

**State of California
FISH AND GAME COMMISSION**

Minutes, Meeting of August 18, 2005

Pursuant to the call of the President, the Commission met at the San Luis Obispo County Board of Supervisors Chambers, 1055 Monterey Street, San Luis Obispo, California, on August 18, 2005. The Meeting was called to order at 10:56 a.m. by President Kellogg.

Persons present:

FISH AND GAME COMMISSION

Jim Kellogg	President
Michael Flores	Vice-President
Robert Hattoy	Member
Cindy Gustafson	Member
Richard Rogers	Member (via telephone and Internet connection)

COMMISSION STAFF

Robert R. Treanor	Executive Director
Jon K. Fischer	Assistant Executive Director
Sherrie Koell	Staff Services Analyst
Adrianna Shea	Staff Services Analyst

OFFICE OF THE ATTORNEY GENERAL

William Cunningham	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

L. Ryan Broddrick	Director
Paul Stein	Chief Deputy Director
Sonke Mastrup	Deputy Director, Wildlife and Inland Fisheries Div.
Michael Wintemute	Deputy Director
Mary Ann Showers	Habitat Conservation Division
John Ugoretz	Marine Region
Nancy Foley	Chief, Enforcement Branch
Marija Vojkovich	Marine Region
Marci Yaremko	Marine Region

The following persons were present and heard:

Shirley Bianchi	Supervisor, San Luis Obispo County
Janice Peters	Mayor, Morro Bay
Mandy Davis	CAREHNE
Melody DeMeritt	Morro Bay City Council Member
Carole Maurer	Chair, Los Osos Community Advisory Council
Bob Richardson	Black Brant Group
Gene Johe	Black Brant Group
Bill Gaines	California Waterfowl Association
Fred Harpster, Jr	Black Brant Group
Eric Greening	San Luis Obispo Coast Alliance
Walt Mansell	California Rifle and Pistol Association

Lynda Merrill	Morro Bay Resident
Scott Chapman	Local Resident
Hugh Thomas	Local Resident
Camilla Fox	Animal Protection Institute
Betty Winholtz	Morro Bay City Council Member
Joel Greenberg	Recreational Fishing Alliance of Southern California
Bill Gross	Hunter, San Joaquin River area
Paul Weakland	Commercial Fisherman
James Bunn	Commercial Fisherman
John Gibbs	Commercial Fisherman
Brett Matzke	Cal Trout
Rick Algert	Morro Bay Harbor Director
Kate Wing	Natural Resources Defense Council
Jim Martin	Recreational Fishing Alliance
Leah Rose	The Otter Project
Jim Curland	Defenders of Wildlife
Steve Scheiblauber	City of Monterey, California Harbormasters Association
Kaitilin Gaffney	The Ocean Conservancy
Bill James	Self
April Wakeman	United Anglers of Southern California
Vern Goehring	California Fisheries Coalition
Adina Abeles	Hopkins Marine Station/Compass
Aimee David	Monterey Bay Aquarium
Kira Fatherree	San Luis Obispo Coastkeeper
Mike Osmond	World Wildlife Fund
Mollie Manier	Hopkins Marine Station
Melvin de la Motte	Central Coast Fisheries Conservation Coalition, Coastside Fishing Club
Tarren Collins	Sierra Club, Chumash Council
Don Canestro	Self
Carolyn Moffatt	Port San Luis Harbor District
Ron Massengill	Central Coast Region Stakeholder
Bob Osborn	United Anglers of Southern California
Andrew Christie	Sierra Club, Santa Lucia Chapter
Tom Raftican	United Anglers of Southern California
Daniel Bassett	Commercial Fisherman
Alan Felix	San Diego Trap and Lobster Association
John Guth	California Lobster and Trap Fish Association

Deputy Attorney General Cunningham stated that the meeting agenda should be amended to allow Commissioner Rogers to appear by teleconference, and discussed roll call voting procedures to accommodate this. Mr. Cunningham also discussed the protocol for public comments, identified undesirable actions that would constitute disruption of the meeting, and the president's discretion on to have disruptive individuals removed.

It was then:

MOVED BY MR. HATTOY, SECONDED BY MR. FLORES, THAT
 THE FISH AND GAME COMMISSION AMEND THE AGENDA FOR ITS AUGUST
 18, 2005 MEETING TO ALLOW COMMISSIONER ROGERS TO PARTICIPATE
 BY TELEPHONE AND INTERNET CONNECTION.

PASSED UNANIMOUSLY.

1. DEPARTMENT REQUEST FOR COMMISSION CONSIDERATION AND POSSIBLE ADOPTION OF EMERGENCY ACTION TO AMEND SECTION 7.50(b)(178), TITLE 14, CCR, RE: CLOSING SILVER KING CREEK AND TRIBUTARIES BETWEEN LLEWELLYN FALLS AND SNODGRASS CREEK TO ALL ANGLING TO PROTECT PAIUTE CUTTHROAT TROUT.
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Summary of Issue

This item is scheduled for consideration of emergency action to amend Section 7.50(b)(178), Title 14, CCR, regarding closing Silver King Creek and tributaries between Llewellyn Falls and Snodgrass Creek to all angling to protect Paiute cutthroat trout. The Department has been planning to chemically treat Silver King Creek to restore part of the historic range for the Paiute cutthroat trout. The Department has finally secured a permit from the State Water Resources Control Board to conduct its chemical treatment, which is set to begin on August 23, 2005. Once all the fish have been removed, the Department will restock the stream with Paiute cutthroat trout.

At the time the analysis was completed, the Department had not provided its Statement of Facts constituting the need for the Emergency action, nor the draft regulatory language. The Department will be prepared to make its recommendation at the Commission meeting.

Action

Executive Director Treanor introduced and summarized the item.

Chief Deputy Director Stein provided the Department's Report and Recommendation.

Commissioners were provided with copies of the Department's Statement of Proposed Emergency Regulatory Action and the text of the proposed regulations.

It was then:

MOVED BY MR. FLORES, SECONDED BY MS. GUSTAFSON, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTION 240 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SAID SECTION OF SAID CODE, AND FOR THE IMMEDIATE CONSERVATION, PRESERVATION AND PROTECTION OF THE THREATENED PAIUTE CUTTHROAT TROUT, HEREBY TAKES EMERGENCY ACTION TO AMEND SECTION 7.50(b)(178), TITLE 14, CCR, RE: CLOSING SILVER KING CREEK AND TRIBUTARIES BETWEEN LLEWELLYN FALLS AND SNODGRASS CREEK TO ALL ANGLING TO PROTECT PAIUTE CUTTHROAT TROUT.

PASSED UNANIMOUSLY.

2. PUBLIC FORUM – 30 minutes will be allocated for this item. Any member of the public may address and/or ask questions of the Commission relating to the implementation of its policies or any other matter within the jurisdiction of the Commission. As a general rule, action cannot be taken on issues not listed on the agenda. Staff will normally be requested to follow up on such items at the discretion of the Commission. Submittal of written comments is encouraged to ensure that all comments will be included in the record before the Commission. Please be prepared to summarize your comments to the time allocated by the President.
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Summary of Issue

This item is scheduled to afford any member of the public the opportunity to address and/or ask questions of the Commission relating to the implementation of its policies or to any matter within the jurisdiction of the Commission. The issue to be discussed should not be related to any item on the current agenda. Not more than three minutes per individual will be allocated to receive this public input. Based on the number of individuals wishing to speak on this item, the Commission President will provide the exact time allotted. The Commission has the option of requesting additional study or response by the Department, or it may direct its staff to schedule an agenda item to address the issue at a future meeting.

JK announced 3 speakers from each side on MB issue. BH noted his opposition to this. Supervisor Bianchi turned in ccards. Hunting is not compatible with residential areas

Mayor Peters from MB. More development---

Mandy Davis--- read letter of Aug 19. Said no educational information made available.

Melody Demerit gave time to Carol Mauer, who said Los Osos vision statement in '95 recommended no hunting for MB and referred to motion passed opposing hunting.

Bob Richardson, WF hunting has been tradition at MB and is heritage. Wants to continue WF hunting At MB.

Gene Johe Pres BB Gp. Identified pamphlet that's distributed to hunters during hunting season. MB does not need any more restrictions. MB is 4 mi X 1 $\frac{3}{4}$, is big. Unting has been going on for some time and there have been no accidents.

Bill Gaines no documented huntig accidents in MB or statewide. Boating accidents have been documented at MB and statewide. Fed brant framework will restrict hunting to 15 days at MB and othr recreational intereses will have 350 days. MB hunters gave up 700 ac in past at MB and an earlier hunt time in the past.

Fred Harbster Jr. Lifelong res. We'd like to get along with everyone and are willing to share ba with other users.

Peggy Cotin gave time to Eric Greening

EG said he traveled to Bishop. Quoted 208. re wf recs at June mtg. Said FGCode requires open public discussion. Only suggestions from Comm are considered in Aug?

Walt Mansell, CRPH hunters have made retreats in past and will do so tomorrow under fed regs. Brant hunting occurs in 2 spots, HUM and MB. Support continued hunting at MB w/o addl restriciont.s

Linda Merrill res of MB. Golfers hear shotgun blast and are astounded that hunting can occur in MB. National Estuary. Difficult to explain to children. Wants limits

Scott Chapman demants end to taking of innocent life, Global Warming. Time to end killing for fun, sport and rec. Supports ban of hunting at Mb

HughThomas, MB patrol captain, 68-92. Controversy been going on since '70s. Worked with

Aud Soc in 70s cooperatively re: hunting in 70s. Heard same things then as do now re anti hunting interests. MB is only place to hunt and bring kids to around here- and should continue

BT announced this concludes 35 minutes of comments. Bh tomorrow's agenda item includes waterfowl regs--- what happens next? BT items of public notice re: WF will continue tomorrow. Discussed results of Bishop mtg. Hunting in MB was not accepted then (i.e. 3 day and boundary changd) and thus can not be discussed tomorrow.

Camila Fox, API (supports LOCC) spoke on trappingbill wants trapping regulatins

Time 12:28 hrs. Back to waterfowl. MF movedCG seconded to deny petition for MB WF reg change. BH some things in SF regs could be fine tuned. Is opposed to go outside reg. process. MF Bishop was clear re: process in Bishop. RR going outside of reg process is serious, although wants to hear public input. BC asked for clarification--- two issues WF regulations and then activities within the Bay. CG Staff communicate regulatory timelines to public? PU by roll call.

Joel Greenberg, co-cair RFA, + CFC rep.

Bill Gross Boundary enforcement on the ER near Frait Dam. In 99, wrote letter about property boundaries and has not received DFG response. Concerned about trespassing rules and citations. ER boundaries should be clearly posted. Wants interpretation of exceptions and "high water line of SJ River". Asked FGC to direct DFG to respond.

PS agreed to respond.

Pw Dissappointed in DFG because received no letters on meetings on ARMP. App G of new documents. Says he handed in more exhibits than anyone else but was not identified as commentor. Pg. G-92 is not true.

BT announced PF concluded and JK announced 45 min recess.

3. CONSIDERATION OF POSSIBLE AMENDMENTS TO COMMISSION POLICIES RE: WETLANDS RESOURCES AND DESIGNATION OF DEPARTMENT CONTROLLED LANDS AS STATE WILDLIFE AREAS.

Summary of Issue

This item is scheduled for consideration of possible amendments to Commission policies regarding Wetlands Resources and Designation of Department Controlled Lands as State Wildlife Areas. At the June 23, 2005, meeting in Bishop, the Department had provided its recommendation for amendments to these two policies. The following are the proposed changes:

"POLICY UPDATE: WETLANDS RESOURCES

"The Fish and Game Commission finds that:

"I. California's remaining wetlands provide significant and essential habitat for a wide variety of important resident and migratory fish and wildlife species.

"II. The quantity and quality of the wetlands habitat remaining in California have been significantly reduced; thus, maintenance and restoration are essential to meet the needs

4. RECEIPT OF DEPARTMENT REPORT AND RECOMMENDATIONS ON ITS REVIEW OF THE FOLLOWING COMMISSION POLICIES:

- (A) GOLDEN TROUT
 - (B) PLANTING FISH IN YOUTH CAMPS
 - (C) SALMON
 - (D) STEELHEAD RAINBOW TROUT
 - (E) STOCKING FISH IN WATERS WHERE ANGLERS PAY ACCESS FEES
 - (F) STRIPED BASS
 - (G) YOUTH FISHING PROGRAMS
 - (H) COMMERCIAL USE OF NATIVE REPTILES
 - (I) TROUT
 - (J) TROPHY BLACK BASS PROGRAM
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Summary of Issue

This item is scheduled to receive the Department's report and recommendations on its review of the above mentioned Commission policies. At the time the analysis was completed, the Department had not provided its recommendation. The Department will be prepared to make its recommendation at the Commission meeting.

Action

Deputy Director Mastrup summarized Department recommendations to modify policies for Golden Trout, Salmon, Steelhead Rainbow Trout, Commercial use of Native Reptiles, and Trout. Mr. Mastrup stated that the Department recommends simple and straightforward modification of the Golden Trout policy, however recommended modifications of other policies are more involved. He indicated that the Department will return at a later date with proposed language for modifications.

Paul Weakland distributed written materials regarding genetic alteration of golden trout, which he believes is detrimental to native species. He stated his belief that hatcheries cause adverse genetic impacts.

5. REQUEST FOR COMMISSION CONSIDERATION TO AMEND MARKET SQUID FISHERY REGULATIONS, SECTION 149.1, TITLE 14, CCR, REGARDING CRITERIA FOR QUALIFICATION OF TRANSFERABLE AND NONTRANSFERABLE MARKET SQUID VESSEL PERMITS.

Summary of Issue

At the Commission's last meeting, Mr. James Bunn, under the Public Forum Agenda Item, requested the Commission reconsider the criteria for qualifications for transferable and nontransferable market squid vessel permits. The Commission directed staff to schedule the issue for its August meeting.

This item is scheduled for the Commission to discuss whether or not it would like to consider amending its market squid fishery regulations, Section 149.1, Title 14, CCR, regarding criteria for qualification of transferable and nontransferable market squid vessel permits.

