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Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

Meeting Outcomes for April 20-21, 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.

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:

- ***Moved agenda item 33A up to immediately after agenda item 20***
- ***Moved agenda item 30 to after 33C***

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

No action taken.

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

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

(A) Commission executive director's report

No action taken.

(B) Department director and Law Enforcement Division

- I. Discuss any management action taken related to recreational Dungeness crab fishing to protect whales and sea turtles
(Pursuant to subsection 29.80(c)(7)(G), Title 14, CCR)

No action taken.

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

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

No action taken.

5. **Clarification of allowed and prohibited uses for state marine recreational management areas (SMRMAs)**

Consider authorizing publication of notice of intent to amend regulations to clarify allowed and prohibited uses for SMRMAs.

(Amend subsections 632(b)(9), (37), (41), (42), and (91), Title 14, CCR)

The Commission authorized the publication of notice as proposed.

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

Consider adopting proposed regulations to continue the emergency regulations prohibiting use of hydraulic pump gear for recreational take of clams, sand crab and shrimp through a regular rulemaking. (Amend sections 29.05, 29.20 and 29.80, Title 14, CCR)

The Commission adopted the proposed regulations.

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

Consider adopting *Pink (Ocean) Shrimp, Pandalus jordani, Fishery Management Plan* and consider taking final action under the California Environmental Quality Act (CEQA). (Pursuant to Section 7075, et seq., Fish and Game Code)

The Commission adopted the proposed fishery management plan and certified it as the functional equivalent of an environmental impact report under CEQA.

8. **Pending aquaculture lease amendment requests**

(A) Tomales Bay Oyster Company

Consider approving Department recommendation to approve adding new methods and further evaluate new species requested for State Water Bottom Lease No. M-430-05 in Tomales Bay. (Pursuant to Section 15400, Fish and Game Code)

The Commission approved the Department recommendation, with the modification of the phrase “Current cultivation areas where eelgrass has encroached...” with “Current cultivation areas where eelgrass co-exists...” in Condition 2. The Commission continued the consideration of approving requested culture species to a future meeting following environmental review.

(B) Hog Island Oyster Company

Receive updated request and Department recommendation concerning request to authorize harvest of edible macroalgal species naturally recruited on aquaculture gear for state water bottom lease nos. M-430-10, M-430-11, M-430-12, and M-430-15 in Tomales Bay. (Pursuant to Section 15400, California Fish and Game Code)

No action taken.

9. **Regulation change petitions (marine)**

(A) **New petitions**

Receive new petitions for regulation change. Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the June 15-16, 2022 meeting.

No action taken.

(B) **Previously received petitions – None scheduled**

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. (Pursuant to Section 662, Title 14, CCR)

No action taken.

10. **Non-regulatory requests from previous meetings (marine)**

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, and directed staff to communicate with the California Coastal Commission about potentially scheduling a joint meeting and work with the president to identify agenda items for that meeting.

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

Consider designating past Commission licensing and permitting decisions as precedent. (Pursuant to Section 11425.60, Government Code)

The Commission designated ten past decisions as precedent.

12. **Committee and Department reports**

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

(A) Marine Resources Committee (MRC)

Receive summary and consider approving recommendations from the March 24, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

The Commission approved the recommendations from the March 24, 2022 MRC meeting and changes to the work plan. The Commission also directed staff to identify a new location for the July 14, 2022 MRC meeting near Napa/Sonoma counties, and to move the November 17, 2022 MRC meeting to San Diego.

(B) Department Marine Region

I. Update on annual recreational ocean salmon and Pacific halibut regulations, and automatic conformance to federal regulations.

No action taken.

(C) Tribal Committee (TC)

Receive verbal summary and consider approving recommendations from the April 19, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

The Commission approved the recommendations from the April 19, 2022 TC meeting and changes to the work plan as presented.

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

No action taken.

14. **Five-year private lands wildlife habitat enhancement and management area (PLM) plans**

Consider approving five-year PLM plans and 2022-2026 licenses for:
(Pursuant to Section 601, Title 14, CCR)

- (A) San Benito County
 - I. Lewis Ranch
 - II. Trincherro Ranch
- (B) San Luis Obispo County
 - I. Avenales Ranch

The Commission approved the 3 five-year PLM licenses and plans for 2022-2026.

