

State of California
FISH AND GAME COMMISSION
Minutes, Meeting of May 14-15, 1987

MAY
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State of California
FISH AND GAME COMMISSION

Minutes, Meeting of May 14, 1987

Pursuant to the call of the President, the Commission met in the City Council Chambers, 3300 Newport Boulevard, Newport Beach, California, on May 14, 1987. The meeting was called to order at 1:20 p.m. by President Taucher.

Persons present:

FISH AND GAME COMMISSION

Albert C. Taucher	President
Robert A. Bryant	Member
John A. Murdy III	Member
E.M. McCracken, Jr.	Member

COMMISSION STAFF

Harold C. Cribbs	Executive Secretary
Robert R. Treanor	Assistant Executive Secretary

ATTORNEY GENERAL'S OFFICE

Denis Smaage	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Jack C. Parnell	Director
Pete Bontadelli	Chief Deputy Director
Ed Willis	Asst. Director Administration
Eldridge Hunt	Chief, Wildlife Management Division
Al Petrovich	Chief, Marine Resources Division
Fred Worthley	Regional Manager, Region 5
Terry Mansfield	Fish and Wildlife Manager

The following person was also present and heard:

Sandra Ward	Rancher
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President Taucher introduced members of the Commission, its staff, Director Parnell, Chief Deputy Director Bontadelli and Denis Smaage of the Attorney General's office.

DISCUSSION ITEMS

1. READING AND APPROVAL OF MINUTES OF MARCH 6, 1987 MEETING.

The Executive Secretary stated that due to the extremely heavy workload during the mammal hunting and trapping regulation process, particularly with the mountain lion issue, staff was unable to distribute the minutes from the March 6, 1987 meeting to the Commissioners prior to this meeting; therefore, he requested that this item be put over until the Commission's June 26, 1987 meeting in South Lake Tahoe.

2. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

The Executive Secretary stated that this item had been scheduled to afford the Director an opportunity to present the Commission with informational items which may be of interest to it. Mr. Cribbs stated that in order to save time, the Department had prepared a written report on informational items it felt would be of interest to the Commission including an update on legislation; a budget update; the new gill net initiative; the salmon season; and white bass.

Commissioner Murdy asked the Department for a further update on white bass. Director Parnell stated that white bass had been a long standing problem for the Department. He indicated that the Department had initially stocked white bass in Lake Nacimiento, San Luis Obispo County, in 1964. He pointed out that Nacimiento Reservoir was isolated and was not directly connected to the Delta. He noted that after white bass had established a fishery in Nacimiento Reservoir, they became a highly prized game fish. He indicated that some fishermen then illegally transported white bass to the Tulare Lake Basin and Kaweah Reservoir. Mr. Parnell explained that white bass were school spawners and ferocious eaters. He stated that after white bass became established in the Tulare Lake Basin and Kaweah Reservoir, the Department had contracted with two universities and a private consultant to study the white bass in that area and to develop a management plan for the eradication of white bass from the area. He indicated that the draft EIR would be released to the public June 1 with a preferred alternative of chemically treating the area to eliminate white bass.

Director Parnell stated that he had met with both Kings County and Tulare County Boards of Supervisors on May 12 to provide an update to those counties on the Department's white bass study. He indicated that after chemical treatment, the fishery in Kaweah Reservoir would be restructured and that the Department would plant three times the number of trout in that reservoir than they normally did. He explained that, in addition, the Department would not restock threadfin shad since white bass do very well in reservoirs where threadfin shad are utilized as a prey species.

Denis Smaage asked the Director about the attitude of the Kings County and Tulare County Boards of Supervisors regarding the chemical treatment of the canals and reservoirs in that area. Director Parnell stated that three years ago the Boards of Supervisors were very hostile towards the Department's proposal for chemical treatment, but they now felt that the time was right, and even though it was a hard decision to make, they felt that the Department must make that decision in order to protect the salmon and steelhead fishery of the Delta. Commissioner McCracken asked how long it would take to restructure the fishery in Kaweah Reservoir. Director Parnell stated that the restructuring would be in two phases. The first phase would be a put-and-take fishery, but in addition, the Department would stock warmwater species which would be able to spawn naturally in the reservoir.

Chief Deputy Director Bontadelli stated that the Department would use rotenone to chemically treat the irrigation canals and Kaweah Reservoir. He noted that a separate EIR had been prepared on the use of rotenone and that the Department had already been given approval to utilize rotenone in its chemical treatments.

Commissioner McCracken asked about the effectiveness of rotenone in eliminating white bass. Director Parnell stated that prior to chemically treating, the Department would make an effort to remove the sport fish from the waters to be treated. He stated that the Department could not guarantee an 100 percent kill, but since this was a dry year, the reservoir would be drawn down to a low level, and the Department felt that their success rate would be very high during those conditions. Chief Deputy Director Bontadelli stated that white bass were very sensitive to rotenone and that the Department felt it could achieve 100 percent mortality with white bass; however, there were other species that were less sensitive and that a 100 percent success rate may not be achieved. Commissioner McCracken asked if there was a possibility of reestablishment of white bass in that area. Director Parnell stated that through the Department's undercover work, it felt that there would be an effort made to illegally reintroduce white bass to Kaweah Reservoir. Mr. Bontadelli pointed out that legislation had been passed which would make it a \$5,000 fine for the illegal movement of white bass within the state.

President Taucher stated that Commissioner McCracken had recently made a recommendation on the numerous bills that the Commission and the Department were following through the Legislature. He asked if the Department had any comments regarding Commissioner McCracken's recommended positions. Chief Deputy Director Bontadelli stated that the Department did not have an official position on several of the bills, but that the recommendations made by Commissioner McCracken were the same as those recommended by the Department.

3. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

Mr. Cribbs stated that this item had been scheduled for the Commission to receive informational items from its staff and to afford the Commission the opportunity to discuss items with the Department. The Executive Secretary reminded the Commission that it would be holding a joint Commission meeting with Nevada Fish and Game Commission on the afternoon of June 25, 1987 in South Lake Tahoe, and that the Commission would then be holding its regularly scheduled meeting on June 26 also at South Lake Tahoe. He also pointed out that the Commission would be conducting a special hearing on the afternoon of June 24, 1987 in Sacramento regarding the U.S. Fish and Wildlife Service's proposed sea otter translocation.

President Taucher stated that he had received two letters from individuals who had complimented the Commission on its action at its April 10 meeting in Sacramento regarding the sport hunting of mountain lions. President Taucher also stated that he and Commissioner Bryant had received a letter from Eugene Lonon concerning the possibility of a program for landowners concerning the enhancement of upland game habitat on their ranches. He requested that the Wildlife Conservation Board review this proposal. The Executive Secretary stated that if President Taucher would provide copies of that correspondence to the Commission and the Department, the Department could review this recommendation and provide comments to the Commission at its June 26, 1987 meeting in South Lake Tahoe when the Commission discusses the upland game regulations for the 1987-88 season.

President Taucher stated that he had also received a letter from the Trails Committee of the Department of Parks and Recreation concerning a possible canoe trail in the Bolsa Chica Ecological Reserve. He noted that the Department of Parks and Recreation had requested permission to take an exploratory canoe trip in the Bolsa Chica Ecological Reserve. Mr. Cribbs indicated that the individual should contact the Department to make arrangements for his canoe trip because such requests came under the preview of the Department's authority. Commissioner McCracken stated that Assemblyman Ferguson had introduced a bill which would consolidate activities within the Bolsa Chica marsh area. The Executive Secretary noted that many of these activities would have detrimental impacts to fish and wildlife resources. Chief Deputy Director Bontadelli stated that the Department was still reviewing this bill; and therefore, did not have an approved position. He explained that the present version raised many questions, and that he agreed with the Executive Secretary that there was a strong possibility of adverse impacts to fish and wildlife resources.

President Taucher suggested that the Commission send a letter to Brian Kahn regarding his recent award from the Chevron Corporation for his outstanding films on desert bighorn sheep, and the Siberian crane. The Commission concurred with that request. Commissioner Murdy asked if it was possible to view Mr. Kahn's film on desert bighorn sheep. The Executive Secretary stated that he would obtain a copy for Commissioner Murdy.

