

Committee Staff Summary for May 16, 2024 WRC

5. Waterfowl Hunting in Southampton Bay**Today's Item****Information** ☒**Action** ☐

Discuss potential regulation changes to address waterfowl hunting noise concerns specific to Southampton Bay.

Summary of Previous/Future Actions

- Commission denied petition 2022-01 and referred topic to WRC October 11-12, 2023
- Initial discussion January 16, 2024; WRC
- **Today's discussion** **May 16, 2024; WRC**
- Discussion and potential recommendation September 16, 2024; WRC

Background

At its October 11-12, 2023 meeting, the Commission denied Regulation Change Petition 2022-01 (Exhibit 1), which requested a ban on waterfowl hunting in Southampton Bay. Background information on the issue and rationale for the Commission's determination on the petition is found in Exhibit 2. Coincident with the petition's denial, the Commission also acknowledged the unique noise concerns specific to waterfowl hunting in Southampton Bay; the Commission directed staff to explore potential regulation changes to address the concerns and referred the topic to WRC to facilitate discussions with city of Benicia officials and residents, stakeholders, the waterfowl hunting community, and the public.

Currently, the only community with waterfowl hunting regulations that vary from the remainder of the state for shooting hours and shotgun gauge is Morro Bay; the Morro Bay Special Management Area has shooting hours that begin at 7:00 a.m. (remainder of state is one half hour before sunrise pursuant to Title 14, Section 506) and no shotgun larger than 12 gauge is allowed to be used on, over or adjacent to the waters of Morro Bay (pursuant to Section 507).

At its initial discussion, WRC reviewed and briefly discussed eight potential regulatory options suggested by the city of Benicia (Exhibit 3) to address noise levels:

1. Hunting prohibition on certain holidays October through January.
2. Extend the minimum distance from homes to 300 yards.
3. Maximum shotgun gauge of 12.
4. Start time of 9:00 a.m.
5. Provide advance notice to residents.
6. Create a "direct line" of communication with wildlife officers to report violations.
7. Increased law enforcement monitoring.
8. Escalating penalty scheme for violations.

Committee Staff Summary for May 16, 2024 WRC

Discussion centered around the Commission's authority to enact the proposals, how to strike a balance between hunters' ability to recreate and residents' desire for quiet, and the logistics of implementing some of the proposals.

Today WRC will continue its discussions of potential regulation changes, with the aim of potentially formulating regulatory recommendations at the September 2024 WRC meeting. Any WRC recommendations will be presented to the Commission at its next regularly-scheduled meeting.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. [Petition 2022-01](#), received January 11, 2022
2. [Memorandum from staff](#), dated August 18, 2023
3. [Letter from City Manager Mario Giuliani](#), City of Benicia, received January 8, 2024

Committee Direction/Recommendation (N/A)



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. 2022Click 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 hunting

If PDF won't open, please go online to read the article in the Benicia Herald Newspaper.

BeniciaHeraldOnline.com (Sunday Dec 19th, 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”**.

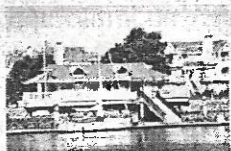
BENICIA HE

First Street business since 1898

BeniciaHeraldOnline.com; Find us on Facebook and

**Sunday
December 19
2021**

*A special good
morning to
subscriber
John Regalado*



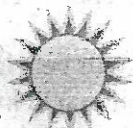
Sunrise 7:20 a.m.

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.

The uproar of residents has

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.

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**



POSTAL CUSTOMER

***** ECR WSS *****

Volume 13 Issue 10 AUG 2018

Please deliver 7/31-8/2

\$2.50

ECRWSS
PRESRT STD
US POSTAGE
PAID
PORTLAND OR
PERMIT NO. 2160



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 Southamptn 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
- ☒ Referred to DFW

STATE OF CALIFORNIA
Fish and Game Commission
Memorandum

Date: August 18, 2023

To: Eric Sklar, President
Erika Zavaleta, Vice President
Jacque Hostler-Carmesin, Member
Samantha Murray, Member
Anthony Williams, Member

From: Commission staff

Subject: Staff recommendation for petition 2022-01

In January of 2022, you received Commission Regulation Change Petition 2022-01, which proposes to modify California Code of Regulations (CCR), Title 14, sections 502 and 355, related to waterfowl hunting to “make duck hunting off limits and not permissible along the shoreline of Benicia, the Benicia State Park waters, or the Southamptton Bay waters.” In April 2022, the Commission referred the petition to the California Department of Fish and Wildlife (Department) for review and recommendation; subsequently, Commission staff offered to assist with outreach—including a visit to Southamptton Bay to talk with stakeholders and city officials—and make a recommendation to the Commission on whether to grant or deny the petition. This memo provides background on the subject, describes staff’s efforts, and transmits a recommendation.

