

State of California
FISH AND GAME COMMISSION

MINUTES, FEBRUARY 3-4, 2000

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State of California
FISH AND GAME COMMISSION

Minutes, Meeting of February 3-4, 2000

Pursuant to the call of the President, the Commission met in the California State University, Chancellor's Office Auditorium, 401 Golden Shore, Long Beach, California, on February 3, 2000. The meeting was called to order at 10:05 a.m. by President Thieriot.

Persons present:

FISH AND GAME COMMISSION

Richard Thieriot	President
Mike Chrisman	Vice President
Sam Schuchat	Member

COMMISSION STAFF

Robert R. Treanor	Executive Director
John M. Duffy	Assistant Executive Director
Sandy J. Daniel	Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Randall Christison	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Dirk Brazil	Deputy Director, Community Relations and Partnerships
Terry Mansfield	Deputy Director, Wildlife and Inland Fisheries
LB Boydston	Intergovernmental Affairs Office
Charles Raysbrook	South Coast Region, Regional Manager
Julie Oltmann	Legislative Representative
Patty Wolf	Marine Region
Fred Wendell	Marine Region
Peter Sakai	Chief, Office of Program Management
Bob Hulbrock	Aquaculture Coordinator
Terri Stewart	South Coast Region

The following persons were also present and heard:

Rudy Walker	Desert Shores Community
Rebecca Walker	Eagle Lake and Salton Sea
Steve Moore	Patriot Sportfishing
Paul Weakland	Commercial Fisherman
Virginia Handley	The Fund for Animals
Susan Tellum	American Tortoise Rescue
Marshall Thompson	American Tortoise Rescue
Alan Berger	Animal Protection Institute

Bill Gross
Frances Poole
Christopher Papouchis
Bob Bertelli
Bob Malm
Bill Dyer
Floyd Carley
Jeanne Carley
Dr. Kristian Fisher
Misti Pitts
Dennis Feil
Joan Hogentogler
Ann Arnold
Claudia Trefzger
Don Hunt
Ilona Maggard
Lester Rickman
Bill Gaines
Rod McInnis

Concerned Hunter
CA Houndsmen for Conservation
Animal Protection Institute
Commercial Sea Urchin Fisherman
Bear Preservation League
In Defense of Animals
Californians for Ferret Legalization
Californians for Ferret Legalization
Pro Ferret Legalization
Pro Ferret Legalization
Pro Ferret Legalization
Animal Control Officer
Pro Ferret Legalization
Ferrets Anonymous
Pro Ferret Legalization
Pro Ferret Legalization
Pro Ferret Legalization
California Waterfowl Association
National Marine Fisheries Service

President Thieriot introduced members of the Commission, its staff, Directorate and Randall Christison of the Attorney General's Office.

1. ELECTION OF OFFICERS.

Summary of Issue

Historically, the Commission's policy was to select its officers for the coming year at the end of its January meeting. In 1998, the Commission adopted its policy regarding "Election of Officers" as a regulation. Pursuant to its new regulation, every February, the Commission now "selects the most senior member to serve as President and the next most senior member to serve as Vice-president, except a Commissioner shall not serve more than two consecutive years as President." Commissioners were provided with a copy of the Commission's regulation on the "Election of Officers" (Section 660, Title 14, CCR).

Action

Executive Director Treanor summarized the item and indicated that pursuant to Commission regulation, Commissioner Chrisman had the most seniority and Commissioner Schuchat had the next most seniority.

It was then:

MOVED BY MR. THIERIOT, SECONDED BY MR. SCHUCHAT, THAT
THE FISH AND GAME COMMISSION HEREBY ELECTS COMMISSIONER MIKE
CHRISMAN AS PRESIDENT AND COMMISSIONER SAM SCHUCHAT AS VICE
PRESIDENT FOR 2000.

PASSED UNANIMOUSLY.

2. PUBLIC FORUM.

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 policy or to any matter within the jurisdiction of the Commission. That issue need not be related to any item on the current agenda. Not more than five minutes per individual should be allocated to receive this public input. 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.

Action

Rudy Walker inquired about who was responsible for cleanup of dead fish and birds at the Salton Sea. He indicated he had contacted the local health department and was told that it was a Department of Fish and Game matter.

Rebecca Walker expressed her frustration with Department of Fish and Game employees and no responses to her inquiries regarding fish kills at Eagle Lake. She also spoke about the "strawberry" disease on trout planted in Eagle Lake and what she believed was the incompetence of Department's employees. President Chrisman requested a report of the upcoming February 15 meeting with Ms. Walker, Lassen County and the Department at the Commission's March meeting.

Steve Moore spoke about the rockfish closures and the transportation of rockfish from an open area to a closed area. He also spoke about the Department providing better log books requiring the listing (catch) of each individual species. Patty Wolf indicated that the transportation issue would be reviewed during next year's regulation review by both the PFMC and the Commission. She stated that the Department was also redesigning the log book.

Paul Weakland spoke about genetic changes in aquaculture products which may prove fatal to wild fish.

Virginia Handley provided an update on Assembly Bill 238 (Honda), Importation of Live Bullfrogs and Turtles, and commented that only three individuals were allowed to testify at the recent Legislative Hearing. She indicated that the bill should be defeated as it does nothing, but added that the bill had passed the Assembly. She indicated that AB 238 does not

mandate any permits for the retail stores.

Susan Tellum and Marshall Thompson urged the Department's support and lead in the effort to ban the importation of wild caught bullfrogs and turtles. They commented that there was no compliance at any markets and no improved enforcement effort was visible on the ground, more needed to be done and offered to work with the Department. They commented that there needs to be a uniform standard for transporting all animals.

Deputy Director Mansfield reemphasized that the release of animals into the wild was prohibited in California; and that the Department had streamlined the permits. Commissioner Chrisman indicated the Commission would be monitoring the status of AB 238 and could review this issue at a future meeting, if necessary.

Alan Berger spoke about the Proposition 4 litigation. He commented on bear tag sales and suggested reducing the number of bear tags.

Bill Gross supported archery deer hunting in Los Angeles County, antlerless hunts in the San Gabriel Mountains, as well as the proposed junior hunt and antlerless hunts.

Frances Poole, houndswoman and hunter, spoke about hunting heritage and hunting with hounds.

Christopher Papouchis commented on the proposed bear hunting changes and was opposed to selling more tags because that means more bears would be killed. He commented that the Department's procedure for counting bears was incomplete and that the conclusions were not biologically justifiable. He opposed the Department's proposal for bear hunting changes.

3. COMMISSION STATUS REPORT ON IMPLEMENTATION OF ITS STRATEGIC PLAN.

Summary of Issue

This item is scheduled to allow the Commission to inform the public of its current actions in implementing its Strategic Plan. The public will also be provided an opportunity to comment on its ideas/suggestions for Commission operations.

Action

Commissioner Chrisman reported that the Annual Report on the implementation of the first year of the Commission's Strategic Plan had been finalized. He stated that the Commission was considering selecting an advisory committee to provide advice on continued implementation of its strategic plan.

Paul Weakland commented that he hoped the strategic planning was not a method to cover up poor past performance, that persistent questions were not being addressed and that the public is not perceiving any changes.

4. REQUEST OF ABALONE INTERNATIONAL, INC., CRESCENT CITY, TO DISCUSS DEPARTMENT'S BAN ON THE SHIPMENT OF SEED ABALONE.

Summary of Issue

This item was originally scheduled for the Commission's December 2, 1999, meeting. The item was withdrawn at the request of Mr. Chris Van Hook of Abalone International, Inc.; however, Mr. Van Hook indicated he may wish to reschedule the matter if his negotiations with the Department did not work out regarding the shipment of seed abalone and the disposition of cultured abalone. On December 14, 1999, Mr. Van Hook requested that this matter be rescheduled for the February 2000 meeting.

As background, in a letter dated November 3, 1999, Mr. Van Hook provides the following two requests:

- "1). The Department imposed a conditional ban on the shipment of seed abalone back in August of 1998. This has resulted in a terrible economic hardship for our farm, as well as a bureaucratic nightmare. I have been working with the appropriate biologists within the marine region, met with past Director Ms. Jaqueline Schaffer [sic], and Mr. DeWayne Johnston in December of 1998, as well as have had a meeting with, and ruling from the disease committee recently at U.C. Davis. State Senator Wes Chesbro's aides, as well as Assemblywoman Virginia Strom-Martin, and her aides have been actively trying to get a resolution to this matter. It is now at the point where I would like to bring the lack of resolution, and the problems I have been having to the attention of the Commission. We may also need some direction from the Commission as to the wording of a Compliance Agreement, a negotiated document that we are having difficulties with.
- "2). The other item is that back in March 1997 my request to Lease Kelp Bed #312 [sic] in Del Norte was approved by the commission [sic] (copy provided to Commissioners). I have had the darndest time getting anyone to deliver the lease to me. Our local Warden has tried as well, and has given up. I have been billed for, and paid for the lease the past two years, but as the third billing and payment cycle approaches, it might be helpful to have the Commission hear of my problems. Unfortunately the same mid level biologists, who have been remiss in item #1 are the same ones responsible for getting the lease to me.

"I realize that a one-page agenda request does not explain the problems well, however I intend to have a clear concise summary with documentation to our office for the Commission by Nov. 15, 1999."

In a letter received in the Commission office on December 14, 1999, Mr. Van Hook provides the following information:

"As you might remember, I had asked to be scheduled for the December 3,4, 1999 Commission meeting in Sacramento. On December 2, others, and myself met in the

Director's office and I was made to feel as if a resolution would be forthcoming prior to the February meeting in Long Beach, California. As a result of that meeting I was comfortable asking that my agenda items be pulled from the December meeting, the following day.

"I believe it would be prudent of me to instead ask that the same items be rescheduled for the February Commission meeting. The same wording is fine. I believe they were item #7 on the December meeting agenda.

"I apologize for seeming to take your time regarding these matters, and if a resolution is arrived at prior to the February Commission meeting, I will notify you immediately."

Commissioners were provided with a copy of a letter from Chris Van Hook dated November 16, 1999, and a draft Compliance Agreement.

Department Recommendation

"A conditioned ban on the shipment of abalone seed was imposed in August 1998, to protect northern California abalone stocks from the bacterium causing withering syndrome. The ban was intended to be an interim measure, based on the best information available at the time, and subject to change pending development of new information.

"The ban had economic impacts on Abalone International Inc., an abalone culture facility in Crescent City Harbor, since it was unable to receive seed that had been contracted for and which was necessary for uninterrupted production at the facility.

"Since the ban was implemented, the Department has discovered that the bacterium is present in the wild in at least two locations, Crescent City Harbor and Van Damme State Park. These introductions were likely the result of human activities, as both were sites of abalone outplanting activities that may well have used infected seed.

"The Department convened two ad hoc panels in January 2000, to consider this new information and recommend a course of action. The first panel consisted of scientists with expertise in abalone populations, epidemiology, and fish health. After considering the evidence, the panel recommended that the ban be modified to allow infected seed to be shipped to the Crescent City area, and that monitoring efforts be established to better document the distribution and spread of the bacterium.

"A second ad hoc panel of stakeholders was divided on its recommendations. About half of the panel concurred with the scientist panel, the other half urged caution and maintenance of the ban until evidence proved that it was not necessary.

"Finally, the Department conferred with the Aquaculture Disease Committee (ADC) as required by Section 245 (Title 14, CCR). The ADC concurred with the recommendations of the scientific panel that the ban be modified to allow shipment of infected seed to the Crescent City area, pending receipt of evidence from the

monitoring that might support reestablishing the ban.

"The Department's actions have been reasonable and were based on the best available information. An effort was made to keep affected parties informed of changes in those actions. Given the economic importance of the north coast red abalone resource, the cautious approach taken was both prudent and appropriate.

"Based on current information, and the deliberations and recommendations of the three groups, the Department has determined that it is now appropriate to modify the ban to allow shipment of seed to Abalone International. With this memo, and effective immediately, the Commission and interested public are informed that the Crescent City area is no longer included in the conditional ban. Interested parties should contact the Department for details. However, the ban may be reinstated if continuing investigations provide evidence that it is important in protecting California's wild abalone resources. "

Action

Executive Director Treanor reported that Abalone International, Mr. Van Hook, had faxed a letter to the Commission office on February 2 requesting the item be continued to the Commission's March meeting in Redding. Mr. Treanor noted that in the Commissioners handout material there were several letters from sport abalone divers along the north coast providing comments expressing their concerns regarding lifting the ban of seed abalone going to northern California.

Fred Wendell provided the Department's overview of the issue reporting that the Department had modified its conditional ban to allow shipment of seed abalone to Abalone International under special circumstances.

Paul Weakland expressed concerns with the spread of withering syndrome and was opposed to lifting the conditional ban.

Bob Bertelli, commercial sea urchin diver, was opposed to lifting the ban and inquired what causes withering syndrome. Fred Wendell described the pathogen that causes withering syndrome.

5. REQUEST OF JEFFREY S. YOUNG, PACIFIC SEAFOOD INDUSTRIES, TO LEASE STATE WATER BOTTOMS LEASE NO. M-653-02, SANTA BARBARA COUNTY.

Summary of Issue

As background, Mr. Jeffrey S. Young previously held the lease for State Water Bottoms Lease No. M-653-02, Santa Barbara County. However, he failed to contact the Department at least 90 days prior to the expiration date of the lease per the conditions of the lease. He did not apply until the lease had already expired. Therefore, the Department denied his renewal application.

Since Mr. Young filed late for renewal of his lease, the Commission must decide if it is

in the best interest of the state to lease State Water Bottoms Lease No. M-653-02. If so, it would publish notice that the lease site was available and anyone interested should submit their proposals and bids to the Commission. In light of the fact the Department of Health Services has recently closed an area around the City of Santa Barbara's waste treatment plant, the Commission may wish to postpone action until it determines that aquaculture products can be grown in that area.

Mr. Young, Pacific Seafood Industries, Inc., is appealing the Department's denial of his application for renewal of State Water Bottoms Lease No. M-653-02.

In a letter dated December 28, 1999, Mr. Young provides the following information:

"The above captioned water bottoms lease expired on October 31, 1999. We inadvertently did not give the Department the required notice of our intent to renew the lease. We are therefore appealing the Department's denial of our request to extend lease M-653-02 for an additional five year period. As part of this process we are also requesting that the name of the lessee be changed to my own, Jeffrey S. Young, dba Pacific Seafood Industries, as we are dissolving the corporation.

"We are aware that the Department of Health Services has taken administrative action to expand a safety closure zone around the City of Santa Barbara's wastewater treatment plant outfall after the Regional Water Quality Control Board relaxed coliform bacteria effluent levels. This matter is on appeal to the State Water Resources Control Board. This safety closure zone would not affect the cultivation of rock scallops, a species we have been working with and which is not covered by the National Shellfish Sanitation Program."

Commissioners were provided with a copy a letter dated November 16, 1999, from Fred Wendell, Senior Biologist, Department of Fish and Game, to Mr. Young.

Department Recommendation

"Mr. Jeffrey S. Young has held the subject lease for five years. Lease language (Lease Amendment No. 3 to the Indenture of Lease) provided an opportunity to extend the lease for an additional 5-year term if notice was given to the department in writing at least ninety (90) days prior to termination of the original 5-year term. The lease terminated on October 31, 1999. Mr. Young did not meet the notice requirement and requested an extension in November 1999, after being contacted by the Department.

"If a request for renewal is not made by the lessee, the Commission is required to advertise for bids on the lease. However, leasing that site may not now be in the public's best interest. The viability of that lease site as a location for production of shellfish for human consumption is uncertain. The Department of Health Services has recently taken administrative action to expand a safety closure zone around the El Estero wastewater treatment plant outfall to the extent that the M-653 lease site now lies within an area closed to the growing and harvesting of bivalve shellfish for human consumption. The closure was implemented as an emergency measure. That action is

now under review and can be reconsidered at any time in the future.

"Recommendation: The Department recommends that the Commission delay advertising for bids on this lease until the site no longer lies within a Department of Health Services safety closure zone."

Action

Executive Director Treanor summarized the item. He indicated that Mr. Young, an attorney, was representing a client in Los Angeles Superior Court and was not able to be present until later in the day.

Fred Wendell recommended to move forward with the bid request, with the stipulation that the lease be used only for the production of certain species. He indicated that Mr. Young was in agreement with this caveat.

Paul Weakland commented that Mr. Young only needed his lease back to receive additional grant money and should not be allowed.

It was then:

MOVED BY MR. SCHUCHAT, SECONDED BY MR. THIERIOT, THAT THE FISH AND GAME COMMISSION HEREBY DETERMINES THAT STATE WATER BOTTOMS LEASE NO. M-653-02, SANTA BARBARA COUNTY, IS AVAILABLE AND IT IS IN THE PUBLIC INTEREST TO LEASE THE LOCATION FOR AQUACULTURE PURPOSES. THEREFORE, IT AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF ITS AVAILABILITY.

PASSED UNANIMOUSLY.