President Taucher stated that he had also received a copy of a letter from Assemblywoman Doris Allen which she had written to Director Parnell regarding fish and game enforcement problems in Orange County. He suggested that the Executive Secretary write a letter to Assemblywoman Allen indicating that the Department had already responded to her concerns, and that its response satisfied the Commission. The Commission concurred.

4. DISCUSSION OF DEPARTMENT'S 1987-88 AND 1988-89 BUDGET PROPOSALS.

The Executive Secretary stated that the purpose of this agenda item was to discuss the Department's proposed budget for the next two years. He pointed out that the Commissioners had been provided with a copy of the Department's proposed 1987-88 budget and additional background information on the budget process. He indicated that the Department was prepared to respond to any questions that the Commission may have regarding the Department's 1987-88 and 1988-89 budget proposals.

President Taucher asked the Department if Wallop-Breaux funds could be used for marine resources. Chief Deputy Director Bontadelli stated that in some instances Wallop-Breaux funds could be used for marine activities such as for artificial reefs. The Executive Secretary indicated that the Commission office had sent out an informational package to all Commissioners concerning the Wallop-Breaux monies, and that he would prepare another package for President Taucher.

Chief Deputy Director Bontadelli stated that Ed Willis, Assistant Director for Administration, was prepared to discuss the budget with the Commission. He pointed out that this year the Department administration costs had been prorated over the entire Department's Divisions. Mr. Willis stated that he had received several questions concerning how a proposed budget

document was interpreted. He stated that if it was acceptable to the Commission, he would spend a few minutes explaining the different categories and how a budget proposal could be understood. The Commission concurred and Mr. Willis then lead the Commission through the Department's budget proposal.

Commissioner Murdy asked for an explanation of the term reimbursements. Mr. Willis stated that the reimbursement figures were normally those obtained from the federal government. Chief Deputy Director Bontadelli stated that reimbursements were for areas where the State had already incurred the cost, and then was reimbursed for those costs by the federal government such as the salmon hatcheries, i.e. Nimbus Hatchery.

Commissioner McCracken stated that in Director Parnell's letter to Commissioner Taucher, it outlined the time frame for the Department to complete its automation plan. He wondered why it was such a long time period. Mr. Bontadelli stated that once the Department made a decision regarding automation, it would be approximately a 12-month lead-time before that proposal could be included in the budget. He pointed out that the Departments of General Services and Finance needed to approve that budget request prior to it being included in the Governor's budget. He explained that once the budget was approved and the item went out to bid, it was an additional six to eight months. He noted that once the computer was purchased and debugged, it was essentially a 36-48 month time period from the initial decision of automating the Department. Mr. Willis pointed out that by July 1989, the Department would be on a standard accounting system similar to all other state departments.

In discussing the California Environmental License Plate Fund, Commissioner Murdy asked how much money was in the fund annually. Chief Deputy Director Bontadelli stated that there was approximately \$22 to 23 million available annually, and that the Department received 50 to 51 percent of that money.

The Executive Secretary suggested that the Commission's Budget and Financial Subcommittee meet with Department staff to discuss the remaining budget proposal. Director Parnell stated that was an excellent idea, and that the subcommittee could meet with the Department to fully understand the budget process and the Department's automation plan. Commissioner Murdy suggested that the subcommittee meet with the Department prior to the Commission meeting on June 25, 1987. The Executive Secretary stated that he would schedule the subcommittee meeting for 11:00 a.m. on June 25 at South Lake Tahoe.

Chief Deputy Director Bontadelli pointed out that this was the first year that the Department had an increase in personnel years for some time. He noted that the Department had 28 new positions in the 1987-88 budget. He indicated that 23 of those positions were established through the consolidation of seasonal aid time.

5. REVIEW OF COMMISSION POLICIES.

The Executive Secretary pointed out that in compliance with Commission direction, this item had been scheduled in conjunction with the budget discussions. He indicated that Commission staff had worked closely with the Department to review the Department's implementation of Commission policies

over the past year. He pointed out that the Commissioners had been provided with a copy of the Commission's current policies and the Department's report on the adherence to those policies.

The Executive Secretary stated that the Department was prepared to discuss each policy and its implementation of that policy. He further explained that the Department may make recommendations concerning deletions of policies no longer valid and for a modification of some policies which need updating or revision. Mr. Cribbs suggested that, should the Commission concur in the Department's recommendation, it should consider the matter for final adoption at its June 26, 1987 meeting in South Lake Tahoe. He pointed out that this would afford the public an opportunity to review the suggested changes in Commission policies prior to final action by the Commission.

President Taucher asked the Department if it had any major problems with any of the Commission policies. Chief Deputy Director Bontadelli stated no. He noted, however, that the Department suggested that the Commission's attorney review the policies regarding the Stocking of Fish in Reservoirs Where Anglers Pay Access Fees and Raptors to determine if any of them had the effect of regulation without having been adopted through the regulatory process. He noted that 36 policies were being adhered to and needed no change, but that there were eight policies being adhered to which needed some minor explanation and were fully discussed in the Department's report.

6. REQUEST OF OCEAN FRESH SEAFOODS AND NATURAL SALES NETWORK, FORT BRAGG, FOR IMPOSITION OF RESTRICTIONS ON THE COMMERCIAL TAKE OF SEA URCHINS.

The Executive Secretary reminded the Commission that at its March and April 1987 meetings, it received information from the California Commercial Sea Urchin Industry relating to the status of the sea urchin resource off central California and a petition from Ocean Fresh Seafoods and Natural Sales Network, Fort Bragg, for imposition of restrictions on the commercial take of sea urchins. He explained that the petition addressed three alternatives: (1) limited entry fishery; (2) size restrictions; and (3) area closures. Mr. Cribbs pointed out that the Commissioners had been provided with copies of the petition from Ocean Fresh Seafoods and Natural Sales Network, Fort Bragg; a response from the California Urchin Divers Association to the petition from Ocean Fresh Seafoods and Natural Sales Network; a letter addressed to the Department from a list of commercial sea urchin divers urging the Commission not to impose any restrictions on the sea urchin fishery; and a letter from Mark S. Evanoff, President, Independent Urchin Fishermen's Association, Fort Bragg, suggesting that the Commission impose a limited entry fishery for sea urchins.

Mr. Cribbs stated that the Department had met with members of the sea urchin fishery, both processors and divers, and had prepared a report to the Commission which had been provided to the Commissioners. He noted that the Department had prepared the necessary pre-publication of notice statement, the facts constituting an emergency as well as the proposed regulations concerning a moratorium in strike-out and underline format.

Al Petrovich stated that the Department met with a representative group of sea urchin fishermen and processors on April 28, 1987 to discuss sea urchin management alternatives. He explained that the goal of that meeting was to

reach a consensus on a appropriate management strategy for that fishery. He indicated that the Department had reviewed the letters and petitions and other literature on the sea urchin resource and fishery in order to develop its draft management plan. He noted that the goals for management of the California sea urchin fishery should be as follows: (1) to ensure a sustained yield harvest over the long term; (2) to ensure the economic viability of the industry; (3) to ensure that the ecology of the sea urchin beds are not drastically altered.

Mr. Petrovich noted that every option for management had some drawback for either the processors, fishermen or the Department. He explained that with that in mind, and in the absence of comprehensive data to support stringent management measures, the Department made the following recommendations for immediate management of the red sea urchin fishery:

(1) To institute a moratorium on an emergency basis concerning the further issuance of new sea urchin permits. He noted that persons who held valid 1987-88 permits would still be able to obtain 1987-88 permits until March 31, 1988 and that only persons holding valid 1987-88 permits would be able to obtain 1988-89 permits. He explained that it was imperative that the moratorium be implemented as an emergency measure so that there was not an influx entering the fishery at the last minute, exacerbating the problem. He stated that the desirability of a permanent limited entry system would be evaluated during the moratorium with a report due back to the Commission within one year.

(2) A one week per month fishery closure from May through September under specified conditions. He noted that this closure would be initiated if landings for the previous calendar year exceeded 10 million pounds in northern California or 18 million pounds in southern California.

(3) A declaration of intent by the Commission that juvenile (less than three inches) sea urchins not be harvested. He stated that no minimum size limit would be mandated at this time; however, the Commission should express its intent that red sea urchins less than three inches in shell diameter not be harvested or processed. He indicated that the need for a formal minimum size limit would be evaluated as more detailed management studies were completed.