Background

Southamptton Bay is located in Solano County along the north side of the narrowest portion of the Carquinez Strait, a navigable channel used for commercial and military shipping, where the waters from the Sacramento and San Joaquin rivers flow west into San Pablo Bay. Surrounded by hills on three sides, Southamptton Bay is faced by the city of Benicia to the east and north and Benicia State Recreation Area to the north and west. Southamptton Creek and a tidal marsh front the bay through the recreation area. Located along the Pacific Flyway, numerous waterfowl overwinter in the area.

For waterfowl hunting purposes, Southamptton Bay falls under the “Balance of the State Zone” regulations in Section 502 of Title 14, CCR. In this waterfowl hunting zone, depending upon the species, the regular season begins around the third week of October and ends near the end of January; there is also an early season for a few days in early October and a late season for a few days in February for geese, along with special hunts for youth, military, veterans and falconry. Shooting hours are one-half hour before sunrise to sunset; for multiple reasons, waterfowl hunting is most popular in the early morning hours.

Staff Outreach and Fact-Finding

In researching the issues identified in the petition, Commission staff visited Southampton Bay and Benicia (the city adjacent to the bay) and met with the petitioner, city of Benicia officials, a Congressional staff member, and a representative from the California Waterfowl Association. Staff appreciated the warm welcome and short tour of the bay's shoreline and parts of the city.

Through both the site visit and hearing testimony from a Benicia City Council meeting, Commission staff learned about the factual background of recent hunting in Southampton Bay and heard multiple suggestions on ways to address the conflicts, including opinions, feedback, and suggestions from governmental officials, Benicia residents, and hunters and hunting groups.

Proponents of the petition have argued that waterfowl hunting (1) is incompatible with water recreationalists, (2) creates nuisance noise and trauma, as well as waterborne pollution, and (3) is a safety hazard. The proponents state that waterfowl hunting in the area in question is a recent phenomenon that did not occur until 2020.

Opponents of the petition argue that (1) there have been no waterfowl hunting safety accidents in Southampton Bay, in part because hunters are required to take a hunter safety education course prior to receiving their hunting licenses and shotguns have a limited range, (2) current regulations already restrict hunting with firearms to 150 yards from any occupied dwellings, which means that they must hunt some distance from the Benicia shoreline, and (3) hunters have been harassed by recreationalists while on the water actively hunting.

Conflicts are amplified by the particular geography of Southampton Bay, an area surrounded by high hills on three sides that tend to reflect sound toward homes near the shore, shoreline trails, and the town in general. Hunters and other recreational water users are in relatively close proximity to each other, typically concentrated in a larger area of somewhat shallow water.

When attempting to determine the extent of the user conflicts and the amount of waterfowl hunting that has recently taken place in Southampton Bay, staff was unable to procure or locate much data outside of anecdotes; the primary evidence of the problem over time was provided by the petitioner and other residents who live near the waterfront and were able to generally describe their observations of what appears to be a small number of waterfowl hunters during two seasons (2020-21 and 2021-22). In addition, letters have been submitted by residents, Benicia City Council, and Napa-Sonoma Audubon Society that describe concerns with noise, joint use of the bay by hunters and non-consumptive users, and exposure to animals being shot.

The petitioner states that no hunting was observed in Southampton Bay during the 2022-23 waterfowl seasons, which they attribute to the petition having been submitted to the Commission. To be sure, there have been reports of tensions between hunters and recreationalists, although the extent of these conflicts remains unclear. There have been no safety incidents reported from waterfowl hunting in Southampton Bay. Approximately 90% of all hunting incidents in the United States are within the hunting party and the majority of incidents occur while deer hunting.

In California there are numerous examples of hunting in terrestrial areas that occurs near populated areas. Similarly, there are examples in coastal waters along the entire state, such as Morro Bay, where concerns were raised by the community like those in petition 2022-01 and its supporting letters. To address concerns from the Morro Bay community about noise from waterfowl hunting and perceived conflict with other waterfront uses, the Commission made two regulation changes specific to that bay. CCR, Title 14, Section 507(a)(4) was amended to specify that "...no shotgun larger than 12 gauge shall be used in areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County", and Section 506 was amended to specify that "In areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County, the shooting time shall be from 7:00 a.m. to sunset."

Recommendation

Commission staff recommends that the Commission deny the petition. While there are other areas in proximity of Benicia that allow waterfowl hunting, they can be difficult to access, are private facilities, can present safety hazards for boats, or present other challenges. Commission staff believes that hunters and recreationalists can and do share the water in many places without conflict with one another or creating safety hazards.