Department Recommendation

At the time the analysis was completed, the Department had not provided its recommendation. The Department will be prepared to make its recommendation at the Commission meeting.

Action

Executive Director Treanor introduced Mr. James Bunn to summarize his request.

Mr. Bunn presented written materials and read a letter submitted to the Commission. He stated that he can not sell his boat without a transferable permit, and his interests were not represented when regulations regarding transferable market squid vessel permits were adopted.

Mr. John Gibbs delivered a hand written statement regarding the grandfather clause. He requested that the Commission authorize staff to allow six non-transferable permits to become transferable. He discussed the economic benefits of being able to sell transferable permits.

Marci Yaremko of the Department's Marine Region stated that the request is counter to what the Department recommended and the Commission approved. Ms. Yaremko indicated that the intent of non-transferable permits was to provide temporary opportunity to permit holders, and that qualifying criteria are relaxed from criteria for transferable permits. She concluded that the Department does not recommend changing existing regulations.

Commissioner Hattoy inquired about the impact of changing six non-transferable permits to transferable permits.

Ms. Yaremko responded that the Commission adopted a capacity goal of 55 transferable permits, and 71 transferable permits have been issued, not counting those under appeal. She stated that changing non-transferable permits to transferable permits would essentially lower the qualifying threshold for transferable permits and encourage others to attempt the appeal process. Ms. Yaremko indicated that non-transferable permits are excess capacity permits.

Commissioner Hattoy asked if changing the six non-transferable permits would have an impact on the fishery.

Deputy Director Mastrup responded that restricted access permits are considered to be related to an orderly fishery, and indicated that it may be appropriate to discuss concepts of restricted access permits in a subcommittee format. Mr. Mastrup indicated that restricted access permits apply to other fisheries besides squid, and a general discussion of the concepts in a subcommittee format might be beneficial.

Commissioners agreed to discuss restricted access permits and concluded their discussion of this item by requesting to place it on the agenda for the next Marine Subcommittee meeting.

6. PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE,
CONSIDERATION OF THE DEPARTMENT PETITION AND RECOMMENDATION TO
UPLIST BAKER'S LARKSPUR (*Delphinium bakeri*) FROM RARE TO ENDANGERED.

Summary of Issue

This item is scheduled to consider the Department's petition and recommendation to uplist Baker's larkspur (*Delphinium bakeri*) from rare to endangered and for the Commission to make a finding of whether or not the petitioned action may be warranted pursuant to Section 2074.2 of the Fish and Game Code.

The Department provides the following information in a memo dated April 4, 2005:

"The Department has prepared a petition to uplist Baker's larkspur (*Delphinium bakeri*) from rare to endangered due to the immediate threat to the continued existence of this species in the wild.

"Baker's larkspur is known only from one population on a road cut along the Petaluma-Marshall Road in Marin County, California. No more than 100 individual plants have ever been observed at this site. Baker's delphinium was known historically from two other sites: one near Tomales, Marin County and the other in the Coleman Valley of Sonoma County. The Sonoma County site was converted to agriculture in the 1940s and much of the potential habitat near Tomales is now grazing land. The remaining population has been cut to the ground twice by road maintenance crews, most recently in June 2002, resulting in loss of flowers and the current-year seed production. In September 2004, a wildfire burned the hillside south of the Baker's delphinium site and a backfire was set through the population. In October 2004, the slope above the road on which the majority of the population grew was excavated to bare rock when a culvert was cleaned. Soil clearing and scraping removed all but nine plants from the site.

"Baker's larkspur is at high risk of extinction due to the small number of surviving plants and lack of protection. The few remaining individuals are extremely vulnerable to impacts that otherwise might not be significant. The protection of the California Endangered Species Act (CESA) is necessary to prevent the further decline and potential extinction of this species of plant. The Department recommends amending Subsections (a) and (c), Section 670.2, Title 14, CCR, to add Baker's larkspur to the list of endangered species while concurrently deleting it from the list of rare species."

The Commission, under legal criteria for listing set forth in the California Endangered Species Act, is not authorized to give consideration to potential economic losses, present or future, in making the factual determination as to whether listing may be warranted. Both the determination of said economic impacts and the resolution of such conflicts are left to other agencies under California law on a case-by-case basis. The Commission's position is that in implementing the California Endangered Species Act, it is not legally permitted to consider economic impacts, and no implication should be drawn from this action that it has such authority or that it has exercised it.

Action

Executive Director Treanor summarized the item and introduced Ms. Mary Ann Showers.

Ms. Showers indicated that the Department proposes to up-list Baker's larkspur from

rare to endangered because of an imminent threat of extinction. Ms. Showers stated that this plant was found in three sites and is now believed to have been extirpated from two of those sites. She reported that no current management strategy in place, but the Department is working with the US Fish and Wildlife Service to prepare a recovery plan. Ms. Showers noted that Baker's larkspur is in cultivation at UC Berkeley and East Bay Regional Parks, but the potential of establishing other populations is unknown. She concluded by stating that the Department recommends accepting the petition for consideration.

Commissioner Rogers asked if the plants appeared to be latitude sensitive, and if propagation efforts have occurred at Rancho Santa Ana or Santa Barbara Botanical Gardens.

Ms. Showers responded that sensitivity to latitude is unknown and the plants appear to be restricted to cool, foggy climates. She stated that no efforts to propagate the plant have been undertaken at Rancho Santa Ana or Santa Barbara because of the limited number of seeds.

Commissioner Hattoy inquired if planting in other places contributes to an invasive species status.

Ms. Showers responded that strict constraints are in place to guard against establishing the plant outside of native range.

There were no public comments on this item, and it was then:

MOVED BY MR. FLORES, SECONDED BY MR. ROGERS, THAT THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE, HEREBY FINDS THAT THE PETITIONED ACTION TO UPLIST THE BAKER'S LARKSPUR (*Delphinium bakeri*) FROM RARE TO ENDANGERED MAY BE WARRANTED; AND THEREFORE, DESIGNATES THE BAKER'S LARKSPUR AS A CANDIDATE FOR ENDANGERED SPECIES STATUS. FURTHERMORE, PURSUANT TO SECTION 2074.6 OF THE FISH AND GAME CODE, THE DEPARTMENT IS TO PROMPTLY COMMENCE A STATUS REVIEW OF THE SPECIES AND REPORT BACK TO THE COMMISSION WITHIN ONE YEAR FROM THE DATE OF THE COMMISSION'S PUBLISHED FINDINGS WITH A RECOMMENDATION AS TO WHETHER THE SPECIES SHOULD OR SHOULD NOT BE LISTED AS ENDANGERED.

PASSED UNANIMOUSLY. (INCLUDE FINDINGS??? SEE AGENDA ANALYSIS)

7. RECEIPT OF DEPARTMENT PETITION TO DELIST THE SISKIYOU MOUNTAINS SALAMANDER (*Plethodon stormi*) AS A THREATENED SPECIES. (Note: Discussion of this petition pursuant to Section 2074.2 of the Fish and Game Code will occur at the Commission's September 29, 2005, meeting in Susanville.)

Summary of Issue

The Department provides the following information in a memo dated May 3, 2005:

"The Department of Fish and Game (Department) has prepared a petition to delist the Siskiyou Mountains Salamander (*Plethodon stormi*) under the California Endangered Species Act (CESA). The species is currently listed as threatened under CESA. (*Cal. Code Regs., tit. 14, § 670.5, subd. (b) (3)(E).*). The petition includes the information

required in Section 2072.3 of the Fish and Game Code. The Department recommends the Fish and Game Commission accept and consider the petition because there is sufficient information detailed in the petition to indicate the petitioned action may be warranted. (*Fish & G. Code, §§ 2072.7, 2073.5, subd. (a)(2).*)"

Commissioners have been provided with the Department's petition under separate cover.

A copy of the petition will be available at the meeting. The Commission will consider this petition at its September 29, 2005, meeting in Susanville.

Action

Executive Director Treanor introduced and summarized this item. He announced that the Commission will only receive the petition today, and there would be no motion or public testimony. He stated that the Commission will consider this petition at its September meeting in Susanville.

8. REQUEST OF UNITED ANGLERS OF SOUTHERN CALIFORNIA FOR DISCUSSION OF THE RECENT AUDIT OF THE DEPARTMENT'S BUDGET AND TO CONSIDER THE SELECTION OF A BLUE RIBBON BUDGET SUBCOMMITTEE.

Summary of Issue

Tom Raftican, United Anglers of Southern California, provides the following information in a letter dated June 27, 2005:

"I have enclosed a copy of our December 21, 2003 letter (see **Exhibit No. 8**) to the California Fish and Game Commission (Commission), requesting a thorough audit of the California Department of Fish and Game (DFG) and the DFG follow up letter dated January 23, 2004. The DFG letter stated they were 'looking forward to demonstrating their compliance with Section 711 in the Fish and Game Code', the area of law requiring funds generated by recreational fishermen be spent on recreational fishery management.

"Earlier this year, the Department undertook that internal audit in which the auditors determined that, at least in part, the Department employed what one writer called 'murky accounting', in the Fish and Game Preservation fund, the very area that we at United Anglers of Southern California are most concerned. Even more troubling, the Little Hoover Commission came to very similar conclusions in their 1995 investigation (attached see **Exhibit No. 8**) indicating that little if any progress has been made in the intervening 10 years. Consequently, the liability of the DFG is huge. I have also attached a copy (see **Exhibit No. 8**) of the Malone Report, a 1999 study using the DFG's own numbers, detailing a decadal sport fishing contribution to the DFG, exceeding a half billion dollars.

"Resolution of the budget issues identified by the audit will require policy decisions. You have already placed 'Commission/DFG Policy' item on your August meeting agenda in San Luis Obispo. At your meeting last week in Bishop, the DFG commented briefly on the results of their internal audit. To our knowledge, no copies of this audit were distributed, nor was public input sought on this critical item. Although it may not be intentional, the nonfeasance and misuse of Preservation Fund monies is clearly illegal and cannot continue. The public needs to know this problem will finally be resolved in

an open manner and accordingly, United Anglers of Southern California requests that the Commission include the DFG audit on the August agenda to discuss concrete solutions to this problem.

"In light of the past record, we would also formally request that the Commission appoint a 'Blue Ribbon' Budget Committee to ensure that California law is followed. The latest audit is a good starting point. The Committee should be chaired by someone from outside the Commission or DFG and should, in addition to Commissioners include representatives from all contributing stakeholder segments. Thank you for your attention to this important detail.

Department Recommendation

At the time the analysis was completed, the Department had not provided its recommendation. The Department will be prepared to make its recommendation at the Commission meeting.

Tom Raftican summarized. UA has concern of how \$ spent and suggested that budget subcomm be estab similar to the ATPAC. Wants something independent from DFG, to have voice re funding, and should be under FGC.

Paul Stein acknowledged the difficult budgetary circumstances, but DFG is beleaguered by audits (referred to Cogdill audit, + current year audit). Before establishing another task force, let us look into this on our own, ahs bee appropriated 200k to look at ways of restoring ~11 mil shortfall. Asked for indulgence before starting to look into this.

Brett Matske, CA trout supported bringing this to ATPAC subcommittee. Thinks there's interest in funding DFG.

Kate Wing NRDC, has worked with CA trout on budget. Ad agency can only do so much, nd Dept can not criticize governor.

BT--- Do not forget needs of FGC staff--- budget for FGC staff is less than it was 20 years ago. Need to increase staffing and budget--- 99 % of Legislation has no funding. RR agreed. Free Dept, Staff to do what they do best.

JK--- ATPAC limited on what they can take on, would like to see this accomplished in broad constituency. MF- let's think of how to accomplish this with least impact to Department. Update on progress at next mtg. No motion, general consensus.

9. RECEIPT OF PUBLIC TESTIMONY AND CONSIDERATION OF POSSIBLE ADOPTION OF THE MARINE LIFE PROTECTION ACT'S DRAFT MASTER PLAN FRAMEWORK.

Summary of Issue

This item is scheduled for receipt of public testimony and consideration of possible adoption of the Marine Life Protection Act's draft Master Plan Framework. As background, the Commission received public testimony on the Department's draft Master Plan Framework at its May 23, 2005, meeting in Sacramento, and at its five additional meetings July 12, July 19, August 4, August 9, and August 16, 2005. The Department will provide an overview of the draft Framework and of any changes it has made to the draft based on public comments during the five special meetings.

Action

Executive Director Treanor summarized the item and introduced Mr. Ugoretz to provide an update of the Draft MPF and a summary of the five special meetings for public comment.

John Ugoretz summarized the Draft MPF and changes that occurred as a result of public comments. Mr. Ugoretz emphasized that Draft MPF makes no effort to identify or delineate protected areas. He discussed species lists and activities that were revised as a result of public comments and emphasized that the document is subject to further revision. Mr. Ugoretz noted that although the Science Team is required by the MLPA, it has a guidance role rather than a prescriptive role. He stated that implementation would occur in phases, and can not occur at all without adequate funding.

President Kellogg announced that the Commission would now receive public testimony on the Draft MPF and indicated that two minutes would be allocated for each speaker.

Rick Algert recommended that the Science Advisory Team guidelines not be regarded as prescriptive and spoke in favor of local flexibility regarding the Science team guidelines.

Kate Wing recommended adoption of the Draft MPF today and discussed Marin and Sonoma counties as the next focus area.

Jim Martin stated that there should be user fee established for non-consumptive divers in marine preserves, similar to sportfishing licenses.

Leah Rose supported adoption of the Draft MPF.

Jim Curland said the Draft MPF is good and should be adopted.

Joel Greenberg stated that the Recreational Fishing Alliance supports simplicity in documents such as the Draft MPF.

Steve Scheiblauber indicated that the Draft MPF should contain guidance on how municipalities with shared jurisdiction can share management responsibilities. He stated that the California Harbormasters Association has submitted written comments regarding the Draft MPF and added that the document should include guidance on how the Science Advisory Team functions, and the socioeconomic section should be improved.

Kaitilin Gaffney reported that she does not find the Draft MPF complex or confusing and supported adoption today.