(4) Establishment of a logbook system. He stated that logbooks would be required to provide detailed information on catch locality and fishing effort. He noted that this information would aid in making future management recommendations.

(5) Establishment of a closed area for study purposes. He noted that a small area (one-half mile of coastline) in the Salt Point area (Sonoma County) would be closed to sea urchin fishing to provide a study (control) area to compare with harvested areas. He indicated that the existing Point Cabrillo Reserve (Mendocino County) would provide a similar function in the Fort Bragg area.

(6) Legislation regarding an additional privilege tax to provide funds for a three year sea urchin study. He explained that legislation would be introduced to increase the sea urchin privilege tax to provide \$300,000 for

three year statewide study regarding red sea urchins. He noted that the processors had agreed to this proposal at the Department's meeting on April 28, 1987.

Mr. Petrovich stated that these management proposals would have a minimum impact on the fishery for a short term. He noted, however, these measures represented a start toward management of this fishery that could be developed further as more information became available through sampling landings, logbook effort data and research studies. He recommended that the Commission adopt the emergency moratorium at this time, and that the other proposed regulation changes could be handled during a normal regulatory process.

Commissioner Bryant asked if the number of sea urchin permits had increased this year over that issue during the past season. Mr. Petrovich stated that last year at this time 200 permits had been issued, but to date, 486 permits had been issued this year. Commissioner Murdy asked how many pounds of sea urchins were landed in northern California last year.

Mr. Petrovich stated that 10 million pounds of sea urchins were landed during the past season.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BRYANT, THAT THE FISH AND GAME COMMISSION FINDS PURSUANT TO SECTION 240, OF THE FISH AND CODE, THAT THE AMENDING OF SECTION 120.7, TITLE 14, CALIFORNIA ADMINISTRATIVE CODE, TO ESTABLISH A MORATORIUM ON THE FURTHER ISSUANCE OF NEW SEA URCHIN PERMITS IS NECESSARY FOR THE IMMEDIATE CONSERVATION AND PROTECTION OF THE STATE'S SEA URCHIN'S POPULATION; SAID AMENDMENT SHALL BE AS FOLLOWS:

Section 120.7, Title 14, CAC is amended to read:

120.7. Taking of Sea Urchins with Rakes, Air lifts, or Other Hand-Held Appliances.

(a) Permit Required.

(1) Any person taking sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue a permit to persons licensed pursuant to Section 7850 of the Fish and Game Code, who have completed and submitted the appropriate permit application.

(3) Where Issued. Permits will be issued at department offices in Eureka, Menlo Park, Monterey, Long Beach and San Diego.

(4) Moratorium. Notwithstanding any other provisions of this section, sea urchin permits shall not be issued to persons who have not previously held a valid 1986-87 or 1987-88 sea urchin permit. Persons who held sea urchin permits during the 1986-87 permit year are eligible to obtain permits for the 1987-88 permit year until March 31, 1988. Only persons holding valid 1987-88 permits will be eligible to purchase sea urchin permits for the 1988-89 permit year. This moratorium shall expire on March 31, 1989 unless extended by the commission. The department shall report to the commission by July 1, 1988 on the status of the moratorium.

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

(c) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term for the remainder thereof.

(d) Cost of Permit. The fee for the permit shall be \$25.

(e) Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

(f) Conditions of the Permit:

(1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.

(2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life except sea urchins, shall be removed from the bottom or otherwise disturbed.

(g) Revocation of Permits. Any permit may be suspended, revoked, or canceled by the commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

(h) Exemption from Tidal Invertebrate Permit. A sea urchin diver operating under the provisions of a sea urchin permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123, Title 14, CAC.

Authority: Sections 240, 1050, and 9054, Fish and Game Code.

Reference: Sections 240, 1050, and 9054, Fish and Game Code.

PASSED UNANIMOUSLY.

7. REQUEST FOR EMERGENCY ACTION TO AMEND SECTION 6.20, TITLE 14, CAC,
SAN GABRIEL RIVER, WEST FORK, AND TRIBUTARIES TROUT RESTRICTIONS,
LOS ANGELES COUNTY.

The Executive Secretary stated that the Department had requested that the Commission take emergency action to amend Section 6.20, Title 14, CAC, regarding the San Gabriel River, West Fork, and Tributaries Trout Restrictions, Los Angeles County. He explained that this action was being taken pursuant to sections 240 and 315 of the Fish and Game Code. He pointed out that the Commissioners had been provided with a copy of the Department's request and pre-publication of notice statement as well as the proposed regulations in strike-out and underline format.

Mr. Cribbs stated that the Department provided the following comments regarding their requests:

"Limited rainfall this winter in southern California threatens the welfare of the wild trout population in the West Fork San Gabriel River in Los Angeles County. Flow releases from Cogswell Dam will decline below three cubic feet per second. The reduced water volume will result in elevated water temperatures. With these conditions, trout released under the existing catch-and-release regulations will suffer higher than normal mortality. To protect the population, we recommend adoption of an emergency closure of the West Fork San Gabriel River, below the Cogswell Dam, effective June 1, 1987."

Fred Worthley, Regional Manager, Region 5, stated that this year would be one of the driest years on record and that the flows below Cogswell Dam would be below 3 cfs. He noted that in addition, the water temperatures were anticipated to be 80 degrees Fahrenheit or higher during the summer months. He explained that any additional stress that would be placed on the trout population could be very detrimental to this wild trout population in the West Fork San Gabriel River. He stated that, therefore, the Department was recommending that the West Fork San Gabriel River and its tributaries from the second bridge upstream from the Highway 39 bridge to Cogswell Dam be closed to all fishing through October 31, 1987.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY
VESTED BY SECTIONS 240 AND 315 OF THE FISH AND GAME CODE, BY
EMERGENCY ACTION, HEREBY AMENDS SECTION 6.20, TITLE 14, CALIFORNIA
ADMINISTRATIVE CODE, REGARDING THE SAN GABRIEL RIVER, WEST FORK, AND
TRIBUTARIES TROUT RESTRICTIONS, LOS ANGELES COUNTY, AS FOLLOWS:

Section 6.20, Title 14, CAC, is amended to read:

6.20. San Gabriel River, West Fork, and Tributaries Trout Restrictions (Los Angeles County).

West Fork San Gabriel River and its tributaries from the second bridge upstream from the Highway 39 bridge to Cogswell Dam are closed to all fishing through October 31, 1987. Effective November 1, 1987 the above section will open to fishing.

(a) Limit: Zero trout.

(b) Methods of take: For all species, only artificial lures with a single barbless hook may be used.

Authority: Sections 200, 202, 210, 240, and 315, Fish and Game Code.

Reference: Sections 200, 202, 210, 240, and 315, Fish and Game Code.

PASSED UNANIMOUSLY.

8. RENEWAL OF PRIVATE LANDS WILDLIFE MANAGEMENT PLAN - ST. JOHN RANCH, SHASTA COUNTY.

The Executive Secretary stated that the St. John Ranch, Shasta County, had requested renewal of its private lands wildlife management area license for 1987-88. He pointed out that the Commissioners had been provided with a copy of the annual report and renewal application for the St. John Ranch. Mr. Cribbs stated that the Department had reviewed the annual report and renewal application and provided the following recommendation:

"The Department has reviewed the annual report and renewal application for the 2,500-acre St. John Ranch in eastern Shasta County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CAC. Full payment was made for all tags used in 1986. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvement accomplished under this plan will enhance and maintain wildlife resources of Shasta County on and around the St. John Ranch. The goals and objectives outlined in the management plan are compatible with the West Lassen Deer Herd Plan.

"The landowner has excluded cattle from 700 acres of alfalfa. This action was not included in the initial plan and constitutes a significant additional contribution to deer. However, two waterfowl habitat improvement proposals and a brush clearing project were not completed. The Department has given notice to the landowner that he must complete this work prior to September 1, 1987 or deer tags will be withheld. Mr. Bidwell has read and signed the notification and has indicated that he will complete the work prior to September.