That being said, certain regulatory relief, short of an outright hunting ban, may alleviate some of the conflicts voiced by the petitioner, Benicia residents, and the city government – particularly the primary complaint of noise that is exacerbated by the local geography. Similar to action the Commission took in Morro Bay, Commission staff expects there are measures that can reduce the noise from gunfire while still preserving opportunity for waterfowl hunters. Commission staff recommends that the Commission direct staff to work through the Wildlife Resources Committee in concert with the community of Benicia, waterfowl hunters, and the Department to explore potential modifications to waterfowl hunting regulations specific to Southampton Bay. The Commission may also choose to implement a "sunset date" on any proposed regulations to allow a period of monitoring for evaluating the level of noise reduction and conflict abatement, and determining whether the restrictions should be continued or modified.

Finally, Commission staff notes that regulatory modifications as potentially contemplated here do not lend themselves to a one-size-fits-all approach; this recommendation is made primarily due to the exceptional circumstances in Southampton Bay, such as the tendency for loud noise to be reflected and amplified into a residential area that is close to the water's edge, the proximity of hunters and other recreationalists in a shallow water bay, and the availability of and access to waterfowl hunting options in the region.

From: Sarah Grebe <SGrebe@ci.benicia.ca.us>

Sent: Monday, January 8, 2024 10:22 AM

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

Cc: Mario Giuliani <MGiuliani@ci.benicia.ca.us>; [REDACTED] Cathy Bennett; Ben Stock

<BStock@ci.benicia.ca.us>; assemblymember.wilson@assembly.ca.gov; Bill.Dodd@sen.ca.gov

Subject: Request for Consideration of Petition 2022-01 and Regulation Changes to Duck Hunting in Southampton Bay

You don't often get email from sgrebe@ci.benicia.ca.us. [Learn why this is important](#)

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

Dear Fish and Game Commission,

Please see attached letter from Benicia City Manager Mario Giuliani.

Thank you.

Sincerely,



Sarah Grebe

Executive Assistant to the City Manager

Email: sgrebe@ci.benicia.ca.us

Office: 707.746.4200 | Mobile: 707.771.4351

250 East L Street, Benicia, CA 94510

www.ci.benicia.ca.us

Alternate Fridays Closure Notice: The City of Benicia City Hall and Fire Administrative Offices are closed for business on alternating Fridays. A calendar and additional information is available at [this link](#).



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4200 • FAX (707) 747-8120

MARIO GIULIANI
City Manager

January 3, 2024

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

Sent Via Email and USPS

Re: **Request for Consideration of Petition 2022-01 and Regulation Changes to Duck Hunting in Southampton Bay**

Dear California Fish and Game Commission,

As you are aware, the coexistence of duck hunters and homeowners in Benicia has been a topic of ongoing discussion and concern. In consideration of Petition 2022-01, I am writing to request that the California Fish and Game Commission implement the following regulations:

- 1. No hunting on holidays listed below.**
 - Halloween, Thanksgiving, Christmas Eve, Christmas Day, Hanukkah – Day 8, Kwanzaa – Day 5, New Year's Eve, New Year's Day, Martin Luther King Jr. Day.
- 2. Extend the required distance from homes to 300 yards (versus 150 yards).**
- 3. Require use of reduced noise shotguns.**
- 4. Change the start time from 6:00 am to 9:00 am.**
- 5. Require 7 days advance notice to residents along West K Street and West 9th Street, (homes along the waterfront) via postcard with intent to hunt in Southampton Bay. Postcard to include name, date, number of hunters and vehicle license plate of truck, with duplicate copy of notice left viewable on vehicle dashboard day of hunt.**
- 6. Require a direct line to Fish and Game Wardens to report hunting violations in real time.**
- 7. Require increased Fish and Game Warden monitoring of Southampton Bay.**

8. Outline a series of enforceable consequences for violations, which increase in severity according to frequency and type of violation. For example:

- 1st violation – verbal warning
- 2nd violation – fine
- 3rd violation – loss of hunting privileges in Southampton Bay for remainder of season
- 4th violation – permanent loss of hunting privileges in Southampton Bay
- 5th violation – suspension of duck hunting license for 3 years.

Please note that I will be attending the Commission meeting on Tuesday, January 16th to encourage support of this proposed approach, and therefore respectfully request that you allow me to speak earlier at the Commission meeting, as I need to return back to Benicia for the City Council meeting that same day.

Thank you for your attention to this matter. We believe that taking action in this way will help foster a more harmonious coexistence between duck hunters and homeowners in Benicia.

Very truly yours,



Mario Giuliani
City Manager

Cc: Benicia City Council
Cathy Bennett, Petitioner
Ben Stock, City Attorney
Assemblywoman Lori Wilson, District 11
Senator Bill Dodd, District 3