

WILDLIFE CONSERVATION BOARD
STATE OF CALIFORNIA
MINUTES, MEETING OF JUNE 3, 1949

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WILDLIFE CONSERVATION BOARD
STATE OF CALIFORNIA
MINUTES, MEETING OF JUNE 3, 1949

Pursuant to the call of the Chairman, the Wildlife Conservation Board met in Room 414, State Capitol Building, Sacramento, on June 3, 1949. The meeting was called to order by Chairman Silva at 10:25 A.M.

PRESENT:	Wm. J. Silva	Chairman
	James S. Dean	Member
	E. L. Macaulay	Member
	Senator Ralph E. Swing	Joint Interim Committee
	Senator George J. Hatfield	" " "
	Assemblyman Thomas M. Erwin	" " "
	Assemblyman Lloyd W. Lowrey	" " "
	Assemblyman S. L. Heisinger	" " "
	Seth Gordon	Consultant
	Everett E. Horn	Special Consultant
	C. R. Knight, Jr.	Field Agent

ABSENT:	Senator Ben Hulse	Joint Interim Committee
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The following persons were present and participated in the deliberations as required:

D. H. Blood	Deputy Director-Comptroller
Ralph W. Scott	Deputy Attorney General
Lloyd Henrikson	Department of Finance
Ben Glading	Bureau of Game Conservation
R. E. Curtis	" " "
Honorable Ernest C. Crowley	Member of the Assembly
Thomas L. Garner	Lake County Clerk
John Pearce, Chairman	Lake County Board of Supervisors
Alden Jones	Lake County
C. W. Lampson	Lake County Board of Supervisors
Kramer Adams	Public Information Officer
Virg Nover	Southern Council of Conservation Clubs

Numerous representatives of the press, sportsmen's groups, and others, were also in attendance.

1. Approval of Minutes

It was regularly moved and seconded that the reading of the minutes of the Wildlife Conservation Board meeting of April 22, 1949, be dispensed with and said minutes approved as written. Passed unanimously.

2. Cow Mountain Deer Range Project

The Consultant presented communications favoring this project from the Clear Lake Sportsmen's Club, the Lower Lake Luncheon Club, Mr. G. W. Philpott, President of the Sportsmen's Council of Central California,

and the Ukiah Rod and Gun Club, who favored the project provided that no grazing permits be issued for this area and no roads be constructed within it. Resolutions opposing the project were received from the Lakeport Lions Club, and the Mendocino County Board of Supervisors.

Mr. Macaulay read a letter to Senator Hatfield from the Legislative Counsel, dated May 20, 1949, with regard to the ownership, negotiations for acquisition, and purchase price of the lands involved. The letter brought out the fact that once the State Lands Commission has acquired the lands involved it may sell them at any price it deems satisfactory; that under present practice the minimum selling price for such lands is \$2 per acre; and that anything less would require action of the Legislature. The letter also corrected an erroneous statement in the minutes of the Board meeting of April 22 that the land was presently owned by the State Lands Commission, pointing out that the acquirement was still under consideration.

It was regularly moved and seconded that a copy of the letter of May 20, 1949, from the Legislative Counsel to Senator Hatfield, with regard to the Cow Mountain Deer Range Project, be appended to the minutes of this meeting. Passed unanimously.

General discussion followed. Mr. Dean stated that while it was the job of the State Lands Commission to dispose of lands he thought that in this case it might be best, as far as the future was concerned, if the land remained in State ownership. Senator Swing asked if Mr. Dean suggested that the Legislature authorize transfer of the land to the Fish and Game Commission without compensation, and Mr. Dean replied such action should be given consideration.

Chairman Silva stated that at the April 22 Board meeting it had been requested that action on this matter be postponed until legislators and interested parties in the counties concerned could be heard. He then introduced Assemblyman Crowley of District No. 5.

Assemblyman Crowley stated that he had contacted governmental units in Lake County and had received communications from the Mendocino County Board of Supervisors in opposition to the project. He stated that the Lake County Clerk, members of the Board of Supervisors, landowners and sportsmen were in attendance and were all opposed to any change in the present situation. County Clerk Thomas L. Garner presented a resolution in opposition to the project signed by 35 Lake County landowners and requested that a hearing be held in Lake County so that all persons interested might present their views. He stated that the area is open to public hunting and introduced the following persons, all opposed to the project:

Messrs. Alden H. Jones, mortician and coroner; Jack Murphy, Standard Oil distributor; John Pearce, Chairman of the Lake County Board of Supervisors; C. W. Lampson, Supervisor; G. A. Curtis, farmer, Melvin Douglas, farmer; G. R. Papson, farmer; A. M. and W. G. Hendricks, farmers; Callahan, farmer; and Paul Hilmer, farmer and Supervisor from Upper Lake County.