"Mr. Bidwell recognizes that fawn production and survival is one of the problems of the West Lassen Deer Herd and, in order to improve on it, he proposes to increase the amount and quality of forage for deer. He will defer all cattle grazing on 700 acres of alfalfa in favor of deer use. In addition, he will leave the fourth cutting in the field.

"He also plans to plant waterfowl nesting cover along a mile of levee to permit the growth of over two acres of cover adjacent to water. This work will be completed before September of this year as it is a holdover project from 1986. Another project that has been held over from last year is the clearing of approximately 100 acres of juniper brushlands in order to reseed perennial grasses and browse species to benefit deer.

"Ten to twenty goose nesting platforms will be constructed and the boundary of the area will be carefully reposted to exclude any areas where surveys have not been run and any question exists about the title of the land.

"The Zone X-4 buck ratio is up and the public permit quota for the zone has been raised. A comparable increase in tags from 16 to 18 is appropriate on the St. John Ranch where a total of 14 bucks were harvested in 1986.

"The Department recommends that the Commission approve the St. John Ranch Wildlife Management plan and the 1987 harvest program under the following conditions:

1. Eighteen buck tags be issued to permit the total take of no more than 18 buck deer forked horn or better in 1987;
2. Period one season will open on November 1 and extend through November 16, 1987 with no more than 9 of the 18 permits valid; and
3. Period two season will open on November 17, 1987 and extend through November 30, 1987 with no more than 9 of the 18 permits valid."

Commissioner Bryant asked for an explanation of why the landowner had not completed the approved habitat work. Terry Mansfield stated that in lieu of some of the habitat work, the landowner had excluded cattle from 700 acres of alfalfa and pointed out that this action was not included in the initial plan, and constituted a significant additional contribution to deer. He explained that two waterfowl improvement proposals and a brush-clearing project had not been completed, but that the Department had given notice to the landowner that he must complete that work prior to September 1, 1987 or the deer tags would be withheld. Mr. Mansfield indicated that the landowner had signed the notification indicating that he would complete the work prior to September.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES RENEWAL OF
THE 1987-88 PRIVATE LANDS WILDLIFE MANAGEMENT PLAN FOR THE ST. JOHN
RANCH, SHASTA COUNTY, SUBJECT TO THE TERMS AND CONDITIONS
RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

9. RENEWAL OF PRIVATE LANDS WILDLIFE MANAGEMENT PLAN - VANTRESS-HAASE RANCH, TEHAMA COUNTY.

Mr. Cribbs stated that the Vantress-Haase Ranch, Tehama County, had requested renewal of its private lands wildlife management area license for 1987-88. He pointed out that the Commissioners had been provided with a copy of the annual report and renewal application for the Vantress-Haase Ranch. He indicated that the Department had reviewed the annual report and renewal application and had provided the following recommendation:

"The Department has reviewed the annual report and renewal application for the 3,200-acre Vantress-Haase Ranch which is currently licensed under Commission regulations in Section 601, Title 14, CAC. Full payment was made for all tags used in 1986. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvement accomplished under this plan will enhance and maintain wildlife resources of Tehama County on and around the Vantress-Haase Ranch. The goals and objectives outlined in the

management plan are compatible with the Yolla Bolly Deer Herd Plan.

"A burn conducted in January of this year has fulfilled the applicant's obligation under the plan by rejuvenating brush in the 200 acres which were burned. The total effect of the burn will cover an area of about 1,000 acres due to the mosaic effect. Maintenance activity on springs and streams will provide continuing availability of water. Fencing, gating, posting and road improvement will reduce the impact of illegal kill on the area and provide a wintering area which is relatively free of harassment.

"Deer herd composition counts were attempted on the ranch, but were ineffective due to the dense brush. Counts made on similar areas of public land revealed ratios of 35 bucks (fall) and 27 fawns (spring) per 100 does. Based on the high buck ratio, which is above the herd goal of 30, continuation of the present level of buck harvest (10) is reasonable. The low fawn recruitment (plan goal is 45) suggests that the herd is still suffering from the effects of a disease-induced die-off, and that antlerless harvest is inappropriate at this time. Consequently, the applicant has not applied for antlerless permits.

"The Department recommends that the Commission approve the Vantress-Haase Wildlife Management Plan and the 1987 harvest program under the following conditions:

"Ten buck tags be issued to permit the take of no more than ten, forked horn or better deer, during the period of September 19 through November 30, 1987."

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES RENEWAL
OF THE PRIVATE LANDS WILDLIFE MANAGEMENT PLAN FOR THE 1987-88
VANTRESS-HAASE RANCH, TEHAMA COUNTY, SUBJECT TO THE TERMS AND
CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE
COMMISSION.

PASSED UNANIMOUSLY.

10. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND 1987-88
MANAGEMENT PLAN FOR WORK RANCH, SAN LUIS OBISPO AND MONTEREY COUNTIES.

The Executive Secretary stated that George Work, Work Ranch, Monterey County, had requested renewal of his application for a private lands wildlife management area license (1987-1990) and his management plan for 1987-88. He pointed out that the Commissioners had been provided with a copy of Mr. Work's application and management plan. Mr. Cribbs noted that the Department had reviewed the 1987-1990 application and management plan for the George Work Ranch, Monterey, and had provided the following recommendation:

"The Department has reviewed the 1987-1990 application and management plan for the 12,000-acre George Work Ranch in Monterey County. It determined that the plan conforms to the requirements of Section 601, Title 14, CAC, and the Fish and Game Commission's policy for private lands management areas. The plan is consistent with the goals of the San Bonito Deer Herd Plan.

"The Work Ranch is one of the original areas licensed under the pilot program legislation in 1980. It was also licensed for the initial three-year period under the existing laws and Commission regulations.

"The landowner has been encouraged to manage, use and improve the wildlife resources on his ranch after three years in the program. In order to meet the requirements of the previous year's agreement, Mr. Work has constructed one quail guzzler and obtained materials for two others, planted approximately 1,000 acres of wildlife food plants (legumes) and continued farming practices for the benefit of wildlife.

"Hunters on the ranch harvested 13 bucks and 13 does in 1986. Herd composition counts indicated an expanding number of fawns being recruited (104 fawns per 100 does in December) and an adequate number of bucks.

"Proposed habitat improvements for wildlife include: placing of brushpiles at six stock ponds where tire bases have already been constructed; planting 12 olive trees for quail roosts; planting three acres of brush; installing two quail drinkers; monitor pilot plots to determine which forage plants survive best in southern Monterey County; to managing 1,000 acres of dryland barley that has been entered into the Conservation Reserve Program as wildlife habitat; entering 500 additional acres in the Reserve Program; and continuing to use 'No-till' farming to benefit wildlife.

"The Department recommends that the Commission approve the Work Ranch Wildlife Management Plan and the 1987-88 harvest program under the following conditions:

1. 40 buck tags be issued to permit the take of no more than 20 buck deer, forked horn or better, during the period July 11 through August 3 for archery equipment only; and August 8 through November 30, 1987 for a general-methods-of-take season.
2. 30 antlerless deer tags be issued to permit the take of no more than 25 antlerless deer during the period August 8 through November 30, 1987."

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ISSUANCE
OF A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1987-1990) TO
THE WORK RANCH, SAN LUIS OBISPO AND MONTEREY COUNTIES, AND APPROVES
THE 1987-88 MANAGEMENT PLAN FOR THAT RANCH SUBJECT TO THE TERMS AND
CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE
COMMISSION.

PASSED UNANIMOUSLY.

11. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND 1987-88 MANAGEMENT PLAN FOR BLACK RANCH, SHASTA COUNTY.

The Executive Secretary stated that Fred L. Carroll, Black Ranch, Shasta County, had requested approval of his application for a private lands wildlife management area license (1987-1990) and the 1987-88 management plan for that ranch. He pointed out that the Commissioners had been provided with a copy of Mr. Carroll's application and management plan for the Black Ranch, Shasta County. He noted that the Department had reviewed the 1987-1990 application and the 1987-88 management plan for the 1,000-acre Black Ranch and had provided the following recommendation:

"The Department has reviewed the 1987-1990 application and the 1987-88 management plan for the 1,000-acre Black Ranch in western Shasta County. It determined that the plan conforms to the requirements of Section 601, Title 14, CAC, and the Commission's policy for private lands management areas.