Bill James supported recommendations in the California Fisheries Coalition and California Harbormasters Association letters. He stated that the socioeconomic section needs additional detail, and the species likely to benefit should be clarified, because some are off shore beyond state waters. Mr. James stated that sea otters have devastated sea urchins and abalones, and enhancing these species in otter range is an unrealistic objective.

April Wakeman distributed an 86-page document prepared by UASC. Ms. Wakeman reported that UASC has made extensive comments on the Draft MPF, and is now looking for guidance from the Commission because they support the overall process. Ms. Wakeman also indicated UASC support for comments from Mr. Goehring and the California Fisheries Coalition.

Vern Goehring, referred to the August 10 letter from the California Fisheries Coalition and said that revisions made after this letter was received did not address all of their concerns. He stated that some science guidelines are based on the larval exchange concept and do not include biodiversity matters related to species such as marine mammals and birds. Mr. Goehring stated that the California Fisheries Coalition can not support adoption of the Draft MPF until these issues are addressed.

Adina Abeles said that she represents 24 scientists not on the Science Advisory Team that recommend adopting the Draft MPF and including science guidelines within the document.

Aimee David said that the Draft MPF should be science-based, with a goal to maintain integrity.

Kira Fatherree stated that San Luis Obispo Coastkeeper is a member of the regional stakeholders group and supports adoption of the Draft MPF.

Mike Osmond stated that the World Wildlife Fund commends the public comment effort, and supports adoption of the Draft MPF to keep the process moving forward.

Mollie Manier supports including the science guidelines within the Draft MPF.

Paul Weakland expressed concern that problems with aquaculture will continue, and said that Channel Island MPAs correspond to areas where sabellid worms and withering syndrome occur in abalones.

Melvin de la Motte distributed a four page letter and said that the Marine Life Management Act and the Marine Life Protection Act (MLPA) are parallel acts. He discussed the loss of fishing opportunity because of inadequate funding, and considers MLPA as an effort to reduce fishing opportunity. Mr. de la Motte encouraged strict enforcement of MLPA provisions.

Tarren Collins stated that the MLPA is important and has public support, and concluded by recommending adoption of the Draft MPF.

Don Canestro supported adoption of the Draft MPF today.

Carolyn Moffatt referred to an October 5 letter from the San Luis Harbor District and said the Draft MPF does not provide detailed socioeconomic information at a local level. Ms. Moffatt encouraged a comprehensive discussion of socioeconomics as part of the overall process, and said that the lack of such information precludes development of measurable objectives.

Ron Massengill referred to his participation in the Regional Stakeholder Group, said the process was beneficial, and urged adoption of the Draft MPF.

Bob Osborne stated that MPA policy language is important and recommended not voting on adoption today.

Andrew Christie stated that the Santa Lucia Chapter of the Sierra Club has submitted written comments and supports adopting the Draft MPF today.

Executive Director Treanor announced that this concluded all speaker cards submitted by the public on this item. Commissioners and the Department then discussed the Draft MPF as follows:

Mr. Ugoretz repeated that the Department has recommended a few changes to the Draft MPF. He indicated that some information on detailed impacts does not yet exist, and that impacts to cities/counties will be considered subsequently in individual decisions. Mr. Ugoretz stated that some changes have been agreed to (he identified such changes on pages 1, 42 and 51), and emphasized that, at this stage, the network is described administratively rather than geographically.

Commissioner Hattoy discussed the public input that has gone into preparing the Draft MPF and reiterated that the document is a living document which is subject to subsequent modification. Mr. Hattoy said adopting the Draft MPF gives an opportunity to start the process.

Commissioner Rogers agreed with Commissioner Hattoy that adopting the Draft MPF is a starting point. Commissioner Rogers stated that he has concerns with the Draft MPF and said the section on socioeconomic benefits should be improved.

Commissioner Gustafson said that goals can best be identified within the Regional Stakeholders Groups, and the Draft MPF allows for that to occur.

Commissioner Flores stated that he would support adopting the Draft MPF, but added that the Legislative mandate for this program should include funding and he would not support additional efforts without adequate sources of additional funding. Mr. Flores asked if there were cost estimates for science and monitoring.

Commissioner Rogers agreed with Commissioner Flores' comments about funding and said that monitoring plans should include funding recommendations, cost estimates and feasibility analyses.

In response to cost estimate inquiries, Mr. Ugoretz reported that such estimates are not available, and the draft cost estimates for the Channel Islands would not provide an appropriate substitute. This concluded the dialogue with the Department on this matter.

It was then:

MOVED BY MR. ROGERS, SECONDED BY MR. HATTOY, THAT
THE FISH AND GAME COMMISSION, HEREBY APPROVES THE MLPA'S DRAFT
MASTER PLAN FRAMEWORK AS AMENDED BY THE DEPARTMENT.

PASSED UNANIMOUSLY.

OTHER

10. RECEIPT OF DEPARTMENT LEGISLATIVE REPORT AND POSSIBLE CONSIDERATION OF COMMISSION POSITION ON LEGISLATION.

PS- Ferrets.

Summary of Issue

This item is scheduled to afford the Department an opportunity to discuss proposed legislation which could impact the Department and/or the Commission. The Department will be providing a Legislative Report at this meeting, and will be prepared to respond to any questions the Commission may have. Based on the Department's report and/or public comments, the

Commission may consider action on one or more legislative items.

11. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.
 - (A) UPDATE ON DEPARTMENT'S BUDGET.
 - (B) UPDATE ON DEPARTMENT'S COHO RECOVERY STRATEGY.
 - (C) REVIEW OF POLICY ON HOW RECOMMENDATIONS TO THE PACIFIC FISHERY MANAGEMENT COUNCIL ARE FORMULATED RE: FISHERY MANAGEMENT.

MV PFMC council items coming up are as follows:

Groundfish (for 07-08)

Salmon (only if FGC changes in-river allocation percentage, must be Feb 10-March 5)
Or FGC could dev. Criteria framework.

- (D) UPDATE ON DEVELOPMENT OF TANNER CRAB FISHERY REGULATORY PACKAGE.

MY Dept overview provided at Feb 05 meeting. Rec. dev of emerging fishery under emerg fishery legislation auth. Permit reqt. Will authorize traps of specified size, soak time, escape mech, other chs, incl req't of onboard observer. Size limits, only males, 10K\$ permit fee to fund enforcement, observer, monitoring.

- (E) STATUS OF REGULATORY PACKAGE FOR TRAP LIMITS ON NEWLY TRANSFERRED COMMERCIAL LOBSTER PERMITS.

Summary of Issue

This item is scheduled to afford the Department an opportunity to present the Commission with informational items. The Department will be prepared to discuss the above listed items and/or will provide short background memos on each item at, or shortly before, the meeting.

- (B) UPDATE ON DEPARTMENT'S COHO RECOVERY STRATEGY.

Summary of Issue

This update was provided at the Commission's Joint Meeting with the Board of Forestry.

(E) STATUS OF REGULATORY PACKAGE FOR TRAP LIMITS ON NEWLY TRANSFERRED COMMERCIAL LOBSTER PERMITS.

Summary of Issue

John Guth provides the following information in a letter dated July 27, 2005:

"This letter is to re-affirm the position of the California Lobster & Trap Fishermen's Association concerning trap limits on transferred lobster permits.

"As you know from our previous discussions, we are in favor of a 400-trap limit on transferred lobster permits. We feel that this is a fair and easy way to control over capitalization in the future and to ensure an orderly fishery. The future is a bit clouded by looming MPA's also. We have met with enforcement and discussed ways to enforce trap limits. Maine was used as a model because they have trap limits in place for 7,000 fishermen with varying numbers of traps. Maine relies heavily on fishermen involvement and help with enforcement. The Commission's restricted access policy wants fishermen to be involved in their fishery and be a steward of the resource they use.

"Colored tags with the I.D. number of the permit holder are the simple way to implement trap limits on new transferred permits. The permit holder can assume the cost. The tags can be fixed on the traps for transporting, storage on the docks, and in the ocean. This makes it simple for anyone who comes in contact with these traps or observes them to know if they are legal. Fish & Game Wardens know who the new permit holders are and can check them. Computers are available to Warden's in the field. There will only be 10 new transfers per year for the first 3 years, allowing time for enforcement to refine the process and review how it is working.

"I hope the Commission will see and understand our reasoning for trap limits on the new transferred permits. Because of the average age of current lobster fishermen (52 years), we feel it is an easy non-confrontational way to achieve trap limits on everyone in the near future. Our association believes it is time to move in this direction to assure sustainability in the future for the lobster fishery."

Dan Bassett recommended adoption of 400 traps.

BT regs adopted in May are soon effective. SM this is a workload issue and all three options are difficult--- can you identify which option you want to consider? DFG does not see need for trap limits, but understands industry concerns. John Guth--- decide today and tell us, industry wants trap limits on transfer permit, with prohib of popups. DFG recommendation is no change (i.e. no limits), and FGC followed DFG rec.

12. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

- (A) SUBCOMMITTEE REPORTS.
 - I. MARINE SUBCOMMITTEE.
 - II. WAFWA JULY 21-27, 2005, MEETING IN KANANASKIS VILLAGE, ALBERTA, CANADA.

(B) STAFF REPORTS.

Summary of Issue

This item is scheduled for the Commission to receive informational items from its staff and to afford the Commission an opportunity to discuss items of interest with the Department.

CG reported Mar Subc. Mtg results. Use ATPAC as example for future mtgs.

PW- no comments

Tom Raftican on 11c- no comments

WAFWA Annual Mtg attended by MF, BT. 30 comm from diff west. States. BT encouraged Comm to become involved in this assn. 13 west states plus 2 can prov. When BT first started attending, now 19 states 3 provinces & Yukon terr. New ideas come from WAFWA

MF--- BT will be missed from WAFWA is only ED to participate. Hpes he attends in future.

13. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.

Summary of Issue

This item is scheduled to afford any Federal agency an opportunity to brief the Commission on any issue it deems to be of interest or importance.

None.

14. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.

Summary of Issue

This item is scheduled for the Commission's Legal Counsel to discuss any informational items and certain legal issues or procedures with the Commission. In addition, the Commission may wish to provide its Legal Counsel with suggested informational item topics for future meetings.

None.

Exec session--- hold at 0745 tomorrow in room because legal counsel needs 45 minutes for hearing recommendations. In adj room to co chambers.

Recessed 1723 until 0745 tomorrow.

EXECUTIVE SESSION
(NOT OPEN TO PUBLIC)

PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 11126(a)(1) AND (e)(1), AND SECTION 309 OF THE FISH AND GAME CODE, THE COMMISSION WILL MEET IN CLOSED EXECUTIVE SESSION. THE PURPOSE OF THIS EXECUTIVE SESSION IS TO CONSIDER:

A. PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY.

- I. VENTURA COUNTY COMMERCIAL FISHERMEN'S ASSOCIATION, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: CHANNEL ISLANDS MPAS.
- II. SANFORD WINSTON, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: SPOT PRAWN TRAWL.
- III. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: TIGER SALAMANDER.

B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.

C. STAFF PERFORMANCE AND COMPENSATION.

D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT ITEMS AND ADOPTION OF COMMISSION FINDINGS FOR:

- I. JOE ALFIERI, TRANSFERABLE MARKET SQUID VESSEL PERMIT.
 - II. ROBERT ALIOTTI, TRANSFERABLE MARKET SQUID LIGHT BOAT PERMIT.
 - III. FRANK COLONNA, TRANSFERABLE MARKET SQUID VESSEL PERMIT.
 - IV. JOSEPH DOW JR., NONTRANSFERABLE TIER III SPOT PRAWN TRAP VESSEL PERMIT.
 - V. CLAYTON FRANKLIN, TRANSFERABLE MARKET SQUID LIGHT BOAT PERMIT.
 - VI. RODNEY HELFRICH, SEA URCHING DIVING PERMIT.
 - VII. DEBORAH AND LYLE MARRINGTON, DUNGENESS CRAB VESSEL PERMIT.
 - VIII. DON PEMBERTON, NONTRANSFERABLE LIGHT BOAT BRAIL PERMIT.
 - IX. BENJAMIN PLATT, DUNGENESS CRAB VESSEL PERMIT.
 - X. DAVID TIBBLES, TRANSFERABLE MARKET SQUID VESSEL PERMIT.
 - XI. GIOI TRAN, TIER III SPOT PRAWN TRAP VESSEL PERMIT.
 - XII. VUONG TRAN, NONTRANSFERABLE TIER III SPOT PRAWN TRAP VESSEL PERMIT.
 - XIII. DANIEL WELLE, ROCK CRAB PERMIT.
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**State of California
FISH AND GAME COMMISSION**

Minutes, Meeting of August 19, 2005

Pursuant to the call of the President, the Commission met at the San Luis Obispo County Board of Supervisors Chambers, 1055 Monterey Street, San Luis Obispo, California, on August 19, 2005. The meeting was called to order at 8:46 a.m. by President Kellogg.

