA 94244-2090

**Re: Urgent request to review black bear (*Ursus americanus*) hunting in California, draft an updated black bear management plan, and conduct a population study to avoid jeopardizing California's black bears**

Dear President Silva and Commissioners:

In light of the historic wildfires over the past several years (including the loss of more than a record three million acres from wildfires in 2021 alone<sup>1</sup>), and data recently released by the California Department of Wildlife (DFW), we are deeply concerned about the state of black bears in California.

In late October 2021, DFW posted its black bear “take” reports for the years 2017, 2018, 2019 and 2020. From the 2020 report, we are alarmed to see the agency suggest that the black bear population is 15,934 ( $\pm 6,163$ ) rather than the estimated population of 30,000 – 40,000 that DFW has suggested for years.<sup>2</sup> DFW now believes that *the California bear population could be as low as 9,771 individuals*, which would indicate a 67% decline in the number of bears from the previously reported lowest population range of 30,000 bears. A nearly 70% decrease in California's black bear population should spur the Commission to take urgent action to protect California's black bears from all harms, including an update to the 1998 black bear management plan.

#### **A. California's climate crisis is acute and harms black bears**

In 2021, California experienced record-level fires. According to CalFire, more than three million acres burned,<sup>3</sup> and in some areas, even soils experienced severe burn.<sup>4</sup> Because of erratic weather events from the climate crisis, including late season frosts or droughts, natural foods are increasingly unavailable to bears. For instance, in a Colorado bear study, the female cohort of the population declined by 57% because of human-caused mortalities from vehicle collisions, hunting and predator control, which coincided with widespread unavailability of natural foods. This would not have been detected by wildlife managers without the rigorous population monitoring study in place.<sup>5</sup> California has no such equivalent in population monitoring as we discuss below.

Climate change has resulted in a warmer climate, which causes bears to spend less time in their dens.<sup>6</sup> Because of all these factors, black bear biologists warn that wildlife managers must limit recreational black bear killing to reduce total mortality, and especially during years of poor natural food production, which is readily predicted by weather events.<sup>7</sup>



## B. Bears are slow to reproduce and thus are susceptible to overkill

Black bear biologists suggest that the total annual human-caused mortality that a black bear population can sustain is only between 4% and 10% of the population; more than that is simply super-additive mortality.<sup>8</sup> In other words, when there is additive mortality, the population will decline in number, and sometimes that decline is unsustainable because of black bear biology. For example, female bears rarely migrate—they prefer to live near their natal areas, and this compounds the harms to their populations from hunting, chronic wildfires and other sources of mortality that affect their populations.<sup>9</sup> The loss of females reduces a bear population’s ability to bounce back as they are the key to sustaining the population.<sup>10</sup>

Human persecution of bears, such as through hunting and or predator control, causes “super-additive” mortality, meaning that kill rates exceed mortalities that would occur naturally.<sup>11</sup> This is because hunters like to target adult breeding animals,<sup>12</sup> which disrupts animals’ social structure and leads to indirect effects, particularly increased infanticide resulting in decreased recruitment of young.<sup>13</sup>

Compared to other mammals, bears are slow to reproduce. Generally, females are not considered to be adults until they are 3 to 6 years old—and in the arid West, that timeframe is generally older at 4 to 5 years—but females are capable of breeding until age 21.<sup>14</sup> Fecundity varies with age.<sup>15</sup> Females generally give birth to litters of cubs only every 2-3 years. Cub survival in one Colorado study was about 55%.<sup>16</sup> Cubs die from many factors including vehicle collisions, predation or starvation.<sup>17</sup> The intervals are dictated by both bear biology and weather and climate. Bears will keep their cubs to 15-24 months (or longer if they are underweight). But if there are droughts or frosts, bears’ foods can be unavailable to them—which both reduces reproduction potential and increases the intervals between litters of cubs and cub survival itself.<sup>18</sup> Thus, bears reproduce slowly,<sup>19</sup> and are highly susceptible to overkill<sup>20</sup>—including by hunters and predator-control agents.

Large-bodied carnivores such as black bears are sparsely populated across vast areas, invest in few offspring, provide extended parental care to their young and reproduce slowly. Bears are capable of self-regulation<sup>21</sup> and are regulated by habitat and climatic conditions. Considering these biological factors, they rely on social stability to maintain resiliency.<sup>22</sup>

Without social stability, bears experience sexually selected infanticide; that is, when a resident, adult male is removed, subadult males vie for his home range and mates. These newcomers kill the adult male’s offspring in order to spur females back into breeding so the newcomers can pass on their genetic materials.<sup>23</sup> Gosselin et al. (2015) state: “In species with sexually selected infanticide (“SSI”), hunting may decrease juvenile survival by increasing male turnover.” This study and others show that hunting mortality can harm social organization of species, because it promotes male turnover and thus increases sexually selected infanticide upon cubs of deceased males.<sup>24</sup>

Welfelt et al. (2019) in their study of Washington bears found bear densities range widely by region, and that managers had over-estimated the population of bears in western Washington—including cubs—by 50 percent.<sup>25</sup> The implications for California are particularly salient, given that black bear habitat in California is also widely varied by region, and black bears are a forest obligate.<sup>26</sup> Density estimates from studies conducted in optimal quality habitats where animals are abundant can only be extrapolated cautiously to larger areas with similar habitats and landscape characteristics.<sup>27</sup> DFW has failed to accommodate differences in vegetation, land use and topography to avoid overestimating bears, and particularly females.<sup>28</sup>



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In sum, around the world and in California, large carnivores face extinction from human factors,<sup>29</sup> thus it is incumbent upon the Commission to conserve California's black bears now, so they are not extirpated like grizzly bears had been. Expanded human development into bear habitats during the climate crisis (including wildfires) exacerbates bear mortalities; thus, the Commission should act to curb black bear mortalities and especially by hunting.<sup>30</sup>

### **C. DFW's black bear census does not rely upon best available science**

Garshelis and Hristienko (2006) caution that many state wildlife managers fail to adequately investigate population sizes and trends, but rather rely on guesswork to estimate bear numbers.<sup>31</sup> Population trends must be determined using reliable methodologies; however, sightings, depredation events and kill levels are not reliable means to indexing a population.<sup>32</sup> In contravention to these principles for enumerating bears, the DFW's 2020 take report provides:

To produce a population estimate for a given year, the Department uses an age-at-harvest model reliant on the age and sex of bears harvested that year. In 2013, the use of hounds in the sport take of bears was prohibited, which violated a key assumption in that model regarding consistent hunter effort. Annual bear harvests have been relatively lower since this ban . . . resulting in correspondingly lower population estimates . . . . The average population growth rate in the years following the ban (1.00 in 2013-2020) remains steady and on par with the average population growth rate in years before the ban (1.03 in 1993-2012) . . . . The Department estimates approximately 15,934 ( $\pm 6,163$ ; 95% CI) bears inhabited the black bear hunt area prior to the start of the 2020 bear hunting season . . .

In short, DFW admits it uses dead, hunted bears to estimate the number of live bears in California. This is not empirical science, according to many large-carnivore biologists.<sup>33</sup> And ignores the many benefits bears confer on their forest ecosystems<sup>34</sup> and their intrinsic worth.<sup>35</sup>

What we do know is: the numbers of black bears killed annually is in decline while the number of bear hunters themselves were a record 30,388 in 2020. See: Figures 1, 2 and 3. In the absence of empirical population data, the Commission must act to prevent the overkill of California's bear populations.

Also, the average number of bears hunted in California from 1998 to 2012 was 1,777 bears, and for the years 2013 to 2020, the average was 1,258 bears. On average, 519 bears *were not* killed by hunters each year since 2013 – making DFW's model particularly doubtful – because less bears were killed by hunters and yet the population is likely in decline.

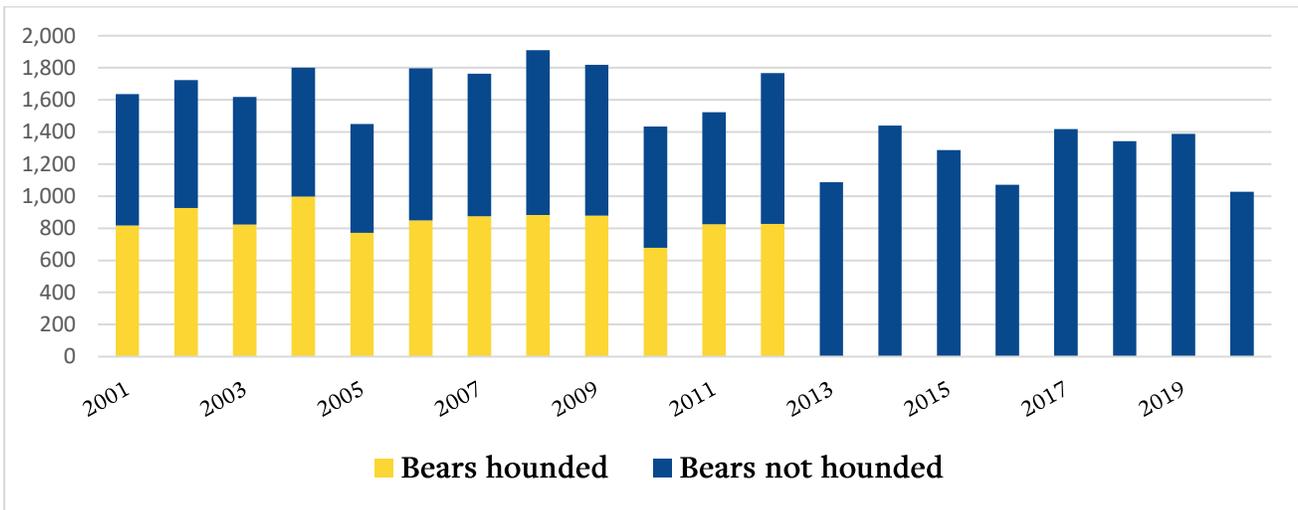
What we do know is: the numbers of black bears killed annually is in decline while the number of bear hunters themselves has increased with a record 30,388 in 2020. See: Figures 1, 2 and 3. In the absence of empirical population data, the Commission must act to prevent the overkill and jeopardy of California's bear populations.

DFW's bear population analyses have no basis in sound science because they are not based on traditional population enumeration methods, but rather on a discredited method of using the numbers of dead, hunted bears to guess at the number of live bears. Yet, the agency had claimed between 30,000 to 40,000 bears in California on its website, then in its 2020 Annual Bear Take Report precipitously dropped that population figure

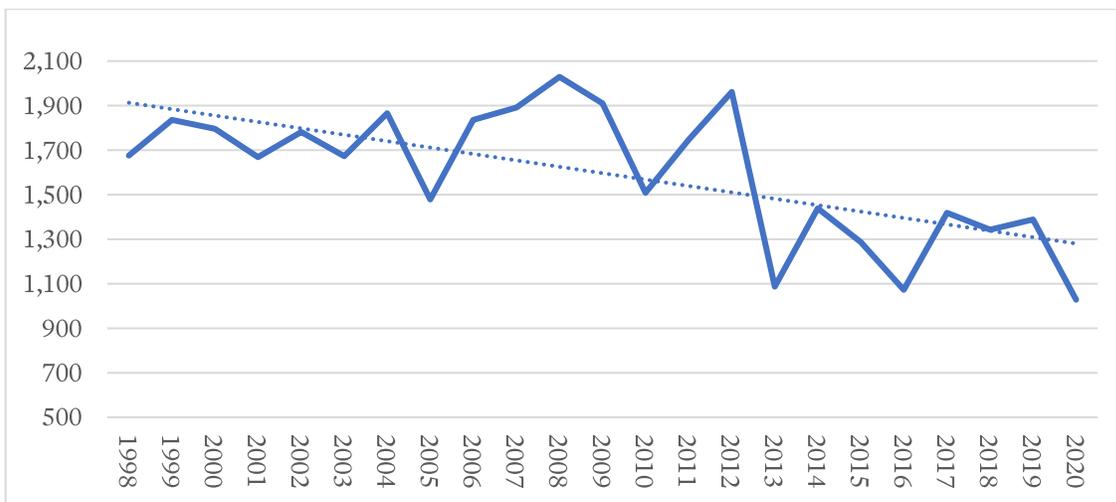


to 15,934 (±6,163) – a population range between 9,771 to 22,097 individuals – even as the numbers of bears killed by hunters has simultaneously declined in California. Figs. 1, 2 and 3.