Mr. Garner, in response to a question from Senator Swing, said that the opponents of the project were not only opposed to opening the area up to automobiles, but were also concerned over the possibility of the pollution of Scott Creek which is the source of the water supply for the town of Lakeport. John Pearce, Chairman, stated that the Lake County Board of Supervisors had voted 3-2 in favor of the project after a heated argument, but were opposed to people going into the area with jeeps and cars. He also requested a hearing in Lake County.

Mr. Alden Jones, in reply to Assemblyman Heisinger's question, stated that probably all but two of the delegates from Lake County had hunted in the area; that anyone is allowed to hunt there; that they can hike in or ride in on horses on public trails, one of which starts at the end of a county road; and that they would like to see the area kept as a primitive area. Mr. G. W. Lampson, County Supervisor, representing District 4, stated that 95% of the people were definitely opposed to the project.

It was regularly moved and seconded that, in view of the opposition presented, action on the Cow Mountain Deer Range Project be indefinitely postponed, and that until there is sufficient local interest to warrant further consideration no further action be taken. Passed unanimously.

3. Re-examination of Lower Butte Creek Waterfowl Area

Mr. Horn reported that the Lower Butte Creek project, for which there was no alternate, had recently been rechecked and requested permission from the Board to study it a little further and make some changes which would result in economies.

Mr. Dean spoke of the difficulties encountered by representatives of the Public Works Board in attempting to acquire the exact areas specified by the consultants for this and other projects and requested that they be allowed to collaborate with representatives of the Wildlife Board and the Fish and Game Commission in determining the final lines of areas to be acquired. He recommended that a reasonable amount of flexibility be allowed in connection with all areas to be acquired for approved projects.

Mr. Gordon expressed the belief that it would simplify matters to place responsibility for making such adjustments as were necessary on the representatives of the Public Works Board, Wildlife Board, and Fish and Game Commission. Senators Swing and Hatfield stated that they had assumed that this procedure would be followed and Assemblyman Erwin concurred. The members of the Joint Interim Committee then recommended that this be done.

4. Flexibility of Areas Recommended for Acquisition

It was regularly moved and seconded that representatives of the Public Works Board, Wildlife Conservation Board, and Fish and Game Commission collaborate in determining the exact lines of areas to be acquired for various approved projects, and they are hereby authorized to make such changes as may be necessary or expedient. Passed unanimously.

(Senator Hatfield asked to be excused for a brief period as it was necessary for him to appear on the Senate floor.)

5. Allocations Tentatively Earmarked for Key Programs

The Consultant suggested that tentative allocations of funds be set up as below indicated, with the understanding that specific projects would from time to time be submitted thereunder for the Board's consideration:

- (a) Habitat Improvement for Quail, chiefly drinking
fountains in southern third of State \$375,000
- (b) Owens Valley Pheasant Development Project. . . . 125,000
- Total for Additional Game Projects \$ 500,000
- (c) Flow Maintenance and Stream Improvement Projects \$750,000
- (d) Other Fish Projects, including warmwater fishes 250,000
- (e) Screen and Ladder Projects 500,000
- Total for Additional Fish Projects \$1,500,000
- (f) Reserve for all other projects, including
operations, approximately 700,000
- GRAND TOTAL \$2,700,000

6. El Dorado Flow Maintenance Dams, Project No. 1, FT(0)

Mr. Macaulay read a letter from the Director of the State Youth Authority to Assemblyman Erwin, and the accompanying estimated budget to maintain 20 boys for 90 days in the High Sierras to build check dams. Assemblyman Erwin spoke in favor of the project, stating that the matter had been discussed by the interested agencies and sportsmen, and it was felt that it would effect really worthwhile results not only in the conservation of wildlife but in the rehabilitation of the boys.

The Consultant recommended that, conditional upon satisfactory arrangements being agreed upon between the Fish and Game Commission and the State Youth Authority, a sum not to exceed \$35,000 be allocated to undertake a cooperative pilot project in the El Dorado National Forest during the coming summer.

It was regularly moved and seconded that the sum of \$35,000 be allocated from the Wildlife Restoration Fund to the El Dorado Flow Maintenance Dams Project, Wildlife Conservation Board Project No. 1, for construction of check dams in the El Dorado National Forest, El Dorado and Alpine Counties. Passed unanimously.

Mr. Nover stated that the sportsmen are interested and in favor of flow maintenance projects and requested that representatives of the Board be

It was regularly moved and seconded that an allocation of \$25,000 be made to the Fish and Game Commission from the Wildlife Restoration Fund (out of the \$700,000 tentatively earmarked for reserve for all other projects, including operations) for construction of an airplane hangar with workshop and necessary items of equipment. Passed unanimously.

10. Action of Fish and Game Commission on Waterfowl and Hatchery Projects Approved by Board

The Consultant reported for the record the following actions:

The Fish and Game Commission at its meeting of April 29, approved waterfowl projects as follows: Project No. 507 - Upper Butte Creek, Project No. 532 - Madera Area in the south end of the Grasslands, and Project No. 506 - San Luis Island Area in the north end of the Grasslands, and authorized the Public Works Board to proceed with the acquisition of these areas.