Persons present:

FISH AND GAME COMMISSION

Jim Kellogg	President
Michael Flores	Vice-President
Robert Hattoy	Member
Cindy Gustafson	Member

COMMISSION STAFF

Robert R. Treanor	Executive Director
Jon Fischer	Assistant Executive Director
Sherrie Koell	Staff Services Analyst
Adrianna Shea	Staff Services Analyst

OFFICE OF THE ATTORNEY GENERAL

William Cunningham	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

L. Ryan Broddrick	Director
Paul Stein	Chief Deputy Director
Sonke Mastrup	Deputy Director, Wildlife and Inland Fisheries Div.
Nancy Foley	Chief, Enforcement Branch
Dan Yparraguirre	Wildlife Programs Branch
Marija Vohkovich	Marine Region
Terri Stewart	South Coast Region

The following persons were present and heard:

Walt Mansell	California Rifle and Pistol Association
Bill Gaines	California Waterfowl Association
Betty Winholtz	Morro Bay City Councilwoman
C. Jeff Thomson	Tulare Basin Wetlands Association
Lynda Merrill	Local Resident
Peggy Koteen	Local Resident
Phil Hill	Local Resident
Mandy Davis	Local Resident
Norm Tiber	Local Resident
Johanna Rubba	Local Resident
Nelson Sullivan	Local Resident

Ray McKelligott	Local Resident
Camilla Fox	Animal Protection Institute
Dr. David Dubbink	Local Resident
Marcia Hanscom	Wetlands Action Network
Robert VandeHoek	Biologist
Eric Greening	Local Resident
Andrew Christie	San Luis Obispo Chapter, Sierra Club
Fred Harpster	Black Brant Group
Gene Johe	Black Brant Group
Bob Richardson	Black Brant Group
Fred Harpster, Jr.	Black Brant Group
Dick Dasmann	Arroyo Grande Sportsmen's Club
Mark Van Wagner	Black Brant Group
Bill Cereghino	Black Brant Group
Butch (Harry) Hofland	Commercial Fisherman
Bill Burrows	PLM Operator
Sam Liberati	Commercial Fisherman
Dennis Deaver	Commercial Fisherman
Ernie Koepf	Director's Herring Advisory Committee, Commercial Fisherman
Eddie Genovese	Commercial Fisherman
Kevin P. Marilly	Commercial Fisherman
Andi Culbertson	County of Los Angeles
Otella Wruck	Friends of Ballona Wetlands
Edith Read	Center for Natural Lands Management
Peggy Forster	Concerned Individual
Lisa Fimiani	Board Member, Audubon California
Paul Weakland	Commercial Fisherman
Sabrina Venskus	Ballona Wetlands Land Trust
Kathleen Truman	Latham and Watkins
Bill James	Commercial Fisherman
Tom Hafer	Commercial Fisherman
Jim Marshall	Commercial Fisherman
Steve Rebuck	Commercial Fisherman
Don Thompson	Commercial Fisherman
Richard Pogre	Commercial Fisherman

President Kellogg introduced members of the Commission, its staff, Directorate, and William Cunningham of the Attorney General's Office.

15. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.

Summary of Issue

This item is scheduled to allow the Commission's Legal Counsel an opportunity to report on the results of the Executive Session, if any.

16. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO ADD SECTIONS 2.45 AND 251.9, TITLE 14, CCR, RE: REGULATIONS TO PROHIBIT THE TAKE OF FISH AND WILDLIFE BY REMOTE COMPUTER ASSISTANCE.

Summary of Issue

This is the time and the place for the Commission hearing on the possible adoption of the proposed changes to add sections 2.45 and 251.9, Title 14, CCR, regarding regulations to prohibit the take of fish and wildlife by remote computer assistance. As background, the Commission, at its May 3, 2005, meeting in Sacramento, authorized its staff to publish notice of Commission intent to add sections 2.45 and 251.9, Title 14, CCR. That legal notice has been published.

The Department's proposal can be summarized as follows:

"With the use of computer-assisted remote hunting/fishing, from anywhere in the world, a person could remotely utilize a computerized system where a shooter can control a camera that has pan, tilt, and zoom features and a firearm or other weapon to shoot/take real living targets in real time.

"The system uses a minimum of two cameras, one connected to the rifle scope and another alongside the gun or weapon. The cameras beam images back to a person who is sitting in a remote location looking at a computer screen. The rifle or weapon is mounted atop a pan-tilt motor, which users can control with four arrows, a computer mouse or joy stick, to control the up and down and side to side motion of the weapon. When the target appears in the scope's crosshairs, the user clicks a 'fire' button to discharge the impact object (bullet, arrow, spear, etc.).

"There are currently no definitions or regulations relating specifically to computer-assisted remote hunting/fishing in the Fish and Game Code or Title 14, California Code of Regulations. The proposed regulation would define computer-assisted remote hunting/fishing and specifically prohibit its use. In addition, the regulation would also prohibit the establishment of an internet, or web-based site, to assist in the taking of birds, mammals or fish.

"Physically removing the 'hunter/fisher' from the animal he/she is killing can subvert laws governing hunter/fisher age, training and licensing requirements and can subject animals to undue suffering. In addition, the element of a fair chase has always been a part of the American hunting heritage and the use of remote-controlled hunting/fishing is in direct conflict with basic hunting/fishing principles.

"The sport hunting group Safari Club International has spoken out against computer-assisted remote hunting and several states including Maine, Oregon, Tennessee, and Virginia, have or are in the process of introducing regulations prohibiting its use.

"Although the Department is not aware of any computer-assisted remote fishing sites at this time the language in this proposal is written in anticipation that this technology, currently used for taking birds and mammals, may soon expand to include fishing as well."

Commissioners were provided with copies of the Department's Initial Statement of Reasons and Pre-adoption Statement with the text of the proposed changes in strikeout/underline format.

Action

Executive Director Treanor introduced Chief Nancy Foley who discussed the Department's proposal which would prohibit the take of fish and wildlife by remote computer assistance.

Walt Mansell supported proposed legislation to prohibit the take of fish and wildlife by remote computer assistance, and requested that the words "hunting" and "hunter" not be included in the regulatory language.

Bill Gaines supported the Department's recommendation.

This concluded public comments on this item, and it was then:

MOVED BY MR. FLORES, SECONDED BY MR. HATTOY, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN SECTIONS 200, 202, 203, 205 AND 240 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET, OR MAKE SPECIFIC SECTIONS 200, 202, 203, 205 AND 240 OF SAID CODE, PROPOSES TO ADD SECTIONS 2.45 AND 251.9, TITLE 14, CCR, RE: REGULATIONS TO PROHIBIT THE TAKE OF FISH AND WILDLIFE BY REMOTE COMPUTER ASSISTANCE. (**NOTE:** THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

17. CONSIDERATION OF CERTIFICATION OF FINAL ENVIRONMENTAL DOCUMENT, ADOPTION OF FINDINGS AND PROPOSED PROJECT (OR ALTERNATIVE), AND FINAL ADOPTION OF THE 2005-2006 MIGRATORY WATERFOWL REGULATIONS.

Summary of Issue

This is the time and place for the Fish and Game Commission hearing on the adoption of the proposed 2005-2006 Migratory Waterfowl Regulations—sections 502 and 506 Title 14, CCR. The Department has prepared a draft environmental document relating to this matter which was made available to the public for a 45-day comment period commencing on June 11, 2005, and ending on July 26, 2005. Today, the Commission is scheduled to review the final environmental document and to consider the materials and comments which may have been presented by individuals, groups and other public agencies. There will be no formal public testimony received here today on the environmental document. The Commission will, however, have the option to request information and responses from its staff or the Department and may have questions related to the public comments and responses presented in the environmental document. The process to be used at this certification and adoption meeting will be to consider certification of the final environmental document and adoption of the proposed project (or an alternative) followed by consideration of the adoption of the proposed regulations for sections 502 and 506, Title 14, CCR, regarding migratory waterfowl regulations for 2005-2006.

Under separate cover, the Commission has been provided with the final environmental document as well as the responses to any public comments concerning the document. It would be appropriate for the Commission to make a motion concerning certification of the environmental document prepared by the Department.

1. Certification of the Document.

Action

Executive Director Treanor introduced and summarized the item. He stated that this was the time and place for the Commission to review the final environmental document and to consider the materials and comments which may have been presented by individuals, groups and other public agencies. He announced that the Commission would receive no formal public testimony today on the environmental document, but instead may request information and responses from its staff or the Department or may have questions related to the public comments and responses presented in the environmental document. Commissioners did not have any questions or request additional information.

It was then:

MOVED BY MR. KELLOGG, SECONDED BY MR. HATTOY, THAT THE FISH AND GAME COMMISSION HEREBY CERTIFIES THAT THE FINAL ENVIRONMENTAL DOCUMENT (ED) ON MIGRATORY WATERFOWL HAS BEEN COMPLETED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN THAT IT WAS PRESENTED TO THE COMMISSION AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE FINAL ED PRIOR TO APPROVING THE PROJECT. THE CERTIFIED ED PROVIDES THAT THERE ARE NO SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS RESULTING FROM THE PROPOSED PROJECT. THE COMMISSION FINDS, ON THE BASIS OF FACTS IN THE RECORD AND THE ENVIRONMENTAL DOCUMENT, THAT THE PROPOSED PROJECT AND ALTERNATIVES WILL HAVE NO SIGNIFICANT ADVERSE IMPACT.

PASSED UNANIMOUSLY.

2. Summary of Proposed Project (and Alternatives).

Commissioners have been provided with copies of the proposed migratory waterfowl regulations as discussed at the June 24, 2005, meeting in Bishop. Department staff will summarize the proposed project and alternatives relative to sections 502 and 506, Title 14, CCR, regarding migratory waterfowl regulations followed by public testimony. The Commission will then have an opportunity to adopt the proposed project, or an alternative, as identified in the environmental document and conforming to the federal framework, and then the regulations consistent with its above determination.

Commissioners were provided with copies of the Department's Initial Statement of Reasons and Pre-adoption Statement of Reasons for the proposed changes in Section 506, Title 14, CCR, regarding shooting hours, and the Amended Initial Statement of Reasons and Pre-adoption Statement of Reasons regarding migratory waterfowl, American coot and common moorhen hunting, concurrence with Federal regulations, as well as regulations in strikeout/underline format. Commissioners were also provided with a letter from Carole Maurer, Chairperson, Los Osos Community Advisory Council, dated August 5, 2005.

The original proposed amendments to the waterfowl regulations according to the Federal Framework can be summarized as follows:

"Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and

establish daily bag and possession limits. In addition to the five proposals contained herein, the U.S. Fish and Wildlife Service (Service), through the analysis of waterfowl population survey and other data, may also initiate changes in federal regulations which will require changes in existing and proposed regulations in California. Changes in federal regulations for season opening and closing dates, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. Three (items 1, 3, and 4) of the five proposed changes to state regulations require changes in the federal regulations. These proposals must be approved by the Pacific Flyway Council at their meeting on July 20, 2005. The Service will consider these and other recommendations at their meeting on July 27-28, 2005. Item 5 (including the table) below proposes a range of season dates and bag limits for waterfowl. At this time, the California Breeding Pair Survey has not been conducted and the Service has not established federal regulation "frameworks" which occurs in late July after the analysis of current waterfowl population survey, other data, input from the Flyway Councils and the public. Also, minor editorial changes were made to clarify and simplify the regulations and to comply with existing federal frameworks."

The Department's proposals are as follows:

"1. Remove the Sacramento Valley (East) Special Management Area and allow the take of Canada geese in that area throughout the Balance of State Zone goose season.

"The U.S. Fish and Wildlife Service approved this change.

"2. Remove the Imperial County Special Management Area and eliminate the special hunting season for white geese.

"This proposal is unchanged. It does not require U.S. Fish and Wildlife Service approval.

"3. Increase the white goose daily bag limit in all zones from 3 to 4; which results in an increase in the overall goose daily bag limit in the Northeastern California, Southern San Joaquin Valley, and Balance of State zones.

"The U.S. Fish and Wildlife Service approved this change.

"4. Increase the Small Canada goose daily bag limit to 4 in the Northeastern California, Southern San Joaquin Valley, and Balance of State zones.

"The U.S. Fish and Wildlife Service approved the change in the Balance of State and Southern San Joaquin zones but not for the Northeastern California Zone.

"5. Provide a range of season lengths (which may be split into two segments) between 0 and 107 days for the general duck season and 0 and 100 days for the general goose season. A range of daily bag limits is also given for ducks in all zones and geese in the Northeastern California, Southern San Joaquin Valley, and Balance of State zones. There are no anticipated or proposed changes to the goose daily bag limit in the Southern California and Colorado River zones. Also, federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone. In addition, regulations for black brant are expected to become more restrictive. Winter counts in 2004-05 were

low enough to trigger harvest restrictions as identified in the Flyway Management Plan. See the following table.

“The following table has been amended from the version in the Initial Statement of Reasons to reflect refined regulation proposals consistent with the Federal frameworks as established July 28, 2005. At that time it was determined that general duck seasons could be as long as 107 days in the Pacific Flyway with a 7-bird daily bag limit; that the pintail season could be as long as the general duck season with a 1-bird bag limit; that the canvasback season must be 60 days with a daily bag limit of 1-bird; that the daily bag limit for scaup was reduced from 4 to 3; and that other proposals from California (see above) were accepted except the change in the small Canada goose bag limit in the Northeastern California Zone. The duck season length in the Northeastern California Zone was incorrectly summarized in the original table as being 100 instead of 105 days; the text in item 5 identified a range of duck season lengths up to 107 days.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens	Concurrent w/duck season	25/day. 25 in possession
Northeastern Zone	Ducks	Oct 8 - Jan 20	7/day, no more than 2 hen mallards, 1 pintail, 1 canvasback, 2 redheads, 3 scaup. Possession limit double the daily bag.
	Pintail	Oct 8 - Jan 20	
	Canvasback	Oct 29 – Dec 18 and Jan 12 – Jan 20	
	Geese	Oct 8 – Jan 15	4/ day, no more than 2 dark geese including no more than 1 small Canada goose. Possession limit double the daily bag.
Southern San Joaquin Valley Zone	Ducks	Oct 22 – Jan 29	7/day, no more than 2 hen mallards, 1 pintail, 1 canvasback, 2 redheads, 3 scaup. Possession limit double the daily bag.
	Pintail	Oct 22 – Jan 29	
	Canvasback	Dec 1 – Jan 29	
	Geese	Oct 22 – Jan 29	4/ day, up to 4 white geese, up to 3 white-fronts, up to 3 Large Canada geese, up to 4 Small Canada geese. Possession limit double the daily bag.
Colorado River Zone	Ducks	Oct 21 – Jan 29	7/day, no more than 2 hen mallards or Mexican-like ducks, 1 pintail, 1 canvasback, 2 redheads, 3 scaup. Possession limit double the daily bag.
	Pintail	Oct 21 – Jan 29	
	Canvasback	Dec 1 – Jan 29	
	Geese	Oct 21 – Jan 29	6/ day, up to 4 white geese, up to 3 dark geese. Possession limit double the daily bag.
Southern California Zone	Ducks	Oct 22 – Jan 29	7/day, no more than 2 hen mallards, 1 pintail, 1 canvasback, 2 redheads, 3 scaup. Possession limit double the daily bag.
	Pintail	Oct 22 – Jan 29	
	Canvasback	Dec 1 – Jan 29	
	Geese	Oct 22 – Jan 29	5/day, up to 4 white geese, up to 3 dark geese. Possession limit double the daily bag.
Balance of State Zone	Ducks	Oct 22 – Jan 29	7/day, no more than 2 hen mallards, 1 pintail, 1 canvasback, 2 redheads, 3 scaup. Possession limit double the daily bag.
	Pintail	Oct 22 – Jan 29	
	Canvasback	Dec 1 – Jan 29	
	Geese	Oct 22 – Jan 29	4/ day, up to 4 white geese, up to 3 white-fronts, up to 3 Large Canada geese, up to 4 Small Canada geese. Possession limit double the daily bag.
SPECIAL AREA REGULATIONS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast	All Canada Geese	Oct 22 – Jan 29	4/day, only 1 may be a Large Canada goose. Possession limit double the daily bag.
South Humboldt Bay	All species	Closed during brant season	
Sacramento Valley (West)	White-fronted geese	Oct 29 - Dec 14	2/day. Possession limit double the daily bag.
Morro Bay	All species	Open in designated areas only	
Martis Creek Lake	All species	Closed until Nov 16	
Northern Brant	Black Brant	Nov 16 – 30	2/day. Possession limit double the daily bag.
Balance of State Brant	Black Brant	Dec 1- 15	2/day. Possession limit double the daily bag.
YOUTH HUNTING DAYS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	The Saturday fourteen days before the opening of waterfowl season extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Southern California Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Colorado River Zone		The Saturday following the closing for waterfowl season.	
Balance of State Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
FALCONRY TAKE OF DUCKS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	Oct 8 – Jan 20	3/ day, possession limit 6
Balance of State Zone		Oct 22 – Feb 5	
Southern San Joaquin		Oct 22 – Feb 5	

Valley Zone			
Southern California Zone		Oct 22 – Feb 5	
Colorado River Zone	Ducks only	Oct 21 – Feb 3	

“6. The Commission proposes to amend its regulations to comply with regulations adopted by the Service at its July 27, 2005 meeting which established black brant special management areas and established black brant hunting seasons in each of those special management areas as follows:

“Northern Brant Special Management Area – Del Norte, Humboldt, and Mendocino counties.