**Figure 1. Black bears hunted in California, 2001-2020**



**Figure 2. Trend of black bears killed by hunters in California**

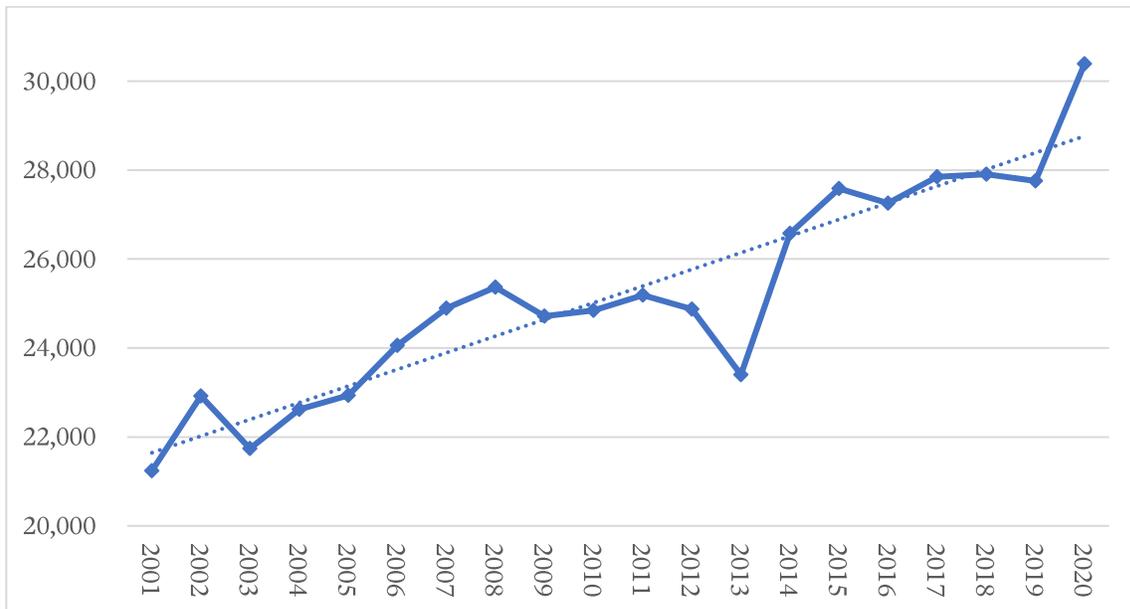


**A. DFW’s bear hunter data show that bear hunters are increasing while bears killed are decreasing**

In the absence of bear population studies, the only data relied upon by DFW are the numbers of dead bears per year in California. While a record number of hunters turned out in 2020, 30,387 bear hunters, they killed an all-time low number of bears, 1,028, compared to most other years since 1998. Figs. 1 and 2.



**Figure 3. Trend of black bear hunters in California**



DFW's data also show that since 2013 when hounding was banned, most California bear hunters are opportunistic deer hunters, 58%. Since 2013, only ~43% of bear hunters are dedicated to the activity. The DFW classifies 2% of bear hunters as "other."

Bear poaching is a major issue of concern in California. The 1998 black bear management plan, citing Sitton (1982), suggests that in some areas of California, poaching numbers equal that of legal killing.<sup>36</sup> The DFW's bear reports are silent as to the extent of poaching in California, so the public and the Commission are in the dark on this grievous issue. Again, the best available science indicates that bear populations can only withstand offtake in an amount under ten percent annually.<sup>37</sup>

### **B. Black bear hunting is unpopular amongst California residents**

Bear hunting is highly unpopular with Californians. A 2020 Remington Research poll of likely 2022 California voters found<sup>38</sup>:

- A supermajority, 70%, do not want California black bears killed for sport. This includes majorities of residents in the top two bear hunting counties from 2020 – Shasta County and Trinity County – who oppose the hunting of bears for sport.
- A supermajority, 71%, agree that wildlife officials should place a priority of non-lethal methods to reduce conflicts between bears and people (e.g., public education, trash management or frightening devices used by game officers) rather than killing bears
- A majority, 62%, would support legislation to stop the hunting of black bears



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Figure 4. DFW's black bear hunt data

Year	DFW's bear population estimate	Bear-hunter mortality	% Female bears	# Bear tags sold	% Deer & bear hunters	% Bear Hunters only	% Other hunters	Hunter success rate (%)
2008	37,150	2,029	37	25,631	34	44	8	7.9
2009	31,432 ( $\pm$ 7,991)	1,910	40	24,805	34	56	10	ND
2010	31,432 ( $\pm$ 7,991)	1,508	40	24,859	37	56	8	ND
2011	26,390 ( $\pm$ 6,889)	1,745	42	21,581	28	56	16	8
2012	34,002 ( $\pm$ 5,561)	1,962	38	24,872	32	67	2	7.9
2013	34,385 ( $\pm$ 6,443)	1,087	37	23,397	53	47	1	4.6
2014	35,101 ( $\pm$ 6,444)	1,439	42	26,576	51	49	0	5.4
2015	35,484 ( $\pm$ 6,444)	1,287	40	27,578	57	39	5	4.7
2016	35,867 ( $\pm$ 6,444)	1,072	40	27,253	69	41	2	3.9
2017	23,397 ( $\pm$ 7,176)	1,418	40	27,864	63	50	1	5.1
2018	20,801 ( $\pm$ 6,269)	1,342	37	27,885	61	39	0	4.8
2019	21,529 ( $\pm$ 6,231)	1,389	40	27,755	59	35	6	5
2020	15,934 ( $\pm$ 6,163)	1,028	38	30,387	54	45	2	3

## Conclusion

The harms from the recent wildfires on California's bear population are currently unknown, as are the effects of hunting and poaching on California's bear population, and the reason behind such a dramatic decline in the estimated population. Therefore, we respectfully request that the 2022 bear hunt be suspended by the Commission until an empirical population study can be conducted, the effects of the wildfires on California's bear population adequately studied, and the bear management plan updated to include the best available science, including social science.

Sincerely,

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**Attachment B**  
**Proposed Regulatory Amendments**

**Cal. Code Regs. tit. 14, § 365 Bear.**

Except as provided in Section 366, bear may be taken only as follows:

(a) Areas:

- (1) Northern California: In the counties of Del Norte, Humboldt, Plumas, Shasta, Siskiyou, Tehama and Trinity; and those portions of Lassen and Modoc counties west of the following line: Beginning at Highway 395 and the Sierra-Lassen county line; north on Highway 395 to the junction of Highway 36; west on Highway 36 to the junction of Highway 139; north on Highway 139 to Highway 299; north on Highway 299 to County Road 87; west on County Road 87 to Lookout-Hackamore Road; north on Lookout-Hackamore Road to Highway 139; north on Highway 139 to the Modoc-Siskiyou county line; north on the Modoc-Siskiyou county line to the Oregon border.
- (2) Central California: In the counties of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lake, Mendocino, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo and Yuba and those portions of Napa and Sonoma counties northeast of Highway 128.
- (3) Southern Sierra: That portion of Kern County west of Highway 14 and east of the following line: Beginning at the intersection of Highway 99 and the Kern-Tulare county line; south on Highway 99 to Highway 166; west and south on Highway 166 to the Kern-Santa Barbara county line; and those portions of Fresno, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne counties east of Highway 99.
- (4) Southern California: In the counties of Los Angeles, Santa Barbara and Ventura; that portion of Riverside County north of Interstate 10 and west of Highway 62; and that portion of San Bernardino County south and west of the following line: Beginning at the intersection of Highway 18 and the Los Angeles-San Bernardino county line; east along Highway 18 to Highway 247; southeast on Highway 247 to Highway 62; southwest along Highway 62 to the Riverside-San Bernardino county line.
- (5) Southeastern Sierra: Those portions of Inyo and Mono counties west of Highway 395; and that portion of Madera County within the following line: Beginning at the junction of the Fresno-Madera-Mono county lines; north and west along the Madera-Mono county line to the boundary of the Inyo-Sierra National Forest; south along the Inyo-Sierra National Forest boundary to the Fresno-Madera county line; north and east on the Fresno-Madera county line to the point of beginning. Also, that portion of Inyo county west of Highway 395; and that portion of Mono county beginning at the intersection of Highway 6 and the Mono county line; north along Highway 6 to the Nevada state line; north along the Nevada state line to the Alpine county line; south along the

Mono-Alpine county line to the Mono-Tuolumne county line and the Inyo National Forest Boundary; south along the Inyo National Forest Boundary to the Inyo-Sierra Forest boundary; south along the Inyo-Sierra Forest boundary to the Fresno-Madera county line; north and east along the Fresno-Madera county line to the junction of the Fresno-Madera-Mono county line; south along the Mono-Fresno county line to the Mono-Inyo County line; east along the Mono-Inyo county line to the point of beginning.

~~(b) Seasons: Except in the deer hunt areas designated as zones X-1 through X-7b in subsection 360(b), the bear season shall open on the opening day of the general deer season as described in subsections 360(a) and (b) and extend until the last Sunday in December in the areas described in subsections 365(a)(1), (2), (3) (4) and (5) above. In those areas designated as deer hunting zones X-1 through X-7b, the bear season shall open on the second Saturday in October and extend for 79 consecutive days. The bear season shall be closed when the department determines that 1,700 bears have been taken pursuant to the reporting requirement in subsection 708.12(d). The department shall notify the commission, the public via the news media and bear tag holders via the U.S. mail and the news media when implementing this closure.~~

- (1) There is no open season for the hunting of bear in those portions of the state described in subsection (a) above.
- (2) The Commission may adopt regulations establishing an open season for the hunting of bear in those portions of the state described in subsection (a) above only after the Department:
  - (A) Using the best available science, completes an empirical and peer-reviewed study of the state's bear population, including but not limited to, developing updated population estimates;
  - (B) Completes a peer-reviewed study on the effects of drought and wildfires since 2018 on the state's bear populations, their habitat, and their food sources; and
  - (C) After completing the studies described in subsections (A) and (B) above, updates the current bear management plan utilizing the best available science, including but not limited to, science related to bear social structure.

(c) Bag and Possession Limit: One adult bear per hunting license year. Cubs and females accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) No open season for bear in the balance of the state not included in subsection (a) above.

(e) Bait: No feed, bait or other materials capable of attracting a bear shall be placed or used for the purpose of taking or pursuing a bear. No bear shall be taken over such bait. No person may take a bear within a 400-yard radius of a garbage dump or bait.

### **Cal. Code Regs. tit. 14, § 366 Archery Bear Hunting.**

Bear may be taken with bow and arrow during the bear season as specified in Section 365 and as follows:

(a) Areas: Those portions of the state as described in subsection 365(a).

~~(b) Season: The archery bear season shall open on the third Saturday in August and extend for 23 consecutive days. There is no open season for taking bear with bow and arrow in the balance of the state.~~

(1) There is no open season for taking bear with bow and arrow in those portions of the state described in subsection 365(a).

(2) The Commission may adopt regulations establishing an open season for taking bear with bow and arrow in those portions of the state described in subsection 365(a) only after the Department:

(A) Using the best available science, completes an empirical and peer-reviewed study of the state's bear populations, including but not limited to, developing updated population estimates;

(B) Completes a peer-reviewed study on the effects of drought and wildfires since 2018 on the state's bear populations, their habitat, and their food sources; and

(C) After completing the studies described in subsections (A) and (B) above, updates the current bear management plan utilizing the best available science, including but not limited to, science related to bear social structure.

(3) There is no open season for taking bear with bow and arrow in the balance of the state not included in subsection 365(a).

(c) Bag and Possession Limit: One adult bear per hunting license year. Cubs and female accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) The use of dogs is prohibited during the archery season for bear.

(e) Bait. No feed, bait or other materials capable of attracting a bear to a feeding area shall be placed or used for the purpose of taking or pursuing a bear. No bear shall be

taken over such bait. No person may take a bear within a 400 yard radius of a garbage dump or bait.



## THE HUMANE SOCIETY OF THE UNITED STATES

### The climate crisis and California black bears

#### Supplement to the Humane Society of the United States' Petition 2021-027 Submitted to the California Fish and Game Commission January 24, 2022

#### Introduction

On December 10, 2021, the Humane Society of the United States (“HSUS”) submitted Petition 2021-027 to the Fish and Game Commission. The petition requested that the Commission amend existing black bear (*Ursus americanus*) hunting regulations to eliminate the open hunting season until (1) an empirical study is conducted of the state’s black bear populations, (2) the effects of drought and recent wildfires on the state’s bear populations are adequately studied, and (3) the state’s bear management plan is updated to include the best available science, including social science. The petition was accepted by Commission staff and is scheduled for Commission action at the February 16-17, 2022 meeting.

We submitted our petition because of our profound concerns about the status of California’s black bear population given the numerous threats these bears face. In particular, the HSUS is concerned about the harms from record-level fires and drought on California’s bears. In 2021 alone, more than three million acres in California burned from intense wildfires. Further, the HSUS is alarmed by worrisome indications of a steep decline in California’s black bear population based on recent data released by the Department of Fish and Wildlife (“DFW”).

We write today to provide additional evidence supporting our request for regulatory change. Specifically, we provide evidence about the detrimental effects climate change and severe wildfires have on black bear populations. These threats, coupled with the apparent decline of the state’s black bear population, demonstrate that the Commission cannot allow bear hunting to continue in the state until it has a better understanding of the number of bears in California and how the recent record-breaking drought and fires have affected these bears. In turn, the state’s bear management plan must be updated accordingly, utilizing the best available science.

Under the Fish and Game Code, the Commission has “the power to regulate the taking or possession of . . . mammals.” Cal. Fish & Game Code § 200. More specifically, the Commission has regulatory authority to “establish, extend, shorten, or abolish open seasons and closed seasons” for game mammals, such as black bears. *Id.* § 203. The legislature has provided specific factors that the Commission *must* consider when adopting such regulations, including “populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony.” *Id.* § 203.1. Further, the Commission has specific obligations with respect to its regulation of the black bear hunting season. The Commission must “annually determine whether to continue, repeal, or amend regulations establishing hunting seasons for black bears.” *Id.* § 302. This determination “*shall* include a review of factors which impact the health and viability of the black bear population.” *Id.* (emphasis added). Climate change and severe wildfires are “factors which impact the health and viability of the black bear population.” *See* Cal. Fish & Game Code § 302. Moreover, climate change and severe wildfires threaten black bears’ habitat, food supplies, and welfare. *See id.* § 203.1. The

Commission, then, must consider the information provided in these comments as it makes its decision about whether to grant our petition.