6. REVIEW OF WHITE STURGEON BROODSTOCK COLLECTION PROGRAM.

Summary of Issue

This item is scheduled to receive the Department's report regarding a review of the 1999 White Sturgeon Broodstock Collection Program. A copy of the "Twelfth Annual Report of Domestic White Sturgeon Broodstock Research Development Program" submitted by the Aquaculture and Fisheries Program at the University of California, Davis, will be available at the meeting. The Department will be prepared to discuss its report and recommendations at the Commission meeting.

Department Recommendation

"We request that the Commission review the 1999 White Sturgeon Broodstock Collection Program at its February 2000 meeting in Long Beach.

"Progress in Broodstock Development

"The experimental white sturgeon broodstock collection program, originally authorized by the Fish and Game Commission in 1981, can finally be declared a complete success. For the first time since inception of the program, no commercial aquaculturists are requesting authorization to collect wild broodstock in 2000, because they can now reliably produce all sturgeon needed from domestic broodstock.

"The collaborative white sturgeon broodstock development program, involving the University of California at Davis (U.C. Davis), the commercial California sturgeon aquaculturists, and the Department and Commission, has developed this reliable spawning of domestic broodstocks. Last year, for the fourth consecutive year, no wild fish were collected. All fry produced by the aquaculturists came from domestic fish. Including spawning at the farms and at U.C. Davis, a total of over one million larvae were produced from domestic fish.

"California continues to lead the world in efforts to domesticate the white sturgeon where researchers are literally writing the book on spawning sturgeon. University efforts this year focused on development of optimal hormone treatments to further increase the efficiency and reliability of spawning. Genetic and disease studies are also being pursued and the sturgeon broodstock manual, originally published in 1988 is being updated, with plans for a CD ROM version being discussed.

"Three commercial aquaculturists are participating in broodstock development activities through rearing of broodstocks and are all active in, and contributed financially to, the research program at U.C. Davis. Results of last year's efforts are described in the Twelfth Annual Report of Domestic White Sturgeon Broodstock Research and Development Program from the Center for Aquatic Biology and Aquaculture at U.C. Davis (attached).

"The progress made toward producing domestic broodstock has also provided the opportunity for growers to continue work on egg production for caviar. The farms increased the production of caviar in 1999 to 1361 kg (2994 pounds), all from farm raised fish.

"CITES Listing of Sturgeon Species

"All sturgeon species were added to the Appendix 2 CITES (Convention on International Trade of Endangered Species) list in 1998 in order to protect Caspian Sea sturgeon. The listing requires federal permits for all international shipments of sturgeon or sturgeon parts.

"The U.S. Fish and Wildlife Service (USFWS) has met with the California sturgeon producers and the Department and has acknowledged that aquaculture production of sturgeon and caviar has the potential to reduce pressure on wild sturgeon stocks worldwide. USFWS has pledged to work with California growers to minimize the burden of required federal permitting. Unfortunately, that pledge has not yet resulted in

a viable system to allow for export under the new CITES regulations, frustrating the growers.

"1999 Collection and Reporting Activities

"Two registered aquaculturists were approved for white sturgeon broodstock collection in 1999 but did not collect any wild fish. Both farms were able to obtain all of their needed fry from domestic fish, and anticipate the ability to do so again this year. Neither farm is requesting authorization to collect broodstock this year but both have requested that the opportunity to apply in the future be kept open, should the need arise.

"No other applications have been received.

"Future Collections

"Research results continue to increase the reliability of domestic spawning. This progress has reduced the number of fish needed to be collected from the wild, so that there is no impact on the wild sturgeon resource (five years ago only one fish was collected). The opportunity to collect wild broodstock in the future, however, remains important to the industry as a source of genetic diversity, as protection against potential long-term impacts of viral diseases, and as a back up to domestic spawning. U.C. Davis has requested that wild broodstock collection continue to be an option during the term of their research efforts.

"Recommendations

"The Department recommends that future applications for wild sturgeon broodstock collection, under terms similar to those applied in 1999, be considered favorably by the Commission."

Action

Bob Hulbrock provided an overview of the White Sturgeon Broodstock and Striped Bass Broodstock Collection Programs. He reported that the White Sturgeon Broodstock Collection Program was considered a success and that no permits were being requested this year, but the current permittees wanted the ability to have permits issued in future years, if necessary.

The Commission agreed to send a letter to the U.S. Fish and Wildlife Service regarding Convention on International Trade in Endangered Species (CITES) listed sturgeon to allow sale of aquacultural raised sturgeon easier.

Paul Weakland opposed the program and commented that farmed sturgeon do not have black caviar and that it was not marketable.

7. REVIEW OF STRIPED BASS BROODSTOCK COLLECTION PROGRAM AND CONSIDERATION OF PERMIT RENEWALS.

Summary of Issue

This item is scheduled to receive the Department's report regarding a review of the Striped Bass Broodstock Collection Program for 1999. The Department will provide its review of the 1999 activities, program progress, conclusions, and recommendations.

Commissioners were provided with a copy of the "Private Striped Bass Broodstock Collection & Rearing Program: 1999 Activities and Progress Report."

Department Recommendation

"Attached is our 1999 Activities and Progress Report including a review of 1999 activities, program progress, conclusions, and recommendations. (Commissioners were provided with a copy of report.)

"We conclude that:

- "1. The striped bass broodstock collection program has no documented adverse effects on either the striped bass population or an angling success for striped bass or other fishes.
- "2. Private aquaculturists can be allowed to electrofish in the Sacramento-San Joaquin Estuary and Sacramento River without causing problems for anglers or striped bass spawning activity.

"We recommend that:

- "1. The striped bass broodstock collection program in 2000 allow production of approximately 400,000 yearling, 112,000 2-year old, and 120,000 fingerling striped bass. These fish will be needed for the striped bass stocking quota allowed by a Federal Endangered Species Act permit to be issued by the National Marine Fisheries Service and U.S. Fish and Wildlife Service.
- "2. Permit terms allow each aquaculturist to capture and possess up to 60 adult striped bass. A proposed draft of the 2000 permit is attached.
- "3. The Commission authorize the Department to issue striped bass broodstock collection permits for 2000 to: Professional Aquacultural Services located in Chico; The Fishery located in Galt; and D & S Fisheries in Merced."

Action

Bob Hulbrock provided an overview of the White Sturgeon Broodstock and Striped Bass Broodstock Collection Programs. He recommended that the Striped Bass Broodstock

Collection Program continue and the renewal of the existing three permits for 2000.

Paul Weakland commented that striped bass were introduced into California in the last century. He was opposed to the program.

It was then:

MOVED BY MR. SCHUCHAT, SECONDED BY MR. THIERIOT, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE RENEWAL OF THE STRIPED BASS BROODSTOCK COLLECTION AND BREEDING PERMITS TO PROFESSIONAL AQUACULTURAL SERVICES, CHICO; THE FISHERY, GALT; AND D & S FISHERIES, MERCED, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

8. REQUEST OF ANIMAL PROTECTION INSTITUTE, SACRAMENTO, TO DISCUSS THE DEPARTMENT'S POLICY ON ORPHANED BEAR CUB REHABILITATION PROCEDURES.

Summary of Issue

In August 1995, several animal rights groups/individuals appeared at a Commission meeting expressing concern with the Department's handling of bears which roamed into urban areas. The Commission requested the Department meet with the interested parties to discuss its procedures when confronted with a bear in an urban area. The Department and the animal rights individuals reached a consensus on a revised "policy" on how the Department would handle bears and bear cubs which wandered into urban areas.

According to Mr. Alan Berger, the Department is not adhering to the "policy" which was consented to in 1995. In a letter dated January 14, 2000, Mr. Berger provides the following information:

"The Animal Protection Institute (API) is an animal advocacy nonprofit organization formed in 1968 and headquartered in Sacramento. We are also one of eleven organizations that formed the 'Coalition to Protect California Wildlife' in 1995.

"At a Commission meeting in 1995 the Commission directed the Department to meet with our Coalition and see if we could 'negotiate' an updated bear policy. As you recall, we did. In 1996 I discussed our progress on two occasions at Commission meetings. In July, 1996 there was a new bear policy that included a program to rehabilitate orphan bear cubs. Since that time we have participated in the rehabilitation and release of seven bear cubs.

"It has come to my attention that the program that was agreed upon is not only not being followed by the Department, but they have established new criteria without our knowledge. I've enclosed an article that appeared today in the *Sacramento Bee*.

(Commissioners received copy.)

"In light of these developments, I request that bear policy be added to the agenda for the February Commission meeting in Long Beach. Given the time of year, it is imperative that we address this issue as soon as possible. If you need, I can supply you with a packet of materials for the Commission members by Monday or Tuesday."

Department Recommendation

"This item was placed on the agenda at the request of the Animal Protection Institute. It is related to concerns regarding at least two incidents over the last several months involving bear cubs. The Department of Fish and Game has requested a meeting with Mr. Alan Berger of the Animal Protection Institute and other interested organizations to listen to and clarify their concerns, provide background information related to the incidents in question and review our policies and procedures regarding bears, with emphasis on orphaned cubs. He agreed to meet with us on February 1 and we will attempt to address their concerns and improve communications with the Animal Protection Institute and other animal welfare interest groups regarding bears.

"The Department's staff will be prepared to update the Commission on the results of the February 1 meeting and address any questions related to the issue at the Commission's February 3 meeting. "

Action

Executive Director Treanor summarized the history of the item.

Alan Berger reported that the Coalition addressed the Commission in Long Beach on November 24, 1995, regarding an inconsistent Department policy for problem bears. He indicated the Commission then directed the Department to meet with the Coalition to discuss a bear policy. He then provided a chronology of events leading up to the February 1, 2000, meeting with the Department and the Coalition. He also expressed his concerns about the 1996 policy which was approved and allowed for orphaned bear cub rehabilitation, but he recently learned that the approved policy was never implemented by the Department. He reviewed the recent meeting held with the Department.

Bob Malm explained his organization's objectives on how to live with bears and to educate the public regarding bears. He requested the following: need for a current Department of Fish and Game policy; support for implementation of 1996 policy and to be kept apprised of any proposed changes; a bear cub rehabilitation site within California; and a realistic bear policy for the protection of bears. He requested the Commission provide the Department with its full endorsement and support of the 1996 policy and for its full implementation.

Virginia Handley expressed her disappointment regarding the 1996 bear policy not being implemented and asked if any bear cubs were killed that might have been saved under the full implementation of the policy. She recommended a MOU with the Animal Protection

Institute and others, which would allow for bear transport, be developed as soon as possible. She supported a rehabilitation facility in California and requested the policy be finalized and implemented.

Bill Dyer requested the Commission direct the Department of Fish and Game to establish and implement this policy and to allow a rehabilitation facility in California.

Christopher Papouchis explained his qualifications as a wildlife biologist for his earlier testimony. He also supported the comments made by the previous speakers.

Deputy Director Mansfield responded to the issues raised in the public testimony and provided a review of the issues from the Department's perspective. Mr. Mansfield indicated that the Department would proceed with the following tasks: 1) finalize and distribute the black bear policy; 2) revisit the MOU and its roles and responsibilities; 3) reconstruct records of the seven bear cubs released into the wild after rehabilitated; 4) evaluate criteria for success; 5) identify tools and equipment needed for better evaluating success; and 6) accept a proposal to establish a rehabilitation center in California.

Commissioner Chrisman asked Mr. Mansfield for a time frame for the above list and a progress report. Deputy Director Mansfield indicated the Department could provide a progress report at the Commission's next meeting and indicated that the policy would be finalized and distributed this month.

Alan Berger commented that rehabilitation of bear cubs was not an experimental program and felt the information the Department provided at the February 1 meeting was incomplete.

Since the Commission would not have a quorum for its next meeting, this item is to be agendaized for the Commission's April meeting in Sacramento for a progress report.

9. REQUEST OF CALIFORNIANS FOR FERRET LEGALIZATION FOR COMMISSION CONSIDERATION TO AMEND SECTION 671, TITLE 14, CCR, REGARDING THE LEGALIZATION OF FERRETS. (NOTE: This item is scheduled to begin at 1:30 p.m.)

Summary of Issue

Ferrets have been prohibited in California since 1933 by both statute and Commission regulation. The ferret is listed as a detrimental species because of its potential threat to public health and safety, agricultural interests of the State and California's native species. Ferrets are aggressive hunters and, in places such as New Zealand, have caused problems to ground nesting birds. They would also compete with our native mustelids. In previous discussions regarding the legalization issue, the prohibition of ferrets in California has been supported by the Department of Food and Agriculture and Department of Health Services, as well as numerous sportsmen's groups, environmental groups, humane societies and animal rights activists.

Numerous groups have been trying to get ferrets legalized in California for a number of years. Legislation has been introduced since about 1993 to legalize ferrets in California; however, each time, that legislation has failed. The Californians for Ferret Legalization is requesting an opportunity to brief the Commission on why it feels ferrets should be legalized in California and to request that the Commission change its historic position on ferrets and to amend Section 671, Title 14, CCR, to legally allow ferrets in California.

The California Domestic Ferret Association (CDFA) brought this issue to the Commission in 1995-96. The Commission, on a 3-2 vote, decided to publish notice of its intent to consider amending Section 671. At its November 8, 1996, meeting, the Commission's legal counsel indicated that he was not certain the Commission had clear authority to remove ferrets from the list of prohibited species. He suggested that the statute be clarified. Based on its legal counsel's opinion, the Commission took no action on CDFA's request. Marshall Farms sued the Commission in the San Diego Municipal Court. The Court ruled that the Commission had the authority to remove ferrets from the prohibited species list and directed it to do so. The Commission appealed that decision. The Court of Appeals ruled that the Superior Court was correct that the Commission had the authority, but that the Court could not mandate the Commission to take the action; i.e., the Commission has discretionary power on whether or not to utilize that authority.

This agenda item can be used for informational purposes only. The Commission has the option of requesting further information from the Department, other State and Federal Agencies, various organizations, the scientific community, and/or it could schedule a future hearing on the issue to decide if the Commission wanted to amend Section 671, Title 14, CCR.

Californians for Ferret Legalization requests Commission consideration to amend Section 671, Title 14, CCR, regarding the legalization of ferrets. In a letter dated November 1, 1999, Mr. Floyd L. Carley provides the following information:

"This will confirm our conversation this morning regarding our appearance before the California Fish and Game Commission on the matter of legalizing the domestic ferret in California. You have indicated that we are confirmed for the February 3 meeting in Long Beach--thank you. I expect that our side will require a little over an hour for our presentation, since there is quite a bit to cover.

"We will be asking the Commission to determine that the domestic ferret is not a wild animal and that it is normally domesticated in the state of California.

"We will be providing each commissioner with a large amount of material, which should be delivered to them a few weeks before the meeting. Since there have been many changes in the composition of the Commission since our meetings back in 1995, I would appreciate receiving a list of the names of the present commissioners (and the address to which this material should be sent)."

A 355-page exhibit provided by Mr. Carley was previously supplied to the Commissioners and the Department for evaluation. Commissioners were provided with copies of two reports from the New Zealand Department of Conservation regarding ferrets.

Action

Executive Director Treanor summarized the issue and provided background information.

Deputy Attorney General Christison provided additional background information on this issue and described the definition of a wild animal and a domestic animal. He then described the powers and authorities of the Commission.

Floyd Carley requested the Commission make a determination that domestic ferrets are not wild animals, they are domesticated in California; and therefore, requested legalization. He commented that ferrets are not wild animals, stray (escaped) ferrets have a short life expectancy and do not breed in the wild, and ferrets do not prey on poultry and waterfowl.

Executive Director Treanor pointed out that letters were received from the National Audubon Society, The Wildlife Society-Western Section, and California Waterfowl Association opposing the legalization of ferrets and letters of support for legalization were received from Scott Sinclair and Brian Smith.

Jeanne Carley commented that there was more than one organization requesting the legalization of ferrets. She provided the following comments: 1) ferrets should be considered the same as dogs and cats; 2) people who own a ferret cannot move into California and bring that ferret(s) with them; 3) described why ferrets are a joy to own; 4) ferrets are not a threat to native wildlife; 5) ferrets do not belong on a list of prohibited wildlife; and 6) are a companion animal and increase life of the elderly.

The following persons spoke in support of the legalization of ferrets: Dr. Kristian Fisher, Misti Pitts, Dennis Feil, Joan Hogentogler, Ann Arnold, Claudia Trefzger, Don Hunt, Iona Maggard, and Lester Rickman. The main points covered were:

1. Ferrets are very common in California and pet supplies are readily available at pet stores.
2. Ferrets are not treated in a timely manner by veterinarians because people do not want to admit they have them.
3. They are companion animals for people with chronic diseases.
4. Why can't a permit be issued for a ferret.
5. It's an unfair law to prohibit ferrets, as they are not a threat to native wildlife.
6. Few incidents of stray ferrets.
7. Ferrets do not bite.
8. There is now a ferret rabies vaccine.
9. Ferrets are the most environmentally safe animal.
10. No basis to maintain the existing ban of ferrets in California.
11. Ferrets are the third most popular house pet.
12. Ferrets are legal in 48 states; not legal in California and Hawaii.
13. Ferrets can not survive in the wild.