"The ranch had been heavily grazed by livestock for many years and the new owner has permanently removed all livestock. The area will be managed primarily for wildlife. To date, 70 acres have been planted to wild rice which has resulted in excellent waterfowl habitat. On a recent visit, our unit wildlife biologist observed approximately 2,000 mallards and pintails. In addition, over 4,000 shrubs and trees are being planted along Burney Creek to reestablish riparian habitat. Other habitat improvements planned for the initial year include: establishing 95 acres of irrigated alfalfa, 34 acres of dryland alfalfa and 45 acres of additional irrigated barley to benefit elk and geese. Plans for 1988 and 1989 call for more wild rice and alfalfa plantings plus burning of about 85 acres of dense brush specifically to improve deer forage.

"The property provides habitat for both resident and migratory segments of the Cow Creek Deer Herd, as well as for Rocky Mountain elk. The proposed program involves a late buck season, for only a single deer and a late antlerless season for only two deer. In addition, the plan calls for an opportunity to harvest a single large bull elk in the first year. Funds derived from the auction sale of the single elk tag will be donated to the Mzuri Wildlife Foundation for return to the Department for future elk management.

"Presently, there is a resident herd of elk that consists of 25 animals. An additional 20 to 30 elk use the area in the winter. It is the landowner's intent to manage the elk herd to control depredation by eventually harvesting those elk above the present 25 animals. Under the plan, the landowner would be given one bull tag for 1987 and tags for 70 percent of those animals could be taken by a public hunt administered by the Department.

"The Department recommends that the Commission approve the Black Ranch Wildlife Management Plan and the 1987-88 harvest program under the following conditions:

1. One buck tag, forked horn or better during the period November 1 through November 22, 1987.
2. Two antlerless deer tags to take no more than two antlerless deer during the period November 1 through November 22, 1987.
3. One bull elk tag, four point or better, during the period August 15 through November 22, 1987."

Commissioner Bryant stated that since this proposal had requested a bull elk tag, he asked if there was opportunity in the immediate area for public hunting opportunities for elk. Mr. Mansfield stated that elk had dispersed from public lands to two hunts this year in Siskiyou and Shasta counties, and that one of them was in the general vicinity of the Black Ranch wildlife management area. Commissioner Bryant stated that due to the damage caused by elk, the landowners would be receptive to allowing the public hunting on their property to help reduce the damage to their crops. Mr. Mansfield stated that some individual landowners were interested. Commissioner Bryant stated that he did not want the Commission to set a precedent by issuing an elk tag for private lands management area. He wanted to assure parity for the unattached hunter. Mr. Cribbs stated that the Commission action on the Black Ranch would not be setting a precedent for other private lands management area licensees as each one would be dealt on a case-by-case basis.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT
 THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION
 OF THE BLACK RANCH, SHASTA COUNTY, FOR A PRIVATE LANDS
 WILDLIFE MANAGEMENT AREA LICENSE (1987-1990) AND ITS 1987-88
 MANAGEMENT PLAN SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY
 THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

12. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND 1987-88 MANAGEMENT PLAN FOR FOOTHILL ROD AND GUN CLUB, TEHAMA COUNTY.

The Executive Secretary stated that Frank Alberico, Manager, Foothill Rod and Gun Club, Tehama County, had requested approval of an application for a private lands wildlife management area license (1987-1990) and the 1987-88 management plan for that ranch. He pointed out that the Commissioners had been provided with a copy of Mr. Alberico's application and management plan for the Foothill Rod and Gun Club, Tehama County. He noted that the Department had reviewed the 1987-1990 application and the 1987-88 management plan for the Foothill Rod and Gun Club, and had provided the following recommendation:

Department Recommendation

"The Department has reviewed the 1987-1990 application and management plan for the 10,000-acre Foothill Rod and Gun Club in eastern Tehama County. It determined that the plan conforms to the requirements of Section 601, Title 14, CAC, and the Fish and Game Commission's policy for private lands management areas.

"The goals and objectives of the plan are compatible with the East Tehama Deer Herd Plan. The ranch provides critical winter range with migratory deer moving onto the ranch in September and staying until April. The plan calls for a significant reduction in spring livestock grazing, estimated at about 1,000 animal unit months per year. This reduction will result in substantial increases in forage availability for deer during the critical months of March and April.

"The ranch supports a small resident population of deer which will also benefit from the grazing reduction. The three to five acres of irrigated alfalfa will be of most benefit to resident deer that use the range through the hot and dry late summer months.

"Historic harvest on the ranch has reached as high as 60 bucks and has averaged 35 bucks in recent years. The applicant intends to reduce this take to 20 bucks and begin to balance the sex ratio through a small antlerless harvest of 15 animals.

"The Department recommends that the Commission approve the Foothill Rod and Gun Club Management Plan and the 1987-88 harvest program under the following conditions:

1. Twenty buck permits be issued for forked horn or better deer during the period October 24 through November 30, 1987.
2. Fifteen antlerless permits be issued during the period October 24 through November 30, 1987."

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE FOOTHILL ROD AND GUN CLUB, TEHAMA COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1987-1990) AND ITS 1987-88 MANAGEMENT PLAN SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

13. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND 1987-88 MANAGEMENT PLAN FOR SILVA FLAT, LASSEN COUNTY.

The Executive Secretary stated that Sandra Ward, Silva Flat, Lassen County, had requested approval of her application for a private lands wildlife management area license (1987-1990) and its 1987-88 management plan for that ranch. He pointed out that the Commissioners had been provided a copy of the Silva Flat's application and management plan. He noted that the Department had reviewed the 1987-1990 application and management plan for the 520-acre Silva Flat Ranch and provided the following recommendation:

Department Recommendation

"The Department has reviewed the 1987-1990 application and management plan for the 520-acre Silva plan in western Lassen County. It determined that the plan conforms to the requirements of Section 601, Title 14, CAC, and the Fish and Game Commission's policy for private lands management areas.

"The Ranch management proposes to construct 45 duck and goose nesting islands in Silva Flat Lake. There is no waterfowl nesting habitat on the area now. Many other species of shorebirds will use the islands as well as ducks and geese. Nesting success should be substantially improved for mallards, cinnamon teal, gadwall and Great Basin Canada geese. Prior to the occurrence of serious overgrazing, which has denuded the lake shore, this area provided prime waterfowl habitat. Trespassing livestock from the surrounding public domain lands will be excluded from the island areas, permitting waterfowl to breed successfully on Silva Flat. We do not expect there to be many ducks and geese bagged on the area as most of them will have migrated by opening day and the area will freeze hard with most of the season remaining. However, the migrants will be available to other hunters farther down the flyaway.

"In return for this effort, the Ranch management is proposing to be permitted to conduct duck and goose hunting programs on privately owned lands within the Hayden Hill State Game Refuge (I-1G) which was established in 1923 to benefit sage grouse and antelope. General waterfowl hunting seasons and bag limits in effect for northeastern California would remain unchanged. No other hunting would be permitted.

"The owners have agreed to allow unrestricted access to Department of Fish and Game personnel for the purpose of monitoring this program.

"The Department finds that nesting cover is critical to waterfowl production in Lassen County and this habitat improvement program would be an important addition.

"Controlled hunting of antelope within the Hayden Hills Refuge has been permitted by the Commission in recent years and one private landowner is currently permitted to hunt a restricted number of deer in the refuge under authority of Section 3400 of the Fish and Game Code. This waterfowl hunting proposal will not affect the primary use of the refuge for sage grouse or antelope.

"The Department recommends that the Commission approve this wildlife management plan and 1987 waterfowl harvest program under regular waterfowl hunting regulations approved for Lassen County."

Commissioner Bryant stated that he was concerned with the proposals for the Silva Flat Lake Ranch and the Dillon Lake Ranch request to allow waterfowl hunting within the Hayden Hill State Game Refuge. He stated that if it was appropriate to allow waterfowl hunting for these select landowners, then it should be appropriate to open the entire refuge to waterfowl hunting since the refuge was established to benefit sage grouse and antelope.