**A hotter planet risks species extinction, changes plant phenology (affecting black bears' food resources), reduces insulating snow cover for den sites, increases parasite invasion and increases drought in the West (harming both plants and setting the stage for severe wildfires).**

In 2019, a Paris conference of the Science-Policy Platform on Biodiversity and Ecosystem Services issued a press release from 145 participants from 50 countries who had assessed changes on Planet Earth for the past five decades and found that *one million species face extinction*, the most in human history. They reported that the species extinction rate is accelerating and the greatest ever over the last 10 million years. They also stated that regarding climate change, Planet Earth's temperature is increasing at "+/-0.2 (+/-0.1) degrees Celsius per decade" and that "for global warming of 1.5 to 2 degrees, the majority of terrestrial species ranges are projected to shrink profoundly."<sup>1</sup> (IPBES issued an updated report in 2021.<sup>2</sup>) The consequence of this warming, according to two dozen academics on fire ecology, is a "hotter climate and a markedly different biosphere."<sup>3</sup>

The loss of Earth's megafauna has so concerned preeminent biologists that dozens of them convened, and in 2011, produced a seminal and alarming paper, *Trophic Downgrading of Planet Earth*.<sup>4</sup> In it, the biologists, Estes et al. (2011), warn that the loss of top carnivores and other megafauna will increase pandemics, make ecosystems dysfunctional and accelerate the harms from climate change.<sup>5</sup> Black bears are megafauna, the third largest bear species and third largest mammalian carnivore in North America, and are gravely threatened by climate change.

The seminal Estes et al. (2011) paper was followed by several more peer-reviewed studies that warn about the losses of large carnivores during the *Anthropocene*,<sup>6</sup> that is, the reshaping of ecosystems because of human activities.<sup>7</sup> For black bears, the changes are profound:

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<sup>1</sup> Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), "Nature's Dangerous Decline 'Unprecedented' Species Extinction Rates 'Accelerating': Current Global Response Insufficient. 'Transformative Changes' Needed to Restore and Protect Nature; Opposition from Vested Interests Can Be Overcome for Public Good. Most Comprehensive Assessment of Its Kind; 1,000,000 Species Threatened with Extinction," news release, May 6, 2019, 2019.

<sup>2</sup> Intergovernmental Panel on Climate Change, "Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change," (<https://www.ipcc.ch/report/ar6/wg1/#SPM>; Cambridge University Press, 2021).

<sup>3</sup> L. T. Kelly et al., "Fire and Biodiversity in the Anthropocene," *Science* 370, no. 6519 (2020): p. 2.

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<sup>6</sup> W. J. Ripple et al., "Status and Ecological Effects of the World's Largest Carnivores," *ibid.* 343, no. 6167 (2014); William J. Ripple et al., "Extinction Risk Is Most Acute for the World's Largest and Smallest Vertebrates," *Proceedings of the National Academy of Sciences* 114, no. 40 (2017); Chris T. Darimont et al., "The Unique Ecology of Human Predators," *Science* 349, no. 6250 (2015).

<sup>7</sup> Kelly et al., "Fire and Biodiversity in the Anthropocene."

- Climate warming will change trophic effects that include the profusion of parasites and disease.<sup>8</sup> With warmer winters and extended fall and spring seasons, climate change will drive the expansion of ticks and tick-borne diseases to more northern latitudes and to higher altitudes.<sup>9</sup> Increases in temperature facilitate the proliferation of parasitic organisms,<sup>10</sup> including the potential for the spread of sarcoptic mange in black bears from the eastern U.S.<sup>11</sup>
- More stochastic weather events are occurring, and snow cover is increasingly lost,<sup>12</sup> which reduces the insulating properties associated with some bears' dens.<sup>13</sup>
- Rising temperatures have resulted in changed plant phenology, which is the timing of flowering, germination and leaving.<sup>14</sup> For bears, this means that some of their natural foods such as acorns (hard mast crops) or raspberries (soft mast crops) will be unavailable in some years because of drought, fires, or late spring frosts.
- Declining species' diversity could exacerbate phenological changes associated with warming.<sup>15</sup> Climate change affects temperatures and moisture, affecting precipitation amounts and thus plant growth, which could further degrade black bears' food supplies.<sup>16</sup>
- In a study on brown bears that is applicable to black bears, because they too cannot withstand much movement in warm weather because of their inability to sweat (while wearing a thick fur coat and building fat layers for hibernation):<sup>17</sup> A warming climate limits bears' foraging abilities because they are subject to hyperthermia, that is, the inability to dissipate heat from their bodies to stay sufficiently cool.<sup>18</sup> Bears adjust to the heat by foraging in habitats that have sufficient shade to stay cool, but these adjustments could affect their abilities to forage as efficiently<sup>19</sup> as canopy cover is consumed by increasingly severe wildfires that remove mature trees, trees that black bears rely upon for shade cover during the day and use as escape routes from predators—especially bear cubs.

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<sup>8</sup> K. S. McKelvey and P. C. Buotte, "Climate Change and Wildlife in the Northern Rockies Region," in *Climate Change Vulnerability and Adaptation in the Northern Rocky Mountains*, ed. Jessica E. Halofsky, et al. (Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain 2018).

<sup>9</sup> Filipe Dantas-Torres, *Climate Change, Biodiversity, Ticks and Tick-Borne Diseases: The Butterfly Effect*, vol. 4 (2015).

<sup>10</sup> Erica E. Short, Cyril Caminade, and Bolaji N. Thomas, "Climate Change Contribution to the Emergence or Re-Emergence of Parasitic Diseases," *Infectious Diseases: Research and Treatment* 10 (2017). Kristin A. Clothier et al., "Generalized Dermatophytosis Caused by Trichophyton Equinum in 8 Juvenile Black Bears in California," *Journal of Veterinary Diagnostic Investigation* 0, no. 0 (2021).

<sup>11</sup> Kevin D. Niedringhaus et al., "The Emergence and Expansion of Sarcoptic Mange in American Black Bears (*Ursus Americanus*) in the United States," *Veterinary Parasitology: Regional Studies and Reports* 17 (2019).

<sup>12</sup> Dantas-Torres, *Climate Change, Biodiversity, Ticks and Tick-Borne Diseases: The Butterfly Effect*, 4, p. 8.

<sup>13</sup> K. E. Pigeon, S. D. Cote, and G. B. Stenhouse, "Assessing Den Selection and Den Characteristics of Grizzly Bears," *Journal of Wildlife Management* 80, no. 5 (2016).

<sup>14</sup> Amelia A. Wolf, Erika S. Zavaleta, and Paul C. Selmants, "Flowering Phenology Shifts in Response to Biodiversity Loss," *Proceedings of the National Academy of Sciences* 114, no. 13 (2017).

<sup>15</sup> Ibid.

<sup>16</sup> McKelvey and Buotte, "Climate Change and Wildlife in the Northern Rockies Region."

<sup>17</sup> Thomas D. Beck et al., "Sociological and Ethical Considerations of Black Bear Hunting," *Proceedings of the Western Black Bear Workshop* 5 (1995); Bernd Heinrich, *Why We Run: A Natural History* (Harper Perennial, 2002).

<sup>18</sup> K. E. Pigeon et al., "Staying Cool in a Changing Landscape: The Influence of Maximum Daily Ambient Temperature on Grizzly Bear Habitat Selection," *Oecologia* 181, no. 4 (2016).

<sup>19</sup> Ibid.

- And in the Western United States, drought has intensified to extremes not seen in the past 20 years.<sup>20</sup> Drought begets wildfire, and more severe droughts alter historic fire regimes.<sup>21</sup> As discussed below, wildfires pose grave threats to black bears.

**Increased drought and fuel build-up increase the severity of Western wildfires. Severe fires change black bears' habitat. In the aftermath of a severe fire, black bears and their habitats are harmed.**

Kelly et al. (2020) in their review article on fire and biodiversity,<sup>22</sup> warn of extinction risk from fire regimes that are different from the ones that species have evolved with; that is, the “type, frequency, intensity, seasonality and spatial dimensions of recurrent fire.”<sup>23</sup> For wildlife, the variations in intensity and occurrence of fire can reduce food and shelter, and reduce animals' ability to “recolonize regenerating habitats,” and in the case of severe fires, lead to mortality.<sup>24</sup>

Fire suppression, climate change and logging have changed the forests in the West over the past century.<sup>25</sup> meaning black bears in California face fire regimes different than those with which they evolved. Invasive and pervasive cheat grass (*Bromus tectorum*) has increased fuel loads in the West.<sup>26</sup> Recent wildfires are hotter and kill mature trees because of fuel-load buildup.<sup>27</sup> Western fire-adapted forests generally had experienced frequent fires on a 10 to 20-year time scale, but now burn at fire intervals between 70-90 years.<sup>28</sup> The result is that forests are now characterized by denser stands of trees with few trees older than 250 years and with diameters greater than 60 cm.<sup>29</sup> These smaller diameter trees grow in dense forests that are apt to experience stand-replacing fires.<sup>30</sup> Large fires leave a mosaic or burn patches of different levels of burn severity.<sup>31</sup>

For black bears, who prefer larger diameter trees for denning, resting and canopy cover for foraging, catastrophic fires can have negative, near-term consequences.<sup>32</sup> Females with and without cubs choose

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<sup>20</sup> Nadja Popovich, “How Severe Is the Western Drought? See for Yourself,” *The New York Times* 2021.

<sup>21</sup> Kelly et al., “Fire and Biodiversity in the Anthropocene.”

<sup>22</sup> More than two dozen biologists authored this article. They reviewed over 29,000 journal articles on fire.

<sup>23</sup> Kelly et al., “Fire and Biodiversity in the Anthropocene,” p. 1.

<sup>24</sup> Ibid.

<sup>25</sup> Brett J. Furnas, Benjamin R. Goldstein, and Peter J. Figura, “Intermediate Fire Severity Diversity Promotes Richness of Forest Carnivores in California,” *Diversity and Distributions* n/a, no. n/a (2021); Stanley Clifton Cunningham et al., “Black Bear Habitat Use in Burned and Unburned Areas, Central Arizona,” *Wildlife Society Bulletin* 31 (2003).

<sup>26</sup> Kelly et al., “Fire and Biodiversity in the Anthropocene.”

<sup>27</sup> Cunningham et al., “Black Bear Habitat Use in Burned and Unburned Areas, Central Arizona.”

<sup>28</sup> Furnas, Goldstein, and Figura, “Intermediate Fire Severity Diversity Promotes Richness of Forest Carnivores in California.” Citing Van de Water and Safford 2011.

<sup>29</sup> Ibid. Citing Beaty & Taylor 2007 and Youngblood et al. 2004.

<sup>30</sup> Ibid. Citing McIntyre et al. 2015.

<sup>31</sup> Jesse S. Lewis et al., “Mixed-Severity Wildfire Shapes Habitat Use of Large Herbivores and Carnivores,” *Forest Ecology and Management* 506 (2022).

<sup>32</sup> See for example: Furnas, Goldstein, and Figura, “Intermediate Fire Severity Diversity Promotes Richness of Forest Carnivores in California.”; Evelyn L. Bull, James J. Akenson, and Mark G. Henjum, “Characteristics of Black Bear Dens in Trees and Logs in Northeastern Oregon,” *Northwestern Naturalist* 81, no. 3 (2000); Shari L. Ketcham and John L. Koprowski, “Impacts of Wildlife on Wildlife in Arizona: A Synthesis” (paper presented at the Merging science and management in a rapidly changing world: Biodiversity and management of the Madrean Archipelago III and 7th Conference on Research and Resource Management in the Southwestern Deserts,

nocturnal and diurnal bed sites during their active season near “refuge” trees; that is, trees with coarse bark so the bears could readily climb up the tree if disturbed, and those bed sites were in high canopy cover.<sup>33</sup>

In fire ecology, the severity of the fire is highly variable. Lewis et al. (2022) write:

Fire severity . . . occurs across a gradient, which is characterized by **unburned forest** (where fire has not occurred for an extended period of time), **low fire severity** (where fire burns in the understory and does not kill mature trees), **moderate fire severity** (where fire kills some mature trees, but others survive), and **high fire severity** (where fire kills most or all trees, or at least top-kills them where the above ground portion of the tree is killed, but the root system remains alive). Wildfires are often characterized as mixed-severity, where a heterogeneous pattern of multiple fire severity types occur, especially for wildfires occurring over relatively large areas (Baker, 2009; Perry et al., 2011; Odion et al., 2014). **As fire severity increases, forest canopy cover decreases, but some plants can subsequently exhibit prolific regeneration through resprouting, suckering, or seed germination;** for example, some grasses, forbs, shrubs, and trees can exhibit a pulse of growth post fire (Lentile et al., 2007; Baker, 2009). In particular, fire-adapted species, such as aspen (*Populus tremuloides*) and Gambel oak (*Quercus gambelii*), can demonstrate rapid and widespread regeneration and growth in areas of moderate to high fire severity (Brown and DeByle, 1989; Bartos et al., 1994; Bailey and Whitham, 2002; Mack et al., 2008; Wan et al., 2014; Clement et al., 2019). **Importantly, heterogeneity in plant quantity and quality across the gradient of fire severity is expected to influence animal populations and habitat use.**<sup>34</sup>

In their study of fires in California for the years 2009-2018 and its effects on black bears, mountain lions and a host of mesocarnivores such as skunks, foxes, ringtails and bobcats in camera traps, Furnas et al. (2021) found the greatest carnivore richness in areas that experienced *intermediate* fire severity – that is on landscapes where fires occurred on a 10-year timescale.<sup>35</sup> Furnas et al. (2021) found that frequent, low severity fires provide short-term benefits for carnivores. They write that low-severity fires may provide about a “10-year pulse” of increased growing space for plants that feed bears (omnivorous carnivores) and small mammal prey (thus providing indirect benefits to obligate carnivores).<sup>36</sup> Furnas et al. (2021) found that frequent, low severity fires provide short-term benefits for carnivores. They write that low-severity fires may provide about a “10-year pulse” of increased growing space for plants that feed bears (omnivorous carnivores) and small mammal prey (thus providing indirect benefits to obligate carnivores).<sup>37</sup> Furnas et al. (2021), write that: “Low severity fire can also create forest openings, snags and logs while retaining large

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Tucson, AZ, 2013). Pigeon et al., “Staying Cool in a Changing Landscape: The Influence of Maximum Daily Ambient Temperature on Grizzly Bear Habitat Selection.”