At its meeting of May 20, the Commission approved the following fish projects for which the Board provided funds, and authorized the action indicated: Fish Springs, Mono County, negotiation of lease with City of Los Angeles; Black Rock, Inyo County, negotiation of lease offered by City of Los Angeles and building of two houses; Moccasin Creek, Tuolumne County, negotiation of lease from City of San Francisco and experimental test; San Joaquin, Fresno-Madera Counties, negotiation for site; and Willow Creek, Lassen County, negotiation for site.

11. Report from Fish and Game Commission as to Adequacy of Maintenance Funds as Requested at Board Meeting of April 22

Mr. Glading reported that after going over the entire proposed waterfowl program with the Board's consultants it had been determined that maintenance funds were available for the five key waterfowl projects approved by the Board at its meeting of March 19, namely Lower Butte Creek, Upper Butte Creek, Lower San Joaquin, Madera, and Imperial; for the Delta Waterfowl Area (Key Unit No. 6) presented for preliminary consideration at the April 22 meeting; and also for the waterfowl area in the Upper San Joaquin Valley (Key Unit No. 7) which was to be presented at this meeting. In addition to the above, Pittman-Robertson maintenance funds would be allotted in the amount of \$25,000 per year for quail habitat development and \$20,000 per year for a proposed Owens Valley pheasant management project. He stated that by reorganization of work flow, and various other changes and improvements now being studied, it might be possible to effect economies which would result in the availability of an additional \$40,000 for maintenance of the several projects outlined above.

Mr. Gordon supplemented Mr. Glading's report, stating that Dr. R. W. Eschmeyer, special consultant on warmwater fishes, had suggested the

authorized to look into carrying the program further, especially in the southern part of the state. Mr. Gordon replied that the blank appropriation recommended for a statewide program contemplates that every suitable area in the south will be given the best possible consideration.

(Assemblymen Lowrey, Heisinger and Erwin were excused from the meeting as they were called to the Assembly floor.)

7. Dam at Sawyer's Bar on North Fork, Salmon River, Siskiyou County, Project No. 63, FA(D)

The Consultant recommended an allocation of \$3,500 for the immediate construction of an auxiliary dam to raise the level of the pool below the present dam approximately 2', to enable the fish to ascend the stream. This would be an ideal substitute for a wholly unsatisfactory fish ladder and maintenance costs would be negligible.

It was regularly moved and seconded that an allocation of \$3,500 be made from the Wildlife Restoration Fund to the Fish and Game Commission (out of the \$750,000 tentatively earmarked for flow maintenance projects) to construct an auxiliary dam at Sawyer's Bar on the North Fork of the Salmon River, Siskiyou County, Project No. 63, FA(D). Passed unanimously.

8. Pine Creek Flow Maintenance Dam, Project No. 4, FT(D)

The Consultant recommended that the sum of \$43,500 be allocated and made available immediately for the construction of a dam about 200' long, maximum height - 22.5', with a reservoir area of approximately 800 acres, on Pine Creek, Lassen National Forest. Plans include a suitable fish ladder to allow Eagle Lake trout to migrate to and from extensive spawning areas above the impoundment, to prevent this subspecies of rainbow trout from becoming extinct.

In reply to questions from Messrs. Dean and Silva, Mr. Gordon stated that further engineering studies were necessary and that the matter of designing the dam would be referred to the State engineers.

It was regularly moved and seconded that an allocation of \$43,500 be made immediately available to the Fish and Game Commission from the Wildlife Restoration Fund (out of the \$750,000 tentatively earmarked for flow maintenance and stream improvement projects) to construct a dam on Pine Creek, Lassen National Forest, Wildlife Conservation Board Project No. 4. Passed unanimously.

9. Airplane Hangar for Division of Fish and Game Plane at Sacramento Airport.

It was recommended that \$25,000 be allocated for the construction of a 60' x 80' hangar with a workshop and necessary items of equipment, at the Sacramento Municipal Airport, the airport authorities having agreed to furnish the necessary land without charge, with the understanding that additional hangar space can be added to house other State planes.

possibility of maintaining warmwater fishing units on a fee basis (possibly 50 cents per day) on waterfowl projects where managed hunting was to be permitted, thus adding materially to the income from these areas without adding anything to the overhead.

(Senator Hatfield returned to the meeting.)

12. Upper San Joaquin Waterfowl Area (Key Unit No. 7)

The Board's attention was called to the fact that the Fish and Game Commission at its meeting of April 29 requested that the Wildlife Conservation Board authorize no further acquisitions of waterfowl areas until a complete report was available concerning the availability of a suitable unit in the Upper San Joaquin Valley.