Season: From November 16 through November 30

Daily Bag and Possession Limit: 2 per day, 4 in possession

“Balance of State Brant Special Management Area – All counties not included in the Northern Brant Special Management Area.

Season: From December 1 through December 15

Daily Bag and Possession Limit: 2 per day, 4 in possession

“Other regulations adopted by the Service at its July 27, 2005 meeting are in accord with the originally noticed proposals.

“Current regulations in Section 506, Title 14, California Code of Regulations (CCR), provide shooting hours for migratory game birds. These shooting hours are from one-half before sunrise to sunset throughout the State except in areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County. At Morro Bay, shooting hours are from 8:00 a.m. to sunset. The later start time results in less-than-optimum hunting conditions for those who hunt on Morro Bay because most migratory game birds are most active in the time period near sunrise. This exception for Morro Bay was enacted due to concerns of users of the State Park campground regarding the sounds from shotguns early in the morning. In 1983, the hunting boundary area was changed and hunting no longer occurs adjacent to this campground; therefore this exception is no longer necessary. The Commission is proposing to amend the shooting hours for Morro Bay to begin either at 7:00 a.m. or one-half hour before sunrise. “

Action

Executive Director Treanor introduced the item. He announced that this was the time and place for public testimony regarding amending migratory waterfowl regulations for 2005-2006, and then introduced Department staff to summarize Department recommendations.

Director Brodrick discussed and summarized Department participation in the Pacific Flyway Council.

Dan Yparraguirre briefly discussed Global Positioning System (GPS) monitoring of tule geese. Mr. Yparraguirre then summarized Department recommendations regarding the 2005-2006 Migratory Waterfowl Regulations.

Betty Winholtz indicated that the Morro Bay City Council letter did not address shooting hours at Morro Bay, but she supported the no change alternative regarding shooting hours and said prohibiting hunting at Morro Bay should be considered as an option. Ms. Winholtz explained that the property value increase is correlated to the increase in retirees coming to

Morro Bay, and newcomers do not know hunting occurs on the Bay.

C. Jeff Thomson recommended waterfowl season dates of October 8-30 and November 19 – January 29 for the Southern San Joaquin Valley Zone.

Walt Mansell supported the Department's recommendations for amending the 2005-2006 Migratory Waterfowl Regulations.

Lynda Merrill read a letter in opposition of earlier shooting hours at Morro Bay.

Peggy Koteen opposed earlier shooting hours for Morro Bay because of the growing human population.

Phil Hill reported that he lives on Morro Bay and hears people shooting unplugged shotguns, and Department enforcement personnel have not responded. Mr. Hill opposed earlier shooting hours and said that non-target species birds are being killed.

Mandy Davis stated that the change to an 8:00 a.m. shooting time at Morro Bay was not due to concerns associated with the campground, and supported no change in the shooting hours at Morro Bay.

Norm Tiber stated that an earlier shooting time would affect the variety of uses, including peace and tranquility, at Morro Bay. He stated that there is a lack of data on current hunting use, which is necessary for an informed decision.

Johanna Rubba stated that Black Brant numbers are declining and Morro Bay is not an appropriate place for hunting. Ms. Rubba expressed concerns about disturbance to wildlife and other users, and supported a zero bag limit for brant with no hunting at Morro Bay.

Nelson Sullivan stated that he resides on a commercial fishing vessel at Morro Bay, earlier shooting hours would be unwelcome, and increasing the hours would intensify hunting use.

Ray McKelligott read a letter in support of ending hunting at Morro Bay.

Camilla Fox submitted a written statement in opposition of earlier shooting hours at Morro Bay. Ms. Fox expressed concerns about the status of the Black Brant population and pintail numbers.

Dr. David Dubbink referred to his expertise in noise management and said that sound associated with hunting will awaken 30% of those in the campground and 20% of the Baywood residents that are exposed to it. He stated his opinion that such noise is in violation of federal standards and should not happen at 6:30 a.m. He stated that typical background noise is 35 decibels and referred to written communication regarding this matter.

Marcia Hanscom stated that Morro Bay is an example where hunting needs to be limited, discussed pollution from shot and shell parts, and encouraged the development of regulations to make hunters more sensitive.

Robert VandeHoek stated that waterfowl hunting was popular in southern California at the turn of the century, but hunt areas/clubs subsequently were purchased or closed. He said the same pattern should occur at Morro Bay.

Eric Greening agreed with Dr. Dubbink, opposed earlier shooting hours at Morro Bay, and said earlier shooting hours should be offset by a space restriction or an earlier closing time.

Andrew Christie submitted written comments and opposed the later season dates for Black Brant because of his concern that this would not adequately protect brant numbers.

Fred Harpster stated that there are a variety of other loud noises, such as tractors and garbage trucks, which start at 7:00 a.m. around Morro Bay, per a city ordinance.

Gene Johe stated that the 8:00 a.m. shooting time has not been effective because it has not reduced conflicts and the hunting controversy remains. Mr. Johe stated that an earlier shooting time may allow hunters to leave the Bay earlier in the day and reduce conflicts. He said that under the proposed changes, Morro Bay hunters will lose 54 days of duck season and 15 days of brant season, compared to last year's season for the rest of the state.

Bob Richardson said that an earlier shoot time for Morro Bay means hunters will be off the Bay sooner.

Fred Harpster Jr. stated that other sources of excessive noise such as fireworks and motorcycles should be examined, and he believes this is a hunting vs. anti-hunting issue rather than a noise issue.

Dick Dasmann spoke in support of Department biologists and recommended no further restrictions on hunting in Morro Bay.

Mark Van Wagner stated that shooting hours at Morro Bay should be adjusted to be consistent with hours that other noise-related activities are allowed to occur.

Bill Cereghino stated that, as a contractor, he is restricted to a 7:00 a.m. starting time for backhoes and other building equipment, and a similar starting time for hunting is only fair.

Bill Gaines stated that California Waterfowl Association's (CWA) regulation process is coordinated with USFWS and the Department of Fish and Game throughout the year. He supported the Department's recommendations on seasons and bag limits and opposed the request of C. Jeff Thomson as inconsistent with CWA recommendations.

Executive Director Treanor indicated that there were no additional speaker cards on this item. Upon completion of public comments, President Kellogg asked if the Department had a recommendation on shooting hours at Morro Bay, and/or desired to respond to public testimony.

Deputy Director Mastrup stated that the Commission requested the alternative of earlier shooting hours at Morro Bay, and in response, the Department provided two options: a 7:00 a.m. starting time, or ½ hour before sunrise as occurs in the rest of the state. He stated that while the Department likes uniformity in shooting times, it recognizes that user conflicts occur at Morro Bay, and ultimately, the decision on this matter rests with the Commission.

Director Broddrick stated that a goal of the Pacific Flyway Council is to reduce the Black Brant harvest by 50 percent this year and only 800 brant were taken in California last year. He reiterated that hundreds-of-millions of dollars have been spent to improve southern California wetlands, and California has done a good job in regulating harvest to help Black Brant

populations recover.

Dan Yparraguirre reported that most Black Brant hunters hunt locally and do not travel from Humboldt County to Morro Bay to hunt. Mr. Yparraguirre discussed joint efforts with the Government of Mexico to improve the status of Black Brant, and reported that harvest recommendations for next year can be adjusted based on effects of this year's harvest.

It was then:

MOVED BY MR. FLORES, SECONDED BY MR. KELLOGG, THAT THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 21080.5 OF THE PUBLIC RESOURCES CODE, HEREBY ADOPTS THE PROPOSED PROJECT FOR THE PROPOSED REGULATORY ACTION RELATING TO SECTIONS 502 AND 506, TITLE 14, CCR, REGARDING MIGRATORY WATERFOWL.

PASSED UNANIMOUSLY.

AND

MOVED BY MR. FLORES, SECONDED BY MR. KELLOGG, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 355 AND 3000 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SECTIONS 355, 356 AND 3000 OF SAID CODE, HEREBY AMENDS SECTIONS 502 AND 506, TITLE 14, CCR, REGARDING THE 2005-2006 MIGRATORY WATERFOWL REGULATIONS, WHICH INCLUDES A SHOOTING TIME COMMENCING AT 7:00 A.M. AT MORRO BAY. FURTHER, THE COMMISSION DIRECTS STAFF TO PREPARE A NOTICE OF DETERMINATION CONSISTENT WITH THE APPROVAL AND ADOPTION OF ASSOCIATED REGULATIONS. THIS NOTICE OF DETERMINATION IS TO BE FILED WITH THE SECRETARY FOR RESOURCES, PURSUANT TO SECTION 781.5, TITLE 14, CCR, AND SECTION 21080.5 OF THE PUBLIC RESOURCES CODE. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

18. REQUEST OF HARRY HOFLAND FOR COMMISSION AUTHORIZATION TO ISSUE AN EXPERIMENTAL MARKET SQUID VESSEL PERMIT PURSUANT TO SECTION 149.3, TITLE 14, CCR.
-

Summary of Issue

Harry Hofland provides the following information in a fax, dated April 7, 2005:

"I am writing in regards to the Market Squid Experimental Permit.

"As the owner of the Fishing Vessel THERESA MARIE (F&G Boat Number:36088) I am extremely distraught that we were not eligible for the Market Squid Vessel Permit. I built and ran the boat from 1981 and fished for California squid till 1996 when my son, Nick Hofland took over running the boat. Since 1996 my son has been the primary Operator of the boat which will be running out of Bodega Bay.

representing 40,000 acres, with 65 landowners. Our mission is to enhance the area for the social, financial, and environmental needs of the temporary stewards of the land.

"We have been doing considerable environmental enhancement work on the CRMP, including brush crushing, polygon burns, water development, and planting perennial grasses and forbs for wildlife. One of the landowners, Kurt and Yvonne Sale, living within the CRMP area is requesting a PLM program. They have, over the last three years, crushed approximately 300 acres of brush, burned 200 acres of brush, planted preferred plant species for deer in selected areas, and developed water sources.

"Because of the considerable habitat improvement already completed on this land, we feel a variance of policy should be granted to allow a PLM program hunt the first year, rather than paying for five years of costs and only receiving four years of benefit.

"We would like to present a brief powerpoint program on the improved and enhanced habitat, and explain our position. This would take less than 10 minutes of your agenda."

Department Recommendation

At the time the analysis was completed, the Department had not provided its recommendation. The Department will be prepared to make its recommendation at the Commission meeting.

Action

BB gave ppt/slideshow on eavens Gate Ranch. They have done equivalent of 5 years of habitat development and should be allowed to hunt outside public during initial year.

CRMP land of 40k ac should be converted to a landscape PLM. Send poacing fines (or part of them) to PLM support. Need some more incentives to private landowners since state owns wildlife instead of landowner. Needs to be more incentive than season flexibility. MF how big is ranch? 2500 ac. BB is CRMP coordinator. MF general public likes plms, but he wants to find way to have public hunt on PLM, given an extra tag--- What do you think? BB would support, esp for juniors.

Walt Mansell Heaven's gate part of 3 plm crmp, supports the request/waiver.

DFG recommendation, supports, but has no auth. To change initial season.

- 20.** (A) RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTION 163, AND ADDITION OF SECTION 163.1, TITLE 14, CCR, RE: COMMERCIAL HERRING FISHERY.
- (B) RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTION 164, TITLE 14, CCR, RE: HARVESTING OF HERRING EGGS ON KELP. (**Note:** The adoption hearing for both (A) and (B) is scheduled for September 30, 2005, in Susanville.)
-

Summary of Issue

The Commission, at its June 24, 2005, meeting in Bishop, authorized its staff to publish notice of Commission intent to amend sections 163 and 164 and add Section 163.1, Title 14, CCR, regarding the commercial herring fishery and harvesting of herring eggs on kelp. The adoption hearing is scheduled for September 30, 2005, in Susanville.

The Department's proposal can be summarized as follows:

Sections 163 and 164

"Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

"The proposed regulations would establish fishing quotas, specify net measurement methods, modify mesh size in San Francisco Bay, establish season dates and times that fishing operations are allowed, and require reimbursement of Department costs if fishing occurs on the weekend in Tomales Bay.