15. **Annual PLM plans**

Consider approving annual PLM plans and 2022/2023 licenses for:
(Pursuant to Section 601, Title 14, CCR)

- (A) Del Norte County
 - I. Alexandre Ecodairy Farms PLM
 - II. Smith River PLM
- (B) Humboldt County
 - I. Big Lagoon
 - II. Cottrell Ranch
 - III. Diamond C Outfitters
 - IV. Hunter Ranch
 - V. Klamath PLM
 - VI. Rainbow Ridge PLM
 - VII. Redwood House Ranch
 - VIII. Wiggins Ranch
- (C) Kern/Los Angeles counties
 - I. Tejon Ranch
- (D) Mendocino County
 - I. Ackerman-South Daugherty WMA
 - II. Amann Ranch
 - III. Antler Hill Ranch
 - IV. Bridges Ranch
 - V. Capistran Ranch
 - VI. Carley Ranch
 - VII. Christensen Ranch
 - VIII. Eden Valley Ranch
 - IX. Miller-Eriksen Ranch
 - X. Schneider Ranch
 - XI. Seven Springs Ranch
 - XII. Shamrock Ranch
 - XIII. Six Point Ranch
 - XIV. Summer Camp Ranch
- (E) Merced County
 - I. DeFrancesco-Eaton Ranch
- (F) Monterey County
 - I. Alexander Ranch
 - II. Gabilan Ranch
 - III. Hartnell Ranch
 - IV. Indian Valley Cattle Company (Lombardo Ranch)
 - V. Peachtree Ranch
 - VI. San Bartolome Ranch PLM
 - VII. SkyRose Ranch, LLC PLM
 - VIII. Work Ranch
- (G) Monterey/San Benito counties
 - I. Morisoli Ranch

- (H) Monterey/San Luis Obispo counties
 - I. Camp 5 Outfitters – Roth Ranch PLM
- (I) San Benito County
 - I. Lone Ranch
 - II. Rancho La Cuesta
- (J) San Luis Obispo County
 - I. Carnaza Ranch
 - II. Carrizo Ranch
 - III. Chimney Rock Ranch
 - IV. Clark & White Ranches
 - V. D-Rafter-“L” Ranch, LLC
 - VI. Hearst Ranch
- (K) San Luis Obispo and Kern counties
 - I. Temblor Ranch
- (L) Shasta County
 - I. Stackhouse Ranch
- (M) Stanislaus County
 - I. Rooster Comb Ranch
- (N) Tehama County
 - I. 3D Ranch
 - II. Bell Ranch
 - III. R Wild Horse Ranch
- (O) Trinity County
 - I. Stewart Ranch
 - II. Travis Ranch

The Commission approved the 52 annual PLM licenses and plans.

16. Wild Trout Waters

Receive Department recommendation and consider adopting proposed amendments to the Commission’s Designated Wild Trout Waters policy.
(Pursuant to Section 1727, Fish and Game Code)

The Commission approved the proposed amendments to the Commission Designated Wild Trout Waters Policy.

17. Inyo rock daisy

Consider approving the Department’s request for a 30-day extension to review the petition to list Inyo rock daisy (*Perityle inyoensis* synonym *Laphami inyoensis*) 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. Temblor legless lizard

Receive the Department’s 90-day evaluation report on the petition to list Temblor legless lizard (*Anniella alexanderae*) as threatened or endangered under CESA.
(Pursuant to Section 2074.2, Fish and Game Code)

No action taken.

19. Western Joshua tree

Receive the Department’s one-year status review report on the petition to list western Joshua tree (*Yucca brevifolia*) as threatened under CESA.
(Pursuant to Section 2074.6, Fish and Game Code)

No action taken.

20. **Milo Baker's lupine**
Receive the Department's one-year status review report on the petition to change the status of Milo Baker's lupine (*Lupinus milo-bakeri*) from threatened to endangered under CESA. (Pursuant to Section 2074.6, Fish and Game Code)

No action taken.

21. **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 sections 2074 and 2074.2, Fish and Game Code)

The Commission adopted the proposed findings, replacing "plasticity" with "population diversity" on page 7.

22. **Desert pupfish**
Receive presentation on the Department's five-year status review report for desert pupfish (*Cyprinodon macularius*), which is listed as endangered under CESA.
(Pursuant to sections 2074 and 2074.2, Fish and Game Code)

No action taken.