Mr. Horn then presented a report of a waterfowl survey in the Upper San Joaquin Valley, made jointly by himself and R. E. Curtis of the Division of Fish and Game. He stated that in their report of March 17, 1949, the need for two additional major waterfowl areas in the Central Valleys was pointed out; one of which, the Delta Waterfowl Area (Key Unit No. 6) had been presented for consideration at the April 22 Board meeting. The other in the Upper San Joaquin Valley (Key Waterfowl Unit No. 7) was ready for presentation now.

He observed that in past years, when flood waters collected in Tulare and Buena Vista Lake beds, millions of waterfowl frequented these water areas. Today, however, with lake beds being farmed, and intervening sloughs mostly dry, the birds are confined to the few gun clubs around Pond, Old Goose Lake, Buttonwillow, and Weedpatch. In 1944, the U. S. Fish and Wildlife Service considered placing a management area in this general locality, and may still do so if funds become available. The presently proposed unit would constitute the most southerly unit of the chain of key waterfowl areas proposed for the Central Valley. Although the data are still incomplete, it is problematical whether the proposed area would serve as an important link in a flyway leading into the Imperial Valley and across to the Colorado River and Delta, thence into Mexico. However, regardless of its value in this flyway, this unit would restore a vital and valuable portion of the depleted waterfowl habitat. The agricultural benefit would come largely from drawing birds from more northerly concentration areas. Of even greater value would be its relation to the large group of Southern California shooters, who, because of other economic land uses, are deprived of major waterfowl areas. This unit could also be developed to support a good pheasant population, and to better care for the elk herd, making the latter a far better public asset.

Mr. Horn stated that it had been found difficult to locate a suitable waterfowl management area in the Upper San Joaquin Valley because of the acute scarcity of water. Irrigation for much of the land in the area is by means of pumping, and there is no known supply of gravity flow water from which a management unit could be serviced, nor does it seem probable that one will ever become available. Water for this unit must be obtained by pumping from wells. The State Division of Beaches and Parks now owns about 1000 acres of land in T 30S, R 24E, M.D.B. & M., generally known as the Tupman Elk Refuge, which is administered by the Division of Fish and Game. There is considerable feeling in Kern County that the

condition of both the Refuge and the elk herd is unsatisfactory, and it has been suggested that this area be developed for multi-purpose use -- for elk, waterfowl, and small upland game. In its present state it is too small, but suitable lands are available to the east. The consultants recommended that 4060 acres of adjacent lands be purchased, making a total unit of some 5000 acres, and that the present refuge be transferred from Parks to Fish and Game. Estimated cost of the additional land is \$304,500.

It was stated that operational costs of this area would be comparatively high because of the scarcity of water and the arid condition of the region with its high temperatures and winds. Evaporation loss is extremely heavy. Since water requirements are seasonal and a safeguard must be provided for more rapid production of water for the prevention of botulism, 10 wells should be provided.

Attention was called to the fact that the present Elk Refuge has a domestic water supply, one good residence building, and other equipment that could be utilized. Capital outlay was estimated at:

Buildings	\$23,200
Equipment	85,490
Land	304,500
Wells	<u>120,000</u>
Total	<u>\$533,190</u>

Mr. Gordon stated that Kern County officials are willing to have these lands used in any way that would be to the public interest, and have expressed a desire for this project. He suggested that a lease agreement be negotiated to transfer the present public lands for this use, that appropriate legislation to transfer them to the Division of Fish and Game be drawn up and presented at the next session of the Legislature, and that in his opinion it would be perfectly safe for the Board to authorize the purchase of the adjacent land. He recommended that this project be approved so that the 4000 acres adjacent to the Tupman Elk Refuge could be acquired and developed for waterfowl, and that the details regarding the transfer of the present Refuge lands be worked out later.

13. Action on Delta and Upper San Joaquin Waterfowl Areas (Key Units Nos. 6 and 7)

The members of the Interim Committee agreed to recommend to the Board that the Delta and Upper San Joaquin Waterfowl Areas be approved as Key Waterfowl Units Nos. 6 and 7, respectively, that a total of \$1,681,190 be allocated from the Wildlife Restoration Fund to the Fish and Game Commission to acquire lands, equipment and facilities for said projects, purchases of lands necessary to be made by the State Public Works Board.

Thereupon, by motion regularly made, seconded and unanimously adopted by the members of the Board, the sum of \$1,681,190 was allocated from the Wildlife Restoration

Fund to the Fish and Game Commission, such monies to be available immediately, for the purpose of acquiring lands and equipment, and constructing such facilities as may be suitable therefor, for additional waterfowl projects as follows: Delta Waterfowl Area (Key Unit No. 6) - \$1,148,000, and Upper San Joaquin Waterfowl Area (Key Unit No. 7) - \$533,190; and that the acquisition of lands needed for such projects be handled by the State Public Works Board.