"The following is a summary of the proposed changes in Sections 163 and 164, Title 14, CCR:

- The proposed regulations would establish fishing quotas by area for the 2005-06 herring fishing season, based on the most recent assessments of the spawning populations of herring in San Francisco and Tomales bays. Two options are provided for the San Francisco Bay quota. San Francisco Bay Quota Option 1 would set the quota at 5,890 tons which represents 10 percent of the 2004-05 spawning biomass estimate. If the Commission were to adopt this quota, this would result in a 10.4-ton individual quota for a "CH" gill net permittee and a 3.0-ton individual quota for a non-"CH" gill net permittee participating in the HEOK fishery. The Department recommends selecting Option 1 if the minimum mesh size remains at 2 1/8 inches. San Francisco Bay Quota Option 2 would set the quota at 4,502 tons which represents 7.6 percent of the 2004-05 spawning biomass estimate. If the Commission were to adopt this quota, this would result in a 7.9-ton individual quota for a "CH" gill net permittee and a 2.3-ton individual quota for a non-"CH" gill net permittee participating in the HEOK fishery. The Department recommends selecting Option 2 if the minimum mesh size were changed to 2 inches. An initial 400-ton fishing quota (eleven percent of the 2004-05 estimated spawning biomass of 3,686 tons) is proposed for Tomales Bay with provisions to increase the quota in-season if escapement goals are achieved by February 15, 2005.
- The proposed regulations would change the minimum mesh size in the San Francisco Bay gill net fishery from 2 1/8 to 2 inches.
- The proposed amendment specifies that the length of the meshes of any gill net used or possessed in the roe fishery in Tomales Bay, for the 2005-06 season only, shall be no less than 2 inches or greater than 2 1/2 inches. This proposal is a continuation of regulations originally approved for the 2000-01 season to evaluate the effect of reduced mesh size on the length and age composition of herring caught in 2 inch mesh gill nets in Tomales Bay.
- The proposed regulations would allow weekend fishing in Tomales Bay. The Department proposes that should the Commission decide to allow weekend fishing in Tomales Bay, the Department shall be able to submit a detailed invoice

to the appropriate party, or parties, for any increase in the cost of operations. The proposed amendment would allow weekend fishing in Tomales Bay.

- The proposed regulations would specify that the length of a gill net used in San Francisco and Tomales Bay shall be measured along the cork line.
- The proposed regulations would set the dates of the roe herring fisheries in San Francisco Bay from 5 p.m. on Sunday, December 11, 2005 until 6:00 a.m. on Friday, December 23, 2005 and re-open at 5 p.m. on Monday, December 26, 2005 until 6:00 a.m. on Friday, December 30, 2005 ("DH" gill net platoon only). Recommended dates for the odd and even platoons are from 5:00 p.m. on Monday January 2, 2006 until noon on Friday, March 17, 2006.
- The proposed regulations would set the dates of the roe herring fisheries in Tomales Bay from 5:00 p.m. on Sunday, December 25, 2005 until noon on Friday, December 30, 2005, and from 5:00 p.m. on Sunday, January 1, 2006 to noon on Friday, February 24, 2006.
- The proposed regulations would correct the Herring Eggs on Kelp Permit Application number in subsection 164 (h)(1) to coincide with the 2005-06 season application.

Section 163.1

"Under existing law (Fish and Game Code Sections 8550 and 8552), Pacific herring may be taken for commercial purposes only under the authority of a permit, and the permits are transferable under the provisions of Fish and Game Code Sections 8552.2, 8552.6, and 8552.7. Fish and Game Code Section 8552.7 currently sets the fee to transfer a herring permit at \$5,000. Under existing law (Fish and Game Code Section 8552.1), the Commission, may adjust the herring permit transfer fee to a level that will not discourage the transfer of permits or limit entry into the fishery, and that will ensure sufficient funds to cover reasonable Department costs associated with management of the fishery.

"The proposed regulations would lower the herring permit transfer fee from \$5,000 to \$1,000. The current fee of \$5,000 is inhibiting transfer of permits, and is creating an economic hardship for permit holders who want to leave the fishery and for fishermen who want to enter the fishery. Many permit holders consider the \$5,000 fee excessive and inequitable during a period when the market value of the permits is relatively low. Lowering the permit fee to \$1,000 would lower the economic barrier for permit transfers while still providing the Department with revenue for herring research and management."

Commissioners were provided copies of the Initial Statements of Reasons with the text of the regulations in ~~strikeout~~/underline format.

Action

Executive Director Treanor announced that this item consists of two parts: the commercial herring fishery, and harvesting of herring eggs on kelp. He announced that public comments can be taken on both parts at this time, and that the Commission will consider adoption of proposed changes at the September meeting in Susanville.

Deputy Director Mastrup and Becky Ota discussed and summarized the Department's proposed changes, and public comments were received as follows:

Sam Liberati (28:30, zzz pt4) recommended allowing an individual to own a single permit for each of the different herring fisheries in San Francisco Bay, eliminating the point system for qualification, and allowing permits to be passed from parent to child or between spouses. Mr. Liberati supported reducing the permit transfer fee and opposed the quota reduction.

Dennis Deaver supported the two inch mesh proposal and opposed the reduced quota. Mr. Deaver recommended a sunset clause for the reduced quota, or status review in a few years.

Ernie Koepf reported that DHAC supports the two inch mesh proposal. Mr. Koepf reported that the herring population has rebounded since 1998, discussed the dominance of smaller two- and three-year-old fish in the population, and recommended maintaining the quota at 10-20 percent.

Eddie Genovese stated that taking 10 percent of the biomass is conservative, and reducing transfer fees could increase revenue if more transfer action occurs.

Kevin Marilley requested extending the written comment period on the CEQA document by one week to allow comments to be submitted from boat owners that have been out on water.

Mr. Treanor announced that there were no more speaker cards on this item, and thus, public comment is concluded. Commissioners and the Department then discussed public comments, and in particular, the request to extend the written comment period.

Deputy Director Mastrup reported that extending the comment period and recirculating the CEQA document for review would not provide enough time to adopt new regulations before the herring season begins this year, and consequently, the industry would be forced to face another season with the larger net mesh size regulations.

Director Brodrick indicated that discussions involving the Department, DHAC and the Commission will continue for the future, regardless of CEQA document comment deadlines. Director Brodrick reported that the Department is committed to the discussion/negotiation process that began two years ago, with an anticipated outcome of additional regulatory changes for the future.

Executive Director Treanor stated that the Commission can consider the three changes proposed by Mr. Liberati on a different timeline, with a potential November 2005 adoption date. Mr. Treanor indicated that the timeline for adoption of the Department's proposed changes in net mesh size can remain at September 30, so that these changes can be in place before the herring season opens.

It was then:

MOVED BY MR. FLORES, SECONDED BY MR. HATTOY, THAT
THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO
PUBLISH NOTICE OF ITS INTENT TO AMEND SECTION 163, TITLE 14, CCR,
RE: COMMERCIAL HERRING FISHERY.

PASSED UNANIMOUSLY.

21. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 630, TITLE 14, CCR, RE: ECOLOGICAL RESERVES.

Summary of Issue

This is the time and the place for the Commission hearing on the possible adoption of the proposed changes to Section 630, Title 14, CCR, regarding ecological reserves. As background, the Commission, at its May 5, 2005, meeting in Sacramento, authorized its staff to publish notice of Commission intent to amend Section 630, Title 14, CCR. That legal notice has been published.

The Department's proposal can be summarized as follows:

"Currently, there are 132 ecological reserves designated in Section 630, Title 14, CCR, for the purpose of protecting sensitive habitats and species. The Department is requesting that this section be amended to add one new ecological reserve, Ballona Wetlands, to this listing.

"Ballona Wetlands consisting of 553 acres in Los Angeles County is proposed for designation as an ecological reserve for the protection and enhancement of coastal salt marsh and freshwater marsh habitats, and associated species, including the state listed endangered Belding's savannah sparrow. The area is also an important wildlife movement corridor to other public lands in the vicinity of the wetlands.

"The reasons for listing this property in Title 14 are to regulate public use and provide the best available protection for the species and habitats the property was acquired to protect. Since the property contains sensitive species, including a state listed endangered species, sensitive vegetation communities and acts as a linkage for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources. In order to do this efficiently, the Department has a set of general regulations which apply to all ecological reserves.

"The Department may also write special regulations for individual properties, as it thinks appropriate, to give an additional level of protection, or to permit specific public uses not governed by the general regulations. The Department is requesting special regulations for this reserve based on management information gathered which shows these amendments are necessary to protect the habitat or species the property supports.

"Three special regulations will protect sensitive species and habitats of Ballona Wetlands by allowing pedestrian use only on designated trails; bicycle use only on a designated bike path on the north side of the Ballona Creek flood channel; and boating only within the Ballona Creek flood channel. One special regulation will allow fishing only with barbless hooks from shore in designated areas along the Ballona Creek flood channel or from a boat within the Ballona Creek flood channel for the protection of sensitive species and habitats and to minimize mortality of fish and aquatic species caught by anglers and returned to Ballona Creek. Two additional special regulations will allow licensed recreational use of a portion of an area of the proposed reserve known as Area C, and leased parking use under existing agreements, unless it is determined that other uses are more appropriate for these areas. Because these licensed recreational and parking uses are not normally allowed on ecological reserves, these two special regulations are necessary when the Department has determined these activities are

appropriate and will cause no impacts to protected species and habitats.'

Commissioners were provided copies of the Department's Initial Statement of Reasons and Pre-adoption Statement with the text of the proposed changes in strikeout/underline format.

Action

Executive Director Treanor introduced Terri Stewart to summarize the Department's recommendation.

Terri Stewart reported that the State Lands Commission has approved lease of 24 acre expanded wetlands parcel and the Department has engaged the community in developing the current regulation proposal. Ms. Stewart reported that the Department has accepted Area C, but does not want the 26 acre freshwater marsh. She reported that total size will be 577 acres, and until the property is designated as an Ecological Reserve, enforcement efforts are compromised.

Andi Culberterson supported designation of the property as an Ecological Reserve, but requested recognition of certain local actions on the part of Los Angeles County.

Otella Wruck read a statement from Ms. Ruth Lansford in support of designating the property as an Ecological Reserve. Ms. Wruck opposed the option of including the freshwater marsh, as it currently has protection.

Edith Read stated that the Center for Natural Lands Management is managing the freshwater marsh. Ms. Read supported designating the property as an Ecological Reserve and excluding the freshwater marsh. When asked by Commissioner Hattoy where management funding came from, Ms. Read responded that approximately \$ 500,000.00 is provided for a full-time manager and a crew to periodically remove weeds.

Marcia Hanscomb recommended that the property not be designated as an Ecological Reserve until the freshwater marsh is included in the package.

Peggy Forster recommended that the property not be designated as an Ecological Reserve until the freshwater marsh is included in the package. Ms. Forster stated that the freshwater marsh is an asset of the state and not a private asset.

Lisa Fimiani supported designating the property as an Ecological Reserve so that proper protection can occur.

Andrew Christie said that the Friends of Ballona Wetlands have discussed the value of the freshwater marsh and urged including it as part of the Ecological Reserve.

Paul Weakland stated that naming properties after people should not occur.

Robert VandeHoek said that not including the freshwater marsh curtails public access and recommended including it as part of the Ecological Reserve designation. He stated that he is not now allowed to take children to the state-owned freshwater marsh.

Sabrina Venskus referred to two letters from the Ballona Wetlands Land Trust which supported including the freshwater marsh as part of the Ecological Reserve. Ms. Venskus recommended a special regulation to require the Playa Vista Developers to continue restoration/management activities on freshwater marsh.

Kathleen Truman stated that Latham and Watkins represents Playa Vista Developers, and the freshwater marsh can not be designated as part of the Ecological Reserve under Section 1580 of the Fish and Game Code. Ms. Truman reported that more than 100 conditions and/or permits currently are in place for the freshwater marsh, Playa Vista must continue to pay for maintenance and monitoring, and the subject marsh was never slated for inclusion.

Executive Director Treanor announced that there were no more speaker cards on this item, and thus, public comment is concluded. Commissioners discussed this item with the Department as follows:

Chief Deputy Director Stein reported that the Department does not have adequate management funding and the freshwater marsh is fully protected by 12 management agreements which are in perpetuity. If it takes on the freshwater marsh, the Department would have to redirect two people to deal with management and/or ownership liabilities. Mr. Stein responded to concerns of Los Angeles County by indicating that the Department does not intend to propose special ordinances that might override or be incompatible with County provisions for adjacent land. Mr. Stein recommended withholding the freshwater marsh for now, and including other properties within the Ecological Reserve designation.

Commissioner Hattoy inquired about the feasibility of special area regulations, and cited Bolsa Chica Ecological Reserve as an example. Mr. Hattoy stated his desire to protect the freshwater marsh, but under the current circumstances he supports the Ecological Reserve designation for the other parcels, with a condition that the Department further investigate and report to the Commission on the freshwater marsh at a later time.

Commissioner Gustafson supported including the 577 acres that are not under contention, and deal with other areas such as the freshwater marsh later. Ms. Gustafson inquired about the potential of changing some of the more controversial access conditions related to the freshwater marsh, and requested to see the public access rules.

Commissioner Flores supported the Department's recommendation and opposed spending staff time to pursue the matter further.

Terri Stewart explained that access conditions are specified as part of the permit conditions. There was no further discussion, and it was then:

MOVED BY MR. FLORES, SECONDED BY MS. GUSTAFSON, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN SECTIONS 1580, 1581, 1583 AND 1907 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET, OR MAKE SPECIFIC SECTIONS 1526, 1528, 1530, 1580-1585, 1590 AND 1591 OF SAID CODE, HEREBY AMENDS SECTION 630, TITLE 14, CCR, RE: ECOLOGICAL RESERVES. (**NOTE:** THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

AYES: Commissioners Flores, Gustafson
ABSTAINED: Commissioner Hattoy

MOTION PASSED.

POLICY RE: PEER REVIEW OF RESEARCH AND MONITORING PROTOCOLS FOR ALL MAJOR DEPARTMENT PROGRAMS, I.E., ALL FMP'S, MLPA, ETC.