Virginia Handley requested the Commission evaluate different options. She provided the following comments: opposed massive breeding for retail purposes and sale in pet shops; all ferrets should be spayed and neutered; and to adopt a grandfather clause to permit ferrets that are already in California.

Bill Gaines strongly opposed the legalization of ferrets as pets in California. He provided the following comments: potential increase in waterfowl predation if ferrets were legalized; several cities and counties in other states prohibit ferrets even though they are "legal" in those states; cannot compare black-footed ferrets with ferrets being discussed today because they have different habitat requirements; 800,000 ferrets nationwide; Ducks Unlimited opposes the legalization of ferrets; need for scientific documentation; and strongly suggested postponing any decisions to the Commission's April meeting in Sacramento. He commented that CEQA documentation would be required if ferrets were to be removed from the list of prohibited species.

Deputy Director Mansfield provided a brief summary of the Department's position and suggested the issue warranted further consideration and suggested the Commission's April 6, 2000, meeting.

Commissioners Chrisman and Thieriot both indicated that additional time was needed to review additional scientific information.

Commissioner Schuchat commented on two relevant questions: 1) what is the risk to California's wildlife if status quo was changed; and 2) what is the policy implications to other animals also on the list of prohibited species.

It was then:

MOVED BY MR. THIERIOT, SECONDED BY MR. SCHUCHAT, THAT
THE FISH AND GAME COMMISSION HEREBY POSTPONES ACTION ON THE
REQUEST OF CALIFORNIANS FOR FERRET LEGALIZATION FOR THE
COMMISSION TO CONSIDER AN AMENDMENT OF SECTION 671, TITLE 14, CCR;
RE: THE LEGALIZATION OF FERRETS UNTIL THE COMMISSION'S APRIL 2000
MEETING.

PASSED UNANIMOUSLY.

10. STATUS REPORT ON THE PENDING FEDERAL CONSERVATION AND
REINVESTMENT ACT (CARA) LEGISLATION.

Summary of Issue

Historically, funding for nongame conservation programs has been insufficient or nonexistent. These programs could help to prevent species from being listed as threatened or endangered. The needs in the states for comprehensive wildlife conservation, conservation education and wildlife-associated recreation programs are estimated by the International Association of Fish and Wildlife Agencies (IAFWA) to total one billion dollars annually.

For several years, the IAFWA looked at a program that would tax certain outdoor recreational products to provide funding for state programs. The new program was called "Teaming with Wildlife" and would have provided funding to the states through a similar method as existing Pittman-Robertson (Wildlife Restoration Act) and Wallop-Breaux (Sport Fish Restoration Act). This proposal met with lukewarm success as most Congressmen and Senators did not want to vote for a tax bill, even though it was a user tax.

In 1998, a change in a funding source was pursued. This gave birth to the Conservation and Reinvestment Act (CARA) which would provide nongame species funding. Funding would come from oil and gas revenues from the Outer Continental Shelf Fund's Land and Water Conservation Fund (Title III). This legislation has gained broad bipartisan support.

Commissioners were provided with updated information on CARA. The Department will be prepared to provide further details at the meeting. The Commission may want to discuss the pros and cons of supporting this type of legislation and if it wants to send a letter to Congress regarding the upcoming House Floor vote.

Action

Deputy Director Brazil provided an update on the pending federal Conservation and Reinvestment Act (CARA) legislation. At the Department's request, the Commission agreed to send a letter to the California Congressional Delegation in support of the concepts embodied in H.R. 701.

Bill Gaines indicated that the California Waterfowl Association would assist the Commission and the Department of Fish and Game in working to get CARA passed.

11. RECEIPT OF DEPARTMENT LEGISLATIVE REPORT.

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 provide a copy of its report at the meeting and will be prepared to discuss its Legislative Report and respond to any questions the Commission may have at that time.

Action

Julie Oltmann reported on the following bills: SB 291-Chesbro, California Coastal Salmon Conservation; SB 241-Alpert, Decommissioned Oil Platforms and Production, major policy bill; AB 238-Honda, Importation of Bullfrogs and Turtles, passed the Assembly; AB 854-Cunneen, Wild Animals-domestic ferrets, bill is on suspense at the Senate Appropriations Committee; AB 717-Keeley, Timber Harvesting Plans-Watershed Areas; AB 732-Machado, Water Transfers; and AB 1741-Thomson, Water Transfers.

12. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.
- A. MANAGEMENT OF NCCP LANDS IN SOUTHERN CALIFORNIA
 - B. BUDGET UPDATE.

Summary of Issue

This item is set aside to afford the Department an opportunity to present the Commission with informational items. Commissioners were provided with a copy of the 1991-98 NCCP Report.

Action

- A. South Coast Regional Manager Raysbrook reviewed the NCCP program and the management of NCCP lands in Southern California. He commented that the Department's mission statement was to manage California's diverse fish, wildlife and plant resources and habitats on which they depend for their ecological values and for use and enjoyment by the public. He reported that the San Diego Regional NCCP comprises 580,000 acres, within it 172,000 acres were identified for conservation and management as a preserve system to protect 85 rare species and more than two dozen habitat types. Terri Stewart described the two most conspicuous properties purchased by the Department, San Felipe Valley, not within the NCCP, and Rancho Jamul, which is within the NCCP program.
- B. Peter Sakai provided a clear and concise review of the Department's budget and responded to questions from the Commissioners. Mr. Sakai reported on several significant program budget changes that are included in the Governor's proposed budget are as follows: \$18.5 million for special water projects and CalFED support; \$12.1 million for northcoast watershed assessment; \$909,000 for ballast water management program involving invasive species; \$1.2 million for miscellaneous projects; and \$1.7 million for capital outlay.

Commissioner Schuchat volunteered to serve on a Budget Subcommittee.

13. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

A. SUBCOMMITTEE REPORTS.

I. MARINE SUBCOMMITTEE.

B. STAFF REPORTS.

I. REPORT ON THE MID-WINTER MEETING OF THE WESTERN
ASSOCIATION OF FISH AND WILDLIFE AGENCIES MEETING IN
TUCSON, ARIZONA.

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.

Commissioner Chrisman and Executive Director Treanor will present a report on the January 7-9, 2000, mid-winter WAFWA meeting held in Tucson. Commissioner Chrisman will also report on the February 2 Marine Subcommittee meeting.

Action

- A. Commissioner Chrisman reported on the recent Marine Subcommittee meeting and the following topics were discussed: update on the Marine Life Management Act and its implementation, nearshore fisheries management options, impacts of squid light boats on nesting birds, status report on reports due to the Legislature, Restricted Access Policy Team (RAPT), spot prawn regulations, and salmon and sea urchin regulations.

Patty Wolf spoke about the use of ad hoc teams for marine items within the Marine Region.

Paul Weakland commented on the three year moratorium on abalone and the need for completion of the fishery management plan and environmental document.

- B. Commissioner Chrisman requested this item be put over to the March meeting.

14. 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.

Action

Rod McInnis, National Marine Fisheries Service, thanked the Department and the Commission for their efforts and leadership on dealing with the groundfish fisheries. Mr. McInnis pointed out that NMFS was reconsidering not to list steelhead in northern

California and the decision to be announced in the next few days. He urged the Commission's participation to attend the Board of Forestry meeting on March 14 when they will be considering changes in the Forest Practice Rules.

15. 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.

Action

There were no legal counsel informational items.

There being no further business, the meeting recessed at 6:50 p.m. to reconvene in Executive Session.

EXECUTIVE SESSION
FEBRUARY 3, 2000

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 MET IN CLOSED EXECUTIVE SESSION AT 6:50 P.M. THE PURPOSE OF THIS EXECUTIVE SESSION IS TO CONSIDER:

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

- I. WILLIAM WILLIAMSON vs. CITY OF MONTEREY; RE: CITY OF MONTEREY KELP HARVESTING ORDINANCE NO. 3242, FISH AND GAME COMMISSION NAMED AS REAL PARTY IN INTEREST.
- II. JEFFREY LEE COX vs. FISH AND GAME COMMISSION; RE: REVOCATION OF COMMERCIAL FISHING LICENSE PRIVILEGES.
- III. TERRENCE MINES vs. FISH AND GAME COMMISSION; RE: DENIAL OF COMMERCIAL LOBSTER OPERATOR'S PERMIT.
- IV. DENNIS STURGELL vs. FISH AND GAME COMMISSION; RE: DENIAL OF COMMERCIAL DUNGENESS CRAB VESSEL PERMIT.

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. JOEL BECKMAN, WHITTIER, RE: AN ANIMAL CARE PERMIT FOR TWO CAIMANS. APPROVED PERMIT.
- II. THONG MA CHANTHA, LONG BEACH, RE: SEA URCHIN DIVING PERMIT. DENIED PERMIT.
- III. HUNG K. LE, MIDWAY CITY, RE: LOBSTER OPERATOR'S PERMIT. PUT OVER.
- IV. ANTONIO NOTO, MONTEREY, RE: MARKET SQUID VESSEL PERMIT. APPROVED RENEWAL, PLUS APPROPRIATE LATE AND BACK FEES.
- V. MARK K. NYLEN, REDONDO BEACH, RE: COMMERCIAL SEA CUCUMBER PERMIT. DENIED APPLICATION.
- VI. NHON VAN TRAN, LOS ANGELES, RE: SUSPENSION OF COMMERCIAL FISHING LICENSE. DID NOT APPEAR; COMMERCIAL FISHING LICENSE SUSPENDED FOR TWO YEARS.

Persons present:

FISH AND GAME COMMISSION

Richard Thieriot
Mike Chrisman
Sam Schuchat

President
Vice President
Member

COMMISSION STAFF

Robert R. Treanor
John M. Duffy
Sandy J. Daniel

Executive Director
Assistant Executive Director
Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Randall Christison

Deputy Attorney General

The Executive Session was adjourned at 7:00 p.m.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of February 3-4, 2000

Pursuant to the call of the President, the Commission met in the City Council Chambers, 333 W. Ocean Boulevard, Long Beach, California, on February 4, 2000. The meeting was called to order at 8:35 a.m. by President Chrisman.

Persons present:

FISH AND GAME COMMISSION

Mike Chrisman	President
Sam Schuchat	Vice President
Richard Thieriot	Member

COMMISSION STAFF

Robert R. Treanor	Executive Director
John M. Duffy	Assistant Executive Director
Sandy J. Daniel	Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Randall Christison	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Dirk Brazil	Deputy Director, Community Relations and Partnerships
Terry Mansfield	Deputy Director, Wildlife and Inland Fisheries
LB Boydston	Intergovernmental Affairs Office
Patty Wolf	Marine Region
Rob Collins	Marine Region
Marija Vojkovich	Marine Region
Paul Reilly	Marine Region
John Gustafson	Habitat Conservation Planning Branch
Sonke Mastrup	Wildlife Programs Branch

The following persons were also present and heard:

Mike McCorkle	So. California Trawlers Association
Nick Edwards	Coos Bay Trawlers Association
August Felando	Proctor In Admiralty
Karen Garrison	Natural Resources Defense Council
Tim Maricich	Commercial Fisherman
John Guth	Lobster Trap Fishermen
Tom Raftican	United Anglers of So. California

Jon Goudeau
David Richardson
Steve Moore
Gordon Fox
Vince Doyle
John Oakes
Chris Miller
Mark Powell
Zeke Grader
Tony West
Carl Benz
William McIver
Don Brockman
Tim Athens

Vanessa DeLuca
James Slevin
William Hargrave
Richard Ashley
Nick Jurlin
Kevin Ellison
Bryan Riley
Ed Mathews
Robert Machado
Sandy Delano
John Birgel
Joe Alfieri
Gray Hartley
Neil Guglielmo
Michael McLenaghan
Sam Mello
Robert Day
Sean Hastings
Gene Kramer
Daniel Platt
Jim Bassler
Terry Wilmarth
Chris Hoeflinger
Dr. J. Rod McGinnis
Frances Poole
Wayne Raupe
Howard Wilson
Kurt Casto
Virginia Handley
Bill Gross

Commercial Fisherman
Environmental Defense Fund
Patriot Sportfishing
Commercial Fisherman
Fisherman Marketing Association
Commercial Fisherman
Santa Barbara Stakeholders Steering Committee
Center for Marine Conservation
PCFFA
Southern California Trawlers Association
U.S. Fish and Wildlife Service
Seabird Biologists
Squid Fisherman
Outer Banks Commercial Fisheries/ California
Squid Industry
State Fish Co.
State Fish Co.
Squid Fisherman
Squid Fisherman
Commercial Fisherman
Squid, Inc.
Squid Fisherman
Squid Fisherman
Squid Fisherman
Ventura Port District
Squid Fisherman
Squid Fisherman
Squid Fisherman
Squid Fisherman
Squid Fisherman
Squid Fisherman
Channel Islands National Marine Sanctuary
Abalone and Marine Resources Council
Nearshore Fisherman/Salmon Trollers Assoc.
Nearshore Fisherman/Salmon Trollers Assoc.
Commercial Fisherman
Nearshore Fisherman
California Bowman Hunters/State Archery Assn.
Ca. Houndsmen for Conservation
Ca. Bowman Hunters
So. California Houndsmen
So. California Houndsmen
The Fund for Animals
Sportsman

President Chrisman introduced members of the Commission, its staff, Directorate and Randall Christison of the Attorney General's Office.

16. 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.

Action

Deputy Attorney General Christison reported that in the case of Cox v. Fish and Game Commission, the Commission's decision was upheld by the Superior Court.

Deputy Attorney General Christison reported that the Commission accepted his proposed decisions on the following license and permit items:

- Antonio Noto-granted renewal of market squid vessel permit.
- Nhon Van Tran-suspended commercial fishing license for two years.
- Joel Beckman-approved animal care permit for two caimans.
- Mark Nylen-denied application for commercial sea cucumber permit.
- Thong Ma Chantha-denied sea urchin diving permit.
- Hung K. Le-held over to receive further information from Mr. Le.

17. CONSIDERATION OF ADOPTION OF PROPOSED CHANGES TO SECTIONS 120.3 AND 180.1, TITLE 14, CCR, REGARDING COMMERCIAL SPOT PRAWN FISHERY AND PROPOSED SECTIONS 120.4 AND 180.3, TO ESTABLISH CONTROL DATES FOR RESTRICTED ACCESS FOR SPOT PRAWN TRAP AND SPOT, RIDGEBACK, AND GOLDEN PRAWN TRAWL PERMITS.

Summary of Issue

At the Commission's February 4, 1999, meeting, Mr. John Aliotti testified during the Public Forum agenda item and expressed concerns with commercial trawlers fishing in District 17 for spot prawns utilizing a small mesh size for prawns. He stated that these trawlers were taking large numbers of small rockcod, sandabs, petrali sole, etc., which were thrown overboard as unwanted bycatch. Trawling for groundfish species required a larger mesh size, but when trawling for spot prawns, the fishermen could use a smaller mesh size which allowed for large numbers of small fish being caught and discarded. At that time, the Department indicated it would investigate the problem and report its findings at the May Commission meeting.

The Department's May report recommended the following management options for consideration by the Commission. They are not listed in any particular order.

- "1. Limited entry trawl fishery: The Commission's new Restricted Access Policy would be followed.
- "2. Roller size restrictions on trawl nets: Limit footrope rollers to a maximum of nine-inch diameter.
- "3. Bycatch reduction device: Require use of a bycatch reduction device, such as a fish excluder, in all spot prawn trawl nets.
- "4. Seasonal closure north of Point Arguello from November 1 through March 31 for all prawn trawling (This is the primary egg-bearing season and is also the closed period for pink shrimp trawling).
- "5. Limit maximum number of traps per boat to 300 statewide (Only about 10 percent of southern California trap boats use more than this at present).
- "6. Increase trawl permit fee from \$30 to \$285, same as pink shrimp trawl.
- "7. Observer program. Devise and implement an industry-funded observer program to obtain statistically reliable information on bycatch and discards."

At the Commission's August 6, 1999, meeting, it received the Department's recommendations, authorized its staff to publish notice of Commission intent to adopt regulations to establish 'control' dates for restricted access for spot prawn trap and trawl permits; as well as received public comments on the proposals. This action regarding the 'control' dates is pursuant to the Commission's recent policy on restricted access for commercial fisheries.

The Department's proposal can be summarized as follows:

"Eleven options for regulation of the spot prawn fishery are presented for consideration by the Fish and Game Commission, and the pros and cons discussed. They are:

- "1. Establish a limited entry fishery for spot prawn trawling.
- "2. Establish a limited entry fishery for spot prawn trapping.
- "3a. Establish a seasonal closure north of Point Arguello from November 1 to March 31 for all spot prawn trawling.
- "3b. Establish a seasonal closure north of Point Arguello from November 1 to January 31 for all spot prawn trawling.
- "4. Limit footrope diameter, including all attachments (e.g. roller gear), on spot prawn trawl nets to a maximum of 12 inches.
- "5. Require the use of one or more bycatch reduction devices (BRD) in spot prawn

trawl nets.