14. Recommendations on Other Projects

The Consultant stated that since the tentative blanket allocations above, Items 5(a)-(f), had been prepared for the agenda further information had been obtained and he was now ready to recommend action on two of the suggested projects as follows:

(a) Owens Valley Pheasant Development Project

This project would cover approximately 20,000 acres, part of which could be made attractive to waterfowl in a manner that would not be objectionable to Los Angeles authorities. Estimated cost, \$125,000.

(b) Habitat Improvement for Quail

This project would require \$375,000 for a three-year quail habitat improvement program, chiefly drinking fountains in the southern third of the State. First year - \$150,000 for use by the Fish and Game Commission with its own crews, and \$25,000 to experiment with contract construction, \$175,000; second year - \$100,000; and third year - \$100,000. This sum plus the Federal Aid Funds to be used would provide for a program aggregating \$750,000 to \$1,000,000.

Mr. Glading reported in detail on the proposed program, stating that in the interests of over-all economy it had been deemed advisable to lump the several quail development projects submitted by various county and regional groups and fit them into the present Pittman-Robertson quail development program. This was also advisable since it is planned to later maintain these projects with Pittman-Robertson funds.

The Board was advised the project would cover roughly all of California south of U. S. Highway 40, with major emphasis south of the Tehachapi. It found that the drinking fountains can be installed more economically by private contractors than by State labor, then the remaining funds would be allocated to contract services rather than to salaries, etc.

Senator Swing requested that before any action was taken on this project it be referred to some of the southern sportsmen's groups for their recommendations. The Consultant stated that Mr. Glading would supply Mr. Nover with a copy of the proposed program.

(c) Other Projects

Additional information was also supplied concerning other projects covered by the suggested blanket allocations, the Board being informed that the flow maintenance and stream projects would cover a large part of the state, and that ample funds would be available in the item "Other Fish Projects" to take care of warmwater fisheries needs in the southern part of the state.

The members of the Board discussed the suggestions informally and agreed that further allocations be deferred until the next meeting.

Senator Hatfield requested that, since he would be unable to attend the next meeting, the record indicate his approval of the Consultant's recommendations on Items 5(a)-(f), "Allocations Tentatively Earmarked for Key Programs."

15. Extension of Consultants' Contracts

It was regularly moved and seconded that Mr. Everett E. Horn's contract be extended for an additional month, from June 1 to June 30, inclusive. Passed unanimously.

It was regularly moved and seconded that the following resolutions be adopted:

RESOLUTIONS OF APPRECIATION

WHEREAS, The U. S. Fish and Wildlife Service very graciously released Everett E. Horn to work for the Wildlife Conservation Board for a period of six months, from December 1, 1948 to May 31, 1949, for the purpose of studying the major waterfowl needs in the State of California; and

WHEREAS, The U. S. Fish and Wildlife Service recently consented to allow Mr. Horn to continue on the staff of the Board for an additional month, to the end of June, 1949; now, therefore, be it

RESOLVED, That the members of the Wildlife Conservation Board and the Joint Interim Committee hereby convey their sincere thanks and appreciation to the U. S. Fish and Wildlife Service for the splendid cooperation extended in this joint effort to develop a comprehensive long-term program for the conservation of waterfowl in California; and be it further

RESOLVED, That the members of the Board and the Joint Interim Committee join in commending Mr. Horn for the intelligent and wholly unselfish manner in which he has performed the work assigned to him; and be it further

RESOLVED, That these resolutions shall be made a part of the permanent record of the proceedings of this body, and

that copies thereof shall be forwarded to the Honorable Albert M. Day, Director of the U. S. Fish and Wildlife Service and to Mr. Horn.

Passed unanimously.

It was regularly moved and seconded that Mr. Seth Gordon's contract be extended for three months, from July 1 to September 30, inclusive. Passed unanimously.

16. Report on Regulatory Dam on the Klamath River at Iron Gate

The Consultant called the Board's attention to Resolution No. 98 of the State Senate adopted May 12, 1949, requesting that a report be submitted with reference to the desirability of the above regulatory dam, and stated that a suitable report was in the process of preparation and would be presented on or before the date designated, a copy thereof to be appended to the minutes as a matter of record.

The Board was advised that biologists currently studying the matter do not believe the losses of young salmon and steelhead are sufficient to justify an expenditure of public funds in the sum proposed and that a regulating dam might actually do additional harm. Another aspect of the problem which deserves consideration is the danger of establishing a precedent which might encourage other public utilities companies to demand comparable financial aid in similar situations, and that the proposal presents questions of future State policy which are beyond the scope of the Board's authority to resolve.

Senator Hatfield stated that he was opposed to the Legislature appropriating any money from the Wildlife Restoration Fund, but that the members of the Senate Fish and Game Committee thought there was a great deal of merit in the proposal to construct a regulating dam.

In reply to an inquiry, the Consultant stated that he did not recommend at this time setting up any specific allocation for this dam.