<sup>33</sup> Susan A Mansfield et al., “Bed Site Selection by Female North American Black Bears (*Ursus Americanus*),” *Journal of Mammalogy* (2021).

<sup>34</sup> Emphasis added. Lewis et al., “Mixed-Severity Wildfire Shapes Habitat Use of Large Herbivores and Carnivores,” p. 2.

<sup>35</sup> Furnas, Goldstein, and Figura, “Intermediate Fire Severity Diversity Promotes Richness of Forest Carnivores in California.”

<sup>36</sup> Ibid. Citing Amacher et al. 2008, Roberts et al. 2015, Kelleyhouse 1980 and Swanson et al. 2010.

<sup>37</sup> Ibid. Citing Amacher et al. 2008, Roberts et al. 2015, Kelleyhouse 1980 and Swanson et al. 2010.

diameter overstorey trees”<sup>38</sup> – the denning habitat preferred by bears in some ecosystems.<sup>39</sup> Snags, broken at the top, can provide important den sites for black bears.<sup>40</sup> The 2021 California fires were not “low-severity fires”,<sup>41</sup> they were “trans-apocalyptic”<sup>42</sup>—leaving moonscapes for bears and other wildlife with which to attempt to cope.

In a recently published fire study conducted in the White Mountains of east-central Arizona and western New Mexico *seven years after* Arizona’s 2011 Wallow Fire (to date, Arizona’s largest wildfire, which burned 538,049 acres), Lewis et al. (2022) evaluated five levels of burn severity: unburned, low, moderate, moderate/high and high.<sup>43</sup> For black bears, Lewis et al. (2022) found that black bears’ highest use of areas occurred in both unburned forest and in areas of higher fire severity.<sup>44</sup> Areas of higher fire severity likely exhibited a pulse of vegetation in response to fire, which likely provided food for them.<sup>45</sup> Lewis et al. (2022) found that low-fire severity such as prescribed burns, which do not remove the forest canopy, provide only a “pulse” of regrowth of about one to three years before the vegetation returns to a pre-fire state.<sup>46</sup> Whereas in places where fire severity is greater and the canopy cover is lost, the pulse in plant quantity and quality extends to ten or more years.<sup>47</sup> Yet, the losses of mature trees in California’s landscapes can have negative near-term consequences for black bears as discussed above. And it could take centuries to replace these mature trees, and ecosystems may forever be changed such as from invasive species.<sup>48</sup> Bears require canopy cover to escape heat for day sleeping and for foraging and large tree snags for densites during hibernation, and large trees provide escape for bear cubs. In other words, severe fires harm California’s black bears’ habitat, and are also detrimental to black bear populations and harm the bears’ welfare as we discuss below.

### **Severe wildfires are detrimental to black bear populations and harm their welfare.**

#### **a. Catastrophic wildfires reduce black bear survival and reproduction**

On January 16, 2022, the *Los Angeles Times* reported the story, “Mother Bear and Cubs Battle for Survival as Wildfire, Drought and Traffic Take Heavy Toll.” Reporter Louis Sahagun interviewed several biologists including Caltrans’ senior biologist Katie Rodriguez, who said that bear-vehicle collisions are measured along a 108-mile corridor of U.S. 395 in the Eastern Sierra, and that last year resulted in the most black bear deaths since record keeping started in 2002. In 2021, 13 bears were struck on U.S. 395 during the months of September and October as bears were desperately looking for food following the devastating wildfires in

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.(Citing Agee 1998); Bull, Akenson, and Henjum, “Characteristics of Black Bear Dens in Trees and Logs in Northeastern Oregon.”

<sup>40</sup> “Characteristics of Black Bear Dens in Trees and Logs in Northeastern Oregon.”

<sup>41</sup> Furnas, Goldstein, and Figura, “Intermediate Fire Severity Diversity Promotes Richness of Forest Carnivores in California.”

<sup>42</sup> Elizabeth Well, “This Isn’t the California I Married,” *The New York Times*, Jan. 3, 2022.

<sup>43</sup> Lewis et al., “Mixed-Severity Wildfire Shapes Habitat Use of Large Herbivores and Carnivores.”

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.Citing Severson and Rinne 1990 and Sittler et al. 2019.

<sup>47</sup> Ibid.Citing Bartos et al. 1994 and Wan et al. 2014.

<sup>48</sup> Kelly et al., “Fire and Biodiversity in the Anthropocene.” Lewis et al., “Mixed-Severity Wildfire Shapes Habitat Use of Large Herbivores and Carnivores.”

the region of the highway.<sup>49</sup> In 2020, no bears were struck on that stretch of U.S. 395, but in 2019, four bears were killed by vehicles.<sup>50</sup> According to the article, no statewide database for bear-vehicle collisions exists.

Reporter Sahagun also interviewed Fraser Shilling, director of the Road Ecology Center at UC Davis, who said, “I can’t think of a worse situation for wildlife — bears running for their lives from fire and then getting whacked by cars. It’s a biological tragedy compounded by the fact that humans are responsible for the climate changes that set the stage for these increasingly immense and deadly wildfires.”<sup>51</sup> The article notes that the bears killed were primarily females, and two who were killed this year had dependent cubs, who were found next to their mothers’ bodies making crying sounds.

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In two studies published about the catastrophic 1996 fire in the Four Peaks area of the Mazatzal Mountains of Arizona,<sup>52</sup> the immediate aftermath was black bear mortality, especially to the female demographic.<sup>53</sup> Researchers found a population “significantly skewed toward males (4M:1F)” (but in a nearby control area where there was no fire, the ratio was one to one, male to female).<sup>54</sup>

On top of that mortality, 12 breeding females who survived subsequently gave birth to 16 cubs in years between 1997-1999, but none of the cubs survived—most likely because of infanticide by starving male bears, or by the cubs succumbing to starvation themselves.<sup>55</sup> After the Four Peaks fire, both males and females with cubs were forced to share islands of vegetated habitat to avoid midday heat, but this exposed the cubs to cannibalistic males.<sup>56</sup> (In another study of a catastrophic fire, researchers noted that bears who moved into the burned area later fed on ungulate carcasses.<sup>57</sup>)

After catastrophic fire events, like those California has experienced in recent years, Cunningham and Ballard (2004) recommend that wildlife managers reduce the hunting of female black bears for at least four years.<sup>58</sup> Bear biologists and wildlife managers have noted, however, that the hunters are poor at recognizing the distinction between males and females – even when houndsmen tree bears and are able to observe them before killing them.<sup>59</sup> Therefore, out of an abundance of caution, wildlife managers should stop all bear hunting until the land can recover from catastrophic fire and agency or academic bear biologists can make a sound, empirically based population assessment.

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<sup>49</sup> Louis Sahagun, “Mother Bears and Cubs Battle for Survival as Wildfire, Drought and Traffic Take Heavy Toll,” *Los Angeles Times*, Jan. 16 2022.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Stan C. Cunningham and Warren B. Ballard, “Effects of Wildfire on Black Bear Demographics in Central Arizona,” *Wildlife Society Bulletin* 32, no. 3 (2004); Cunningham et al., “Black Bear Habitat Use in Burned and Unburned Areas, Central Arizona.”

<sup>53</sup> Cunningham and Ballard, “Effects of Wildfire on Black Bear Demographics in Central Arizona.”

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.; Cunningham et al., “Black Bear Habitat Use in Burned and Unburned Areas, Central Arizona.”

<sup>56</sup> “Black Bear Habitat Use in Burned and Unburned Areas, Central Arizona.”

<sup>57</sup> The study was conducted by Blanchard and Knight (1999) and cited by Cunningham and Ballard (2004). Cunningham and Ballard, “Effects of Wildfire on Black Bear Demographics in Central Arizona.”

<sup>58</sup> Ibid.

<sup>59</sup> Beck et al., “Sociological and Ethical Considerations of Black Bear Hunting.”; K. H. Inman and M. R. Vaughan, “Hunter Effort and Success Rates of Hunting Bears with Hounds in Virginia,” *Ursus* 13 (2002).



PHOTO BY Rich Beausoleil; A female black bear cub who survived the 2014 Carlton Complex fire in Washington. She was rescued by Rich Beausoleil, bear and cougar specialist for Washington Department of Fish and Wildlife, and others. Named “Cinder,” the cub had crawled out of the fire on knees and elbows and was badly burned on her limbs and face and she suffered from malnutrition and dehydration. She was flown to a burn rehab center in Nevada. Cinder and her rescuers spawned a children’s book. Rehabilitated back to health, Cinder was released into the wild in 2017 with a radio collar. Later, wildlife agents found Cinder’s skeletal remains after she was shot near the release site and her radio collar disabled.

#### **b. Wildfires cause suffering and death to black bears**

Bears in the path of wildfires are subject to a variety of harms. Most wildlife victims of wildfires die from smoke inhalation that causes asphyxiation,<sup>60</sup> which is a distressful experience.<sup>61</sup> Wildfires tend to move across landscapes rapidly and with high-intensity heat, usually *above* 63°C (145°F).<sup>62</sup> Wildlife caught in wildfires or their aftermath experience a variety of travails, including injury, mortality, stress, disease or starvation.<sup>63</sup> Young wildlife are more prone to injury or mortality.<sup>64</sup> And rather than evacuating, wildlife may stay in burrows, rock cavities or dens, leading to smoke inhalation and potential asphyxiation.<sup>65</sup>

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<sup>60</sup> Ketcham and Koprowski, “Impacts of Wildlife on Wildlife in Arizona: A Synthesis.” (Citing Bock and Lynch 1970, Buech et al. 1977, Bluan and Barrett 1971, Chew et al. 1959, Harrison and Murad 1972 and Lyon et al. 2000.)

<sup>61</sup> Jara Gutiérrez and Javier de Miguel, “Fires in Nature: A Review of the Challenges for Wild Animals,” *European Journal of Ecology* 7, no. 1 (2021).

<sup>62</sup> Ketcham and Koprowski, “Impacts of Wildlife on Wildlife in Arizona: A Synthesis.”

<sup>63</sup> Gutiérrez and de Miguel, “Fires in Nature: A Review of the Challenges for Wild Animals.” Ketcham and Koprowski, “Impacts of Wildlife on Wildlife in Arizona: A Synthesis.” R. A. Beausoleil, “Burned Bear Rescued, Rehabilitated, and Released in Washington,” *International Bear News* 24, no. 3 (2015).

<sup>64</sup> Ketcham and Koprowski, “Impacts of Wildlife on Wildlife in Arizona: A Synthesis.”

<sup>65</sup> *Ibid.*

Bears, like other wildlife, can experience burns to the face and limbs, like Cinder the cub pictured above.<sup>66</sup> Burned skin can trap intense temperatures inside of an animal's body, leading to further subcutaneous burns.<sup>67</sup> If an animal's body is burned by more than half, death or euthanasia is the invariable outcome, but if the animal's joints or claws are burned, locomotion and tree-climbing are inhibited.<sup>68</sup> Wildlife fleeing from fires can be struck by vehicles.<sup>69</sup> Because of the timing of most fires – at the end of summer – fires can hinder population recovery, breeding and reproduction.<sup>70</sup> Springtime wildfires also harm reproduction, harming populations.<sup>71</sup>

## Conclusion

In the western United States, the effects of global warming are already severe with record-setting droughts and wildfires affecting black bears. In 2021, California experienced record-level fires. According to CalFire, more than three million acres burned,<sup>72</sup> and in some areas, even soils experienced severe burn.<sup>73</sup> The immediate result of catastrophic fires is the direct death of bears, particularly females, and the trauma for surviving bears includes the loss of food and thermal cover from daytime heat. Fires could reduce reproduction for at least three years. If the ground is bare, bears may be forced to congregate in island patches of vegetation, exposing cubs to cannibalism by male bears. Bears are not heat adapted, they bed in the daytime using canopy cover, and need shade to forage.

Further, as discussed more fully in our petition, recent DFW data indicate that California's black bear population has declined steeply. DFW now believes that the California bear population could be as low as 9,771 individuals, which would indicate a 67% decline in the number of bears from the previously reported lowest population range of 30,000 bears.

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<sup>66</sup> Gutiérrez and de Miguel, "Fires in Nature: A Review of the Challenges for Wild Animals." Citing Rethorst et al. 2018. Beausoleil, "Burned Bear Rescued, Rehabilitated, and Released in Washington."

<sup>67</sup> Gutiérrez and de Miguel, "Fires in Nature: A Review of the Challenges for Wild Animals."

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ketcham and Koprowski, "Impacts of Wildlife on Wildlife in Arizona: A Synthesis."

<sup>72</sup> CalFire, "2021 Incident Archive," <https://www.fire.ca.gov/incidents/2021/> (2021).

<sup>73</sup> See: Dixie Fire assessment here: <https://inciweb.nwcg.gov/incident/article/7811/67107/>

Because of the extent and severity of fires in California and the apparent decline in the state's black bear population, the Fish and Game Commission must eliminate the open hunting season for black bears until (1) an empirical study is conducted of the state's black bear populations, (2) the effects of drought and recent wildfires on the state's bear populations are adequately studied, and (3) the state's bear management plan is updated to include the best available science, including social science. All of the studies cited in this article are provided to the California Fish and Game Commission via a Google Drive:

<https://drive.google.com/drive/folders/1aI-R23NVBv4XgdRFB1DAEW57Flt0OBQW?usp=sharing>

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely yours,

Wendy Keefover, Senior Strategist, Native Carnivore Protection

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Tracking Number: (2021-028\_)

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: Ben Wehrle Jr.