- "6. Increase minimum mesh size to 3 inches in spot prawn trawl nets.
- "7. Limit maximum number of traps per boat to 300 north of Point Arguello.
- "8. Establish closed areas to spot prawn trawling.
- "9. Increase spot prawn trawl permit fee from \$30 to \$285, similar to the pink shrimp trawl permit fee.
- "10. Devise an industry-funded observer program to obtain statistically reliable information on bycatch and discards.

"The Department proposes to establish a control date of January 1, 1999, for the purpose of developing limited access spot prawn trawl and trap fisheries. Only those vessels which have made at least one spot prawn landing before this date will be considered for inclusion in the restricted access fisheries. Additional landing requirements may be required for inclusion in any restricted access fishery established for spot prawns."

The Commission was to consider adoption of the proposed amendments at its December 3, 1999, meeting. However, subsequent to the Commission's November 5, 1999, meeting in San Diego, the Department decided to recommend additional changes in its original proposal. Therefore, at its December 3, 1999, meeting, the Commission received the Department's proposed amendments and received public testimony. These changes were legally noticed. This item is scheduled to adopt the changes to sections 120.3 and 180.1, Title 14, CCR, and to adopt new sections 120.4 and 180.3, Title 14, CCR.

The Department's current proposal, dated January 12, 2000, can be summarized as follows:

"California's commercial spot prawn regulations currently provide for a closed season for trawl and trap gear from November 1 to January 31 in the area from Point Arguello to the California-Mexico boundary. The Department had initially proposed to extend the November 1 to January 31 closed season for fishing spot prawns with trap and trawl gear to the entire state. Subsequently the Department proposed an April-June trap closure north of Point Arguello. **The Department is now proposing to extend the November 1 to January 31 closed season for fishing spot prawns with trawl gear to the entire state. The Department is proposing to establish a closed season for fishing spot prawns with trap gear from May 1 to July 31 north of Point Arguello.** Current regulations allow for a maximum of 500 traps per boat to be used in all state waters. The Department was proposing to reduce the maximum number of traps allowed per boat to 300 in all waters from Point Arguello to the California-Oregon boundary. **The Department is now proposing to reduce the maximum number of traps allowed per boat to 300 only within three miles of shore in the area from Point Arguello to the California-Oregon boundary. This trap allowance will be**

included within the maximum number of traps used by any vessel in all waters, which will remain at 500.

"The Department is proposing to require the use of a finfish excluder device with a minimum surface area of thirty-six square inches, to be used in all spot prawn trawl nets, unless a double-walled cod end with a minimum mesh size of three inches is used.

"Not more than 1,000 pounds of any fish caught incidentally with shrimp or prawns may be possessed on any boat operating under a permit as provided in these regulations. Within this 1,000-pound limit, as of June 1, 1999, federal groundfish regulations prohibit possession of more than 300 pounds of federally-managed groundfish species. In addition, pounds of groundfish bycatch landed cannot exceed pounds of spot prawns landed, except spiny dogfish landings may exceed the amount of spot prawns landed.

"Current regulations require that each spot prawn trawl vessel must possess a \$30 trawl permit, and every person who takes or assists in the taking of animals with traps to possess a \$35 trap permit. Under the proposed regulations, spot prawns may be landed only by vessels showing proof of payment of a \$250 observer fee. The Department proposes to establish this fee for a period of one year. The fee will be used to fund Department onboard observers to obtain bycatch information on spot prawn trawl and trap vessels.

"The Department proposes to establish a control date of January 1, 1999 for the purpose of developing restricted access spot, ridgeback, and golden prawn trawl and trap fisheries. Only those vessels which have made at least one spot, ridgeback, or golden prawn landing with trawl gear before this date may be considered for inclusion in the restricted access trawl fishery. Only those vessels which have made at least one spot prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery. Additional landings will likely be required for consideration of inclusion in the restricted access fisheries.

"An option is to establish a control date of June 17, 1999 for the purpose of developing restricted access spot, ridgeback, and golden prawn trawl and trap fisheries. This option is based on public comments that this date is the first time the public was notified of the possibility of the fishery becoming restricted access. However, it is important to note that the Commission's Restricted Access Policy states 'Fishery qualification can be based upon fishery participation during a period of time preceding notification of intent.'

"The Commission has directed the Department to consider two additional proposed regulatory changes:

- "1) Footrope, including any attachment, with diameter greater than [8 to 14 inches] would be prohibited on all prawn trawl nets.

- "2) All prawn trawl nets would be phased out during the permit years April 1, 2002 to March 31, 2004. After March 31, 2004, the use of trawl nets would be prohibited in all prawn fisheries. Those prawn trawl fishermen possessing proposed Restricted Access Prawn Trawl Permits as of April 1, 2002 will be allowed to convert their Restricted Access Prawn Trawl Permits into restricted Access Prawn Trap Permits during the period April 1, 2002 to March 31, 2004.

"An option is for the phase out to be completed during the permit year April 1, 2002 to March 31, 2003. After March 31, 2003, the use of trawl nets would be prohibited in all prawn fisheries. Those prawn trawl fishermen possessing proposed Restricted Access Prawn Trawl Permits as of April 1, 2002 will be allowed to convert their Restricted Access Prawn Trawl Permits into restricted Access Prawn Trap Permits during the period April 1, 2002 to March 31, 2003."

Commissioners were provided with a copy of the Department's Initial Statement of Reasons and Pre-adoption Statement with the text of the regulations in strikeout/underline format, as well as letters from Nick Edwards, Paul Daniels and the Southern California Trawlers Association.

Mr. Pete Leipzig of the Fishermen's Marketing Association provides the following information:

"The Fishermen's Marketing Association represents commercial groundfish and shrimp trawl fishermen in California, Oregon, and Washington. Several of our members also trawl for Spot prawns.

"I would like to offer the following comments for consideration by the Commission at their February 3 - 4 meeting in Long Beach, on the topic of Spot prawn regulations.

- "1) Closed season. I believe that a common closed season in the northern section of the state of November 1 through January 31 should be imposed for both trawl and trap gear. Information provided by the Department indicated that this is the peak of the egg-bearing season. A similar closure in the southern part of the state boosted the yield from the resource. It is reasonable to establish this closure.
- "2) Finfish excluders. I have commented in the past that finfish excluders should be required in all prawn trawl nets, including those that may utilize a double walled three-inch cod-end. Finfish excluders used in combination with larger disks on the footrope are an effective bycatch reduction system.
- "3) Observer fee. I support the imposition of a fee to fund on board observers in the prawn fishery. However, I am concerned that the suggested amount of \$250 will not generate sufficient revenue to fund such a project. The value of \$250 is the amount of money that the prawn permit would need to be increased

to make it the same amount as a Pink shrimp permit. It is not based upon an analysis of the true cost of such a program. The Department should prepare an estimate of the cost of funding a dedicated Observer for a one-year period and this should be used as the basis for establishing the fee.

"4) Footrope diameter. I oppose this measure. There are several issues that need to be discussed.

"A) First, the trawl prawn fishery enjoys a large live prawn market. Live prawns bring a much higher price than dead prawns. Bycatch in the net with the prawns can damage and kill the prawns, thus bringing a much lower value. Trawlers have learned to rig their nets to minimize bycatch through a combination of larger footrope disks and finfish excluders.

"The larger disks raise the opening to [sic] the net up off of the sea floor, thus allowing animals such as flat fish and sea stars to pass under the net. Proper size and spacing of disks on the footrope is a very effective method of reducing by catch.

"B) It is true that the PFMC has adopted a regulation for the groundfish trawl fishery that limits the take of shelf and nearshore rockfish when fishing with a footrope greater than eight inches. However, the PFMC regulations do allow the use of large footropes when fishing on the continental slope, and full retention of the slope rockfish is allowed.

"The spot prawn fishery occurs on the continental slope. The data from the limited amount of observer coverage by the Department shows that the rockfish captured in prawn trawls were entirely slope rockfish. None of the 'PFMC species of concern' were taken in during these observations.

"C) The other issue mentioned in the Statement of Purpose, is the impact on benthic marine habitat. There has been no scientific study that concludes that a large footrope impacts the productivity of the marine habitat. It is true that larger disks will allow a trawl to access rougher terrain, but this is accomplished by raising the trawl opening off of the ocean floor. Larger footropes will result in reduced contact with the bottom not more contact.

"5) I am certain that it is no surprise to you or the Commission that I do not support phasing out trawling for prawns. The Statement of Purpose identifies bycatch, particularly of rockfish, as the basis of this action. I have addressed the bycatch issue above and will not repeat it here.

"This action would allow trawl permit holders to convert to trap fishing. However, one consequence would be the elimination of the Ridgeback prawn fishery. Ridgeback prawns are not taken in traps. They are caught only by trawls. Therefore, the elimination of trawl gear in the prawn fishery is not mitigated by the conversion of a trawl permit to a trap permit.

"In conclusion, I recommend:

- "1) The establishment of a common closed period for both trawl and trap gear.
- "2) That finfish excluders be required in all prawn trawls.
- "3) A sufficient, but reasonable fee, is established to fund an observer program to obtain information on incidental take in both the trawl and trap prawn fisheries.
- "4) No action be taken on restricting the size of footrope disks, and
- "5) The proposal to phase out trawling should be dropped."

Action

Executive Director Treanor summarized the item.

Paul Reilly briefly summarized the Department's proposal.

Mike McCorkle inquired if the phasing out of the prawn trawl fishery was for all species or just spot prawn. He did not support the phasing out of the spot prawn trawl fishery as the trap fishery could not be utilized for all species. He stated that the ad hoc Spot Prawn Advisory Panel was a good idea and would like to see it continue in the future.

Executive Director Treanor responded that the proposal to phase out the use of trawls was for spot prawn only.

Nick Edwards opposed the roller gear proposal. He stated that a smaller sized footrope could increase the catch of juvenile fish. He explained that the use of finfish excluders should be mandatory. He opposed the phase out of trawl gear. He supported a three-month closure of spot prawn trawling in the northern area. He also supported limited entry for spot prawn trawl fishery.

August Felando commented that the trawl fishing closed season north of Point Arguello should be February through March. He indicated that the trap fishermen would not be able to provide the needs for the entire state of California if the trawl season is closed statewide from November to the end of January. He stated that California is the only state which there is a market for live spot prawns. He was opposed to phasing out the trawl fishery because there would be adverse economic impacts to the southern California buyers, restaurateurs, customers and fishermen.

Karen Garrison expressed concerns about the increased pressure on spot prawns and whether appropriate technology use was being utilized. She indicated that the increase in spot prawn trawling may be putting additional pressure on severely depleted groundfish species. She supported the roller gear restriction. She supported an intensive evaluation and observation period, testing conservation-oriented practices, and observation of traps. She supported the observer fee proposal, but cautioned that the fee should be high enough to cover the Department's costs for the program.

Tim Maricich urged the adoption of the primary proposals recommended by the Department.

John Guth agreed with Mr. McCorkle's comments about the spot prawn ad hoc advisory committee. He supported the Department's proposals for the trap fishery. He stated that the market needs had to be considered. He supported a moratorium on new permits in the fishery while the restricted access program is developed.

Tom Raftican supported sustainable commercial fisheries with minimal bycatch and habitat degradation. He agreed that phasing out the trawl fishery needed to be considered and stated that the Commission should seriously look at the trawl fishery and if something should be phased out this should be one of the options. He noted that traps did not have the bycatch problems that trawlers do; it would be reckless to continue the trawl fishery.

Jon Goudeau supported the proposed regulations and suggested a moratorium on new permits.

David Richardson urged the adoption of the Department's proposed regulations to protect depleted rockfish species. He supported closed areas, a mandatory observer program, an increase in permit fees, mandatory fish excluders, an 8-inch diameter maximum for rollers on bottom trawling gear, establishing a control date, and a restricted access program consistent with Commission policy.

Steve Moore commented that trawling for prawns kills rockfish. He supported the conversion of trawl permits to trap permits.

Gordon Fox supported the Department's proposals. He supported observer programs; and the problems with bycatch needed to be quantified. He indicated that the 8-inch maximum footrope regulation will increase bycatch. He stated that decisions should not be made to phase out or eliminate trawl fishing or control footrope sizes until actual observations have been made.

Vince Doyle commented on the footrope restrictions—the smaller footrope diameter increases bycatch. He recommend a minimum footrope diameter of 10 inches and a maximum of 20 inches. He recommended a statewide closure from November 1 to February 1 for the trawl fishery and that the trap closure should be at a different time. He supported the proposal for fish excluders on all prawn trawl nets.

John Oakes questioned the legality and precedence of setting a retroactive control date. He stated that the control date should be the date of the first public meeting, August 5, 1999.

Chris Miller reported on the results of the Santa Barbara Stakeholders Steering Committee and suggested an adaptive policy design which would be the interim protocols from the Marine Life Management Act, a harvest strategy covered under the Restricted Access Fishing Policy's goals and objectives, and discussion of a fisheries methodology should be handled by ad hoc committees' collaborative management, cooperative research atmosphere. He suggested that the Commission develop a partnership with the American Fisheries Society with its members "filling" the conservation seat on ad hoc committees on fisheries issues.

Mark Powell supported the Department's proposed regulations. He also supported Karen Garrison's and David Richardson's comments. He supported the mandatory observer program and prohibition on spot prawn trawl gear with footrope diameter greater than 8 inches. He recommended a precautionary approach and supported a phase out of trawl nets with a negotiable date. He indicated that a study was needed in the interim to prove the impact of the trawl gear. He stated that trawls should be phased out unless they are proven to have low impact. He suggested an alternative of implementing gear performance standards and letting the participants develop gear to meet those standards. He pointed out that there was no conservation representative on the Advisory Committee and the recommendations from that committee need to be viewed in that light.

Zeke Grader recommended looking at what the Commission wants to accomplish: protection of finfish, rockfish, urchins and other fish; protection of bottom habitats; and maintaining a sustainable ridgeback and spot prawn fishery. He recommended the formalization of an advisory committee which would have direct access to the Commission. He supported finfish excluders and some sort of closures. He indicated that observations are needed to determine what size roller gear is the most effective. He stated that there was no research to justify a phase out of trawl gear. He stated that both the trawl and trap fisheries can coexist and care should be taken so that one type will not adversely affect the other.

Tony West stated that a phase out will impact other fisheries and there are better approaches. He opposed phasing out trawl gear. He supported further meetings and further development of ideas on how to address problems by all stakeholders. He recommended that the recreational fishing industry have observers as well.

Commissioner Schuchat questioned whether the proposed observer fee would be high enough to maintain an observer program which will answer all the questions that have been raised. Paul Reilly explained that the proposed \$250 observer fee was initially determined to equal the permit fee for the pink shrimp fishery. He indicated that the fee would provide for approximately 200 observer trips in which to gather information.

Karen Garrison reported on the observer fees in Alaska. She stated that higher observer fees could be beneficial to an observer program. She suggested a two-tier fee structure with different fees for the trap and trawl fisheries.

Tony West urged the Commission to go carefully. He stated that the industry is generally in support of observer programs because they provide good unbiased data. He indicated that the observers should not earn more than the captain/owner of the boat. He stated that the situation in Alaska is not comparable to the situation in California.

August Felando suggested talking to the buyers. He stated that the buyers have not been part of the process.

Pete Dupuy suggested putting an assessment across the board on all fishermen. He suggested running this through the buyers association to gather data on which boats are catching the most prawns.

Zeke Grader stated that the type of research, observer coverage and degree of observer coverage needed to be identified before the observer fee could be determined. He supported Mr. Dupuy's suggestion for an assessment. He suggested that there may be other sources available to supplement this program if it proves to be too expensive.

Commissioner Chrisman inquired about phasing out trawl gear as opposed to implementing performance standards on gear. Paul Reilly commented that the fishermen are requesting a maximum allowable bycatch for any boat and for any type of gear. He indicated that the difficulty would be enforceability; you would need 100 percent observer coverage to verify the bycatch caught, not landed, was being adhered to.

LB Boydston stated that the Pacific Fishery Management Council has developed an observer program which has been awaiting funding. He indicated that the objectives of that program can be compared to the objectives of the proposed spot prawn observer program. He stated that there are other observer programs that may provide more options on design of an observer program. He stated that the questions need to be narrowed down.

Karen Garrison clarified that her proposal for performance standards was not meant to establish maximum allowable bycatch per boat, but to determine which type of gear would be best.

Commissioner Thieriot inquired whether there are any other states which have phased out trawl gear. Paul Reilly responded that there were none to his knowledge. He then spoke about ratios of spot prawn catch vs. bycatch.

Mike McCorkle supported an observer program and indicated that some of the bycatch species were not sensitive species.