17. Date for Next Meeting

It was regularly moved and seconded that the next meeting of the Wildlife Conservation Board be held at the call of the Chair. Passed unanimously.

There being no further business, meeting adjourned at 12:55 P.M.

APPENDIX A

C O P Y

C O P Y

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO 2, CALIFORNIA

May 20, 1949

Honorable George J. Hatfield
Senate Chamber

Cow Mountain Deer Range
Project - #6660

Dear Senator Hatfield:

You have referred us to the minutes of the meeting of the Wild Life Conservation Board on April 22, 1949, and have asked us to investigate the implications of the announcements with regard to the Cow Mountain Deer Range Project. There it was stated that steps were being taken to secure a substantial amount of land in Lake, Sonoma, and Mendocino Counties. You have asked us particularly to find out about the putative purchase price of one dollar per acre for the larger portion of this land.

The land referred to is located in parts of Townships 13, 14, 15, and 16 north, ranges 10, 11, and 12 west, Mount Diablo base and meridian. Under an act of Congress, dated March 3, 1927, (44 Stats. 1359), this land was withdrawn by the federal government for recreational purposes, including hunting and fishing, and to protect the water shed.

The minutes of the last meeting of the Wild Life Conservation Board contain the information that this land is now owned by the State Lands Commission. We are assured by the representatives of the commission that such is not the case and that the whole area, except those parts in private ownership, is still owned by the federal government.

It is true, however, that the State Lands Commission has had the acquirement of the property under consideration, but negotiations have not developed to the point of making formal application. Under the usual practice, it takes from one to two years to consummate such a land transfer after the application by the commission has been perfected. This delay is due in part to the necessity for both the representatives of the commission and of the federal government to carefully investigate both the land sought to be acquired and the property for which it is to be exchanged.

The acquisition of the property in question entails the exchange of land which the federal government ceded to the State for the use of the common schools. The land so ceded is commonly referred to as the 16th and

Hon. George J. Hatfield - p. 2 - #6660

the 36th sections of every township. If the Cow Mountain property is acquired it will be accepted in lieu of the property ceded to the State as just described. The State Lands Commission at present has authority, when it determines that such would be to the advantage of the State, to effect such an exchange under the provisions of Section 7405.1 of the Public Resources Code.

Once the Cow Mountain property has been acquired by the State Lands Commission, the commission has the authority to sell the same and to fix the price for which it will sell pursuant to the authority of Section 7301 and Section 7352. These sections indicate that the purchase price may be set at any figure satisfactory to the commission, but that some consideration for the purchase from the State Lands Commission is necessary seems fairly to be implied from the requirement of Article IX, Section 4 of the Constitution that proceeds of State School Lands be inviolably appropriated to the use of the common schools. There is, however, no stipulation as to the price which must be asked.

Under the present practice of the State Lands Commission, the minimum selling price for such lands has been set at two dollars per acre. In order for the Fish and Game Commission to buy the property for anything less, it would seem to require action of the Legislature directing the State Lands Commission to sell at a specified price. Since there will be a delay of at least one year in the acquisition of the property by the State Lands Commission it might be that legislative action at this time would be premature. This is not necessarily so, however, since it is possible that an act may be passed during the present session which would direct the sale by the State Lands Commission of any property in the Cow Mountain area which may be acquired by it with some such price as one dollar per acre specified.

Very truly yours,

Fred B. Wood
Legislative Counsel

/s/ Philip J. O'Donnell

By
Philip J. O'Donnell
Deputy

PJO'D:cm

APPENDIX B

C O P Y

C O P Y

STATE OF CALIFORNIA
DEPARTMENT OF NATURAL RESOURCES
WILDLIFE CONSERVATION BOARD

June 3, 1949

The Honorable Goodwin J. Knight
President of the Senate
State Capitol Building
Sacramento, California

Dear President Knight:

In response to Senate Resolution No. 98, requesting a report relating to the advantages of a regulatory dam at Iron Gate on the Klamath River, we respectfully submit that the time allowed for a complete analysis has been insufficient. However, the rather exhaustive literature on the subject, including recent reports of biologists who have been studying the matter, has been analyzed as carefully as time allowed.

Since a report on the recent biological findings is being submitted by the Fish and Game Commission, this report deals with other phases of the problem.

A Review of Previous Studies

Experienced biologists and engineers have studied the problems presented rather extensively since shortly after Copco Dam No. 1 was built in 1922. The top of this dam is 112.5 feet above the old stream bed. Following the construction of Copco Dam No. 2, these studies were further intensified. In October, 1931, Dr. John O. Snyder, one of the recognized biologists of the Nation, prepared a report for the Division of Fish and Game, entitled "Salmon of the Klamath River - Fish Bulletin No. 34." In his report, Dr. Snyder, after reviewing the entire problem and indicating quite clearly that the annual catch of salmon along the California coast was gradually diminishing, stated:

"A decline in the entire catch of the state, or in the region of Monterey Bay, or off the coast to the northward, or even in the Sacramento River, spells decline in the Klamath, even though superficial indications in the river do not now point in that direction."