23. **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, Title 14, CCR)

Note: Pursuant to Fish and Game Code Section 2074.2, the Commission, at its February 16-17, 2022 meeting, closed the public hearing and administrative record for this item and continued the meeting on the petition solely for the purpose of deliberation and decision. Therefore, no further public comment (written or verbal) will be accepted for or at this meeting for the agenda item.

If the Commission determines that listing may be warranted, the Department will undertake a one-year status review before the Commission can make a final decision on listing, and southern California steelhead will become a candidate species pursuant to Section 2074.2 of the Fish and Game Code.

The Commission determined that listing southern California steelhead as an endangered species under CESA may be warranted, recognizing that "the Department has represented, and the Commission understands, implementation of CESA prohibitions are not generally applicable on tribal trust lands."

24. **Conditional take of southern California steelhead**
If the Commission determines that listing may be warranted, consider regulatory action to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances by either authorizing a notice of intent to adopt a regulation at a future meeting or adopting an emergency regulation at this meeting, and consider taking final action under the California Environmental Quality Act.
(Pursuant to sections 399 and 2084, Fish and Game Code)

The Commission adopted the proposed emergency regulation, removing "general welfare" in the regulation language.

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 authorized publication of the notice of intent as proposed.

26. **Sport fishing regulations updates**

Consider authorizing publication of notice of intent to amend freshwater and ocean sport fishing regulations. (Amend sections 2.00, 2.25, 2.30, 5.00, 5.15, 5.41, 5.75, 5.79, 5.85, 5.87, 7.40, 7.50, 8.00, and 29.85, Title 14, CCR)

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

27. **Central Valley sport fishing**

Discuss proposed amendments to Central Valley sport fishing regulations. (Amend subsections 7.40(b)(4), (43), (66) and (80), Title 14, CCR)

No action taken.

28. **Klamath River Basin sport fishing**

Discuss proposed amendments to Klamath River Basin sport fishing regulations. (Amend subsection 7.40(b)(50), Title 14, CCR)

No action taken.

29. **Waterfowl hunting**

Consider adopting proposed amendments to waterfowl hunting regulations. (Amend Section 502, Title 14, CCR)

The Commission certified the final environmental document, adopted the proposed project, and adopted the amendments to the regulations as presented.

30. **Regulation change petitions (wildlife and inland fisheries)**

(A) New petitions

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

Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the June 15-16, 2022 meeting.

(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 2021-020: Request to adopt special regulations for the North Yuba River **(Granted)**

II. Petition 2021-027: Request to eliminate open hunting season for black bear until the Department's bear management plan is updated **(Denied)**

III. Petition 2022-01: Request to prohibit waterfowl hunting in specific areas along the shoreline near Benicia and Southhampton Bay **(Referred)**

- IV. Petition 2022-02: Request to create a new class of deer hunting tags restricted to method of take such as traditional archery and muzzleloading shotgun and rifle. **(Referred)**

The Commission granted Petition 2021-020 for consideration in a future rulemaking, referred petitions 2022-01 and 2022-02 to the Department for review and recommendation, and denied Petition 2021-027.

31. **Non-regulatory requests from previous meetings (wildlife and inland fisheries)**
Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.

The Commission adopted the proposed staff recommendations for non-regulatory requests.

32. **Committee and Department reports**

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

- (A) Wildlife Resources Committee (WRC)

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

The Commission approved draft agenda topics for the May 19, 2022 WRC meeting as proposed.

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

No action taken.

33. **Commission administrative items**

- (A) Legislation and other agency regulations

The Commission directed staff — in concert with the Commission president — to draft and send to the legislature a general letter of support for the concept of reducing wild pig populations through multiple measures and reiterated the direction to develop a public workshop on wild pigs.

- (B) Rulemaking timetable updates

The Commission approved the proposed changes to the rulemaking timetable.

- (C) Future meetings – May 19 and June 15-16, 2022

The Commission approved agenda items for its May 19, 2022 and June 15-16, 2022 meetings, with the addition of a discussion on hybrid meetings and meeting formats.

(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
 - I. Consider the proposed decision in Agency Case No. 17ALJ12-FGC, the appeal filed by Mai A Ngo Tran regarding reinstatement of sport fishing privileges, and Agency Case No. 19ALJ18-FGC, the appeal filed by Minh Gia Tran regarding reinstatement of sport fishing privileges.
 - II. Consider the proposed decision in Agency Case No. 19ALJ09-FGC, the accusation filed against John Crowe regarding revocation of a commercial fishing license and a lobster operating permit.

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