It was then:

MOVED BY MR. SCHUCHAT, SECONDED BY MR. THIERIOT, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN SECTIONS 8591, 8842 AND 9001 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SECTIONS 7700-7710.5, 8140, 8490, 8500, 8590-8595, 8842, 9000-9011 AND 9015 OF SAID CODE, HEREBY AMENDS SECTIONS 120.3 AND 180.1, TITLE 14, CCR, REGARDING COMMERCIAL SPOT PRAWN FISHERY AND ADDS SECTIONS 120.4 AND 180.3, TITLE 14, CCR, TO ESTABLISH CONTROL DATES FOR RESTRICTED ACCESS FOR SPOT PRAWN TRAP AND SPOT, RIDGEBACK, AND GOLDEN PRAWN TRAWL PERMITS. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

The Commission requested that the Department develop the observer fee program (study design) and calculate the fee necessary to cover the costs and report back at the Commission's April 7, 2000, meeting.

18. CONSIDERATION OF ADOPTION OF PROPOSED CHANGES TO SECTION 149, TITLE 14, CCR, TO CLOSE SQUID FISHING WITHIN ONE NAUTICAL MILE OF SANTA BARBARA ISLAND, ANACAPA ISLAND AND PRINCE ISLAND (OFF SAN MIGUEL ISLAND) FROM SUNSET TO SUNRISE BETWEEN FEBRUARY 1 AND AUGUST 31 TO PROTECT NESTING BROWN PELICANS.

Summary of Issue

At the Commission's December 2, 1999, meeting, it received the Department's request for Commission consideration to close squid fishing within one nautical mile of Santa Barbara Island, Anacapa Island and Prince Island (off San Miguel Island) from sunset to sunrise between February 1 and August 31 to protect nesting brown pelicans. The original request was for emergency action; however, the Department modified its recommendation and requested a normal regulatory timeline. At the December 2, 1999, meeting, the Commission received public testimony and authorized staff to publish notice of its intent to amend Section 149, Title 14, CCR. That legal notice has been published.

The Department has met with representatives from the U.S. Fish and Wildlife Service, the Channel Islands National Marine Sanctuary, and the Channel Islands National Park (CINP) in Ventura to discuss potential impacts from squid lights and fishing operations on seabird colonies at the Channel Islands. This issue was initially raised in a July 1999 letter from the American Trader Trustee Council to Director Hight.

During 1999, researchers and CINP staff observed widespread nest abandonment by brown pelicans at Anacapa Island, and disturbances affecting other seabirds (such as interrupted nocturnal behavior and increased predation) at Santa Barbara and San Miguel Islands, that were coincident with nighttime squid fishing activity and the use of high wattage lights to attract squid to the surface during fishing operations. Other potential causes of nest abandonment, such as poor food availability, are not considered to be likely by the researchers and CINP staff, since post-El Niño (La Niña) conditions were in effect and pelican productivity in Baja California has been fairly good. Brown pelicans are federally and state listed as endangered. The current status of other seabird species at these islands (Xantus' murrelets and ashy storm-petrel), though not listed, is also of concern to the state and federal agencies.

Landings data indicate that squid fishing in southern California in 1999 occurred during spring and summer, which is different than the historic squid fishing season in southern California that primarily occurs in the fall and winter. As a result, squid fishing at the Channel Islands occurred during the peak seabird nesting season. Current expectations are that La Niña conditions will persist in 2000, and that these interactions between the squid fishery and nesting seabird colonies could reoccur.

To avoid these impacts to brown pelicans in 2000, the group agreed to a proposed closure to squid fishing from February through August, from sunset to sunrise, within one mile around Anacapa Island, one mile around Santa Barbara Island, and one mile around Prince Island (off San Miguel Island). The end of the closed period may be adjusted depending on whether birds are still on nests or nesting has concluded for the season. Therefore, the Department is recommending that the Commission take action to adopt this interim regulation.

Long term management of squid fishing and seabird interactions will be addressed in the squid conservation and management plan.

This issue and the Department's recommendations have been discussed with the Squid Fishery Advisory Committee (SFAC). At their most recent meeting, the SFAC identified other measures (reduction in wattage and shields for lights) that will further address problems from squid lights, including complaints from coastal communities. Marine Region intends to pursue these measures as non-emergency interim squid regulations. Most of the SFAC understands the need for this action. The CINP and the American Trader Trustee Council will assist the Department with monitoring of the effects of this regulation.

The Department's December 1999 proposal can be summarized as follows:

"Historically, the southern California squid fishery takes place primarily during the winter months of November through March around the Channel Islands. In 1999, squid were abundantly available at Anacapa Island and Santa Barbara Island during the spring and summer, and the fishery operated in these areas at a higher level than in the past. In fact, during April, May and June, the commercial squid catch reached the highest monthly totals on record. Satellite data documenting presence or absence of light show relatively high light levels around Santa Barbara Island in April, May, and June and at Anacapa Island from January through April this year. California brown pelican breeding and nesting begins in the winter months and can continue through summer and into the fall on some of the Channel Islands. The pelican is a State and Federally listed endangered species.

"Researchers collected preliminary data this spring that indicate high nest abandonment and chick mortality for the pelicans and two nocturnal seabirds that nest on the Islands. Causes other than fishing activities are less likely as food was not an issue during this post El Niño period. It appears that the major difference this year was squid fishing activity around critical nesting sites during breeding season.

"Cause and effect has not been proven, but disorientation, increased predation, and nest abandonment has been documented in other bird species subjected to high light levels. La Niña or cold water conditions that existed during 1999 are expected to last well into next spring. If the squid show up again around the major breeding areas of the brown pelican, Xantus' murrelet, and ashy storm-petrel, the fishery would probably pursue the squid, to the possible detriment of the nearby bird colonies. The Department and federal agencies are concerned about the brown pelican population recovery as well as population levels of the Xantus' murrelet and ashy storm-petrel and are interested in avoiding any potential new interactions with these birds.

"To avoid risks to nesting brown pelicans and interactions with other seabird species of concern, the Department is recommending a limited closure to squid fishing of waters within one mile of Anacapa Island, Santa Barbara Island, and Prince Island (off San Miguel Island) in southern California. This limited closure will be from sunset to sunrise each permitted fishing day from February 1 through August 31, unless it has been determined that nesting has concluded or is prolonged.

"The Commission may choose to consider other time closures, gear modifications, or area closures to provide for a sustainable fishery and healthy ecosystem."

Department Updated Recommendation

"At its December 2, 1999, meeting, the Commission authorized staff to file notice to amend the market squid fishing regulations to protect nesting brown pelicans and other seabirds at certain California Channel Islands. As was discussed at that meeting, Federal wildlife biologists believe the lights from nearby squid fishing activities may have disrupted nesting of brown pelicans and other seabirds during 1999. They requested that the Department take action to prevent potential new impacts to these birds. The Department met recently with members of the Squid Fishery Advisory Committee (SFAC) and representatives from Federal agencies with the aim of reaching consensus on a course of regulatory action, or to clarify the preferred management options by the respective parties. Consensus was not achieved. The SFAC generally did not support closures but did favor reducing the wattage of lights, shielding lights, and considering underwater lights. The Federal agencies felt that closures are necessary to preclude any potential interactions with seabirds.

"As a result of discussions and questions raised during the recent multi-interest meeting on seabirds and the squid fishery, the Department examined data concerning availability of food for seabirds, pelican nest abandonment figures, pelican productivity numbers, and squid fishery fleet activities. In addition, Marine Region staff conducted at-sea lighting experiments with the assistance of squid fishermen. These experiments demonstrated that wattage reduction and light shields can effectively limit light that shines on the shore.

"The Department recommends that Option 2: Maximum Wattage and Option 3: Light Shields be adopted by the Commission as interim management measures for the squid fishery. After thorough consideration of available data, we are unable to determine a clear causal link between the lighting activity of the squid fishing fleet and seabird nesting disruption. Generic behavioral information, however, indicates that there may be an interaction between lights and some seabirds. Based on the results of our lighting experiments, we believe our recommendation addresses this concern. Further, the Department believes the cap on light wattage and the shielding of lights are appropriate proactive management measures that can address other concerns that have been raised about high wattage fishing lights in urban areas. The Department also recommends that research be pursued to evaluate these management options for the long-term sustainable management of the squid fishery.

"The language of Option 3: Light Shields has been modified for clarification purposes. This modification changes the language from 'shielding the lights a minimum of 50%' to now read 'shielding the entire filament of the lights'. This clarification is within the scope of the original language, which ranged from 50% shielding to the use of underwater lights."

Commissioners were provided with a copy of the Department's Initial Statement of

Reasons. The Pre-adoption Statement with the text of the regulations in ~~strikeout~~/underline format was provided at the meeting.

Action

Executive Director Treanor introduced the item and summarized the issue.

Marija Vojkovich reviewed the issue. She stated that consensus was not achieved at the Department's Squid Fishery Advisory Committee meeting. She indicated that the U.S. Fish and Wildlife Service (USFWS) recommended and supported a closure. She stated that the Department recommended maximum wattage of 30,000 W and light shields be adopted as interim management measures for the squid fishery.

Carl Benz indicated that the USFWS is not confident that the Department's proposed recommendations for maximum wattage of 30,000 W and light shields will be sufficient protection for the brown pelican nesting success. He stated that USFWS is also concerned about the other impacts from the fishery: ambient light, activity and noise from generators. He stated that Anacapa and Santa Barbara islands support the entire breeding population of brown pelicans; extensive documentation has shown that brown pelicans are very sensitive to human disturbance and the birds are already nesting. He stated that the USFWS urges the Commission to adopt a closure around the islands between February 1 and August 31. Upon questioning by the Commission, Mr. Benz indicated that there was no direct cause and effect between squid lights and reduced nesting success of brown pelicans other than this was the first year that the squid fishery lasted through the summer.

William McIver indicated that sea bird biologists are convinced that the squid fishery, as currently operating near critical sea bird colonies, is having a detrimental effect on California sea bird resources. He stated that a precautionary approach is mandated by the Marine Life Management Act. He expressed that biologists believe there is great cause for concern and great reason for caution. He noted that in 1999, biologists documented unusually low production of offspring of the brown pelicans at Anacapa Island that was well below the production at Baja California colonies and other species in the Channel Islands. He indicated that biologists also documented unusually high deaths of Xantus' murrelets at Santa Barbara Island which were three to five times above the normal levels; and that it is likely that the illumination of island habitat in nearshore waters of these critical colonies is having negative impacts on these and other sea bird species. He stated that there is evidence to substantiate these negative impacts. He urged the Commission to implement the Department's original plan to close squid fishing at important sea bird colonies at Anacapa, Santa Barbara and Prince islands from February to August 2000. He stated that the closure would have a small economic impact on the squid fishermen. He indicated that the Department's new proposed recommendations are unlikely to greatly reduce the impacts to sea birds.

Don Brockman stated that squid fishermen wish to mitigate whatever impact their activity may have been on the sea birds. He indicated that fishermen do not believe that the decline in nesting success of brown pelicans was caused by fisherman. He noted that brown pelican production is actually above the ten-year average and that brown pelicans are doing quite well throughout their range. He stated that the closure is not warranted.

August Felando stated there was clearly no evidence of take. He stated that the primary food of pelicans is anchovy and that the relationship between El Niño years and the availability of anchovy needs to be examined. He opposed the closure.

Tim Athens indicated that light shields will not protect the Xantus' murrelet and ashy storm-petrel. He stated that if a problem exists, then the Commission needs to regulate all fishing not just squid fishing. He indicated that the sea bird populations are robust and there is no problem.

John Gustafson indicated that the brown pelican population has increased since the DDT problems in the 1960s. He stated that the brown pelican population is sustaining itself and that population productivity varies from year to year.

Vanessa DeLuca stated that the proposed basis for the proposed closure is unsubstantiated allegations. She indicated that there is no scientific nor anecdotal evidence to support the claim that lights from fishing vessels or light boats are the cause of the increase in brown pelican chick carcasses found this past summer. She indicated that rodent infestation, competition from other species, pollution, and changes in climate need to also be addressed. She opposed the closure. She supported adoption of the Department's proposals.

James Slevin stated that there is no scientific evidence that the species is impacted.

Karen Garrison stated that there is no true sanctuary for fish in the ocean. She supported light wattage restrictions and shielding as interim measures. She expressed concern that these measures may not be enough and that underwater lights should be tested as a long-term solution.

Zeke Grader stated that it is unknown if the lights are the cause of brown pelican nest abandonment. He supported the Department's recommendation for wattage restrictions and light shields. He stated that further action can be taken, if necessary. He indicated that there is no reason for a closure.

William Hargrave stated that he has observed brown pelicans breeding on the breakwater between Long Beach and San Pedro where there is a great amount of light and noise. He suggested that a survey be made on how noise and lights affect the birds at this location.

Richard Ashley explained about fishing experiences at Santa Barbara Island. He said he is unable to fish inside 20 fathoms because there is too much kelp. He stated that he mostly has to stay 1.5 nautical miles from the island.

Nick Jurlin stated that nothing has changed at the Islands; the brown pelicans will follow their food source; studies need to be done.

Kevin Ellison spoke about the breeding populations of the brown pelican. He stated that he sees birds everywhere.

Bryan Riley stated that any closure needs to be based on scientific fact; fishermen are willing to try different methods; and the closure would cause significant financial impact on the fishermen and their families.

Ed Mathews stated that everyone wants to maintain the brown pelican resource as they are a benefit to fishermen; there has been a lot of discussion, but no answers; therefore, more evaluation is needed with everyone participating in the discussion.

Robert Machado opposed the closure. He stated that the increase in all sea birds in the area is attributable to fishing. He stated that he has witnessed brown pelicans nesting on jetties throughout southern California; data is incomplete and obsolete.

Sandy Delano spoke about the negative impacts of marine reserve areas on the many businesses in Ventura Harbor. She read a letter from the Harbor District into the record.

John Birgel stated that the food supply has changed around the islands and the brown pelicans follow the food supply.

Joe Alfieri spoke about recruitment in the squid fishery, and that there has been a significant decline in number of boats in the fishery since 1996.

Robert Day stated that the issue of black rats at the islands needed to be evaluated.

Gray Hartley opposed closures; there isn't any factual information; and the problems need to be identified. He stated that a closure would create a financial hardship for most fishermen.

Neil Guglielmo stated that the fishermen have already given up two days a week of squid fishing; the closure would create a significant economic loss; hundreds of brown pelicans come looking for food when he has his boat deck lights on, so maybe they do not get enough food during the day; and that commercial fisherman are tired of being labeled the "bad guys". He believed the reduced wattage and shielding would be effective.

Sean Hastings stated that the appropriate action is closure. He stated that when dealing with an endangered species, causality does not need to be proven; and that we do not have the liberty to experiment with endangered species.

It was then:

MOVED BY MR. THIERIOT, SECONDED BY MR. SCHUCHAT, THAT
THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN
SECTIONS 7701, 7708, 7923, 8026, 8420.5 AND 8425 OF THE FISH AND GAME
CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SAID SECTIONS OF
SAID CODE, HEREBY AMENDS SECTION 149, TITLE 14, CCR, TO REQUIRE LIGHT
SHIELDS AND ESTABLISH A MAXIMUM LIGHT WATTAGE FOR SQUID LIGHT
BOATS AS FOLLOWS:

Subsections (c) and (d) are added to Section 149, Title 14, CCR, to read:

(c) Maximum Wattage. Each vessel fishing for squid or lighting for squid will utilize a total of no more than 30,000 watts of lights to attract squid at any time.

(d) Light Shields. Each vessel fishing for squid or lighting for squid will reduce the light scatter of its fishing operations by shielding the entire filament of each light used to attract squid and orienting the illumination directly downward, or providing for the illumination to be completely below the surface of the water.

PASSED UNANIMOUSLY.

Commissioner Schuchat then requested that the Department work with the federal agencies and report back in one year.

19. RECEIPT OF DEPARTMENT RECOMMENDATIONS REGARDING INTERIM REGULATIONS, INCLUDING ESTABLISHING RESTRICTED ACCESS CONTROL DATES, FOR THE NEARSHORE COMMERCIAL FISHERY.

Summary of Issue

The Commission, at its August 27, 1999, meeting, authorized its staff to publish notice of its intent to adopt interim regulations for the nearshore commercial fishery. The Department has been meeting with interested individuals to discuss possible alternatives and is now prepared to provide the Commission with a list of options it may wish to consider for the nearshore commercial fishery.

As the Commission may recall during discussion of the sport fishing regulations, many individuals suggested that the Commission also adopt regulations for the nearshore commercial fishery to provide additional protection for the rockfish populations. Commissioners were provided with some of the written proposals.

The Commission will need to determine which alternatives it would like to notice for public review and comment, when it would like to consider adoption of the proposals and if it would like to schedule some public meetings along the coast. To allow for more opportunities for the public to comment on the draft regulations, the Commission may wish to schedule a series of special meetings to solicit the public input. Possible locations could be: Santa Rosa, Monterey, Morro Bay, Santa Barbara, Long Beach or San Diego.