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 Section 2.30 Spearfishing**

**3. Overview (Required) - Summarize the proposed changes to regulations: Add spearfishing as a method of take for American Shad in the Valley District**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change: Currently several species of fish can be spearfished for in the Valley District between May and September but not American Shad. Spearfishing is an allowable method of take for Striped Bass which must be a minimum size of 18” and have a limit of 2 per day. It seems unreasonable not to allow spearfishing for American Shad when there is no minimum size and a daily bag limit of 25.**

**SECTION II: Optional Information**

**5. Date of Petition: 12/10/2021**

**6. Category of Proposed Change**

Sport Fishing

Commercial Fishing



- Hunting
- Other, please specify:

**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): 2.3 Spearfishing
- 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:

Meeting date for FGC consideration:

FGC action:

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



CITIZENS FOR  
LOS ANGELES  
WILDLIFE

PO Box 50003 Studio City, CA 91614  
(818) 821-6000 info@clawonline.org www.clawonline.org

February 2, 2022

Peter S. Silva, President  
California Fish and Game Commission  
715 P Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814  
Via: fgc@fgc.ca.gov

**Support for Petition (2021-027) to pause and review hunting of black bear populations in California**

Dear President Silva and Commissioners:

Citizens for Los Angeles Wildlife (CLAW) is a non-profit environmental organization concerned with the wellbeing of wildlife and wildlife habitat for the City of Los Angeles and beyond. A citizenry of more than 5,000 individuals support our organization's multiple calls for biodiverse practices and policy to benefit LA City, County, California and the globe. CLAW strongly supports a pause on bear hunting in California.

In the 1930's, The Department of Fish and Wildlife relocated black bears to expand their range across California. The reason for this action was that the California Grizzly had recently been declared extinct, which resulted in an ecological imbalance and a landscape lacking the numerous crucial ecosystem services that the grizzly provided (such as improving soil quality, propagating seeds, and controlling prey populations).<sup>1</sup> Black bears now fill in for some of those critical ecosystem services, while the California Grizzly only graces our state flag symbolically, a perpetual reminder to Californians of the fragility of our ecosystems and the relative ease at which wildlife can become extinct due to human mismanagement.

Today, black bears are often hunted in California for trophies, or out of an unwarranted fear based on inaccurate stereotypes of these majestic omnivores. This hunting occurs not only in rural farming areas, where hunters can ostensibly claim depredation, but even urban areas like Los Angeles County, where 14 bears were killed in 2020. This number is not only alarmingly high, but arbitrary as there is

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<sup>1</sup> Lee A, Laird A M, Brann L, Coxon C, Hamilton A J, Lawhon L A, Martin J A, Rehnberg N, Tyrrell B P, Welch Z, Hale B, Alagona P S. The Ethics of Reintroducing Large Carnivores: The Case of the California Grizzly. *Conservat Soc* 2021;19:80-90

no sound science to support bear hunting under the guise of wildlife management. Furthermore, bear hunting is wildly unpopular among California residents, with 70% of Californians opposing hunting black bears for sport.<sup>2</sup>

CLAW asks that a moratorium is placed on bear hunting in California until sound science, and not arbitrary opinions, can support the issuance of hunting permits. We also ask that the management plan be updated, and impacts of fire, drought, and habitat loss are presented and considered. The current black bear management plan is from 1998. In the nearly quarter of a century that has passed since then, California bears have faced climate change related impacts such as a drastic increase in large-scale wildfires, and erratic availability of food sources. Additionally, human-caused mortalities such as vehicle collisions and predator control have increased as natural habitat continues to be encroached upon by sprawling developments. Using a management plan from the last millennium is clearly inadequate and inappropriate in light of the ever-changing California landscape.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Tucci', is centered on the page. The signature is fluid and cursive, with a prominent initial 'T' and a long, sweeping underline.

Tony Tucci, Chair

---

<sup>2</sup> Remington Research Group, “California Public Opinion,” (2020).

*CLAW is a public benefit non-profit 501(c)(3) environmental organization that works to protect and restore the environments of wildlife of Los Angeles and California from dwindling open spaces. Our mission is to promote, educate and protect the fundamental importance of wildlife, wildlife habitats and wildlife corridors everywhere.*

**From:** Lisa Levinson <lisa@idausa.org>

**Sent:** Thursday, February 3, 2022 10:09 AM

**To:** FGC <FGC@fgc.ca.gov>

**Subject:** Written Comment Submission for FGC Feb. 16-17 Meeting on Item 29B III: Petition 2021-027 (Eliminate Open Hunting Season for Black Bear)

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Fish and Game Commission,

On behalf of the California-based animal protection nonprofit organization In Defense of Animals and our 250,000 supporters, I respectfully ask you to eliminate the open hunting season for black bears in California. Please complete a scientific population count, study wildfire and drought threats to populations, and update the bear management plan before moving forward with any plans to hunt California black bears.

Faced with habitat loss due to the climate crisis and devastating wildfires, black bears throughout California are struggling to survive. Making their survival even more challenging, the California Department of Fish and Wildlife (DFW) currently allows hunters to kill up to 1,700 black bears in a single season. Hunters may shoot black bears in their natural habitats with firearms and bows and arrows. Black bears are large animals and often require multiple shots to kill them, which prolongs the terrifying and unimaginably painful experience.

A recent poll showed that 70 percent of California voters do not support sport hunting of black bears, and 62 percent would support legislation to ban the cruel and unnecessary practice. Please support a ban on the hunting of black bears in California so they can resume their fight for survival unmolested by the threat of death for entertainment purposes.

Thank you for your full consideration of this important issue.

Sincerely,  
Lisa Levinson  
Sustainable Activism & Wild Animals Campaigns  
e: [lisa@idausa.org](mailto:lisa@idausa.org) c: (215) 620-2130



In Defense of Animals

o: [\(415\) 448-0048](tel:(415)448-0048)

3010 Kerner Boulevard

San Rafael, CA

<http://www.idausa.org>

<https://www.facebook.com/indefenseofanimals>

<https://twitter.com/idausa>

[https://www.instagram.com/ida\\_international](https://www.instagram.com/ida_international)

<https://youtube.com/indefenseofanimals>

Animal charities will struggle to stay afloat during this economic downturn. If you're able, please consider making a monthly donation to In Defense of Animals. You can become an Animal Advocate here: <http://idausa.org/advocates>

**From:** Erin Hauge [REDACTED]

**Sent:** Thursday, February 3, 2022 11:26 AM

**To:** FGC <FGC@fgc.ca.gov>

**Subject:** SUPPORT: Petition 2021-027: Eliminate black bear hunt until management plan is updated

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear President Silva and Commissioners,

**Please suspend the black bear hunt in California until the bear management plan can be updated with current population and habitat data.**

The management plan for black bears in California has not been updated since 1998. Everyone is aware that there have been severe environmental changes since that management plan was developed more than 20 years ago. And in 2020 the Department of Fish and Wildlife reported a black bear population estimate that is much lower than the estimates of previous years. This should sound alarm bells.

The warming climate, larger and more intense wildfires, sustained drought, increased vehicle collisions, loss of habitat, unknown reliability of native food sources and poaching are creating hardships and loss that significantly affect black bear survival. To continue the sport hunting of black bears without current scientific data on population and habitat is gambling with the well-being and viability of a species that is already being negatively impacted by other stressors.

Please consider Petition 2021-027 for the reasonable and scientifically balanced request that it is. Suspend bear hunting in 2022 and take the time to gather current data on California's black bear population. Then develop a modern bear management plan that uses best available science to help ensure a healthy population of black bears into the future.

Thank you for your consideration.

Erin Hauge  
Certified California Naturalist and Wildlife Advocate

-----Original Message-----

From: Debra Jurey [REDACTED]  
Sent: Tuesday, January 25, 2022 4:55 PM  
To: FGC <FGC@fgc.ca.gov>  
Subject: Black Bear Trophy Hunting

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

To the CFGC,

I am a first generation California native and proud to live in a state that has during my life time always respected and been great proponents of wildlife support. I am appalled to see the delisting of wolves and their slaughter in anti wildlife states such as Idaho & Montana and feel grateful that I live in a state where up until now the people in charge have focused on wildlife protection. That's why I'm in shock and disheartened to see this latest dire news that black bears are about to be the subject of trophy hunting in California!

With record level wildfires, droughts, late season frosts with an increase in climate change, there are more & more hardships and challenges for our wildlife including our black bear population. These negative impacts reduce food sources and habitat, making the bear more vulnerable to a slow down in reproduction. Bears already reproduce very slowly, since a female only reaches adulthood by 4 years of age. She only has litters of 2 or 3 cubs every 2-3 years.

I've also noticed over the years as more & more people travel to the national parks, that Yosemite especially comes to mind. The popularity of Yosemite brings millions of people to the park yearly but with that increase, more bears are being killed on the roads around and entering the park.

I am against trophy hunting, I do not want bears killed, if anything now with all the climate & human population challenges, bears & wildlife should be protected more so, not hunted by greedy uncaring people who care little for the lives of these beloved animals. With all the given obstacles in their path it makes no sense.

Should bear hunting be increased when California has no idea what the bear population is? Stopping human caused mortality should be the number one priority over the demands of a trophy hunter! Hunter demand should not and cannot be the primary driver of wildlife management. California can do better. Bear hunters only constitute 1% of Californians, the rest of us do not want these animals hunted & killed. Rather than hunting, science and ethics must be considered and not increased opportunities to kill more bears.

Thank you for your time!  
Debra Jurey

Sent from my iPhone

**From:** Erica [REDACTED]  
**Sent:** Wednesday, January 26, 2022 9:58 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** End Black Bear Trophy Hunting in California

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

To: California Fish and Game Commission,

**California should not consider increasing bear hunting when the status of the current population is uncertain.** The California Fish and Game Commission (CFGF) should instead abide by the Precautionary Principle and support a petition to end black bear hunts in the state.

- The state's black bear population is in decline. Stopping human-caused mortality should be prioritized over hunter demand (which represents 1% of the state's population). Current methods to estimate the state's black bear population are outdated and unreliable indexes of the state's population.
- Bears reproduce very slowly and are highly susceptible to overkill.
- Extreme climate events catalyzed by climate change, such as record-level wildfires, late season frosts, and droughts, have negative impacts on bears through habitat destruction and reductions in food sources. These events are increasing in frequency but are not considered in population estimates.
- Hunter demand cannot be the primary driver of wildlife management.
- Most Californians already oppose black bear hunting, and a majority supports the outright ban of hunting black bears.
- Current scientific understanding acknowledges bears as feeling, thinking, self-aware beings that undoubtedly value their lives and wellbeing. They also contribute community benefits through their top-down regulatory effects on ecosystems. Ethical coexistence demands respect and consideration for bears in relevant policies and regulations. Increasing opportunities to kill more bears explicitly promotes views that run contrary to ethical coexistence and holistic scientific understanding.

Thank you for abiding by the agency's published Mission and Vision:

- To provide leadership for transparent and open dialogue where information, ideas and facts are easily available, understood and discussed to ensure that California will have abundant, healthy, and diverse fish and wildlife that thrive within dynamic ecosystems, managed with public confidence and participation, through actions that are thoughtful, bold, and visionary in an ever-changing environment.
- To embrace our responsibility to hold California's fish and wildlife and their habitats in the public trust, as well as their cultural and intrinsic value, and therefore work collaboratively with other federal, tribal, state and local government agencies, non-governmental organizations and the people of California to establish scientifically-sound policies and regulations that protect, enhance and restore California's native fish and wildlife in their natural habitats, and to secure a rich and sustainable outdoor heritage for all generations to experience and enjoy through both consumptive and non-consumptive activities.
- Of a healthy, biodiverse and natural California in which native fish and wildlife thrive within dynamic ecosystems and inspire human interaction and enjoyment.

Sincerely,

Erica Rutherford

**From:** Mary Moycik [REDACTED]  
**Sent:** Wednesday, January 26, 2022 9:14 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Opposing Bear Hunting Tags & Supporting Hunting Moratorium

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

To Whom It May Concern:

It has come to my attention that the California Department of Fish and Wildlife (CDFW) is planning to allow the return and reassignment of bear hunting tags. I believe that California should not be increasing bear hunting when the status of the current population is unknown, due to the effects of climate change, wildfires, increased vehicle collisions and drought. The California Fish and Game Commission (CFGC) should support a petition to end black bear hunts in the state.

Currently, the CDFW's black bear take report for 2020 estimates the state's black bear population at 15,934 (and potentially as low as 9,771), which is at least half of the "conservatively estimated" 30,000-40,000 bears listed on the CDFW website. On top of that, bears reproduce very slowly and are highly susceptible to overkill, and trophy hunters target breeding adults, which disrupts the animals' social structure and further slows reproduction. Extreme climate events catalyzed by climate change, such as record-level wildfires in 2021, late season frosts, and droughts, have negative impacts on bears, in particular through habitat destruction and reductions in food sources. Although these events seem to be increasing in frequency, they are not considered in population estimates.

The agency should holistically consider science, ethics and the broad public interest in protection and coexistence rather than killing. Ceding to hunter demand prioritizes the values of a minority of California's population, as most Californians already oppose black bear hunting, and a majority supports the outright ban of hunting black bears.

Current scientific understanding acknowledges bears as feeling, thinking, self-aware beings that undoubtedly value their lives and wellbeing. They also contribute community benefits through their top-down regulatory effects on ecosystems. Accordingly, ethical coexistence demands respect and consideration for bears in relevant policies and regulations. Increasing opportunities to kill more bears explicitly promotes views that run contrary to ethical coexistence and holistic scientific understanding.

I strongly urge CFGC to oppose the bear tag petition and to support the hunting moratorium petition in the state.

