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## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

### Meeting Outcomes for February 16-17, 2022

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

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

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

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

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

- ***continued agenda item 25 to a future meeting***
- ***moved item 12(B) to immediately before item 12(A)***

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

***No action taken.***

#### 3. Kelp harvest plan

Receive updated proposed, 2022-2026 kelp harvest plan from Sustainable Ocean Harvest, LLC for mechanical harvest of giant kelp in administrative kelp beds 29, 30, 31, 32, 114 and 117 in Santa Barbara County.

(Pursuant to sections 165 and 165.5, Title 14 CCR)

*Potential action will be scheduled for a future meeting after receiving the Department's recommendation.*

***The Commission received the kelp harvest plan.***

#### 4. Pending aquaculture lease amendment request

Receive Department recommendation concerning request from Tomales Bay Oyster Company to add new species and methods for State Water Bottom Lease M-430-05. (Pursuant to Section 15400, Fish and Game Code)

*Potential action is expected to be scheduled for the April 20-21, 2022 meeting.*

***The Commission received the Department recommendation.***

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

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

(A) Commission executive director's report

(B) Department director's and Law Enforcement Division reports

***No action taken.***

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

Receive and discuss an update on developing the justice, equity, diversity, and inclusion (JEDI) plan. Consider adopting a JEDI policy and definitions.

***The Commission approved the draft JEDI definitions and policy, adding, "...and the way that they hinder individual and community participation," to the second bullet point of the policy.***

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

(A) Discuss and consider adopting a 90-day extension of emergency regulations to prohibit use of hydraulic pump gear for recreational take of clams, including clarifying amendments to apply the gear restriction to sand crab and shrimp. (Amend sections 29.20 and 29.80, Title 14, CCR)

***The Commission adopted the 90-day extension of emergency regulations as proposed.***

(B) Discuss implementing certificate of compliance to make permanent the emergency regulations prohibiting use of hydraulic pump gear for recreational take of clams, sand crab and shrimp. (Amend sections 29.05, 29.20 and 29.80, Title 14, CCR)

***No action taken.***

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

Discuss and consider adopting regulations for commercial harvest of kelp and other aquatic plants.

(Amend sections 165 and 165.5 and add Section 705.1, Title 14, CCR)

***The Commission adopted the regulation including a closure of commercial bull kelp harvest in Mendocino and Sonoma counties, an annual harvest limit of 8,000 lbs. in Humboldt and Del Norte counties, and closure of three lease-only administrative kelp beds in Mendocino, Humboldt, and Del Norte counties, with a sunset date of three years. The Commission also requested the Department to provide updates to the Marine Resources Committee and Tribal Committee on progress in the Kelp Restoration and Management Plan.***

**9. Recreational California grunion**

Consider adopting proposed amendments to regulations for grunion limit and season changes.

(Amend subsection 27.60(b) and Section 28.00, Title 14, CCR)

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

10. **Pink (ocean) shrimp fishery management plan implementing regulations**  
Consider authorizing publication of notice of intent to adopt new and amend existing prawn or shrimp commercial trawling regulations that implement the *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan*.  
(Add sections 56.00 and 56.01 and amend sections 120, 120.1 and 705, Title 14, CCR)

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

11. **Regulation change petitions and non-regulatory requests (marine)**

- (A) New petitions  
Receive new petitions for regulation change.  
(Pursuant to Section 662, Title 14, CCR)

***No action taken.***

- (B) Previously received petitions  
Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Any petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration. (Pursuant to Section 662, Title 14, CCR)
- I. *Petition 2021-025*: Request to authorize culling of red and purple sea urchin by kelp restoration specialists in Edward F. Ricketts, Pacific Grove Marine Gardens, and Carmel Bay state marine conservation areas.

***The Commission denied Petition 2021-025.***

- (C) Previously received non-regulatory requests  
Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.

***No action taken.***

12. **Committee and Department reports**

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

- (A) Marine Resources Committee (MRC)  
Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on March 24, 2022.