Department Recommendation

"The following list of options was put forward by recreational and commercial fishermen and conservation organizations in discussions with Marine Region staff. We present them here for further discussion at the Commission meeting.

1. Ban the sale of live finfish in California.

2. Close all ocean waters within one mile of shore to commercial fishing.
3. Limit commercial fishing within one mile of shore to rod and reel only, two poles per person.
4. Limit the number of Nearshore permits (restricted access).
5. Require all live finfish to be tagged and weighed before being transported on land.
6. Limit Nearshore permits to a specified geographic area with no more than a certain number of permits allowed in each area.
7. Reduce the area of the coast available for commercial fishing (no take areas).
8. Ban "Stick" fishing gear.
9. Further limit the number of traps or fishing lines which may be used by Nearshore fishermen (now 50 traps and 150 hooks).
10. Limit fishing to weekdays only for the entire California coast (now only off of Sonoma, Marin, San Francisco and San Mateo Counties).
11. Require all Nearshore fishing vessels and vehicles transporting live fish to be clearly marked.
12. Limit Nearshore commercial fisherman to sport daily bag limits.
13. Ban the commercial take of blue, black, yellowtail and canary rockfish.
14. Reduce the allowable harvest of live fish to one-half the amount reported in 1999 as a precautionary measure.
15. Extend the Federal groundfish open-access fishery bimonthly landing limits of 550 pounds to all Nearshore and live fishery species.
16. Allow for the use of baited finfish traps during nighttime hours in the area north of Point Arguello (prohibited at Section 9001.7, Fish and Game Code).

"The Department is recommending that the Commission proceed with implementing restricted access in the Nearshore fishery. We recommend that only persons possessing a valid Nearshore Fishing Permit as of September 30, 1999, and who have made at least one landing in their name during the period April 1, 1999, through September 30, 1999, may be considered for inclusion in a restricted-access Nearshore fishery. Additional conditions for participation may ultimately be required by the Commission under restricted access regulations, to be considered at a future date. Marine Region staff will work with Commission staff in filing an Initial Statement to

establish a control date in the Nearshore commercial fishery.

"Mr. Rob Collins will be available at the Commission meeting to discuss the restricted access proposal, in addition to the other possible options. Marine Region does not recommend filing notice to adopt any of the other options until public meetings can be held at local ports to discuss these and other possible options."

Action

Rob Collins explained the current regulations for the fishery and then provided a review of the Department's options. Mr. Collins suggested a control date of September 30, 1999, with the requirement that permittees who had permits prior to that date must also have made at least one landing in their name during the period April 1, 1999, through September 30, 1999. Mr. Collins highlighted four options on which the Department would gather additional public comments and report back to the Commission within six months: size limits, gear restrictions, area closures and expanding the list of nearshore species.

Zeke Grader supported the Department moving forward on interim regulations. He provided comments on the following issues: 1) changes in size limits and expansion of species list; 2) important fishery for small boat owners, if properly regulated; 3) move immediately for a control date and suggested a moratorium on new permits; and 4) need active stakeholder participation.

Gene Kramer commented on the number of fisherman the fishery could sustainably support. He suggested a restricted fisheries to save the resource.

Daniel Platt recommended a moratorium on the issuance of new permits and believed it was crucial to do soon. He opposed setting any shore limits because it would be extremely detrimental to the nearshore commercial fishery. He commented that he thought stick gear was already illegal and recommended reviewing the size limits and number of traps for fishing lines used. He suggested more stakeholder participation.

Jim Bassler supported Mr. Grader and Mr. Platt's comments. He stressed the immediate need for an advisory panel and requested to be involved in the panel selection. He supported the control date.

August Felando emphasized that the fish buyers needed to be involved in the process.

Mark Powell, speaking on behalf of Karen Garrison, supported a limited entry program and the creation of an advisory committee.

Terry Wilmarth provided comments regarding the qualifying window period, supported stakeholder participation and requested to be involved.

Chris Hoefflinger commented it was not a gear issue, but too many fishermen. He further commented on size limits, qualifying window period, and control date.

Rob Collins noted that Ms. Marija Vojkovich would be establishing the constituent outreach program and individuals should provide her with suggested names.

It was then:

MOVED BY MR. SCHUCHAT, SECONDED BY MR. THIERIOT, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES STAFF TO PUBLISH NOTICE OF COMMISSION INTENT REGARDING INTERIM REGULATIONS, INCLUDING ESTABLISHING RESTRICTED ACCESS CONTROL DATES, MORATORIUM ON THE ISSUANCE OF NEW PERMITS, HARD RINGS IN FUNNELS, AND TO ALLOW BAITING OF TRAPS AT NIGHT NORTH OF POINT ARGUELLO. FURTHER, THE DEPARTMENT IS TO GATHER ADDITIONAL PUBLIC COMMENTS ON THE NEED TO EXPAND THE SPECIES LIST FOR NEARSHORE, SIZE LIMITS, GEAR RESTRICTIONS AND AREA CLOSURES AND REPORT BACK WITHIN SIX MONTHS.

PASSED UNANIMOUSLY.

Zeke Grader inquired if the control date in southern California would be different as the finfish trap fishery is different and has its own landing requirements.

20. RECEIPT OF DEPARTMENT STATUS REPORT ON THE CHANNEL ISLANDS MARINE ECOLOGICAL RESERVE PROPOSAL.

Summary of Issue

As background, the Commission has discussed the concept of marine managed areas (no-take areas) at several meetings during the past year. The Commission, at its March 4, 1999, meeting, heard from interested parties regarding the need for marine managed areas and a suggested timeline to develop a statewide policy as well as the proposal from the Channel Islands Marine Resource Restoration Committee to designate 20 percent of the Channel Islands National Park as no-take marine reserves.

On April 1, 1999, the Commission heard from the Department and a representative from the Channel Islands National Marine Sanctuary regarding a proposed process and timeline for the Channel Islands request.

The Commission has requested frequent status reports on the Channel Islands proposal. It has received additional reports at its June 18, August 27 and November 5, 1999, meetings. In addition, the Commission adopted its Marine Ecological Reserve Policy at its August 6, 1999, meeting in Long Beach.

This item is scheduled to receive another Department progress report.

Previous information has been provided in the following memos:

In a memo dated June 2, 1999, the Department provides the following information:

"As part of the joint State and Federal regional process to consider marine reserves at the Channel Islands, the Channel Islands National Marine Sanctuary Advisory Council (SAC) has developed a Marine Reserve Science Panel (Science Panel) and a Marine Reserve Working Group (Working Group).

"The SAC received a considerable number of nominations from highly qualified scientists interested in serving on the Science Panel. A subcommittee of the SAC reviewed the applications and recommended a group of scientists to the SAC, which approved the Science Panel as recommended at its meeting on May 20, 1999 in Santa Barbara. The Science Panel consists of 14 scientists from the University of California (UC) Santa Cruz, UC Santa Barbara, Stanford University, California State University Fullerton, the National Center for Ecological Analysis and Synthesis, the National Marine Fisheries Service-Southwest Fisheries Science Center, the National Park Service, the Department of Fish and Game, and, possibly, Scripps Institution of Oceanography. These eminent scientists bring a wealth of experience and knowledge to the Channel Islands process, including direct involvement with marine reserve concepts and issues.

"The Working Group was also established at the May SAC meeting. The 17-member Working Group consists of four conservation seats representing national, state, and local conservation interests; four extractive user seats representing commercial diving/lobster trapping, squid fishing and processing, kelp harvesting, and recreational angling; a diving seat; a marina/business seat; UC Sea Grant; and six SAC members representing the public-at-large, the National Marine Fisheries Service, the Department of Fish and Game, the National Park Service, and the Sanctuary (non-voting).

"The Science Panel and Working Group plan to meet in June or early July to begin consideration of marine reserves and develop a schedule for the process. In addition, the Channel Islands National Marine Sanctuary (Sanctuary) is hiring a professional facilitator who will assist the Working Group.

"On May 28, 1999 Sanctuary staff made a presentation to the National Research Council's (NRC) Ocean Studies Board - Committee on the Evaluation, Design, and Monitoring of Marine Reserves and Protected Areas in Monterey. The presentation highlighted the joint State and Federal process the Department and the Sanctuary are using for marine reserves at the Channel Islands, including the role of the SAC and the establishment of the Science Panel and the community-based Working Group. The NRC committee, comprised of world-renowned authorities in marine protected area management, gave resounding support for our approach. Notably, a representative from the Great Barrier Reef Park Authority, as well as several other members involved in on-going marine reserve forums in California, commended our process as the best way to address the reserve issue.

"Representatives from the Marine Region and the Sanctuary will be present at the Commission meeting to provide a report and answer any questions."

In a memo dated August 24, 1999, the Department provides the following information:

"At the Commission's June 1999 meeting in Point Reyes Station, representatives from the Department and the Channel Islands National Marine Sanctuary (CINMS) provided an update to the Commission on the joint State-Federal process for considering marine reserves at the Channel Islands. They reported on the establishment of a Marine Reserve Working Group (Working Group) and a Marine Reserve Science Panel (Science Panel).

"The Working Group, a stakeholder committee of the Sanctuary Advisory Council (Council), held its first meeting on July 7, 1999, in Santa Barbara. The meeting was facilitated by Mr. Michael Eng, a professional facilitator from the National Oceanic and Atmospheric Administration, who facilitated a similar process for reserves in Florida. Since some of the Working Group members were new to the process, this meeting focused on a review of the process to bring all members up to date.

"At its July 22, 1999, meeting in Ventura, the Council filled one of two remaining seats on the Working Group by appointing Mr. Locky Brown to the diving seat. One seat on the working group, representing marinas/business/charter boats, will be filled at the Council's next meeting in early October. The Council received reports from both the Working Group and the Science Panel on the first meetings of these two groups.

"On August 24 and 25, 1999, staff from the Department, CINMS, National Marine Fisheries Service, and Council members involved in the Working Group will meet in Santa Barbara to plan and prepare for the second meeting of the Working Group that is scheduled for September 29, 1999. They will further develop and define agencies' roles and jurisdictions, draft goals and objectives for marine reserves at the Channel Islands, roles and relationships of the working groups and advisory panels involved in the process, a plan for outreach, and a schedule for the process.

"Mr. Ed Cassano, Channel Islands National Marine Sanctuary Manager, gave a presentation to the California Coastal Commission on the process and status of the CINMS Management Plan revision and on the joint process to consider marine reserves at the Channel Islands. He also addressed the development of the CINMS Geographic Information System and its importance as support for the management plan and the reserve process. The presentation was well received, and the Coastal Commission were very interested in staying informed about the process."

Action

Patty Wolf provided the Department's update and reported that the schedule had been modified, with a final recommendation to the Commission now projected for September 2000. She described the first public hearing held on January 20, 2000, in Ventura, which resulted in a lot of good interaction and points of view shared. Ms. Wolf indicated that two additional public meetings would be scheduled. The Department will provide a status report at the Commission's April meeting.

Sean Hastings thanked the Department and the Commission for their continued support. He was also satisfied with progress to date.

21. DISCUSSION OF POLICY DIRECTION FOR THE KLAMATH RIVER FALL CHINOOK ALLOCATION FOR THE YEAR 2000.

Summary of Issue

This item is scheduled to discuss the Klamath River fall chinook salmon allocation for this year. The Department is requesting the Commission provide the Pacific Fishery Management Council (PFMC) the State's recommendation for the allocation of Klamath River fall chinook salmon to the river sport fishery. The Department will also be prepared to describe its proposed options at the meeting.

The Department provides the following information:

"The Commission is again urged to provide input to the Pacific Fishery Management Council (PFMC) regarding allocation of Klamath River fall chinook to the river sport fishery. In recent years, the Commission has allocated between 12-19 percent of the non-tribal harvest of Klamath fall chinook to the river sport fishery. Last year, the Commission recommended that the PFMC use a 15 percent allocation for analyzing ocean salmon fishery options.

"The PFMC used the Commission's 15 percent recommendation throughout the 1999 regulation process. However, the PFMC did not fully utilize the allowable catch of Klamath fall chinook in the ocean fisheries in the final regulations because of regulatory constraints required to protect endangered salmon species (i.e., Sacramento River winter chinook and Oregon coastal naturally spawning coho). As a result, the Commission was able to increase the river sport quota in the final regulations to 19 percent of the non-tribal catch.

"The Commission may wish to consider choosing one of the following options at its February meeting for final consideration at its March meeting:

- "1) Adopt a range of allocation percentages for the river sport fishery; e.g., 15-20 percent (1998 recommendation) or 12-19 percent (actual recent allocations).
- "2) Set a specific allocation figure at the February meeting; e.g., 12, 15, 17 or 20 percent.

"At your February meeting, preliminary ocean abundance projections will be available for Klamath fall chinook. These should give the Commission and the public a better feel for the level of catch that will be allowed for Klamath River fall chinook in 2000. At your March meeting, the Department will provide an assessment of the impact various river allocation percentages will have on the ocean and river fisheries.

"A policy decision, setting a specific allocation percentage, will be requested at your March 2000 meeting."

At the March meeting, the Commission will be asked to authorize its staff to publish notice of Commission intent to consider proposed changes in Section 7.50(b)(91.1), Title 14, CCR, regarding Klamath River salmon sport fishing regulations.

As it did last year, the Commission may wish to consider scheduling meetings within the Klamath River area to receive public comments once the specific proposals have been identified. Staff suggests mid-April for the meetings as it will consider adoption of the proposals at its May 4, 2000, meeting in Modesto.

Action

Note: Commissioners Thieriot and Schuchat had to leave the meeting at this time.

Executive Director Treanor summarized the item.

LB Boydstun provided a brief review of the issue and requested that the Commission consider 15 percent or a range of 15-20 percent of the non-tribal harvest of Klamath fall chinook to the river sport fishery.

Commissioner Chrisman indicated that a 15-20 percent range would be appropriate at this time.

22. RECEIPT OF RECOMMENDATIONS FOR CHANGES IN THE 2000-2002 MAMMAL HUNTING AND TRAPPING REGULATIONS.

Summary of Issue

The Commission will consider proposed changes in the 2000 Mammal Hunting and Trapping Regulations at its meetings scheduled in February, March and April 2000. The Commission will be provided with the Department's recommended changes for the 2000-2002 Mammal Hunting and Trapping Regulations at its February 4, 2000, meeting in Long Beach.

This hearing is held by the Commission under the provisions of Section 207 of the Fish and Game Code for the purpose of receiving recommendations from its own officers, the Department, other public agencies, organized groups and private citizens as to what regulation changes should be made with respect to mammals.

Under the provisions of sections 450-460 of the Fish and Game Code, special deer hunts (antlerless and either-sex) as well as hunts on military installations pursuant to sections 452 and 3453 of the Fish and Game Code will be considered at the same time and in the same manner as changes in the deer hunting regulations. The Commission is not required to hold hearings on the special deer hunt proposals. However, under the provisions of those statutes, those counties having veto power may hold, on their own, a public hearing regarding special antlerless hunts in their own counties and, by resolution, may object to or recommend modification to the Department's proposals. Such hearings must be held no later than February 1, 2000. (Note: Those hunts scheduled for military installations are not subject to county veto.)

During the receipt of recommendations, the Commission may, if it wishes, receive testimony supporting any of the recommendations. The Commission ordinarily extends this courtesy, if requested, although it is preferred that persons wait until the second meeting for presentation of arguments in support of or opposition to the proposed regulation changes. After all recommendations are received, they will be compiled and the Department's written recommendations will be mailed to the Commissioners prior to the March 3, 2000, meeting in Redding. After consideration of written and oral recommendations at the Redding meeting, the Commission will announce those regulations it intends to further consider at its April 7, 2000, meeting in Sacramento with final adoption to be considered at the Commission's April 27, 2000, teleconference meeting in Sacramento. All correspondence received by the Commission office postmarked no later than February 4, 2000, will be included in the compilation of recommendations for changes in the 2000-2002 Mammal Hunting and Trapping Regulations.

The Department's Initial Statement of Reasons and the proposed regulation changes prepared by the Department relative to its proposals are provided to the Commission. The statements and regulations mentioned above will be available to the public in the Commission office on February 4, 2000. The draft environmental documents relating to the Department's proposals will be available to the public on or before February 4, 2000. Testimony on the draft environmental documents will be accepted at the Commission's March 3, 2000, meeting. Written comments on these documents may be submitted to the Commission office until 5:00 p.m. on March 20, 2000. Written comments on the proposed regulations may be submitted to the Commission office until April 7, 2000. Testimony on the proposed regulations may be presented at Commission hearings on March 3, 2000, in Redding and on April 7, 2000, in Sacramento.

Commissioners were provided with a copy of the Department's tentative regulations for antlerless or either-sex deer hunts as submitted to the Commission on December 3, 1999, at its meeting in Sacramento and a timetable for adoption of the 2000-2002 Mammal Hunting and Trapping Regulations. The Summary of Proposed Changes in the 2000-2002 Mammal Hunting and Trapping Regulations; the Department's Initial Statement of Reasons, with the text of the regulations in ~~strikeout~~/underline format; and the Summary of Correspondence were provided to the Commissioners.