Sincerely,  
Mary Moycik  
[REDACTED]

**From:** Betty Lininger [REDACTED]  
**Sent:** Tuesday, January 25, 2022 8:00 PM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Black Bear Petition 2021/2022-027

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hello Commissioners,

As a geography professor that studies ecological and environmental conservation, I adamantly oppose the plan of reassignment of bear hunting tags. I actually oppose all bear hunting in the state of California due to the myriad of stresses that are put upon the species at the current time. I support a moratorium on hunting black bears.

With climate change problems occurring at more urgent and frequent rates, such as wildfires and the loss of habitat, vehicle strikes that result in roadkill, and disruption to the local species in general with loss of adult bears of reproduction age, bears need immediate and complete protection. I feel that we need to have a moratorium on bear hunting as well as a denial to have hunting trophies sold to hunters.

I grew up in Montana and am well acquainted with how hunters have had a strong voice in the politics of access to hunt wildlife on public lands, but when looking at scientific data, that day has long passed and bears should not be targeted for hunting. The bear population is just not robust enough to take the hit of many animals being killed each year, plus we know that by disrupting ecosystems it affects, not only the bears themselves, but also the vegetation, landscape, and many other animal species as well. Why would we allow this just to satisfy some person's individual desire to hunt and kill a bear?

The general public does not support trophy hunting, or even hunting in general, so I believe the time has come that we must stand up and voice our concerns to protect the remaining wilderness and wildlife that we have, so that our children can rejoice in nature just as we have had the chance to do in our lifetimes. My own father and grandfather were avid hunters, yet regardless I believe this is an old outdated mentality given the scientific wisdom that we currently possess about how ecosystems work.

Please deny the reassignment of bear hunting tags and place a moratorium on all black bear hunting.

Thank you for your time.

Respectfully yours,  
Betty Lininger

From: [REDACTED]  
Sent: Monday, January 24, 2022 1:55 PM  
To: FGC <FGC@fgc.ca.gov>  
Subject: No More Bear Slaughter For Entertainment

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear California Fish and Game Commission California Fish and Game Commission,

As someone who cares about wild animals and one of In Defense of Animals' 250,000 supporters, I respectfully ask you to prohibit the hunting of black bears in California.

Faced with habitat loss due to the climate crisis and devastating wildfires, black bears throughout California are struggling to survive. Making their survival even more challenging, the California Department of Fish and Wildlife (DFW) currently allows hunters to kill up to 1,700 black bears in a single season. Hunters may shoot black bears in their natural habitats with firearms and bows and arrows. Black bears are large animals and often require multiple shots to kill them, which prolongs the terrifying and unimaginably painful experience.

A recent poll showed that 70 percent of California voters do not support sport hunting of black bears, and 62 percent would support legislation to ban the cruel and unnecessary practice. Please support a ban on the hunting of black bears in California so they can resume their fight for survival unmolested by the threat of death for entertainment purposes.

Thank you for your full consideration of this important issue.

Sincerely,  
Ms. Jinx Hydeman

[REDACTED]

**From:** Rosado, Samuel [REDACTED]  
**Sent:** Monday, January 31, 2022 2:57 PM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** stop black bear hunting in California.

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hello,

To whom it may concern:

- **The state's black bear population is in trouble. Given the uncertainties, stopping human-caused mortality should be prioritized over hunter demand.** Current methods to estimate the state's black bear population, based on age-at-harvest models, are outdated and unreliable indexes of the state's population. The model has reported consistently lower population estimates and growth rates since 2013, suggesting the population is in decline.
  - Additionally, the department's [black bear take report for 2020](#) estimates the state's black bear population at 15,934 (and potentially as low as 9,771), which is at least half of the ["conservatively estimated" 30,000-40,000 bears listed on the CDFW website](#).
  - Bears reproduce very slowly and are highly susceptible to overkill. A female only reaches adulthood at approximately 4 years of age. She then gives birth to 2-3 cubs/year and has litters only every 2-3 years (depending on food resources, which are compromised by increasingly wildfires and drought). Trophy hunters target breeding adults, which disrupts the animals' social structure and further slows reproduction.
  - Extreme climate events catalyzed by climate change, such as record-level wildfires in 2021, late season frosts, and droughts, have negative impacts on bears, in particular through habitat destruction

and reductions in food sources. Although these events seem to be increasing in frequency, they are not considered in population estimates. Population modeling fails to consider super-additive mortality brought about by extreme climate events and anthropogenic factors, such as [surges in deaths by vehicle strikes](#). These events disproportionately affect females, some with cubs.

- **Hunter demand cannot be the primary driver of wildlife management when bear hunters constitute less than 1 percent of Californians.**

Instead, the agency should holistically consider science, ethics and the broad public interest in protection and coexistence rather than killing. Caving to hunter demand prioritizes minority values and attitudes to which the majority of the public is increasingly opposed, and diminishes the non-hunting public's experience in nature.

- **Hunters tend to hunt in their own local territories, and issuing two bear tags to already successful hunters may exacerbate human-caused mortality in certain areas, with harmful effects to bear social structure which may increase mortality further (i.e, super-additive).**

Female bears frequently remain close to their birth territories. Increased hunting pressure on the same landscape may not only increase the risk of killing local females, but the risk of new males killing cubs. A mother bear may then have to move to a less suitable habitat where there are fewer resources and a higher risk of conflict with humans. These issues have not been considered within the petition.

- **Most Californians already oppose black bear hunting, and a majority supports the outright ban of hunting black bears** (according to [a poll](#))



# CALIFORNIA CATTLEMEN'S ASSOCIATION

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Submitted via email to [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

February 3, 2022

Peter S. Silva, President  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244

**Re: Petition 2021-027, Request to eliminate open hunting season for black bear until the Department's bear management plan is updated with three specific components**

President Silva and Commissioners:

The California Cattlemen's Association (CCA) appreciates the opportunity to respond to the Petition from the Humane Society of the United States requesting that the Commission eliminate the hunting season for black bears until the California Department of Fish and Wildlife (CDFW) conducts an empirical study of the state's black bear population, studies the impacts of drought and wildfire upon the black bear population, and updates the state's Black Bear Management Plan. CCA is a statewide trade association representing more than 1,700 cattle ranchers and beef producers throughout California who pride themselves on the responsible stewardship of the state's land, water, and wildlife resources. In recent years, California's cattle ranchers throughout the state have reported increased sightings of black bears and increased incidences of bear conflict, such as depredations of livestock by black bears.

**CCA urges the Commission to deny the Petition as not providing "sufficient information to indicate that the petitioned change may be warranted."**<sup>1</sup> While CCA shares Petitioner's desire for CDFW to adopt a more accurate methodology for estimating the state's black bear population than its current harvest-based modeling, all available evidence demonstrates that eliminating the open hunting season for black bears is not warranted. Low black bear harvest numbers – and the population estimate *based upon* those harvest numbers – are patently attributable to factors such as widespread public lands closures throughout 2020 which limited hunting options, the COVID-19 pandemic, prohibitions on the use of hounds in hunting, and other factors discussed below. Petitioner has largely overlooked these factors, instead intentionally misrepresenting CDFW's 2020 Black Bear Take Report to fit a predetermined narrative that black bear hunting must be banned. Because Petitioner has failed to meet its burden of proving that regulatory change is warranted, denial of the Petition is appropriate.

**I. PETITIONER FAILS TO MEET THE BURDEN OF PROVING THAT REGULATORY CHANGE IS WARRANTED**

Petitioner bears the burden of demonstrating that a change in regulation is warranted. However, aside from spurious representations based on CDFW's 2020 Black Bear Take Report

<sup>1</sup> CAL. CODE REGS. tit. 14, § 662(d)(1).

**TONY TOSO**  
PRESIDENT  
HORNITOS

**BEV BIGGER**  
TREASURER  
VENTURA

**BILLY GATLIN**  
EXECUTIVE VICE PRESIDENT  
SACRAMENTO

**SHEILA BOWEN**  
SECOND VICE PRESIDENT  
GLENNVILLE

**TREVOR FREITAS**  
SECOND VICE PRESIDENT  
TIPTON

**STEVE ARNOLD**  
FIRST VICE PRESIDENT  
SANTA MARGARITA

**JESSE LARIOS**  
FEEDER COUNCIL CHAIR  
BRAWLEY

**RICK ROBERTI**  
SECOND VICE PRESIDENT  
LOYALTON

**JOE DAN CAMERON**  
FEEDER COUNCIL VICECHAIR  
BRAWLEY

(addressed below), Petitioner provides no affirmative evidence that the black bear population has declined in California,<sup>2</sup> and has thus failed to meet its burden of proof that regulatory change is necessary to safeguard the species' population within the state.

Indeed, there is substantial reason to believe that California's black bear population remains robust. Even in light of the 2020 Black Bear Take Report, CDFW "conservatively estimate[s]" there to be 30,000 to 40,000 black bears within the state, indicating a stable population.<sup>3</sup> The agency has even asserted that the black bear population is increasing, noting that "bear populations have grown to the point that they've been showing up in new areas, including in places where wildfires didn't affect their movements."<sup>4</sup>

Black bear researchers have indicated that in some regions of the state "there are so many bears, they're coming close to hitting their biological 'carrying capacity,' meaning there's nearly too many for the habitat to support."<sup>5</sup> One researcher has concluded that "Black bears... would be the one of the *least level of concerns* for the various species in the state of California that I would have at this point."<sup>6</sup>

Finally, as mentioned above, reports of increased black bear sightings and bear conflict from California's cattle ranchers and rural residents anecdotally suggests a robust population of black bears within the state.

There is every indication that the black bear population in California remains at a healthy level. Regardless, Petitioner has failed to provide affirmative evidence that populations are declining or imperiled and has thus failed to meet its burden of proof to demonstrate that a change in regulation is warranted. As such, the Commission ought to deny the petition.

## **II. PETITIONER INTENTIONALLY MISREPRESENTS CDFW'S BLACK BEAR TAKE REPORT TO FURTHER ITS POLICY AGENDA**

Petitioner justifies its request for regulatory change "to eliminate open hunting season" for black bears partly on what it calls "worrisome indications of a steep decline in California's black bear population."<sup>7</sup> However, these "worrisome indications" rely largely on cherry-picking references to CDFW's Black Bear Take Report for 2020, omitting crucial context, and mischaracterizing CDFW's findings.

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<sup>2</sup> See generally Sabrina Ashjian, California State Director, The Humane Society of the United States, PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE 2021-027 app. A at 3-4, Dec. 10, 2021 (criticizing CDFW's methodology for estimating black bear population within the state, but proffering no studies other than CDFW's 2020 Black Bear Take Report to support their assertion that the black bear population within the state is in decline) [*hereinafter* "PETITION"].

<sup>3</sup> Ryan Sabalow, *Citing Wildfires, Animal Welfare Activists Petition California Officials to Stop Bear Hunting*, THE SACRAMENTO BEE, Jan. 21, 2022 (reporting based on an interview with CDFW biologist Jason Holley).

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

<sup>5</sup> *Id.* (reporting based on an interview with University of Nevada, Reno faculty member Jon Beckmann, who has "extensively studied the Tahoe Basin's black bears with the Wildlife Conservation Society").

<sup>6</sup> *Id.* (*emphasis added*).

<sup>7</sup> PETITION, *supra* note 2, at 1-2.

The Petition states that CDFW “*suggests that the black bear population is 15,934 (±6,163)*” and that “DFW *now believes* that the California bear population could be as low as 9,771 individuals.”<sup>8</sup>

In fact, CDFW’s report evinces no such *suggestion* or *belief*. Rather, immediately after modeling a population figure based on the 2020 annual harvest, CDFW’s Report clarifies that “As bears occupy habitats outside the 2020 hunt areas, *the statewide population is likely greater than this estimate*” and that “The Department expects that the relatively lower population estimates found since 2013 are an artifact of reduced annual harvests *rather than a true reflection of reduced population size*.”<sup>9</sup> Indeed, the Department clarifies that it believes “that the reduced population estimates are *solely* an artifact of the model’s constraints.”<sup>10</sup> Finally, CDFW notes that none of its four “thresholds of concern for the statewide black bear population” were exceeded in 2020.<sup>11</sup>

CDFW has been clear that it *does not* “believe[] that the California bear population could be as low as 9,771 individuals,” as Petitioner disingenuously asserts, but rather recognizes that an imperfect population modeling method has likely produced inaccurate population projections.

### III. REDUCED ANNUAL HARVESTS ARE ATTRIBUTABLE TO FACTORS OTHER THAN REDUCED POPULATION

In alleging that California’s black bear population is in decline, Petitioner primarily relies on two data points: the number of bear hunting tags sold for 2020 and the number of black bears successfully taken by hunters. The Petition reports that “While a record number of hunters turned out in 2020, 30,387 bear hunters, they killed an all-time low number of bears, 1,028,”<sup>12</sup> and implies that these two data points taken together are an indication of “the overkill and jeopardy of California’s bear population.”<sup>13</sup>

There is ample reason, however, to believe that these two data points do not indicate the “overkill and jeopardy of California’s bear population.” While a record number of hunters obtained bear hunting tags in 2020, there were numerous factors that likely frustrated hunters’ efforts to take black bears that year, including (1) widespread closures of public lands due to historic wildfires; (2) other restrictions and environmental conditions resulting from those historic wildfires; (3) the COVID-19 pandemic; and (4) prohibitions on the use of hounds in bear hunting.

Petitioner entirely overlooks the effects of at least three of these factors in reducing bear take in 2020. Viewed in context, it is clear that the “all-time low number of bears” taken in 2020 is not demonstrative of an imperiled black bear population, but rather reflective of environmental, public health, and socio-political factors which limited hunters’ opportunities to take black bears.

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<sup>8</sup> *Id.* at 2 (*emphasis added*); *id.* app. A at 1 (*emphasis added*).