***The Commission approved the draft MRC agenda topics for the March meeting, added discussions of halibut bycatch and potential sheephead recreational harvest regulations, and changed the update on public interest determination criteria for new aquaculture lease from a written update to a discussion item.***

- (B) Department Marine Region
- I. Marine protected area statewide long-term monitoring project reports received in support of the decadal management review.
- II. International Pacific Halibut Commission meeting outcomes and next steps in Pacific Fishery Management Council process for Pacific halibut federal regulations.

***No action taken.***

**13. Licensing and permitting decisions to rely upon as precedent**

Receive and discuss a list of past Commission licensing and permitting decisions for future potential designation by the Commission as precedent.

(Pursuant to Section 11425.60, Government Code)

***No action taken.***

**14. Election of Commission president and vice president**

The commissioners annually elect one of their number as president and one as vice president, by a concurrent vote of at least three commissioners.

(Pursuant to Section 102, Fish and Game Code)

***The Commission elected Samantha Murray as President and Erika Zavaleta as Vice President.***

**15. Committee assignments**

The Commission forms three committees from its membership, consisting of at least one commissioner: Marine Resources Committee, Wildlife Resources Committee and Tribal Committee.

(Pursuant to sections 105, 106 and 106.5, Fish and Game Code)

***The Commission assigned committee membership:***

***Marine Resources Committee: Samantha Murray and Eric Sklar***

***Tribal Committee: Jacque Hostler-Carmesin***

***Wildlife Resources Committee: Erika Zavaleta***

**16. General public comment for items not on the agenda**

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

Note: *New petitions for regulation change submitted since the previous meeting are now received under the agenda item "Regulation change petitions and non-regulatory requests."*

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

***No action taken.***

**17. Temblor legless lizard**

Consider approving the Department's request for a 30-day extension to review the petition to list Temblor legless lizard (*Anniella alexanderae*) as threatened or endangered under the California Endangered Species Act (CESA).

(Pursuant to Section 2073.5, Fish and Game Code)

***The Commission approved the Department's request for a 30-day extension.***

- 18. Desert pupfish**  
Receive the Department's five-year status review report for desert pupfish (*Cyprinodon macularius*) which is listed as endangered under CESA.  
(Pursuant to Section 2077, Fish and Game Code)  
*The Commission is expected to discuss and consider the five-year status review report at its April 20-21, 2022 meeting.*
- No action taken.**
- 19. Inyo rock daisy**  
Receive a petition to list Inyo rock daisy (*Perityle inyoensis*, synonym *Laphamia inyoensis*) as threatened or endangered under CESA.  
(Pursuant to Section 2073.3, Fish and Game Code)
- No action taken.**
- 20. San Bernardino kangaroo rat**  
Consider the petition, Department's status review report, and comments received to determine whether listing San Bernardino kangaroo rat (*Dipodomys merriami parvus*) as endangered under CESA is warranted.  
(Pursuant to sections 2075 and 2075.5, Fish and Game Code)
- The Commission determined listing San Bernardino kangaroo rat as endangered under CESA is warranted.**
- 21. Southern California steelhead**  
Consider and potentially act on the petition, Department's evaluation report and comments received to determine whether listing southern California steelhead (*Oncorhynchus mykiss*) as endangered under CESA may be warranted.  
(Pursuant to sections 2074 and 2074.2, Fish and Game Code)
- The Commission closed the administrative record and continued the deliberation and decision on this item to the April 20-21, 2022 meeting, and directed staff to work with the Department and interested parties, including tribes, to explore a possible Section 2084 regulation to include possible take of a candidate species, for Commission consideration.**
- 22. Northern California summer steelhead**  
Consider ratifying findings for the decision to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as endangered under CESA.  
(Pursuant to Section 2075.5, Fish and Game Code)
- The Commission continued this item to a future meeting.**
- 23. Lime Ridge eriastrum**  
Consider and potentially act on the petition, Department's evaluation report, and comments received to determine whether listing Lime Ridge eriastrum (*Eriastrum erfterae*) as endangered under CESA may be warranted.  
(Pursuant to sections 2074 and 2074.2, Fish and Game Code)
- The Commission determined that listing Lime Ridge eriastrum as endangered under CESA may be warranted.**

**24. Shasta snow-wreath**

Consider the petition, Department's status review report, and comments received to determine whether listing Shasta snow-wreath (*Neviusia cliftonii*) as endangered under CESA is warranted.