The author of that report came to the conclusion that overfishing, even in that early period, had resulted in removing too many of the mature fish from the Klamath River run, and that the catch was more and more tending to be young fish in the two- to four-year old classes. He

further concluded that:

"An increasing knowledge of the habits of Klamath salmon strengthens the belief that the construction of high dams in the river will cause the extinction of the species above the dams. * * * Depletion of Klamath salmon is not only apparent, but it seems to be progressing at an alarming rate. There is evidence also that artificial propagation alone is not able to cope with the situation. * * * Gill net fishing at the mouth of the river is a deleterious straining process that permits the escape of small fish which later appear in ill-proportioned numbers on the spawning beds. If the tendency to mature early is inherited, the result may be a weakening of the entire stock in so far as it is of commercial worth."

In Part II of the report, Dr. Snyder, analyzing the 1930 catch of king salmon in the Klamath River, further emphasized the above findings by stating that:

"A tendency to mature at a certain age is inherent, and consequently when selective nets deplete the older age groups, those which mature early are left to propagate in undue proportion; a possible result of depletion which in the end will be deleterious to the stock."

The foregoing conclusions are reported primarily to indicate that a recognized scientist almost 20 years ago expressed fears concerning the future of the Klamath River salmon runs, and there is reason to believe that the smaller runs of recent times may be due largely to the factors indicated, rather than the fluctuations of the water levels caused by the operation of the power plants. This phase of the matter will be commented upon later.

Utilities Commission Study

Under date of December 10, 1947, the California Public Utilities Commission, pursuant to House Resolution No. 162, submitted a report entitled "Reduction of Klamath River Fluctuations at the Copco Plants, Study No. S-605." That report dealt solely with the question of "whether it would be more practical and economically feasible to require the California-Oregon Power Company to modify their operations, or to construct a regulating dam to reduce the present average daily range of artificial fluctuations of the flow of the Klamath River by not less than 50%."

The Public Utilities Commission for obvious reasons did not delve into other phases of the problem, such as the effects on the salmon runs and the serious hazards to anglers resulting from the violent fluctuations caused by the operation of the Copco projects. The report, however, did state that the Copco Plants Nos. 1 and 2 were operated primarily during

peak-load hours, and analyzed the comparative effect of requiring the company to operate them so as to maintain a more equalized flow, or to construct a regulating dam.

In arriving at a basis for its conclusions, the Public Utilities Commission discussed the future availability of water for power purposes under the California-Oregon Power Company's license which expires in 1967, the progressive increase in the amount of water used for irrigation purposes, minimum and maximum flows in the Klamath River at various points, and numerous other factors.

According to information available, the California-Oregon Power Company is required to release a minimum of 200 c.f.s. The report shows that during the years 1944 to 1946, inclusive, sample checks indicated the minimum flow to be from 250 to around 300 c.f.s. under normal conditions, and the normal maximum flow from 2,800 to 3,200 c.f.s. The Commission concluded that by reregulating the river, the new minimum flow could be established at 635 c.f.s. and maximum flow at 2,085 c.f.s.

The above report also called attention to the significance of a decision of the Supreme Court of the State of California in Moore vs. Cal. Oregon Power Company (22 Cal. 2nd 725), dated August 27, 1943, in which the court outlined the prescriptive rights which have been acquired by the company to the use of the waters of the river in such a limited sense that it would appear impossible for the company to re-regulate or change downstream river operations, and that to do so might jeopardize its existing rights to the use of the waters of the river or subject it to action for damages by downstream riparian owners.

The Public Utilities Commission found that the California-Oregon Power Company then received 20% of its revenue in California, and 80% in Oregon. Also, that the company has an extremely low ratio of installed steam capacity and provides system peaking capacity through storage at Upper Klamath Lake, pondage at Copco Lake, and capacity in Copco No. 1 and 2 plants; that the company's facilities are such that the peaking capacity is available only at Copco; and that reduction of river fluctuations below Copco would deprive the company of peaking capacity which would have to be replaced by purchased power or by means of newly constructed facilities.

The Public Utilities Commission concluded that the least additional annual cost to the Company would result from the installation of a minimum size reregulating dam, and suggested that some public agency arrange with the company for reregulation of the flow of the river in accordance with schedules of releases specified by that agency, also assume any liability for damages to downstream riparian owners arising from such changes in stream flow.

The Commission, however, did not suggest a method of assessing such costs, because it felt that would be beyond the scope of the report. It suggested that this point not be overlooked in the ultimate solution.

The report further called attention to the fact that on the larger California power systems fuel-burning plants are used for standby and peaking service, and that the ratio of fuel-burning capacity to hydro capacity is considerably below that found on California systems. The Public Utilities Commission concluded that, in all except a very low water year, an 85 foot regulating dam with a power unit would be the most economical of the three proposals studied.