24. RECEIPT OF PUBLIC TESTIMONY AND DISCUSSION OF TIMELINE FOR POSSIBLE ADOPTION OF THE ABALONE RECOVERY AND MANAGEMENT PLAN.

Summary of Issue

This item is scheduled for receipt of public testimony on the draft Abalone Recovery and Management Plan (ARMP). As background, the Commission received public testimony on the draft Abalone Recovery and Management Plan at its five special meetings: July 12, July 19, August 4, August 9, and August 16, 2005. Originally, the Commission wanted to consider possible adoption of the ARMP at this meeting; however, after hearing from the public, the Commission requested the Department to collect up-to-date biomass information before it would consider adoption of the ARMP. The Commission was disappointed that the ARMP did not include recent biomass information, nor did it include any sampling from the additional sample sites requested by the Commission last year at the Commission's June meeting. Therefore, this item will conclude with a discussion of a timeline for the Commission to consider possible adoption of the ARMP.

Action

John Ugoretz summarized recent monitoring efforts and indicated that comments on the ARMP were similar to past comments and do not warrant major changes. Members of the public spoke on the ARMP as follows:

Jim Marshall supported opening the fishery at San Miguel Island. Mr. Marshall acknowledged the need for surveys prior to this action and discussed working with the Abalone Advisory Committee to accomplish funding. Mr. Marshall submitted written comments and suggested methods of funding the necessary survey work at San Miguel Island.

Steve Rebeck distributed two handouts and recommended a density of 75-1000 abalone/ha instead of the Department's recommended level of 6000/ha in the ARMP. Mr. Rebeck proposed an option of establishing an experimental fishery at the Farallon Islands, and asked to include it as alternative in ARMP. Mr. Rebeck discussed the potential of individual transferable quotas.

Don Thompson stated that he initially bought his permit under the two-for-one transfer clause. Mr. Thompson stated that the Commission can decide to open additional areas prior to 2008, and does not have a full range of alternatives unless it directs the Department to alter the Draft ARMP. Mr. Thompson supported the option of establishing a fishery at San Miguel Island.

Paul Weakland stated that the Commission and Department have both failed in their missions. Mr. Weakland stated that systematic harvest of abalone should stimulate growth, but young recruits have been killed by withering syndrome, and stated that the Draft ARMP is biased because it does not include references he has submitted to the Commission and Department. Mr. Weakland said the Draft ARMP lacks scientific references on black abalone diseases.

Ricard Pogre said that the San Mateo Coast and Farallon Islands have not been adequately examined as a commercial fishery within the Draft ARMP.

Mr. Treanor announced that this concluded the speaker cards received on this item and the Department was introduced to respond to public comments.

Mr. Ugoretz discussed the response to public comments in the Draft ARMP and reported that 28 pages were in reply to Mr. Weakland's comments. Mr. Ugoretz indicated that the Commission may consider a commercial fishery after the recovery threshold is reached, or it may elect to reduce the recommended recovery threshold and finally, it can consider opening a limited fishery at San Miguel Island or elsewhere prior to recovery.

Commissioners concluded with a discussion of a timeline and additional elements needed for the Commission to consider possible adoption of the ARMP and reached the following consensus:

The Department should incorporate as alternatives in the ARMP, recommendations given during testimony of Mr. Rebuck. The Department also should work with commercial divers to collect additional density/distributional data, as previously requested by the Commission. It is appropriate to review these data and consider adopting the ARMP in November, 2005 at the Commission meeting in Santa Barbara.

CONSENT CALENDAR

Items 25 through 34 have been placed on the Commission's consent calendar. Your staff knows of no opposition to these proposals at this time, other than as specified in this analysis. The Department has provided a recommendation on each of these items which calls for approval or modified approval by the Commission. Any item may be removed from the consent calendar by the Commission or upon the request of the Department or someone in the audience who would like to speak to that item. Your staff has prepared a summary of consent items which will be made available to the audience. One overall motion is appropriate for approval of these items.

Action

CFox would like to withdraw # 26, adopt 25 and 27-34. PU

MOVED BY MS. GUSTAFSON, SECONDED BY MR. HATTOY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS AUGUST 19, 2005,
CONSENT CALENDAR, ITEM NUMBERS 25, AND 27 THROUGH 34.

25. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 180.1, TITLE 14, CCR, RE: SPOT PRAWN FISHING.

Summary of Issue

This is the time and the place for the Commission hearing on the possible adoption of the proposed changes to Section 180.1, Title 14, CCR, regarding spot prawn fishing. As background, the Commission, at its June 24, 2005, meeting in Bishop, authorized its staff to publish notice of Commission intent to amend Section 180.1, Title 14, CCR. That legal notice has been published.

The Department's proposal can be summarized as follows:

"Existing regulations establish the season structure and other requirements for the commercial spot prawn (*Pandalus platyceros*) fishery and authorize the types of fishing

gear that may be used in the fishery.

"Plastic or wire webbing has used in the spot prawn fishery since the implementation of the current regulations in 1995. Under current regulations (Subsection 180.1(b), Title 14, CCR), spot prawn traps are required to be made with plastic or wire mesh only. Synthetic rope or twine woven into a web mesh is another material commonly used for prawn trap construction on the Pacific coast from Oregon to Alaska.

"The proposed regulation change would remove the language referring to plastic and wire to allow for other materials to be used for web construction in spot prawn traps.

"This proposed regulation change will not change current authorization on mesh size, trap limits, trap destruction devices, or season structure and will allow greater flexibility to the fishery while also meeting biological needs."

Commissioners were provided with copies of the Department's Initial Statement of Reasons and Pre-adoption Statement with the text of the proposed changes in strikeout/underline format.

Action

Executive Director Treanor introduced the consent calendar and asked if anyone in the audience wished to speak on any item. Public testimony was received on Item Number 26.

It was then:

MOVED BY MS. GUSTAFSON, SECONDED BY MR. HATTOY, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN SECTIONS 711 AND 8591 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET, OR MAKE SPECIFIC SECTIONS 710.7, 711, 8140, 8590, 8591, 8593, 8594, 8595, 8842, 9000, 9001, 9004-9008 AND 9015 OF SAID CODE, HEREBY AMENDS SECTION 180.1, TITLE 14, CCR, RE: SPOT PRAWN FISHING. (**NOTE:** THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

26. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 401, TITLE 14, CCR, RE: ISSUANCE OF PERMIT TO TAKE ANIMALS CAUSING DAMAGE.

Summary of Issue

This is the time and the place for the Commission hearing on the possible adoption of the proposed changes to Section 401, Title 14, CCR, regarding issuance of permit to take animals causing damage. As background, the Commission, at its June 24, 2005, meeting in Bishop, authorized its staff to publish notice of Commission intent to amend Section 630, Title 14, CCR. That legal notice has been published.

The Department's proposal can be summarized as follows:

"In 2004, the Legislature amended Section 4181 of the Fish and Game Code and added wild turkeys to the list of species for which the Department issues permits to landowners

to kill animals that are damaging property (Senate Bill 1153). To provide consistency with the code change, the Department is proposing that Section 401 of Title 14, which provides for the issuance of these permits, be amended to include wild turkeys.

"Additional minor amendments are proposed, which would make this section more clear and more consistent with current code and regulation sections. These minor amendments are as follows:

"1. Update the title and number designating the form which is used to apply for depredation permits.

"2. Change the wording in Subsection 401(a) to state that, when depredation permits are applied for in situations where damage has not yet occurred, but damage is threatened, the damage must be immediately threatened. This change would make the regulation more consistent with the authorizing code section, which states that the Department shall issue depredation permits "...upon satisfactory evidence of the damage or destruction, actual or immediately threatened ...".

"3. Delete the subsection that requires that bear traps be placed only within pens, and that signs warning of bear traps be posted. This subsection is no longer needed, since the use of metal-jawed traps for bears is now prohibited.

"4. Change the wording in Subsection (d)(3) to require that a permittee kill depredating animals in a humane manner, from wording that states that a permittee shall make "every effort" to kill the animals instantly. It is unclear what "every effort" might entail.

"5. Delete the requirement that squirrels and beavers be tagged when taken under depredation permits. The Department believes that tagging each squirrel and beaver is unnecessary.

"6. Add a requirement that report portions of tags issued in conjunction with depredation permits be mailed to the Department after animals are killed. This is the procedure currently being followed, but mailing of the report tags is not required in existing regulation wording.

"7. Other minor changes are proposed for clarity."

Commissioners were provided copies of the Department's Initial Statement of Reasons and Pre-adoption Statement with the text of the proposed changes in ~~strikeout~~/underline format.

Action

Executive Director Treanor introduced the consent calendar and asked if anyone in the audience wished to speak on any item. Item Number 26 was removed from the consent calendar to receive public testimony. Mr. Treanor reported that SB 1153 was passed by the Legislature in 2004, and consequently, Section 401 of Title 14, which provides for the issuance of depredation permits, must be amended to include wild turkeys. Mr. Treanor also reported that the Department is recommending additional minor editorial amendments to make this section more clear and consistent with current code and regulation sections. The Commission then received public comments as follows:

Camilla Fox submitted written comments and expressed concern that proposed changes will alter provisions of Section 401. Ms. Fox expressed concerns about monitoring and tagging of animals taken under depredation permits, and stated that in some instances the Department does not designate the number of animals that can be taken on a depredation permit. Ms. Fox requested that the Department define damage and specify methods of take and the number of animals to be taken.

Commissioners discussed this matter with the Department, Ms. Fox, and Mr. Cunningham. No motion was made and this item was continued to a future meeting.

27. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 632, TITLE 14, CCR, RE: MARINE PROTECTED AREAS.

Summary of Issue

This is the time and the place for the Commission hearing on the possible adoption of the proposed changes to Section 632, Title 14, CCR, regarding marine protected areas. As background, the Commission, at its May 5, 2005, meeting in Sacramento, authorized its staff to publish notice of Commission intent to amend Section 632, Title 14, CCR. That legal notice has been published.

The Department's proposal can be summarized as follows:

"State law (sections 1590 and 1591, Fish and Game Code) authorizes the Commission to designate, delete, or modify state marine managed areas (MMAs). Authorization is also provided in subsection 36725(a), Public Resources Code. In addition, in subsection 36725(e), Public Resources Code, the Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

"The existing regulation of Section 632, Title 14, California Code of Regulations (CCR), defines State Marine Parks and State Marine Conservation Areas and provides information on authorized uses within those areas. The classification of those areas is in accordance with the Marine Managed Areas Improvement Act (MMAIA) commencing with Section 36600, Public Resources Code.

"Nine areas originally designated by the Legislature as marine life refuges were reclassified in 2004 as State Marine Parks under the authority of the MMAIA. Six of these areas were historically productive for the commercial spiny lobster fishery and lobster take has occurred in the areas since their establishment as marine life refuges. The six areas are: Robert E. Badham State Marine Park, Irvine Coast State Marine Park, Laguna Beach State Marine Park, South Laguna Beach State Marine Park, Niguel State Marine Park, and Doheny State Marine Park. With the designation of these six areas as State Marine Parks, there is now a discrepancy between what has been a long-standing use in those areas and the type of use provided for under the state marine park designation as defined in MMAIA. The proposed regulation change would modify the status of these six areas to State Marine Conservation Areas to allow access for the commercial lobster industry.

"State law (sections 8254 and 8259, Fish and Game Code) authorizes the Commission to set conditions for the commercial lobster fishery. The proposed regulatory change will not change any conditions for that fishery or affect the status of the spiny lobster stocks.

"In addition, Doheny State Marine Park's name is proposed to change to Doheny Beach State Marine Conservation Area to differentiate it from the existing Doheny State Marine Conservation Area."

Commissioners were provided with copies of the Department's Initial Statement of Reasons and Pre-adoption Statement with the text of the proposed changes in strikeout/underline format, in addition to a letter from Russell Galipeau, Jr., United States Department of the Interior, dated July 8, 2005.

Action

Executive Director Treanor introduced the consent calendar and asked if anyone in the audience wished to speak on any item. Public testimony was received on Item Number 26.

It was then:

MOVED BY MS. GUSTAFSON, SECONDED BY MR. HATTOY, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN SECTIONS 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861(c), 6750 AND 10502.6 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET, OR MAKE SPECIFIC SECTIONS 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 5521, 6653, 8420(e) AND 8500 OF SAID CODE, HEREBY AMENDS SECTION 632, TITLE 14, CCR, RE: MARINE PROTECTED AREAS. (**NOTE:** THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

28. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO ADD SECTION 701, TITLE 14, CCR, RE: SPORT FISHING FORMS AND FEES.

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of Commission intent to consider proposed changes in Section 701, Title 14, CCR, regarding sport fishing forms and fees. The Commission will receive public comments on these proposed changes at its September 30, 2005, meeting in Susanville. The adoption hearing is scheduled for November 4, 2005, in Santa Barbara.

The Department's proposal can be summarized as follows:

"Existing regulations reference the fees for sport fishing cards and permits in various sections of Title 14. Pursuant to Section 713 of the Fish and Game Code, these fees are adjusted annually based on a calculated cost-of-living adjustment. This requires the Department to identify each section that contains a fee annually and take regulatory action to update the fees to ensure the regulations accurately reflect the correct fee. The proposed changes would remove references of fees from existing sections, consolidate them into one sport fishing fees section, and update the fees as required by Section 713. This will streamline the process for the Department and Commission staff and will simplify the regulations for the public.

"Existing regulations specify the legal size limit for taking salmon in ocean waters in sections 1.74 and 27.80 of Title 14. This requires the Department to update both sections of Title 14 when there is a change in the size limits for taking salmon in ocean waters. The proposed change would remove the specific size limit from Section 1.74 and add language that refers to Section 27.80 for the specific size limit. This will

streamline the process for the Department and Commission staff and will simplify the regulations for the public.

"Editorial changes are also proposed to improve the clarity and consistency of the regulations."

Commissioners were provided copies of the Initial Statement of Reasons with the text of the regulations in ~~strikeout~~/underline format.

Action

Executive Director Treanor introduced the consent calendar and asked if anyone in the audience wished to speak on any item. Public testimony was received on Item Number 26.