Commissioners were also provided with a packet of information from J. Rod McGinnis, California Bowmen Hunters, included as a separate folder.

Action

Executive Director Treanor introduced the item and summarized the regulatory process.

Deputy Director Mansfield briefly summarized the Department's proposed amendments.

Sonke Mastrup provided an informational report on options for the California deer tag drawing system. He stated that the Department recommended a survey of deer hunters to gather data about which deer tag drawing method they prefer. He indicated that the survey would be completed by February 2001, with possible implementation by the 2002 regulatory

cycle. He noted that the Department proposes to implement the Draw by Choice option this year, which didn't require any regulatory change.

Dr. J. Rod McGinnis recommended that changes to the tag draw system should not be implemented until the survey is completed and reviewed. Dr. McGinnis discussed how many California Bowman Hunters/State Archery Association's (CBH/SAA) proposals were submitted, accepted and rejected during the last regulatory cycle. He briefly highlighted CBH/SAA's 21 proposals, 11 of which are new proposals, 10 are being resubmitted; 8 of the proposals are for deer, 2 for pronghorn, 3 for elk, 3 for bear, 1 for bobcat, and 4 miscellaneous proposals. He stated that there has been a 50 percent increase of bowhunters in the last ten years.

Frances Poole recommended nontransferable bobcat tags be sold in packs of five with unlimited quantities per hunter (these tags would be available at locations which sell California hunting licenses); to eliminate any restriction on the number of bear tags sold; to increase the level for closing bear season to 1,750; and an exercise area with unrestricted dog numbers during deer season in the area between Highway 5 and Highway 99.

Wayne Raupe expressed concern that the public attending these meetings are doing so on their own time; felt public proposals were skimmed over; and complained about some Commissioners leaving prior to the meeting being over.

Howard Wilson expressed his concern about unlimited tag sales. He stated that by the time bear season opens in his area (southern California), 75 percent of the bear have already been taken. He requested a more equitable season, perhaps opening bear season at the same time statewide.

Kirk Casto requested a more equitable bear season as northern California has a longer season. He suggested a statewide start date for bear season, or have separate northern and southern seasons.

Virginia Handley stated she will submit her proposals in writing soon. She expressed her concern that trappers are not required to have permits because they are not selling their furs and asked where the furs are going. She indicated that there are problems with using conibear traps to trap raccoons and noted that a conibear is a quick kill trap. She proposed restrictions on conibear traps; numbers of traps; restrictions on snare traps; and restrictions on how animals can be killed once in the traps.

Bill Gross requested a copy of the Department's proposed boundary change for the archery hunts in the Los Angeles area. Deputy Director Mansfield stated that the proposed change was included in the Environmental Document and that he would provide a copy to Mr. Gross.

The following comments were received during the Public Forum Item on February 3, 2000:

Alan Berger spoke about the Proposition 4 litigation. He said he is opposed to increasing the current limit on bear tag sales and suggested reducing the number of bear tags.

Bill Gross supported archery deer hunting in Los Angeles County, antlerless hunts in the San Gabriel Mountains, as well as the proposed junior hunt and antlerless hunts.

Christopher Papouchis opposed the proposed bear hunting changes and was also opposed to selling more tags because that means more bears would be killed. He commented that the Department's procedure for counting bears was incomplete and that the conclusions were not biologically justifiable.

Executive Director Treanor again summarized the process and timeline for adoption of the regulations.

CONSENT CALENDAR

Items 23 through 28 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 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 the consent items which will be made available to the audience. One overall motion is appropriate for approval of these items.

Action

Executive Director Treanor introduced the Consent Calendar and asked if anyone in the audience wished to speak on any item. There was no response. Item #23 was removed from the consent calendar and discussed.

It was then:

MOVED BY MR. THIERIOT, SECONDED BY MR. SCHUCHAT, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS FEBRUARY 4, 2000,
CONSENT CALENDAR, ITEMS 24 THROUGH 28.

PASSED UNANIMOUSLY.

23. CONSIDERATION OF ADOPTION OF PROPOSED CHANGES TO SECTION 27.80, TITLE 14, CCR, RE: RECREATIONAL OCEAN SALMON FISHING SOUTH OF POINT ARENA.

The Commission, at its December 3, 1999, meeting in Sacramento, authorized its staff to publish notice of Commission intent to amend Section 27.80, Title 14, CCR, regarding ocean salmon fishing regulations south of Point Arena. That legal notice has been published.

The Department's proposal can be summarized as follows:

"Under the proposed regulations, the opening of the ocean salmon sportfishing season south of Point Arena, scheduled to occur during the month of March (depending on area), would be delayed approximately two weeks; the minimum size limit (general) in the fishery would be reduced from the current 24 inches to 20 inches beginning June 1; and the season south of Pigeon Point would be extended approximately three weeks. Also, the 'first-two-fish' regulation adopted in recent years during the months of July and/or August would be eliminated. This overall regulation request stems from concerns for Central Valley (CV) spring chinook salmon and the high incidence of catch-and-release, and associated high mortality, of sub-legal chinook salmon in the San Francisco and Monterey areas.

"As background, CV spring chinook were listed this year [1999] as Threatened under both the State and Federal Endangered Species acts (the Commission action took effect in February). At the recent meeting of the Pacific Fishery Management Council (Council), the National Marine Fisheries Service (NMFS) reported (in a letter from the Regional Administrators) they would not require any changes to the recreational seasons opening prior to May 1, to protect salmon stocks recently listed under the Federal Endangered Species Act (including CV spring chinook and California coastal chinook), but requested that California consider delaying the opening of the season off California to provide additional protection to CV spring chinook. The request for the delayed season opening was based on a report prepared last year by the Department for the Commission on the status of CV spring chinook (A Status Review of the Spring-run Chinook Salmon, *Oncorhynchus tshawytscha*, in the Sacramento River Drainage, June 1998). In the report, the Department noted the relatively high abundance of the stock in ocean fisheries during early season months (prior to June) and suggested that delaying the opening date could accelerate stock rebuilding (Section IX, Page 3).

"The recent NMFS letter also recommended that any future actions aimed at protecting CV winter chinook (an Endangered species under the Federal and State acts) should be implemented, as much as possible, through a delay in the season opening rather than through size limit increases.

"In the context of the recent NMFS letter, Department staff recently met with NMFS staff, recreational fishery representatives, and commercial fishery representatives to discuss ocean salmon fishery options aimed at providing additional protection to CV spring chinook and the possibility of reducing the minimum size limit for chinook in the Central California recreational fishery. The size limit issue was an important part of the

discussion because of problems that have developed off Central California stemming from the general 24-inch minimum size limit implemented in the fishery in 1996. The size limit increase was adopted to protect winter chinook, which tend to mature and leave the ocean to spawn at a relatively small size. However, the size limit change has significantly increased the incidence of sub-legal fish in the catch, particularly during summer months when age-two fall-run chinook are recruited to the fishery. The Commission has implemented gear restrictions to minimize non-retention mortality in the fishery (e.g., circle hooks, one rod per angler) but the rate is still over 30 percent of released fish. Also, a regulation has been adopted in recent years that required anglers retain the first two chinook salmon landed without regard to size during the months of July and/or August. The 'first-two-fish' regulation has drawn mixed reaction from charterboat operators and the fishermen themselves.

"At the meeting, the NMFS reported that a delay in the season opening of about two weeks would allow the minimum size limit to be reduced to 20 inches beginning June 1, if the relative levels of winter chinook mortality in the recreational and commercial fisheries remained similar to those modeled for the 1999 season. The NMFS reported that the delayed season opening would benefit CV spring chinook while the size limit change and elimination of the first-two-fish regulation would still meet the winter-run chinook jeopardy standard. Regarding the Monterey area sport fishery, NMFS reported that the season closure could be delayed about three weeks because of the normally low impact of the fishery on winter chinook during late season months. The recreational fishery representatives present at the meeting were supportive of the proposed changes and the commercial fishery representatives indicated they would support the proposed recreational fishery measures through the Commission and Council regulatory processes.

"At the Commission's December 3, 1999 meeting, three speakers, representing the recreational and commercial salmon fisheries and the NMFS, spoke in favor of the proposed regulations.

"The regulations proposed in the Initial Statement have been modified to specify that the season will open in 2001, on the Saturday nearest April 1, in the area south of Pigeon Point, and on the Saturday nearest April 15, in the area from Point Arena to Pigeon Point. The specific dates are March 31 and April 14, respectively. This modified language provides for the traditional Saturday opening date in the fishery.

"If approved, we do not anticipate any additional changes in sport fishing regulations affecting recreational salmon fisheries during 2000 south of Point Arena. Some changes may occur in fisheries north of Point Arena during the annual ocean salmon process because of concerns for coho salmon and Klamath River fall chinook. These issues will be addressed beginning in February of 2000."

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

Action

NOTE: THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR.

Executive Director Treanor introduced the item and reported that the Commissioners had been provided with copies of several letters in opposition to the proposal.

LB Boydston provided a review of the proposed regulations. He stated that these recommendations stem from the need for additional protection for Central Valley spring chinook salmon, a state and federally listed threatened species; additionally, the recommendations will reduce shaker problems associated with the current 24-inch size limit. He indicated that no opposition had been received up until a week ago. He noted that the National Marine Fisheries Service and the Golden Gate Fishermen's Association had supported this proposal at the Commission's December 3, 1999, meeting.

Steve Moore requested to speak on this item, but was not present when the item was heard. Executive Director Treanor summarized Mr. Moore's written concerns that the delayed opening would impact the Avila Beach-Morro Bay fishermen and the three-week extension of the season would not help his area fishermen because the salmon would have left the area by that time.

LB Boydston responded that the delay would shorten the southern California season and that this issue was carefully considered by Department biologists when formulating the recommendation. He stated that the impacts on endangered winter-run chinook salmon need to be at least neutral. He indicated that the technical analysis did not allow the area south of Pigeon Point to be partitioned into sub-areas, as proposed in Mr. Moore's letter.

It was then:

MOVED BY MR. SCHUCHAT, SECONDED BY MR. THIERIOT, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED IN SECTIONS 200, 202, 205, 220, 2084 AND 7891 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SECTIONS 200, 202, 205 AND 2084 OF SAID CODE, HEREBY AMENDS SECTION 27.80, TITLE 14, CCR, REGARDING RECREATIONAL OCEAN SALMON FISHING SOUTH OF POINT ARENA. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

24. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 27.80, TITLE 14, CCR, RE: RECREATIONAL OCEAN SALMON FISHING NORTH OF POINT ARENA.

Summary of Issue

This item is scheduled to receive the Department's recommendations for proposed changes in the recreational ocean salmon fishing regulations north of Point Arena. In addition, this item is for the Commission to authorize its staff to publish notice of Commission intent to consider proposed changes in Section 27.80, Title 14, CCR, regarding ocean salmon sport fishing regulations north of Point Arena.

As background, the regulatory process normally begins in February of each year with the Pacific Fishery Management Council (PFMC) adopting regulations at its April meeting. The Commission normally adopts its sport ocean salmon regulations at its April meeting.

The Department's proposal can be summarized as follows:

"The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan.

"The PFMC is expected to adopt regulation recommendations, similar to recent years, for the recreational ocean salmon fisheries in Federal waters (3 to 200 miles offshore) off the states of Washington, Oregon, and California for 2000. The various alternatives the PFMC will examine in the process of adopting the management options on March 10, 2000 for public review may include:

- "1. Minimum size of salmon that may be retained;
- "2. the number of rods anglers may use (e.g., one, two, or unlimited);
- "3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
- "4. the number of salmon that may be retained per angler-day or period of days;
- "5. allowable fishing dates and areas; and
- "6. the overall number of salmon that may be harvested, by species and area.

"The final regulation recommendations will be made by the PFMC on April 7, 2000. Upon approval of the PFMC's management recommendations by the Secretary of Commerce, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (0 to 3 miles offshore) to those agreed upon by the PFMC; otherwise preemption of State regulatory authority by the Secretary of Commerce may occur.

"The regulations covered in this proposal only apply to recreational salmon fishing north of Point Arena. Regulations south of Point Arena are being addressed in a separate regulatory action."

Commissioners were provided with a copy of the Department's Initial Statement of Reasons.

25. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 28.55, TITLE 14, CCR, RE: COWCOD POSSESSION LIMITS ON PRIVATE SPORT FISHING VESSELS.

Summary of Issue

This item is scheduled to receive the Department's recommendation to amend Section 28.55, Title 14, CCR, regarding cowcod possession limits on private sport fishing vessels, and to authorize Commission staff to publish notice of the Commission's intent to consider the proposed change. During the discussion of the sport fishing regulations, the cowcod vessel limit was discussed for all private vessels, but somehow the regulatory language limited the vessel limit to only commercial passenger vessels. This action will amend the regulation to cover all private sport fishing vessels. The Commission will consider adoption at its April 7, 2000, meeting in Sacramento.

This proposal expands the current limit of two cowcod per boat from commercial passenger fishing vessels to all sport fishing vessels off California. This action will assist in reducing the targeting of cowcod by sport anglers during efforts to rebuild cowcod stocks off California, and will conform State and Federal regulations governing the take of cowcod to improve public understanding and enforcement of the regulation.

The Department's proposal can be summarized as follows:

"California's sportfishing regulations presently provide for a daily sport bag limit of 10 rockfish per angler, (reduced from 15 fish during 1999) within the overall daily bag limit of 20 finfish in combination of all species [Sections 28.55(a) and (b), Title 14, California Code of Regulations (CCR)]. All 10 rockfish in the daily bag limit may be of the same species, except for three species of rockfish, for which the daily bag and possession limits are respectively, bocaccio rockfish, *Sebastes paucispinis*, three fish per angler, canary rockfish, *Sebastes pinniger*, three fish per angler, and cowcod, *Sebastes levis*, one fish per angler, and two fish per commercial passenger fishing vessel (CPFV or party/charter vessel) licensed pursuant to Fish and Game Code Sections 7920-7925 (Section 28.55, Title 14, CCR).

"The Department of Fish and Game is proposing to amend California's sport fishing regulations to prohibit the take of more than two cowcod per day aboard any sport fishing vessel, instead of just commercial passenger fishing vessels as the regulation presently exists. California's existing sport fishing regulation that prohibits more than two cowcod per CPFV, differs from the Federal regulation adopted in late 1999 that prohibits the take of more than two cowcod aboard any vessel in Federal waters where

most cowcod are taken. The proposed change is intended to correct an inconsistency between State and Federal regulation, and to ensure that the intended purpose of reducing directed or intentional fishing for, (targeting of) cowcod is achieved for both private boats and CPFVs. At the same time, anglers aboard private boats will continue to be able to keep one cowcod per licensed angler aboard the boat, up to a maximum of two cowcod per boat.

"This change is proposed to address concerns for the overfished status of cowcod resources off California, and to better conform to revised State and Federal policies and guidelines calling for more conservative fisheries management, allocation of management measures among recreational as well as commercial fisheries, and rebuilding of overfished stocks of fish such as cowcod."

26. RECEIPT OF ANNUAL REPORTS RE: U.S. MARINE CORPS, CAMP PENDLETON, EITHER-SEX DEER HUNT, SAN DIEGO COUNTY, AND U.S. ARMY, FORT HUNTER LIGGETT, ANTLERLESS DEER HUNT, MONTEREY COUNTY, UNDER SECTION 640, TITLE 14, CCR.
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Summary of Issue

This item is scheduled to receive the annual reports regarding the Camp Pendleton Marine Base either-sex deer hunt, San Diego County, and the U.S. Army Fort Hunter Liggett, antlerless deer hunt, Monterey County, held under the provisions of Section 640, Title 14, CCR.

Commissioners were provided with a copy of Section 640, Title 14, CCR. No action needs to be taken by the Commission at this time regarding the plans or requests as this issue is discussed in conjunction with the mammal hunting and trapping regulations considered by the Commission for any quota changes during the 2000 review of the mammal hunting and trapping regulations. Copies of the two reports and their proposals for 2000 will be provided at the meeting.

Department Recommendation

"The Department has reviewed the proposals and supports the following changes: Fort hunter Liggett proposes reestablishing Hunt G-8 (Fort Hunter Liggett antlerless deer hunt) with a season opening the second Saturday in October and extending for four consecutive weekends. Bag limit would be one antlerless deer with a tag quota of 60 (30 military and 30 general public). Camp Pendleton proposes modifying Hunt G-10 (Camp Pendleton either-sex deer hunt) by extending the season one week, adding the day after Thanksgiving, and eliminating the safety test. The Department supports the Fort Hunter Liggett and Camp Pendleton proposals and hunting programs as proposed for 2000.

"This item has been scheduled to comply with Fish and Game Code sections 3450-3453 and section 640, Title 14, California Code of Regulations, and to receive proposed recommendations for 2000-2002."

27. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT FEE TITLE OF 12 ACRES IN WIKIUP MITIGATION BANK, SONOMA COUNTY.

Summary of Issue

The Department requests that the Commission authorize the acceptance of fee title ownership to 12 acres from Wikiup Builders L.P., a California Limited Partnership. The property to be transferred to the Department is located in Sonoma County. The site contains 6 acres of created seasonal pools and a large number of oak trees. It also provides wildlife habitat for wetland species, urban tolerant species, and is used by several raptor species. Wikiup will pay all costs associated with the transaction and long term management funding in the amount of \$30,000 which will be conveyed to the Department as a condition of mitigation.

28. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT A CONSERVATION EASEMENT OF 1,378 ACRES, CAJON CREEK HABITAT CONSERVATION MANAGEMENT AREA, SAN BERNARDINO COUNTY.

Summary of Issue

The Department requests that the Commission authorize the acceptance of a conservation easement to approximately 1,378 acres located in San Bernardino County. The CalMat Company is engaged in two projects that will result in permanent and temporary impacts to chaparral habitat and Riversidian alluvial fan sage scrub habitat. These impacts are associated with the development of an industrial park and the mining of aggregate materials. As mitigation, CalMat will establish the Cajon Creek Habitat Conservation Management Area. Fee title of the subject property is currently held by CalMat, who is responsible for management of the habitat conservation area.

29. ANNOUNCEMENT OF FUTURE MEETINGS.

2000 FISH AND GAME COMMISSION MEETING SCHEDULE

DATE	LOCATION
March 2 (10:00 a.m.) March 3* (8:30 a.m.) (Discuss Mammal Hunting Recommendations)	City Council Chambers 1313 California Street Redding
April 6 (10:00 a.m.) April 7* (8:30 a.m.) (Discuss Mammal Hunting Recommendations)	Resources Building Auditorium 1416 Ninth Street Sacramento
April 27 (Teleconference) (Adopt Mammal Hunting Regulations)	Resources Building Fish and Game Commission Conference Room #1320 1416 Ninth Street, Sacramento
May 2 (TU) Joint Field Trip w/Board of Forestry May 3 (W) Joint Meeting w/Board of Forestry/Commission Field Trip May 4 (TH) (8:30 a.m.) Commission Meeting	The Pines Resort & Conference Center Cedar Room, Bass Lake Modesto Irrigation District Multipurpose Room, 2 nd Floor 1231 11 th Street, Modesto
June 15 (10:00 a.m.) (Receive Resident Game Bird and Waterfowl Hunting Recommendations) June 16 (8:30 a.m.) Joint Meeting w/Nevada	Best Western Truckee Tahoe Inn 11331 Hwy. 267, Truckee Nevada Division of Wildlife 1100 Valley Road, Reno
August 3 (10:00 a.m.) August 4 (8:30 a.m.) (Adopt Resident Game Bird Hunting Regulations and Discuss Waterfowl Hunting Recommendations)	City Hall, City Council Chambers 990 Palm Street San Luis Obispo
August 24 (10:00 a.m.) August 25 (8:30 a.m.) (Adopt Waterfowl Hunting Regulations)	Elihu Harris State Building First Floor Auditorium 1515 Clay Street Oakland
October 19 (10:00 a.m.) October 20 (8:30 a.m.)	Hubbs-Sea World Research Institute 2595 Ingraham Street San Diego
December 7 (10:00 a.m.) December 8 (8:30 a.m.)	Board of Supervisors Chambers 825 Fifth Street Eureka

* Meeting location and/or date set in Fish and Game Code.

March 24-28, 2000 - North American Wildlife Natural Resources/Chicago
April 4, 2000 - Portland/Tri State Meeting with Oregon and Washington
July 7-12, 2000-WAFWA/Redmond, Oregon
September 15-20, 2000-IAFWA/Indianapolis

There being no further business, the Fish and Game Commission meeting was adjourned at 3:00 p.m.

Section 120.3, Title 14, California Code of Regulations is amended to read:

120.3. Golden Prawn (*Penaeus Californiensis*), Spot Prawn (*Pandalus Platyceros*) and Ridgeback Prawn (*Eusicyonia Ingentis*) Trawling.

Prawns may only be taken by trawl nets for commercial purposes pursuant to sections 120 and 120.3 of these regulations, or by traps, pursuant to sections 180, 180.2, 180.5 and this section.

Permits to use or possess trawl nets for the taking of golden prawns, spot prawns and ridgeback prawns in ocean waters may be granted only under the following conditions:

(a) Qualifications of Permittee. The applicant must be a licensed commercial fisherman and operator of a currently registered commercial fishing vessel.

~~(b) Limitation of Permit. Not more than one permit shall be issued to any one person. Permits shall not be assigned or transferred from person to person.~~

~~(c) Duration of Permit. Except as otherwise provided, any permit issued pursuant to these regulations shall be valid from April 1 through March 31.~~

~~(d)~~(b) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit. (NOTE: this fee shall be charged effective April 1, 1992.)

~~(e)~~(c) Permit Area. Trawling for golden, spot and ridgeback prawns shall be permitted in waters not less than 25 fathoms in depth and lying not nearer than three nautical miles distance from the nearest point of land on the mainland shore, and from all offshore islands. Trawling shall not be conducted within District 19A which shall include a line from Malibu Point (34°01.8'N., 118°40.8'W) to Rocky Point (Palos Verdes Point) (33°46.5'N., 118°25.7'W.).

(1) Trawling Zones.

(A) Trawling Zone 1: Includes waters between the California-Oregon border and a line extending due west from False Cape (Lat. 40°31').

(B) Trawling Zone 2: Includes those waters between a line extending due west from False Cape and a line extending due west from Lopez Point (Lat. 36°).

(C) Trawling Zone 3: Includes those waters between a line extending due west from Lopez Point and a line extending due west from Point Arguello (Lat. 34°35').

(D) Trawling Zone 4: Includes those waters between a line extending due west from Point Arguello and a line extending due west from Point Dume (Lat. 34°0').

(E) Trawling Zone 5: Includes those waters lying between a line extending due west from Point Dume and the California-Mexico boundary, excluding Fish and Game Districts 19A, 19B, 20, 20A and 21.

~~(f)~~(d) Restricted Catch Period:

(1) Trawling for spot prawns in ~~Zone 4 and Zone 5~~all zones shall be subject to the incidental catch restrictions pursuant to subsection ~~(i)~~(g) from November 1 through January 31.

(2) Trawling for ridgeback prawns in all Zones shall be subject to the incidental catch restrictions pursuant to subsection ~~(i)~~(g) from June 1 through September 30.

~~(g)~~(e) Gear Specifications.

(1) Trawl nets with single-walled bag or cod-end: The mesh of any webbing shall not be less than 1 ½ inches in length.

(2) Trawl nets with double-walled bag or cod-end: The mesh of any webbing or finerliner shall not be less than 3 inches in length. The lines and cod-end shall be tied together along the rib lines.

(3) Mesh measurement. Minimum trawl mesh size requirements are met if a standard stainless steel wedge of appropriate gauge can be passed with thumb pressure only through 16 of 20 sets of two meshes each of wet mesh in the cod-end.

(4) Fish excluders. All trawl nets used to fish spot prawns must be equipped with a functional finfish excluder with a minimum surface area of thirty-six square inches unless a double-walled cod end with a minimum mesh size of three inches is used.

(h)(f) Limitation of Gear.

(1) No net, the meshes of which are less than prescribed in these regulations, may be possessed on any vessel which is operating under the provisions of a golden prawn, spot prawn or ridgeback prawn permit.

(2) All fishing gear used under the provisions of these regulations is subject to inspection and approval by the department at any time.

(3) On request, any authorized representative of the department shall be permitted to travel on the permittees boat to observe golden prawn, spot prawn or ridgeback prawn trawling operations.

(i)(g) Incidental Catch Restrictions.

(1) Not more than 1,000 pounds of any fish caught incidentally with shrimp or prawns may be possessed on any boat operating under a permit as provided in these regulations. Fisherman should refer to subsection 189(a), Title 14, CCR, for bycatch limits of federally-managed groundfish species. Any amount of sea cucumbers taken incidentally may be possessed if the owner or operator of the vessel possesses a permit to take sea cucumbers pursuant to Section 8396 of the Fish and Game Code.

(2) During the restricted catch period for ridgeback prawns, loads of fish shall not contain more than 50 pounds without restriction or 15%, by weight, of ridgeback prawns. For the purpose of this regulation, species of fish other than spot prawns shall not be included in the determination of the percentage of ridgeback prawns taken or possessed in any load of fish containing mixed species.

(3) During the restricted catch period for spot prawns, loads of fish shall not contain more than 50 pounds without restriction or 15%, by weight, of spot prawns. For the purpose of this regulation, species of fish other than ridgeback prawns shall not be included in the determination of the percentage of spot prawns taken or possessed in any load of fish containing mixed species.

(j)(h) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of his fishing activities on a form (Shrimp/Prawn Trawl Log, DFG 120 (10/89), see Appendix A) provided by the department.

(*)**(i) Conditions of Permit.** The provisions of the California Fish and Game Code relating to commercial fishing, except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction and control.

(*)**(j) Revocation of Permits.** All permits may be revoked and cancelled by the commission upon the breach or violation of any fish and game law or regulation or violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

NOTE

Authority cited: Section 8842, Fish and Game Code. Reference: Sections 8140 and 8842, Fish and Game Code.

Section 120.4 is added to Title 14, CCR, to read:

Section 120.4. Restricted Access Fishery.

A control date of January 1, 1999, is established for the purpose of developing a restricted access spot, ridgeback, and golden prawn trawl fishery. Only those vessels which have made at least one spot, ridgeback, or golden prawn landing with trawl gear before this date may be considered for inclusion in the restricted access trawl fishery.

NOTE

Authority cited: Section 8591 and 8842, Fish and Game Code. Reference: Sections 8590, 8591, 8593 and 8595, Fish and Game Code.

Section 180.1, Title 14, California Code of Regulations is amended to read:

180.1. Spot Prawn; (*Pandalus platyceros*;) Fishing.

Spot prawns may only be taken by trawl nets for commercial purposes pursuant to sections 120 and 120.3 of these regulations, or by traps, pursuant to sections 180, 180.2, 180.5 and this section.

(a) No trap may be used to take spot prawns from November 1 through January 31, between a line drawn due west from Point Arguello, Santa Barbara County and the United States - Mexico boundary. No trap may be used to take spot prawns from May 1 through July 31 (for the year 2000 May 3 through July 31) between a line drawn due west from Point Arguello, Santa Barbara County, and the California-Oregon boundary.

(1) Spot prawn traps may be set and baited no earlier than 0600 hours (6:00 a.m.) on January 31.

(2) All traps must be removed from the water prior to November 1, weather and sea conditions permitting. In the event that a ~~spot prawn trapper~~ permittee is unable to comply with this subdivision, then that person must notify the ~~Department's Wildlife Protection Office in the local area~~ nearest department office via telephone or FAX and certified mail not later than 1600 hours (4:00 p.m.) on November 1, stating the reason

for the delay and the anticipated date of trap removal. Notification does not relieve the permittee of responsibility for complying with this subdivision unless approved by the Department.

(3) All spot prawns taken in any trap during the closed season shall be immediately returned to the water and no spot prawn may be possessed aboard, or landed from, any vessel operating under authority of a spot prawn trap permit in any area during the closed season in that area.

(b) All spot prawn traps shall be made of plastic or wire mesh with a minimum inside measurement of $\frac{7}{8}$ inch by $\frac{7}{8}$ inch, such that a $\frac{7}{8}$ inch square peg passes through the mesh without stretching the mesh. (Note: Fathom Plus Traps may be used to take spot prawns.)

(c) Not more than 500 traps may be used from any vessel to take spot prawns except that not more than 300 traps may be used from any vessel to take spot prawns within three miles of the mainland shore between a line drawn due west from Point Arguello, Santa Barbara County, and the California-Oregon boundary.

(d) Each string of spot prawn traps shall be marked with a buoy bearing the commercial fishing license number issued to the owner or operator of the vessel.

NOTE

Authority cited: Section 8591, Fish and Game Code. Reference: Sections 8140, 8590-8595, 8590, 8591, 8593, 8594, 8595, 8842, 9000-9014, 9000, 9001, 9004-9008 and 9015, Fish and Game Code.

Section 180.3 is added to Title 14, CCR, to read:

Section 180.3. Restricted Access Fishery.

A control date of January 1, 1999, is established for the purpose of developing a limited access prawn trap fishery. Only those vessels which have made at least one prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery.

NOTE

Authority cited: Section 8591, Fish and Game Code. Reference: Sections 8590, 8591, 8593, 8594, 8595, 9000, 9001 and 9015, Fish and Game Code.

Section 27.80, Title 14, CCR, is amended to read:

27.80. Salmon.

(a) Methods of take:

- (1) **General Provisions.** Only by angling as defined in Section 1.05. No sinkers or weights exceeding four pounds may be used, except that a fishing line may be attached to a sinker or weight of any size if such sinker or weight is suspended by a separate line and the fishing line is released automatically by a mechanical device from the sinker or weight when any fish is hooked. See sections 1.74, 28.65 and 28.70.
- (2) **Barbless Hooks.** Only single point, single shank barbless hooks may be used to take salmon in the ocean north of Point Conception (34° 27' 00" N. lat.).
- (3) **Other Hook Restrictions.** When fishing with bait in the ocean between Horse Mountain (40° 05' 00" N. lat.) and Point Conception, if angling by any other means than trolling, then no more than two (2) single point, single shank, barbless, circle hooks shall be used. The distance between the two hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. Trolling is defined as angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. See Section 28.65.
- (4) **One Rod Restriction north of Point Conception.** Salmon may be taken by angling with no more than one rod in ocean waters north of Point Conception. See Section 28.65.

(b) Season:

- (1) **South of Pigeon Point.** All waters of the ocean south of Pigeon Point are open to salmon fishing from ~~March 13~~ April 1 through ~~October 1~~ September 6 (~~Note: In 2000, the season will open on March 18, the Saturday nearest March 15~~). (Note: In 2001, the season will open March 31, the Saturday nearest April 1).
- (2) **Between Point Arena and Pigeon Point.** All waters of the ocean between Point Arena and Pigeon Point are open to fishing from ~~March 27~~ April 15 through ~~October 29~~ 31. **EXCEPTION:** ~~The waters of the ocean inshore of a straight line drawn from Bolinas Point (Marin County) south to Duxbury Buoy, then to Channel Buoy #1, then to Channel Buoy #2, then to Point San Pedro (San Mateo County), and including all of San Francisco and San Pablo bays between the Golden Gate Bridge and the Garquinez Bridge including the entrance area from the Golden Gate Bridge to Seal Rocks to Point Bonita are closed to salmon fishing from March 27 through March 31~~ (~~Note: In 2000, the season will open on April 1~~) (Note: In 2001, the season will open April 14, the Saturday nearest April 15).
- (3) **Between Horse Mountain and Point Arena.** All waters of the ocean between Horse Mountain and Point Arena are open to salmon fishing from February ~~12~~, the Saturday nearest February 15, through July 4 and July 25 through November ~~12~~, the Sunday nearest November 15 (~~Note: In 2000, the season will open on February 12, the Saturday nearest February 15~~).

**FINAL REGULATIONS
APPROVED BY OAL**

(4) North of Horse Mountain and Humboldt Bay. All waters of the ocean north of Horse Mountain and Humboldt Bay are open to salmon fishing from May 29 through July 4, and July 29 through September 14 (Note: In 2000, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.)

EXCEPTION: The ocean area surrounding the Klamath River mouth bounded on the north by 41° 38' 48" N. lat. (approximately 6 nautical miles north of the Klamath River mouth), on the south by 41° 26' 48" N. lat. (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing between August 1 and August 31. No salmon may be taken at any time in ocean waters at the mouths of the Smith and Klamath rivers and during August and September at the mouth of the Eel River (see Section 27.75).

(c) Limit:

(1) North of Horse Mountain: One salmon per day, and no more than four fish in seven consecutive days (see subsection (c)(3) below).

(2) South of Horse Mountain: Two salmon per day (see subsection (c)(3) below and Section 1.17). ~~From August 1 through September 6, between Point Arena and U.S.-Mexico Border, the limit is the first two fish taken. It is unlawful to "catch and release" or "high-grade" any salmon.~~

(3) Statewide Silver Salmon Restrictions: No silver salmon may be retained.

(d) Minimum size:

(1) North of Horse Mountain: Twenty inches total length.

(2) South of Horse Mountain: Twenty-four inches total length before June 1. After May 31, twenty inches total length.

~~EXCEPTION: Between Point Arena and U.S.-Mexico Border, from August 1 through September 6, there is no minimum size.~~

Authority: Sections 200, 202, 205, 220, 240, 2084 and 7891, Fish and Game Code.

Reference: Sections 200, 202, 205 and 2084, Fish and Game Code.