Terry Mansfield stated that the Hayden Hill State Game Refuge was typically not a good duck hunting area. He noted, however, that the Silva Flat and Dillon Lake Ranch areas had larger bodies of water which stayed open longer and allowed better conditions for waterfowl. He indicated that the landowner wished to enhance the waterfowl habitat of this area by constructing duck and goose nesting islands within Silva Flat Lake. He pointed out that since the waterfowl hunting regulations were controlled by the federal government, the landowner would have to abide by the normal hunting seasons and bag limits for that area.

Sandra Ward stated that she did not have any thoughts about taking in members for a duck club. She indicated that she and two other landowners wish to improve the waterfowl nesting habitat in that area, and that there would only be limited hunting. She noted, in fact, that she did not hunt at all, and that the other two landowners would just provide limited hunting opportunities. She noted that the principal reason for making this request was to try to entice the ducks and geese to stay longer in that area and if things work out, then there would be some limited hunting on the landowner's property. Mr. Mansfield stated that the Department felt that this proposal would improve the waterfowl nesting success for that area which would lead to a higher production of waterfowl within northeastern California. He noted that the increased production could be utilized elsewhere in the state.

President Taucher asked if a permit system would be utilized. Terry Mansfield stated that permits would be issued to only those persons allowed to hunt by the landowner. He noted that if the entire refuge was open to hunting, the Department would have an enforcement problem in controlling possible poaching that went on under the pretext of waterfowl hunting.

Eldridge Hunt stated that the Commission should realize that if this plan was approved, it would set an important precedent by having a private landowner construct nesting islands for waterfowl. He noted that historically this activity was done by state and federal agencies utilizing duck stamp monies.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE SILVA FLAT, LASSEN COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1987-1990) AND ITS 1987-88 MANAGEMENT PLAN SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

AYES: COMMISSIONERS MURDY AND MC CRACKEN.
NOES: COMMISSIONER BRYANT.

14. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND 1987-88 MANAGEMENT PLAN FOR DILLON LAKE RANCH, LASSEN COUNTY.

The Executive Secretary stated that Sandra Ward, Dillon Lake Ranch, Lassen County, had requested approval of its application for a private lands wildlife management area license (1987-1990) and its 1987-88 management plan for that ranch. He pointed out that the Commissioners had been provided with a copy of Ms. Ward's application and management plan for the Dillon Lake Ranch, Lassen County. He noted that the Department had reviewed the 1987-1990 application and the 1987-88 management plan for the Dillon Lake Ranch and had provided the following recommendation:

"The Department has reviewed the 1987-1990 application and management plan for the 200-acre Dillon Lake Plan in western Lassen County. The plan conforms to requirements of Section 601, Title 14, CAC, and Commission policy for private lands management areas.

"The Ranch management proposes to construct 15 duck and goose nesting islands in Dillon Lake. There is no waterfowl nesting habitat on the area now. Many other species of shorebirds will use the islands as well as ducks and geese. Nesting success should be substantially improved for mallards, cinnamon teal, gadwall and Great Basin Canada geese. Prior to the occurrence of serious overgrazing, which has denuded the lake shore, this area provided prime waterfowl habitat. Trespassing livestock from the surrounding public domain lands will be excluded from the island areas, permitting waterfowl to breed successfully on Dillon Lake. We do not expect there to be many ducks and geese bagged on the area as most of them will have migrated by opening day and the area will freeze hard with most of the season remaining. However, the migrants will be available to other hunters farther down the flyway.

"In return for the waterfowl nesting habitat improvement, the Ranch management is proposing to conduct duck and goose hunting programs on privately owned lands within the Hayden Hill State Game Refuge (1-G) which was established in 1923 for sage grouse and antelope. The general waterfowl hunting seasons and bag limits for northeastern California would be in effect. No other hunting would be permitted on the area.

"The owners have agreed to allow unrestricted access to Department of Fish and Game personnel for the purpose of monitoring this program.

"The Department finds that nesting cover is critical to waterfowl production in Lassen County and this habitat improvement program would provide significant benefits.

"Controlled hunting of antelope within the refuge has been permitted by the Commission in recent years and one private lands licensee is currently permitted to hunt a restricted number of deer in the Hayden Hills Refuge. This waterfowl hunting proposal will not affect the intent of the refuge for sage grouse and pronghorn antelope.

"The Department recommends that the Commission approve this wildlife management plan and 1987 waterfowl harvest program under general waterfowl hunting regulations approved for northeastern California."

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION
OF THE DILLON LAKE RANCH, LASSEN COUNTY, FOR A PRIVATE LANDS
WILDLIFE MANAGEMENT AREA LICENSE (1987-1990) AND ITS 1987-88
MANAGEMENT PLAN SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY
THE DEPARTMENT AND APPROVED BY THE COMMISSION.

AYES: COMMISSIONERS MC CRACKEN, AND MURDY.
NOES: COMMISSIONER BRYANT.

There being no further business, the meeting was recessed at 4:00 p.m. in order for the Commission to meet in Executive Session to consider potential litigation regarding nontoxic shot zones for migratory waterfowl hunting. The Executive Secretary stated that the Commission meeting would be reconvened at 8:00 a.m. on May 15, 1987 where agenda items 15-50 would be considered.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of May 14, 1987

Pursuant to the authority of Government Code Section 11126(q), the Commission met in closed executive session at 4:00 p.m. The purpose of this executive session was to consider potential litigation regarding nontoxic shot zones for migratory waterfowl hunting.

Persons present:

FISH AND GAME COMMISSION

Albert C. Taucher	President
Robert A. Bryant	Member
John A. Murdy III	Member
E.M. McCracken, Jr.	Member

COMMISSION STAFF

Harold C. Cribbs	Executive Secretary
Robert R. Treanor	Assistant Executive Secretary

ATTORNEY GENERAL'S OFFICE

Denis Smaage	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Jack C. Parnell	Director
Pete Bontadelli	Chief Deputy Director
Eldridge Hunt	Chief, Wildlife Management Division

The Executive Session was adjourned at 4:20 p.m.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of May 15, 1987

Pursuant to the call of the President, the Commission met in the City Council Chambers, 3300 Newport Boulevard, Newport Beach, California, on May 15, 1987. The meeting was called to order at 8:15 a.m. by President Taucher.

Persons present:

FISH AND GAME COMMISSION

Albert C. Taucher	President
Robert A. Bryant	Member
John A. Murdy III	Member
E.M. McCracken, Jr.	Member

COMMISSION STAFF

Harold C. Cribbs	Executive Secretary
Robert R. Treanor	Assistant Executive Secretary

ATTORNEY GENERAL'S OFFICE

Denis Smaage	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Jack C. Parnell	Director
Pete Bontadelli	Chief Deputy Director
DeWayne Johnston	Chief, Wildlife Protection Division
Eldridge Hunt	Chief, Wildlife Management Division
Al Petrovich	Chief, Marine Resources Division
Terry Mansfield	Fish and Wildlife Manager

The following persons were also present and heard:

William B. Phillips	Attorney
Carol Walsh	International Ferret Assn.
Melanie Edwards	International Ferret Assn.
Dr. George Harmon	International Ferret Assn.
Pat Richards	Pet Shop Owners
John Kohler	Concerned Citizen
Linda Morse	Concerned Citizen
Kristen Socher	Animal Permittees
Frank Tabares	Animal Permittees
Roberta Roman	Animal Permittees
Joseph Roman	Animal Permittees
Rick DiGilio	Animal Permittees
Ilson New	Attorney
Joseph Luz	Commercial Fisherman

Bob McKay
T.K. McCleerey
Hung Chi Vo
Myo Nyugen
Lawrence E. Hagen
John August Kastlunger
Samuel Gene Harper

Sportsman
Attorney
Commercial Fisherman
Commercial Fisherman
Commercial Lobster Fisherman
Commercial Lobster Fisherman
Sportsman

DISCUSSION ITEMS (CONTINUED)

15. REQUEST OF SACRAMENTO RIVER PRESERVATION TRUST AND TEHAMA FLY FISHERS, CHICO, FOR LISTING OF THE SACRAMENTO RIVER WINTER-RUN KING SALMON AS A CANDIDATE FOR ENDANGERED SPECIES STATUS.