(Pursuant to sections 2075 and 2075.5, Fish and Game Code)

***The Commission determined that listing Shasta snow-wreath as threatened under CESA is warranted.***

**25. Game fish contests**

Consider authorizing publication of notice of intent to amend game fish contest regulations.

(Amend Section 230, Title 14, CCR)

***The Commission continued this item to its April 20-21, 2022 meeting.***

**26. Central Valley sport fishing**

Consider authorizing publication of notice of intent to amend central valley sport fishing regulations.

(Amend subsections 7.40(b)(4), (43), (66) and (80), Title 14, CCR)

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

**27. Klamath River Basin sport fishing**

Consider authorizing publication of notice of intent to amend Klamath River Basin sport fishing regulations.

(Amend subsection 7.40(b)(50), Title 14, CCR)

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

**28. Waterfowl hunting**

Discuss proposed amendments to waterfowl hunting regulations.

(Amend Section 502, Title 14, CCR)

***No action taken.***

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

Consider adopting proposed amendments to big game regulations to include preference points reinstatement and tag refunds due to public land closures for 2021-2022 hunting seasons.

(Amend Section 708.14, Title 14, CCR)

***The Commission adopted the regulation as proposed, and authorized publication of a 15-day notice to clarify that the regulation does not sunset.***

**30. Regulation change petitions and non-regulatory requests (wildlife and inland fisheries)**

(A) New petitions

Receive new petitions for regulation change.  
(Pursuant to Section 662, Title 14, CCR)

*Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the April 20-21, 2022 meeting.*

***No action taken.***

(B) Previously received petitions

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Any petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

(Pursuant to Section 662, Title 14, CCR)

- I. *Petition 2021-024*: Request to allow retention of some western Joshua trees after disturbance, in consultation with a certified arborist
- II. *Petition 2021-026*: Request to separate Ballona Channel regulations from Ballona Wetlands Ecological Reserve regulations
- III. *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
- IV. *Petition 2021-028*: Request to add spearfishing as an allowable method of take for American shad

***The Commission denied Petition 2021-024 and referred Petitions 2021-026, 2021-027, and 2021-28 to the Department for review and recommendation.***

(C) Previously received non-regulatory requests

Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.

***The Commission adopted the staff recommendations on non-regulatory requests as proposed.***

### **31. Committee and Department reports**

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

(A) Wildlife Resources Committee

Receive summary and consider approving recommendations from the January 13, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

***The Commission approved recommendations from the January 13, 2022 Wildlife Resources Committee meeting.***

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

I. Annual report regarding Camp Roberts, Camp Pendleton, and Fort Hunter Liggett deer and elk hunts.

(Pursuant to Section 640, Title 14, CCR)

II. Report on necropsies on mountain lions taken under 2021 depredation permits.

(Pursuant to Section 4807, Fish and Game Code)

***No action taken.***

(C) Tribal Committee

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on April 19, 2022.

***The Commission approved the work plan and topics for the April 19, 2022 Tribal Committee meeting.***



**32. Commission administrative items**

- (A) Legislation and other agency regulations

***The Commission directed staff to hold a workshop to bring together stakeholders and help inform solutions regarding the damage caused to the state by feral pigs.***

- (B) Rulemaking timetable updates

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

- (C) Next meeting – April 20-21, 2022

***The Commission approved agenda items for its April 20-21, 2022 meeting with the following additions:***

- ***designation of precedential decisions;***
- ***ratification of findings for the northern California summer steelhead decision;***
- ***consideration of whether listing Southern California steelhead as endangered under CESA may be warranted; and***
- ***consideration of a potential 2084 regulation for Southern California steelhead if listing is found to be warranted.***

***The Commission authorized the President to work with the Executive Director to finalize the meeting location and dates for the April 2022 meeting.***

- (D) New business

***No action taken.***

Adjourn

## EXECUTIVE SESSION

(Not Open to Public)

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

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

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