It was then:

MOVED BY MS. GUSTAFSON, SECONDED BY MR. HATTOY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS AUGUST 19, 2005,
CONSENT CALENDAR, ITEM NUMBERS 25 AND 27 THROUGH 34.

PASSED UNANIMOUSLY.

29. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO ADD SECTION 702, TITLE 14, CCR, RE: HUNTING APPLICATIONS, TAGS, SEALS, PERMITS, RESERVATIONS AND FEES.

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of Commission intent to consider proposed changes in Section 702, Title 14, CCR, regarding hunting applications, tags, seals, permits, reservations and fees. The Commission will receive public comments on these proposed changes at its September 30, 2005, meeting in Susanville. The adoption hearing is scheduled for November 4, 2005, in Santa Barbara.

The Department's proposal can be summarized as follows:

"Existing regulations reference the fees for applications, licenses, permits, tags, reservations and other entitlements in various sections of Title 14. Pursuant to Section 713 of the Fish and Game Code, these fees are adjusted annually based on a calculated cost-of-living adjustment. This requires the Department to identify each section that contains a fee and take regulatory action to update the fees to ensure the regulations accurately reflect the correct fees. The proposed changes would remove references of fees from existing sections, consolidate them into one hunting fees section, and update the fees as required by Section 713. This will streamline the process for the Department and Commission staff and will simplify the regulations for the public."

"Editorial changes are also proposed to improve the clarity and consistency of the regulations.

"The changes proposed are for the 2006/2007 license year and shall become effective on July 1, 2006. Applications are in draft and will not be finalized and printed until April 2006."

Commissioners were provided copies of the Initial Statement of Reasons with the text of the regulations in ~~strikeout~~/underline format.

Action

Executive Director Treanor introduced the consent calendar and asked if anyone in the audience wished to speak on any item. Public testimony was received on Item Number 26.

It was then:

MOVED BY MS. GUSTAFSON, SECONDED BY MR. HATTOY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS AUGUST 19, 2005,
CONSENT CALENDAR, ITEM NUMBERS 25 AND 27 THROUGH 34.

PASSED UNANIMOUSLY.

30. REQUEST OF PAUL BRYNE, EAGLENET SEA FARMS, INC., FOR LEASE
RENEWAL OF STATE WATER BOTTOM LEASE AGREEMENT FOR NO. M-653-09,
SANTA BARBARA COUNTY.
-

Summary of Issue

The Department provides the following information in a memo dated June 27, 2005:

"The subject lease, totaling 10 acres of state water bottom lease area, was established on April 1, 1995, for the purpose of farming abalone in submerged cages. In 1999, Mr. Paul Bryne, the Lessee, acquired this lease as part of the assets of R.K. Ranch, dba as Sea Farms. Since this time Mr. Bryne has continued prototype work begun by the prior lessee but has yet to begin growing abalone on the lease. Serious health issues and periods of hospitalization have precluded obtaining funding and stocking of the lease with abalone. Mr. Bryne submitted written notification on March 3, 2005, to indicate his interest in renewing the lease prior to expiration of the lease on March 30, 2005. He has indicated an interest in renewing the lease for the ten (10) year period stipulated in the original lease agreement. Mr. Bryne agrees to increasing the annual lease rental rate for the ten (10) acre Lease M-653-09, from ten (\$10) to twenty-one (\$21) dollars per acre. Mr. Bryne also agrees to include language specifying Consumer Price Index and current lease rates be considered by the Commission when evaluating the basis for a lease rate change. Any evaluation would be at the Commission's discretion and would occur no more frequently than every five years.

"One (\$1) dollar per acre is the minimum annual rent for leases established prior to 1983. "At that time, the Legislature increased the minimum annual rent to two (\$2) dollars per acre for leases exceeding 10 acres in size and ten (\$10) dollars for leases ten acres or less. Both rates are well below the average rent based on the annual rate paid for all current Tomales Bay leases, established between 1981 and 2002 and for all current State Water Bottom leases (Table 1). The twenty-one (\$21) dollar per acre rent represents a mid-value between the average State Water Bottom lease rents in Tomales Bay and state-wide.

"Table 1. Comparison of annual rental rates for Tomales Bay and all state water

bottom leases.

Lease Category	Number of Leases	Range (\$ / Acre)	Mean (\$ / Acre)
All Existing Tomales Bay Leases	12	1 – 45	24
All State Water Bottom Leases	21	1 – 45	18

"Mr. Byrne proposes no change in the culture methods or species currently approved by the Commission for the lease. However, if the lease renewal is approved, the lease should include a requirement that the Lessee establish an escrow agreement or provide a performance bond that will provide a financial guarantee of growing structure removal and/or cleanup expense in the event the lease is abandoned or otherwise terminated. Mr. Byrne agrees to place in escrow or provide a performance bond of five hundred (\$500) dollars at signing. This amount will be increased annually, based on information contained in the annual proof-of-use statement, as lease development proceeds.

"Recommendation:

"The Department recommends approval of the requested lease renewal for a ten-year period at the agreed upon annual rate subject to the stipulations discussed above."

31. CONSIDERATION OF APPROVAL OF PRIVATE LANDS HABITAT ENHANCEMENT AND WILDLIFE AREA LICENSE (2005-2010) AND 2005-2006 MANAGEMENT PLAN FOR:

- (A) ABERNATHY RANCH, SHASTA COUNTY
- (B) CARNAZA WILDLIFE MANAGEMENT AREA, SAN LUIS OBISPO COUNTY
- (C) HEAVEN'S GATE RANCH, TEHAMA COUNTY
- (D) JS RANCH, SHASTA COUNTY
- (E) R MOUNTAIN RANCH, MENDOCINO COUNTY

Summary of Issue

The following applicants have requested a Private Lands Habitat Enhancement and Wildlife Management Area (PLM) license (2005-2010) and approval of their 2005-2006 Management Plans. The required applications and management plans have been submitted to the Department. The license period would be for five years and run from 2005-2010. The Department has determined that these plans conform to the regulations provided in Section 601, Title 14, CCR, and to the Commission's policy related to Private Lands Wildlife Management Areas. The Department has reviewed the annual reports for these ranches and recommends that the Commission approve their Management Plans for the coming year. Should the Commission desire a complete packet which was included with the applications, please advise the Commission office.

Department Recommendation

"The Department of Fish and Game has reviewed the initial management plan and application for the following PLM areas:

<u>"PLM Area</u>	<u># of Acres</u>	<u>County</u>
"Northern California – North Coast Region		
Abernathy Ranch	1,590	Shasta
Heaven's Gate Ranch	2,483	Tehama
JS Ranch	6,500	Shasta

"The management plans for these areas are in compliance with Commission policy requirements for private lands management. The applicants have identified the location where records will be kept and made available for inspection. Habitat improvements accomplished under these plans will enhance and maintain wildlife resources on and around the PLM areas. The goals and objectives stated in the management plans are compatible with Department management plans for appropriate species in these areas. In addition, access to public lands will not be diminished under implementation of this management plan.

"Postharvest wildlife population surveys were completed for game populations surrounding PLM areas. Additionally, harvest on PLMs has been considered together with public harvest figures in preparing the various hunting environmental documents. Analysis using these surveys, harvest figures, and the proposed 2005 harvest for the PLM areas show no significant adverse effects on wildlife populations resulting from the recommended hunting programs.

"The Department recommends that the Commission approve the specified wildlife management plans, applications, and the 2005 harvest program under conditions specified in the attached table (see **Exhibit No. 31**)."

Department Recommendation

"The Department of Fish and Game has reviewed the new management plan and application for the following PLM area:

<u>"PLM Area</u>	<u># of Acres</u>	<u>County</u>
"Central Coast Region		
Carnaza Wildlife Management Area	15,040	San Luis Obispo
R Mountain Ranch	640	Mendocino

"These PLMs area were previously licensed under Commission regulations under Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 2004, and all habitat work was completed.

"The management plans for these areas are in compliance with Commission policy requirements for private lands management. The applicants have identified the location where records will be kept and made available for inspection. Habitat improvements

accomplished under these plans will enhance and maintain wildlife resources on and around the PLM areas. The goals and objectives stated in the management plans are compatible with Department management plans for appropriate species in these areas. In addition, access to public lands will not be diminished under implementation of these management plans.

"The Department recommends the Commission approve the specified wildlife management plan, application, and the 2005 harvest programs under conditions specified in the attached table (see **Exhibit No. 31**)."

32. CONSIDERATION OF APPROVAL OF ANNUAL REPORT AND 2005-2006 PRIVATE LANDS HABITAT ENHANCEMENT AND WILDLIFE AREA PLANS FOR:

- (A) BANGOR RANCH, YUBA COUNTY
- (B) BELL RANCH, TEHAMA COUNTY
- (C) CONNOLLY/ CORRAL HOLLOW RANCH, SAN JOAQUIN AND ALAMEDA COUNTIES
- (D) DIAMONDBACK RANCH, TEHAMA COUNTY
- (E) FIVE DOT RANCH-AVILA UNIT, LASSEN COUNTY
- (F) HATHOWAY OAK RUN RANCH, SHASTA COUNTY
- (G) ISLAND MOUNTAIN TRINITY RANCH, MENDOCINO COUNTY
- (H) PBM FARMS, SISKIYOU COUNTY
- (I) ROSENDAHL RANCH, MODOC COUNTY
- (J) SILLER RANCH (PEARSON PROPERTIES), YUBA COUNTY
- (K) SNOWSTORM RANCH, LASSEN COUNTY
- (L) SUGARLOAF RANCH, YUBA COUNTY
- (M) TRIPLE B RANCH, SHASTA COUNTY

(Applications submitted for the above item have been analyzed by Department staff and a determination has been made that they are within the scope of the Hunting Program Environmental Documents prepared for the affected species pursuant to the California Environmental Quality Act.)

Summary of Issue

The following applicants have requested renewal of their Private Lands Habitat Enhancement and Wildlife Management Area (PLM) licenses and approval of their 2005-2006 Management Plans. The Department has reviewed the annual report for each of these ranches and recommends that the Commission approve the Management Plans for the coming year. The Department has determined that the activities on the ranches unless otherwise specified, have been completed as proposed in the 2005-2006 objectives. If the Commissioners would like copies of the complete annual reports and full management plans, please contact the Commission office.

Department Recommendation

"The Department of Fish and Game has reviewed the annual reports, management plans, and annual renewal applications for the following PLM areas:

<u>"PLM Area</u>	<u># of Acres</u>	<u>County</u>
<i>"Northern California – North Coast Region</i>		
Bell Ranch	13,200	Tehama
Diamondback Ranch	3,243	Tehama
Five Dot Ranch-Avila Unit	11,000	Lassen
Hathoway Oak Run Ranch	6,755	Shasta
PBM Farms	4,660	Siskiyou
Rosendahl Ranch	340	Modoc
Snowstorm Ranch	3,000	Lassen
Triple B Ranch	600	Shasta
<i>"Central Coast Region</i>		
Island Mountain Trinity Ranch	5,905	Mendocino
<i>"Sacramento Valley – Central Sierra Region</i>		
Bangor Ranch	656	Yuba
Connolly/Corral Hollow Ranch	8,986	San Joaquin and Alameda
Siller Ranch (Pearson Properties)	934	Yuba
Sugarloaf Ranch	1,977	Yuba

"These PLM areas were previously licensed under Commission regulations under Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 2004, and all habitat work was completed.

"The management plans for these areas are in compliance with Commission policy requirements for private lands management. The applicants have identified the location where records will be kept and made available for inspection. Habitat improvements accomplished under these plans will enhance and maintain wildlife resources on and around the PLM areas. The goals and objectives stated in the management plans are compatible with Department management plans for appropriate species in these areas. In addition, access to public lands will not be diminished under implementation of these management plans. Routine field inspections revealed that the applicants are in full compliance with posting requirements.

"During the 2004/05 hunting season, the Connolly/Corral Hollow Ranch PLM reported an incident which resulted in them exceeding their authorized harvest of cow elk; three (3) cow elk were authorized and four (4) were killed. The incident was investigated by Department Enforcement personnel who subsequently filed a formal complaint request with the Environmental Prosecution Unit of the San Joaquin District Attorney's office. The Department of Fish and Game's Wildlife Programs Branch recommends that no action be taken by the Commission on this matter until the County case is closed, at which time the Wildlife Programs Branch may or may not recommend a modification to the current Connolly Ranch PLM License for the 2006 season.

"The Department recommends that the Commission approve the specified wildlife management plans, annual reports, renewal applications, and the 2005 harvest programs under conditions specified in the attached table (see **Exhibit No. 32**)."

33. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT PALO PRIETO CONSERVATION BANK, SAN LUIS OBISPO.

Summary of Issue

The Department provides the following information in a memo dated July 29, 2005:

"The Department of Fish and Game requests the Commission's consideration for the acceptance of a Conservation Easement Deed from the Robert A. Grant Jr. Trust and the Grant Family Trust. This easement transfers 368 acres of habitat management land located in San Luis Obispo County and establishes a conservation bank for use by development projects affecting the San Joaquin kit fox and burrowing owl in San Luis Obispo County. The Bank is undeveloped open space consisting of grasslands and associated habitats.

"Attached (see **Exhibit No. 33**) for your reference are the transaction summary and location maps for the project."

34. APPROVAL OF MINUTES.

The minutes of the October 21-22, 2004, meeting in Concord, have been distributed to members of the Commission. Commission staff knows of no errors and suggests that the minutes be approved as distributed.

OTHER

35. ANNOUNCEMENT OF FUTURE MEETINGS.

**2005 FISH AND GAME COMMISSION
MEETING SCHEDULE**

DATE	LOCATION
September 29 (Thurs. 10:00 a.m.) September 30 (Fri. 8:30 a.m.)	City Hall 66 North Lassen Street Susanville, 96130
November 3 (Thurs. 10:00 a.m.) November 4 (Fri. 8:30 a.m.)	Santa Barbara
December 8 (Thurs. 10:00 a.m.) December 9 (Fri. 8:30 a.m.)	The James W. Kellogg Training Center 935 Detroit Ave. Concord, 94518

September 11-17, 2005 IAFWA, Nashville, Tennessee