The Executive Secretary reminded the Commission that at its March 6, 1987 meeting in Redding, it received the petition from the Sacramento River Preservation Trust and Tehama Fly Fishers, to list the winter-run king salmon as a candidate for endangered species status. He explained that the Department, pursuant to state law, had 90 days in which to review that petition before reporting back to the Commission. Mr. Cribbs pointed out that the Commissioners had been provided with a copy of the petition as submitted by the Sacramento River Preservation Trust and Tehama Fly Fishers. He reminded the Commission that this matter had initially been considered by the Commission at its November 7, 1986 meeting; however, due to some unresolved aspects of the petition, the Commission had asked the Attorney General's office to provide some specific information concerning the proposal. He pointed out that the Commissioners had also been provided with copies of the December 4, 1986 and April 8, 1987 responses from Mr. Smaage of the Attorney General's office, relating to the following questions:

- (1) Will listing the winter-run king salmon as a candidate study species for possible listing as endangered or threatened legally prohibit the Bureau of Reclamation from implementing measures to help protect that species.
- (2) May the Fish and Game Commission decline to list the winter-run king salmon as a candidate species on grounds that current and proposed federal, state and local protective measures are sufficient to protect the species.

The Executive Secretary noted that the Commissioners had also been provided with information from Assemblyman Robert J. Campbell's office concerning the legal aspects of potential listing of the winter-run salmon as a candidate species for endangered species status which included a letter from the Assemblyman dated April 24, 1987, which was very critical of the Commission's handling of the issue. Mr. Cribbs explained that he had met with Assemblyman Campbell in response to that letter and the meeting was quite positive and the Assemblyman acknowledged that the issue before the Commission was a difficult one. He indicated that Assemblyman Campbell stated that he did not believe the Commission should take any action that would jeopardize a species; however, he believed that the Commission should adhere to the procedural provisions of the statute. Mr. Cribbs noted that Assemblyman Campbell was provided with copies of the Attorney General's opinions.

The Executive Secretary stated that in addition, the Commissioners had been provided with copies of a letter dated October 29, 1987 from E.C. Fullerton, Regional Director, National Marine Fisheries Service, Southwest Region; letters from Richard Spotts, California Representative, Defenders of Wildlife; and Richard Izmirian, Vice President, Northern California Council Federation of Fly Fishers as well as the provisions of sections 2050-2098 of the Fish and Game Code. Mr. Cribbs explained that the Department had recently written a letter to the Bureau of Reclamation and the National Marine Fisheries Service asking for an update on the federal government's activities pursuant to the Sacramento River winter-run king salmon population, and the progress they had been making on the 10-point rehabilitation plan. He noted that the Department would be receiving that information by June 1 and that the Department would provide its comments to the Commission by June 6. Mr. Cribbs explained that therefore, action on this item would be postponed until the Commission's next available meeting which was scheduled for June 24, 1987 in Sacramento.

Commissioner McCracken asked if Assemblyman Campbell had been provided a copy of Mr. Fullerton's letter regarding the 10-point rehabilitation plan. Mr. Cribbs stated that Assemblyman Campbell had received a copy of that letter and the 10-point rehabilitation plan. Commissioner Bryant asked if it was appropriate to discuss any items concerning this proposal at this time. Mr. Cribbs stated that if the Commission wished to raise issues which would be fully discussed at the June 24 meeting, then it would be appropriate to make everybody aware of those concerns at this time. Commissioner Bryant stated that he would like a full report from Mr. Fullerton regarding how the 10-point rehabilitation plan had been implemented since the Commission's January 9, 1987 meeting in Monterey.

There being no further discussion on this item, action was continued until the Commission's June 24, 1987 meeting in Sacramento.

16. AMENDMENT OF SECTION 401, TITLE 14, CAC, RE: ISSUANCE OF PERMITS TO KILL DEER, BEAR, ELK, WILD PIG, GRAY SQUIRREL AND BEAVER CAUSING DAMAGE.

The Executive Secretary stated that the Department had requested that the Commission amend Section 401, Title 14, CAC, regarding issuance of permits to kill deer, bear, elk, wild pig, gray squirrel and beaver causing damage. He reminded the Commission that at its April 10, 1987 meeting in Sacramento, it considered this proposal together with the other proposed changes in the mammal and hunting regulations for 1987. He explained that based upon public testimony on that date, the Commission put over final action on the matter until its May 15, 1987 meeting.

He pointed out that the Commissioners had been provided with a copy of the Department's pre-publication of notice and pre-adoption statements as well as the text of the regulations in strike-out and underline format.

Mr. Cribbs noted that the existing provisions of Section 401 provide exceptions for taking and disposing of gray squirrels and beaver. He indicated that the proposed change was intended to allow more flexibility in the take and disposal of wild pigs killed under depredation permits. He explained that it allowed the Department to designate appropriate and practical means of disposing of carcasses, and that in addition, the

prohibition on the use of pistols was deleted in the modified proposal. He noted that wild pig would be retained on the list of species the carcasses of which cannot be used by the permittee.

He pointed out that the Department recommended adoption of its most recent regulation proposal.

Terry Mansfield explained that he had just been provided with a copy of the letter from Gerald Upholt, Sportsmen Lobby, which raised four points. He also explained that Deputy Director Jensen had met with the Sportsmen for Equal Access to try and resolve their concerns regarding this matter. Mr. Mansfield stated that the first concern raised by Mr. Upholt was that in Section 401(a) which require that rifle ammunition used should have expanding bullets, and that should be carried over to pistol ammunition as well. He stated that the Department agreed with this recommendation. Mr. Mansfield stated that the second item of concern was Section 401(d) which required that persons taking specified animals pursuant to a depredation permit be 21 years of age or older. He noted that California Sportsmen Lobby recommended that this provision be changed to allow persons who are under 21 years of age to take animals pursuant to depredation permit provided that they are under the supervision of someone that is 21 years of age or older. Mr. Mansfield stated that the Department did not recommend any change in that regulation at this time. The Executive Secretary pointed out that for any of these proposals to make the change now would require the Commission to go out for additional 15-day review, since these items were not in the original notice.

President Taucher stated that he had been getting a lot of information regarding the erratication of wild pigs and wondered if there was really that big a problem in the state. Mr. Mansfield stated that in some areas there are conflicts, especially in areas where sport hunting is not allowed. He noted that where landowners opened up their lands for sport hunting, the wild pig damage problem was greatly reduced. President Taucher asked if the wild pig had any natural predators. Mr. Mansfield stated that mountain lions would be considered a predator and that for small wild pigs, coyotes could be a predator. Commissioner Murdy stated that he had heard that there were more wild pigs taken than deer. Mr. Mansfield stated that the recent postcard survey indicated that 35,000-42,000 wild pigs were taken annually which in some years were greater than the sport harvest of deer. Commissioner Bryant stated that if a landowner opened up his property for hunting, was there additional ways to control wild pig damage on his property. Terry Mansfield stated that the private management program could be used as a way to increase the bag limit for a given ranch.

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. BRYANT, THAT
THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 4181,
TO IMPLEMENT AND INTERPRET AND MAKE SPECIFIC SECTION 4181,
THE FISH AND GAME COMMISSION HEREBY AMENDS SECTION 401,
TITLE 14, CALIFORNIA ADMINISTRATIVE CODE, REGARDING THE
ISSUANCE OF PERMITS TO KILL DEER, BEAR, ELK, WILD PIG, GRAY SQUIRREL
AND BEAVER CAUSING DAMAGE AS FOLLOWS:

Section 401, Title 14, CAC, is amended to read:

401. Issuance of Permits to Kill Deer, Bear, Elk, Wild Pig, Gray Squirrel and Beaver Causing Damage.

(a) A permittee may kill deer, bear, elk, wild pigs, gray squirrels, or beaver in any manner except as otherwise herein provided. No iron or steel-jawed or any type of metal-jawed traps may be used to take gray squirrels or bear. No poison may be used. Firearms using .22 caliber rimfire cartridges may be used only when authorized by the regional manager, except that such firearms may be used to take gray squirrels without such authorization. ~~No pistols shall be used.~~ The caliber and type of weapon to be used by each permittee shall be specified in each permit by the issuing officer who shall take into consideration the location of the area, the necessity for clean kills, the safety factor, local firearms ordinances, and other factors which apply. Rifle ammunition used shall have expanding bullets; shotgun ammunition shall have only single slugs except for taking gray squirrels.