<sup>9</sup> CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, BLACK BEAR TAKE REPORT 2020 1, Sept. 29, 2021 (*emphasis added*) [*hereinafter* “2020 BLACK BEAR TAKE REPORT”].

<sup>10</sup> *Id.* at 12 (*emphasis added*).

<sup>11</sup> *Id.* at 14-15.

<sup>12</sup> PETITION, *supra* note 2, app. A at 1-2.

<sup>13</sup> *Id.* app. A at 3.

### A. Widespread Closures of Public Lands in 2020 Reduced Opportunities for Take

The statewide archery bear hunting season for 2020 lasted from August 15 through September 6.<sup>14</sup> Due to “multiple active fires,” CDFW early in the archery bear hunting season closed many of its properties in Colusa, Lake, Lassen, Merced, Napa, Sierra, Sonoma, and Yolo counties – counties which are wholly or partly within black bear hunting areas<sup>15</sup> – “to all public access and activities *including hunting*.”<sup>16</sup> Some of the properties closed were wildlife areas where black bears are found and may be hunted. For instance, the Knoxville Wildlife Area in Napa and Yolo Counties was closed for all but five days of the archery bear hunting season.<sup>17</sup> Indeed, the Knoxville Wildlife Area remained closed until the end of 2020,<sup>18</sup> and was thus closed to hunters throughout most of the general hunting season for black bears.

Though the opening date for black bear hunting season varies depending on zone,<sup>19</sup> the season in 2020 began as early as August 8 in some zones and lasted through December 27.<sup>20</sup> Throughout those 141 days, access to state and federal public lands was severely curtailed in response to active wildfires and due to fears that public access could spark additional wildfires. On September 7, the Pacific Southwest Region of the United States Forest Service (USFS) issued an order prohibiting “Going into or being upon National Forest System lands” within the Inyo, Sierra, Sequoia, Stanislaus, Los Padres, Angeles, San Bernardino, and Cleveland National Forests.<sup>21</sup> Two days later, the Pacific Southwest Region closed the state’s remaining National Forests to the public.<sup>22</sup> National Forest closures during this period were as follows:

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<sup>14</sup> 2020 BLACK BEAR TAKE REPORT, *supra* note 9, at 3.

<sup>15</sup> CAL. CODE REGS. tit. 14, § 365(a).

<sup>16</sup> California Department of Fish and Wildlife, *California Fires Force Closure of CDFW Properties*, CDFW NEWS, Aug. 20, 2020, <https://cdfgnews.wordpress.com/2020/08/20/california-fires-force-closure-of-cdfw-properties/> (*emphasis added*).

<sup>17</sup> CDFW’s press release did not list closed properties, *see id.*, but rather directed readers to [wildlife.ca.gov/closures](http://wildlife.ca.gov/closures) for such information. While CCA is not aware of any official archive detailing CDFW’s historical closures, information on prior closures has been gleaned by reference to the Internet Archive’s “Wayback Machine,” <https://archive.org/web/>, which “captures” web pages based on the number of times the Wayback Machine “crawls” – or systematically browses for indexing purposes – a web page. The Wayback Machine does not capture every update to a given web page. For the period from August 15 through September 6, 2020, CDFW property closure information has been extrapolated from CDFW press releases, *see id.*, and Wayback Machine captures of [wildlife.ca.gov/closures](http://wildlife.ca.gov/closures) dated August 29, 2020 and September 16, 2020.

<sup>18</sup> California Department of Fish and Wildlife, *Knoxville Wildlife Area, Cedar Roughs Wildlife Area, Putah Creek Wildlife Areas Remain Closed Due to LNU Lightning Complex Fires*, CDFW NEWS, Aug. 28, 2020, <https://cdfgnews.wordpress.com/2020/08/28/napa-and-solano-county-wildlife-areas-closed-due-to-fires/> (“the wildlife areas will be closed to all public uses including hunting...through the remainder of the year”).

<sup>19</sup> *See* CAL. CODE REGS. tit. 14, § 365(b).

<sup>20</sup> California Department of Fish and Wildlife, *August 2020 California Department of Fish and Wildlife Calendar*, CDFW NEWS, Aug. 28, 2020, <https://cdfgnews.wordpress.com/2020/07/28/august-2020-california-department-of-fish-and-wildlife-calendar/>.

<sup>21</sup> USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-07 (Sept. 7, 2020).

<sup>22</sup> USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-10 (Sept. 9, 2020).

National Forests	Dates Closed	Total Days Closed
Inyo, Sequoia, and Sierra National Forests	September 7 – October 2 <sup>23</sup>	26
Stanislaus National Forest	September 7 – September 19 <sup>24</sup>	13
Angeles, Cleveland, Los Padres, and San Bernardino National Forests	September 7 – October 8 <sup>25</sup>	32
Eldorado, Lassen, Mendocino, Modoc, Plumas, Shasta-Trinity, and Tahoe National Forests and the Lake Tahoe Basin Management Unit	September 9 – September 21 <sup>26</sup>	13
Klamath and Six Rivers National Forests	September 9 – October 1 <sup>27</sup>	23

CDFW urged hunters to respect these closure orders and acknowledged that “hunting opportunities will be impacted throughout the state.”<sup>28</sup> In response to the vast closures of USFS lands, CDFW on September 12 closed 49 wildlife areas and ecological reserves “that lie within or immediately adjacent to U.S. Forest Service (USFS) boundaries.”<sup>29</sup> While nine properties were reopened a week later<sup>30</sup> and 20 more were reopened by September 21,<sup>31</sup> these closures nevertheless significantly curtailed black bear hunting opportunities. Additionally, other closures remained in place deep into black bear hunting season, further limiting hunting opportunities.

<sup>23</sup> REGIONAL ORDER 20-07; USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-12 (SEPT. 15, 2020); USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-15 (Sept. 19, 2020); USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-17 (Sept. 25, 2020); USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-19 (Oct. 1, 2020); USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-20 (Oct. 2, 2020).

<sup>24</sup> REGIONAL ORDER 20-07; REGIONAL ORDER 20-12; REGIONAL ORDER 20-15.

<sup>25</sup> REGIONAL ORDER 20-07; REGIONAL ORDER 20-12; REGIONAL ORDER 20-15; REGIONAL ORDER 20-17; REGIONAL ORDER 20-19; REGIONAL ORDER 20-20.

<sup>26</sup> REGIONAL ORDER 20-10; USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER No. 20-13 (Sept. 15, 2020).

<sup>27</sup> REGIONAL ORDER 20-10; REGIONAL ORDER 20-13; REGIONAL ORDER 20-15; REGIONAL ORDER 20-17; REGIONAL ORDER 20-19.

<sup>28</sup> California Department of Fish and Wildlife, *California’s National Forests Temporarily Close Due to Wildfires; Hunters and Recreational Users are Urged to Stay Away*, CDFW NEWS, Sept. 11, 2020, <https://cdfgnews.wordpress.com/2020/09/11/californias-national-forests-temporarily-close-due-to-wildfires-hunters-and-recreational-users-are-urged-to-stay-away/> (quoting CDFW Law Enforcement Division Chief David Bess).

<sup>29</sup> California Department of Fish and Wildlife, *CDFW Closes Lands Through Monday Due to Wildfires*, CDFW NEWS, Sept. 12, 2020, <https://cdfgnews.wordpress.com/2020/09/12/cdfw-closes-lands-through-monday-due-to-wildfires/>; see also California Department of Fish and Wildlife, *CDFW Wildlife Areas and Ecological Reserves within or immediately adjacent to USFS lands that are closed to the public*, Sept. 18, 2020, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=182961> (listing closed lands and acreage).

<sup>30</sup> California Department of Fish and Wildlife, *CDFW Reopens Nine Areas*, CDFW NEWS, Sept. 18, 2020, <https://cdfgnews.wordpress.com/2020/09/18/cdfw-reopens-nine-areas/>.

<sup>31</sup> California Department of Fish and Wildlife, *CDFW Reopens Additional Areas*, CDFW NEWS, Sept. 21, 2020, <https://cdfgnews.wordpress.com/2020/09/21/cdfw-reopens-additional-areas/>.

***B. Even Where Access and Hunting Were Not Prohibited, Fire Restrictions and Smoke Levels Likely Reduced Opportunities for Black Bear Take***

Even where hunters were not prohibited from entering state and federal lands to hunt, public safety orders and environmental conditions likely served to discourage black bear hunting. For instance, both the Bureau of Land Management and USFS issued orders prohibiting the use of fire, including camp fires and stove fires.<sup>32</sup> Other orders prohibited the use of established camp sites on federal lands.<sup>33</sup>

Additionally, the historic wildfires of 2020 created hazardous air quality conditions throughout much of the state, leading many to shelter in place at home rather than risk exposure to the unhealthy smoke.

It is impossible to gauge the impact that these conditions may have had on hunters' efforts to take black bears, as only *successful* hunters report on their efforts to hunt black bears.<sup>34</sup> That said, it is reasonable to assume that restrictions on the use of public lands and hazardous air quality across much of the state led many who obtained bear hunting tags to abandon or reduce their efforts to take a black bear.

***C. The COVID-19 Pandemic Likely Kept Many Hunters from Taking Black Bears***

As CDFW notes in its 2020 Black Bear Take Report, "The COVID-19 pandemic response included stay-at-home orders across the state, which likely prevented many hunters from hunting in 2020."<sup>35</sup>

***D. Banning Hounds in 2012 has Limited Successful Take in Each Subsequent Year, Including 2020***

In 2012, California passed legislation outlawing the use of dogs to take bears.<sup>36</sup> While the Petition implicitly acknowledges this change in law,<sup>37</sup> it does not account for the impact that this change in law has had upon CDFW's black bear population model. As CDFW notes, the prohibition on the use of hounds for the take of bears "violated a key assumption in that model regarding consistent hunter effort."<sup>38</sup>

Given the above considerations, there is little reason to believe the "all-time low number of bears" taken in 2020 corresponds to a decline in the bears' population; rather, the low take of bears in 2020 is attributable to a change in law which prohibited the most effective means of take, the widespread closure of public lands in response to wildfire threats, a global pandemic fundamentally

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<sup>32</sup> See, e.g., Bureau of Land Management California State Office, *The Bureau of Land Management Increases Fire Restrictions Throughout California*, Sept. 8, 2020, <https://www.blm.gov/press-release/bureau-land-management-increases-fire-restrictions-throughout-california>; USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER NO. 20-06 (Sept. 7, 2020).

<sup>33</sup> See, e.g., USDA FOREST SERVICE PACIFIC SOUTHWEST REGION, REGIONAL ORDER NO. 20-08 (Sept. 7, 2020).

<sup>34</sup> 2020 BLACK BEAR TAKE REPORT, *supra* note 9, at 2.

<sup>35</sup> *Id.* at 14.

<sup>36</sup> Senate Bill 1221 (Chapter 595, Statutes of 2012) (codified at CAL. FISH & GAME CODE § 3960 *et seq.*).

<sup>37</sup> PETITION, *supra* note 2, fig. 1.

<sup>38</sup> 2020 BLACK BEAR TAKE REPORT, *supra* note 9, at 12.

impacting Californians' travel habits, and public policy and environmental factors which likely discouraged hunting activity. While CCA agrees that the harvest-based model for estimating black bear population is flawed – particularly in light of these considerations – that flawed model alone does not justify a prohibition on black bear hunting within the state.

#### **IV. GRANTING THE PETITION FOR FURTHER CONSIDERATION WOULD BE CONTRARY TO CDFW'S BLACK BEAR MANAGEMENT PLAN**

The decision matrix in CDFW's 1998 Black Bear Management Plan provides that "When the threshold is exceeded for two or more monitoring techniques, the Department will recommend that hunter kill of bears be reduced in some manner."<sup>39</sup> As CDFW's 2020 Black Bear Take Report notes, "None of the four thresholds of concern was exceeded" in 2020.<sup>40</sup> Given that none of the 'thresholds of concern' which might indicate a threat to the state's black bear population have been exceeded, it would be contrary to the long-standing and carefully-considered management policy of the state to reduce – let alone *eliminate*, as Petitioner requests – black bear take at this time.

#### **CONCLUSION**

CCA appreciates the opportunity to provide input as the Commission considers the Petition to eliminate black bear hunting in California. While CCA acknowledges that CDFW's model for estimating bear population is flawed, the Petitioner has not met its burden of demonstrating that the petitioned action is warranted. Rather, the Petition is simply an opportunistic ploy to advance Petitioner's agenda by mischaracterizing CDFW's Report. The evidence – and CDFW's own analysis – demonstrates that the 2020 black bear harvest numbers, and the population estimate based upon those harvest numbers, are the result of legislation limiting traditional hunting methods, widespread closures of public lands, the COVID-19 pandemic, and various other factors.

There is no credible indication that the state's black bear population is on the decline. Consequently, **we ask that the Commission deny the Petition as not providing sufficient information to indicate that the petitioned change may be warranted.**

Sincerely,



Kirk Wilbur  
Vice President of Government Affairs

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<sup>39</sup> CALIFORNIA DEPARTMENT OF FISH AND GAME, BLACK BEAR MANAGEMENT PLAN 16, July 1998.

<sup>40</sup> 2020 BLACK BEAR TAKE REPORT, *supra* note 9, at 14.