Conclusions Based on Recent Studies

Recent biological studies of the Klamath River salmon and steelhead runs indicate that the loss of salmon and steelhead is not as great as is frequently assumed by anglers and others interested. In fact, their findings indicate rather clearly that a regulatory dam at Iron Gate would both harm the fish runs, as well as help them, and that some other system of regulating the flow should be found. They seriously question the expenditure of public funds to aid in regulating the flow of the Klamath, and suggest as an alternative the wisdom of so regulating the operation of the Copco plants that the fluctuation will not exceed 0.1' in each 25 minutes, which in their opinion would result in a negligible loss of fish through stranding. They further conclude that if the California-Oregon Power Company should agree to so regulate its operations that at no time will the minimum flow be reduced below 500 c.f.s. the loss of fish would not be a serious factor.

Legal Aspects

Prior to preparing this report, the State Engineer, Division of Water Resources, was requested to supply any information available as to the status of the California-Oregon Power Company's water rights, together with plans made by that Division relative to the present and future usage of the water in question. A memorandum, prepared by Harrison Smitherum, Supervising Hydraulic Engineer, dated May 27, 1949, states:

"Accurate information relative to the water rights covering the above mentioned power and irrigation developments cannot be obtained without considerable research in the matter. Such information as is available follows:

"By 50-year contract with the U. S. Bureau of Reclamation, dated February 24, 1917, the company is allowed to regulate the water level of Upper Klamath Lake between elevations 4137 and 4143.3 feet, a rise and fall of 6.3 feet. A storage capacity of about 200,000 acre-feet is made available thereby.

"The Klamath Falls Plant has a right to 205 cubic feet per second from the Keno Canal of the U. S. Bureau of Reclamation. We have no data as to the rights of the other power plants located in Oregon nor do we have information as to the irrigation rights of the U. S. Bureau of Reclamation in Oregon.

"The United States Indian Service Lands, especially those in Indian reservations, generally assert a claim to the highest priority right on a stream system.

"There are no filings pursuant to the provisions of the California Water Code covering the two Copco power diversions in California. It therefore is believed that the California Oregon Power Company relies upon water rights initiated prior to December 19, 1914, the effective date of the Water Commission Act, and/or upon a claim of riparian ownership to cover its use of water for these projects.

"The most recent and readily available data on the Klamath River situation is contained in a report to the California Legislature, 56th Session, 1945, entitled 'Proposed Klamath and Trinity Diversions and Other Projects in the Central Valley.' In particular, attention should be directed to the statement by A. D. Edmonston, Assistant State Engineer, beginning at Page 20 of said report."

In a recent interview with a Deputy Attorney General, the representative of the Wildlife Conservation Board was advised informally that according to the provisions of the Wildlife Conservation Act (Chapter 1325, Stats. 1947) funds made available thereunder can be used to cooperate in the construction of a regulating dam on the Klamath River at Iron Gate if the loss of fish is sufficient to justify such expenditure, but that said funds could not be expended for the purpose of removing the hazard to anglers who fish the stream.

Summation

As above indicated, the findings of biologists currently studying the matter do not indicate that the fluctuations resulting from the present method of operating the plants for peak-load purposes cause losses of young salmon and steelhead in sufficient quantities to justify an expenditure of public funds in the sum proposed. They further indicate that a regulating dam might do additional harm. In view of these findings, the State could not justify an expenditure of anything like one-third the cost of the regulating dam.

Another aspect of the problem that deserves careful consideration is the danger that if public funds are contributed to help correct a condition created by the manner in which a public utility company operates its plants, it would establish a precedent which would encourage others to demand comparable financial aid in similar situations.

In all fairness, attention should be called to the fact that the company is fully aware of its responsibility to the general public in this situation. To that end it has, in comparatively recent months, offered to provide two-thirds of the funds for the construction of a regulating dam, including a power plant.

Recommendation

The Wildlife Conservation Board is fully in sympathy with the desire of all concerned to improve the unsatisfactory conditions which now prevail on the Klamath River for many miles below the Copco plants, and will gladly cooperate to the utmost of its legal and financial limitations. Unfortunately, this situation involves questions of present and future State policy which are beyond the scope of the Board's authority to resolve. It is therefore recommended:

1. That a joint conference of all public agencies concerned, including representatives of the California-Oregon Power Company, be held at an early date to agree upon a plan of attack, in the hope that a satisfactory solution may be found which will not involve the expenditure of large sums of public monies, nor establish questionable precedents.
2. That, if the foregoing plan of procedure does not accomplish the desired objectives, representatives of the several public agencies concerned be requested by proper authority to join in an immediate further study of the problem and jointly to present, within a specified time, a recommended plan of procedure.

Respectfully submitted

WILDLIFE CONSERVATION BOARD

/s/ SETH GORDON

By Seth Gordon
Consultant

SG:rh