**From:** Steve Pye [REDACTED]  
**Sent:** Wednesday, January 19, 2022 7:33 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Reject Petition 2021/2022-027

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

To the California Fish and Game Commission,

I am writing to you not only as a hunter, but as a graduate in environmental science from UC Berkeley, and a Conservatist, and as a profession in the habitat restoration and conservation industry. I am writing to urge you to reject the petition put forth by the Humane Society of the United States (HSUS) to ban bear hunting in California. This is a petition formed by an organization that does not understand the science behind conservation that our State and Nation's wildlife and habitat have benefited tremendously from for decades. The fact is that we would not have the amazing black bear population we have today without YOU (CDFW, FGC) and without the revenue, conservation science, and management that hunting contributes to. HSUS is simply working to insert their moral desires into wildlife conservation and management because they want to. They do not believe in the North American model of conservation, and they do not care about the science or those of us who spend so much of our time on the land, acquiring food for our families, enjoying our amazing public and private lands, and contributing to what has been a SUCCESS in terms of wildlife management.

The proof is plain to see. Black bear populations in California are thriving. Hunting is a management tool, one which very clearly has not decreased the population whatsoever. There are more bears today than there have been for many decades. You and I both know this. This is a fact that is now true because of research, science, conservation work, and hunting and the associated revenue that aid this effort. This is information that can be found on CDFW's own website, backed by scientific data from CDFW's own studies.

Banning bear hunting sets a dangerous precedent that casts public doubt in our model of conservation that has so far done many amazing things for the people of California and America as a whole. Please make a logical decision here. DO NOT bend to the will of HSUS and the politicians they have gained favor with. Please stand behind your own scientific data, studies, and wildlife management model as so many of us do on behalf of our State agencies on a daily basis. Reject Petition 2021/2022-027.

Thank you,

Steve

**From:** logan sebela [REDACTED]  
**Sent:** Sunday, January 16, 2022 8:04 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Ca bear hunting

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

To whom it may concern,  
With the recent backlash against bear hunting in Ca I ask that you consider these points supporting bear hunting highlighted by Clay Newcomb. Thanks for your time.  
Respectfully,  
Logan Sebela

**1. Limited habitat means expansion must be managed:** All natural animal populations are designed to grow and expand to perpetuate the species. Bear populations grow at a rate of 10% per year. On a continent with unlimited habitat, expansion wouldn't be a problem. However, in the modern world, urbanization, development, and modern agriculture have taken up vast areas formerly inhabited by wildlife. Expanding wildlife populations mean that the ranges of wild animals overlap with human populations more than anytime in human history. Removing 10% each year through hunting stabilizes black bear populations, thus reducing human/animal conflict. Hunters offer an invaluable service to society through hunting. Of all big game animals in North America, bears are animals that you don't want wandering the paved streets of your city unchecked. Bear hunting is an invaluable and often intangible benefit to the wider society. Bear hunters are kind of like bees. You wouldn't realize the service we provide unless we quit doing it.

**2. Animals don't have feelings like humans do:** Deep at the root of the anti-hunting agenda is a false premise that wild animals have feelings and the ability for abstract thought. Humans have a highly developed frontal lobe in our brain that governs things like personality, future planning, abstract thought, language and speech. The frontal lobe of animals is much more primitive, primarily governing sensory and motor functions. The concept that animals have emotions and the capacity for thought comparable to humans isn't scientifically backed

up. A bear doesn't have the capacity to think, "A human is putting out food for me so that it can kill me and hang my hide on his wall." A bear recognizes that a human produces risk and thus they typically try to avoid us, but his feelings aren't hurt because he is being hunted. Animals react instinctively to stimuli in such ways that promote survival and reproduction. The boundaries of the brain activity of a bear revolve around three things: food, reproduction, and staying alive. They haven't survived the last 10,000 years in North America because they had a strong emotional side. Bears don't have feelings, so the antics that are worried about hurting them can put that worry on the shelf.

3. All wild animals will die: The natural world is governed by death as a means to renewed life. Death isn't a bad thing in nature, but has been powerfully stigmatized as totally negative. Sound wildlife management through hunting brokers the death process and is much more humane than natural death in almost all situations. Good hunting/conservation targets mature males. These animals have already contributed to the gene pool and have served significant biological purpose in the population. In terms of ethics or morals, every animal will eventually die. If the animal's life isn't harvested through hunting, the animal will either die from old age, die through an environmental stress like lack of food, die from disease, die from conflict with another animal, die through some type of accident, or involuntarily die through non-hunting human contact (i.e. hit by a car). If we are discussing the ethics of death, being shot in the vitals by a legal hunting weapon is much quicker and more humane than the majority of other options for death.

4. Domestic meat production is far less ethical than hunting for wild meat: If being humane is your goal, domestic animals raised for meat production is more inhumane than hunting wildlife for food. The mass production of beef, pork and chicken in North America feeds the world, and the industry will do whatever it takes to produce meat. Some people have a problem with confined animal production and have chosen to be vegetarians, not use leather, not ride in cars with leather seats, not wear leather shoes, not use glue made from animal byproducts, not eat vegetables that were raised on farms that have

destroyed wildlife habitat, not use pesticides to kill insects, and not treat their home for termites. I'm not talking to these saints. In terms of ethics, large scale confinement animal production strips animals of any quality of life and alters their DNA to promote unnatural body types. I'm not saying this isn't necessary and valuable to today's world; however, I'm making a point. How is this more ethical than harvesting an organic, free ranging wild animal that has never known the boundaries of a fence or cage? I would challenge any anti-hunter to go a confinement pig farm, a mid-western feedlot or a southern chicken farm and contrast this with hunting for wild meat. Their ethics would be challenged.

5. The original intent of hunting is two fold, and both are still legit today: Many would argue that hunting is outdated, it's thing of the past that no longer has relevance. However, this argument has major holes. The main purpose of hunting is to provide protein for food. Secondly, people hunt to protect themselves and their family against animals that want to harm them or their investments. These same two are legitimate reasons we hunt today. Specifically in bear hunting, we hunt for predator control and the usable commodities provided by a bear (meat, hide, fat).

Many people have a problem with hunters enjoying hunting. In all truth, enjoyment and satisfaction coming from hunting is a powerful side benefit that is natural, legit, and ethical. One of the primary drivers of human and animal actions revolves around the release of a neurotransmitter chemical called dopamine to the brain. For example, when we feel satisfaction or pleasure after a good meal, what we are actually feeling is the release of dopamine to the brain rewarding us for an action beneficial to our survival. Dopamine is reward for action and reinforcement for good action. Humans are biologically predators. We've got binocular vision and canine teeth. We are designed to kill and eat. The satisfaction that comes from killing an animal in a fair chase and ethical manner is a higher-level human function that biology rewards. The satisfaction, enjoyment and pleasure that come from hunting are ancient. It doesn't make us blood thirsty killers; it actually defines a part of our humanity.

6. Hunting can help bear populations grow: This point actually works in contradiction to point number one in this article (this isn't a bad thing). As hunters offering a service to society, the goal is to stabilize and even decrease bear populations in some regions through taking animals out of the population. However, solid wildlife management practices that target older males can actually increase bear populations. Randy Cross of Maine Department of Inland Fisheries and Wildlife is one of the countries foremost bear biologists. Randy said "One aspect that is hard to wrap your head around is that hunted populations often attain higher densities than unhunted populations since there are more younger bears and less mature males exerting negative influence on the population density due to their propensity for intraspecific predation on all smaller bears."

Sent from my iPhone

**From:** Shalyn Cagle [REDACTED]  
**Sent:** Saturday, January 15, 2022 10:03 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Opposition To Petition 2021-027

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hello,

HSUS has submitted a petition calling for a ban on black bear hunting and I, like many others, oppose this blatant disregard for science. This attempt comes less than a year after legislation ending bear hunting in the state faced extreme backlash and was pulled by the sponsor (Sen. Scott Weiner). Petition 2021-027 alleges that CDFW uses faulty science to justify black bear hunting and, further, that the species is in peril due to wildfires, climate change, poaching and, of course, regulated hunting. The petition is part of a newly launched campaign by animal-rights groups to pressure state fish and wildlife agencies to ban hunting of predators during the formal adoption process of hunting regulations. I truly believe that our state is better than this. To bend to these misinformed allegations not only upends everything our state has accomplished regarding wildlife management it also paints the biologists in the field as dishonest. Manipulating data, as HSUS has done, shouldn't be rewarded by changing laws/regulations. We're supposed to follow science. The unbiased science. Feelings shouldn't play a role in our wildlife management - full stop.

I am a proud hunter and angler. I buy stamps, tags, and validations every year just like everyone else. Moreover I trust that the money from those sales goes to sound science to assist in guiding us when managing our most sacred resources. I understand and empathize with folks who can't (or won't) understand my reasons for hunting the game that I do. What does bother me is that in a time when science plays such a crucial role in all our lives that it can so easily be disregarded. I stand against this type of behavior as I hope all of you at the FGC will do as well.

Black bear hunting is extremely well regulated in California. Our harvests are monitored and reported. In 1982, the statewide bear population was estimated to be between 10,000 and 15,000. Presently, the statewide black bear population is conservatively estimated to be between 30,000 and 40,000 (CDFW published population estimation). If our black bear populations have more than doubled, while also having a legal hunting season, I'd like to believe any logical person would look at that data and think - we must be doing something right. I don't dislike bears. I like

seeing them on the landscape and I enjoy the thought of being able to legally harvest one should I ever be presented with that chance while in the field. The only reason that option is available to me now is because of the hard work of biologists, hunters, the FGC and CDFW. Through intelligent hunting we have brought our largest predator back and its thriving. I ask that you don't easily make a decision regarding this petition based on how it will be viewed by the general public, but how it will affect other game management down the road. If emotion dictates our wildlife management and we stop trusting science, where will it ever end?

Thank you for your time,  
Shalyn Nicoletti

**From:** Rick Duenas [REDACTED]  
**Sent:** Tuesday, February 1, 2022 9:37 PM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Comments in opposition to Petition 2021-027

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear President Silva and Members of the Commission,

My name is Rick Duenas and I am a hunter and wildlife advocate residing in San Francisco. I would like to address Petition 2021-027 (Request to eliminate open hunting season for black bear...) and encourage you to please deny this petition because it:

1. cites statistically insignificant bear population data confounded by land closures,
2. stands to eliminate roughly \$1.5 million in annual bear tag revenue that helps fund conservation, and
3. fails to suggest specific improvements to CDFW's bear management with definite timelines.

First, the petition justifies the elimination of the bear hunting season by cherry-picking an unusually low bear population estimate that CDFW denotes to be not statistically significant. In the CDFW 2020 Black Bear Take Report [1], the Department reports a harvest of 1,028 bears and an estimated population of 15,934 ( $\pm 6,163$ ; 95% CI). In the monitoring matrix, the report suggests that the "decline in population estimate was not statistically significant." As a result, the Department did not recommend the Commission to reduce harvest. Moreover, the decrease in harvest in 2020 can be attributed to significant federal public land closures in populous bear areas during the peak harvest months of September and October, as well reduced hunter efficacy and effort due to prohibition of the use of hounds since 2013. Bearing in mind these confounding variables on 2020 harvest data, the petition loses credence.

Second, the petition's indefinite elimination of the bear hunting season would reduce tag sale revenue that benefits black bear and other big game. In 2021, some 31,450 bear tags were sold, resulting in \$1,486,541 of revenue for the Department's Big Game Management Account [2,3]. With the elimination of bear season, even temporarily, no bear tags would be sold, and in turn important habitat and enforcement programs would see a decrease in funding. The petition fails to account for significant impact on conservation funding, and should therefore be denied.

Finally, the petition is vague in its recommendations and regulatory language, which largely ignore the Department's existing bear management practices. In particular, the petition's language requires the Department to conduct an "empirical study" on the state's bear populations, but doesn't define what an empirical study should entail. In fact, the Department already uses empirical methods to estimate bear populations through harvest counts and bear tooth age data. The petition should thus be denied for its disregard of the Department's methods and failure to promote concrete improvements.

In short, Petition 2021-027 cherry-picks misleading data on the state's bear population, fails to account for loss of bear tag revenue that benefits wildlife, and fails to adequately propose concrete improvements to CDFW's bear management methods. In support of wildlife and habitat, I urge the Commission to please deny Petition 2021-027. Thank you.

Sincerely,  
Rick Duenas

- [1] <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=195525&inline>
- [2] <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=178041&inline>
- [3] <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=178042&inline>

**From:** Brian Houck [REDACTED]  
**Sent:** Saturday, January 15, 2022 9:37 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Keep California Bear Management & Hunting

**WARNING:** This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear California Fish & Game Commission,

I am writing about the HSUS petition to ban bear hunting in CA (2021-027). This organization does not contribute to the success of wildlife diversity in CA. HSUS does not contribute to habitat management, habitat improvement or policy in CA. As evidenced by the petition, this organization lobbies with hyperbolic emotional and overly anthropomorphized statements while manipulating or ignoring reasonable data and year-over-year scientific evidence.

Bears are hunted for (1) meat (2) conservation and wildlife mgmt (3) adventure. More than 30,000 hunters in CA "VOTE" in favor of bear hunting every year. Some of them do this on the off-chance a bear presents itself while they are deer hunting, something that happens more & more often as the population grows. Some bear hunters are focused on the pursuit of these majestic animals because they know taking a bear means they can bring home hundreds of pounds of quality meat!

Adjusting for the removal of hound-hunting and the public land closures during Sept/Oct of 2020, it is easy to estimate our black bear population at 35k-40k or more. This is reasonable and defensible science.

Please REJECT the HSUS petition 2021-027. Instead, please direct CDFW to double down on their bear population surveys and science to inform future management plan and quota adjustments.

Sincerely,  
Brian Houck

Howl For Wildlife will keep Brian and your constituents informed about your position on this issue.

**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
Katherine Borges	Stanislaus County EIR	Requests that FGC make Stanislaus County do an EIR on a gas station project; the mitigated negative declaration is insufficient based on hawk presence		2/16-17/22	The lead agency for a project determines the appropriate CEQA pathway, not FGC. No action recommended.