(b) A permittee may only kill deer, bear, elk, wild pigs, gray squirrels, or beaver on the property described in the permit when such animals are doing or are immediately threatening damage.

(c) Both males and females may be killed during the period of the permit irrespective of hours or seasons and without regard to other hunting laws or regulations for taking of deer, bear, elk, wild pigs, gray squirrels, or beaver.

(d) The privilege granted in the permit may not be transferred and entitles only the permittee or his employees, or members of his family, all of whom must be 21 years of age or over, to kill deer, bear, elk, wild pigs, gray squirrels, or beaver.

(e) Any deer, bear, elk, wild pig, gray squirrel, or beaver killed under the permit must be immediately tagged with the special tag furnished with the permit, both tags must be completely filled out and the duplicate mailed to the Department of Fish and Game, Sacramento, without delay.

(f) The carcass shall be transported to a location agreed upon between the issuing officer and the permittee, but in no case will a permittee be required to deliver a carcass beyond the limits of his property unless he is willing to do so. If the permittee and issuing officer cannot agree upon the location, the matter shall be referred to the regional manager of the region wherein the deer, bear, elk, wild pigs, gray squirrel, or beaver is killed and the latter's decision shall be final. Neither the permittee nor his assigns shall be permitted to use the meat of the deer, bear, elk, ~~wild pig,~~ [wild pig,] gray squirrel, or beaver. Beaver hides taken in accordance with this section may be sold under the provisions of a trapping license. The department may determine the appropriate methods of disposing of wild pig carcasses [allow alternative methods of disposal of individual wild pig carcasses in circumstances where no usable meat can be salvaged].

(g) Animals shall be killed in a humane manner so as to prevent any undue suffering to the animals. The permittee shall make every effort to kill the animals instantly and to prevent any injured animal from escaping.

(h) The department may require that a permittee may only take gray squirrels alive by the use of box traps. The department may designate areas where trapped gray squirrels shall be released.

(i) The permittee shall be required to field dress the animal, except beaver, and shall take every reasonable precaution to prevent the meat from spoiling until disposed of in the manner agreed upon under subsection (f) of

these regulations.

(j) All traps set for bear must comply with the following regulations:

(1) Trap or traps must be set within a pen with the entrance guarded by a cross-bar no more than 24 inches above the ground.

(2) Two signs, at least 8 X 10 inches in size, worded "DANGER--BEAR TRAP" must be posted within 15 feet on two sides of the trap.

(3) No trail or blind sets may be used.

(k) The permit does not invalidate any city, county, or state firearm regulation.

(l) Revocable permit may be issued in the name of the department by wardens or game management personnel. The form of the permit shall be prescribed by the department.

(m) Permits may be issued for a period not to exceed 60 days. Permits may be renewed only after a finding by the department that further damage has occurred or will occur unless such permits are renewed.

(n) Permits may be suspended temporarily by the director for a breach or violation of the permit by the holders thereof, their agents, servants, employees or any person acting under their direction and control. The commission shall be notified of any such suspension and subsequently may revoke or reinstate the permit, or fix the period of its suspension, after written notice to the permittee and the permittee has been afforded an opportunity to be heard.

Any person who has had their permit revoked or suspended by the commission shall be required, upon application for a new or subsequent permit, to appear before the commission and demonstrate to its satisfaction that the use of such a permit will be consistent with depredation control, with these regulations, and with the laws under which they are promulgated.

(o) The permit shall contain a statement signed by the applicant that he has read, understands, and agrees to be bound by all the terms of the permit.

(p) In lieu of issuing a wild pig depredation kill permit, the Department may authorize a currently licensed California hunter to take and possess two pigs per day on designated private lands as follows:

1. Owners or custodians of private lands suffering damage or threat of damage must apply for a wild pig depredation kill permit.

2. Damage or threat of damage must be verified by the department.

3. Hunters must possess written trespass authorization signed by the landowner before hunting.

4. The department, upon receiving verification of a hunter's authorization to trespass and hunt upon private lands, shall issue damage relief tags to such hunters, free of charge.

5. A damage relief tag must be attached immediately to each wild pig taken by the hunter.

6. All pigs taken under this part shall be taken as provided in Sections 352, 353 and 265(b)(5), of these regulations, and may be utilized by the licensed hunter.

Authority: Sections 200, 202, 203, 4181, 4181.5 and 4182, Fish and Game Code.
Reference: Sections 200-203.1, 206, 207, 211-222, 4181, 4181.5 and 4182, Fish and Game Code.

PASSED UNANIMOUSLY.

The Executive Secretary noted that Section 401, Title 14, CAC, would be filed with the normal mammal hunting and trapping regulation filing with the Office of Administrative Law. He anticipated that this filing would go over during the week of May 18.

17. REPEAL OF SECTION 671.2, TITLE 14, CAC, RE: IMPORTATION, TRANSPORTATION AND POSSESSION OF NEUTERED MALE ANIMALS.

The Executive Secretary reminded the Commission that at its October 7, 1986 meeting in Long Beach, the Commission authorized its staff to publish notice of its intent to repeal Section 671.2, Title 14, CAC, regarding neutered male animals. He noted that the required legal notice had been published. He pointed out that the Commissioners had been provided with a copy of the Department's pre-publication of notice and pre-adoption statements as well as the text of the regulations in strike-out and underline format. In addition, Mr. Cribbs noted that the Commissioners had been provided copies of all correspondence received from the public on this issue. He then reminded the Commission that this matter had been scheduled for Commission action at its April 10, 1987 meeting; however, based upon testimony presented at that time, the Commission put over final action until its May 15 meeting in Newport Beach.

Mr. Cribbs stated that a preponderance of the correspondence received by the Commission related to the issue of ferrets, rather than the issue as a whole, which was the importation of prohibited neutered male animals, as set forth in Section 671, Title 14, CAC. He emphasized that the matter before the Commission was to prohibit the importation of all neutered male animals of those species listed as prohibited in Section 671, Title 14, CAC. He explained that the Commission had already dealt with the policy issue of prohibiting the importation, transportation and possession of ferrets per se and had prohibited the possession in California. He noted that the Commission had also successfully addressed litigation on this matter in the San Diego courts late last year.

DeWayne Johnston stated that the Commission had taken a strong position regarding the importation of prohibited species for pet purposes and that the matter before the Commission was to repeal Section 671.2, Title 14, CAC, which would allow the importation of neutered male animals of otherwise prohibited species. He stated that the Department's recommendation was for the Commission to repeal Section 671.2, Title 14, CAC, which would go along with the policy direction the Commission had given the Department at the Commission's January 9, 1987 meeting in Monterey.

Mr. Cribbs further pointed out that the legislation which gave the Commission authority to list prohibited species included the family Mustelidae, because such animals were undesirable and a menace to native wildlife, the agricultural interest of the state or the public health or safety of the people of the state. He noted that based upon that legislative direction, the Commission had no alternative but to prohibit the importation, transportation and possession of ferrets. He explained that in addition, the Legislature also stated that the Commission could only add or delete from the list of prohibited species in cooperation with the Department of Food and Agriculture. Mr. Cribbs indicated that the Department of Food and Agriculture had consistently informed the Commission that it was opposed to the importation, transportation and possession of ferrets in California.

William Phillips, Carol Walsh, Melanie Edwards, Dr. George Harmon, Pat Richards, John Kohler, and Linda Morse were not opposed to the Commission repealing Section 671.2 provided that ferrets were exempted. They stated that ferrets should not be considered as wild animals; and therefore, ferrets should not be a prohibited species in California. They explained that if ferrets could not be excluded from Section 671, then Section 671.2 should be amended to only allow the importation and possession of neutered male ferrets.

Mr. Cribbs asked each of the above individuals if they were aware of any individuals in the state with unpermitted ferrets. They all answered that they only had such knowledge by rumor. Mr. Cribbs pointed out that the Commission action would grandfather in the existing animals that were legally permitted in the state at this time. He further explained that any person who could verify that they had possessed a ferret prior to the Commission's initial action on March 7, 1980 concerning ferrets that the Department could also issue permits to those individuals.

Dr. Harmon stated that he had testified in a court case recently in Willits, California, in which the judge ruled that the ferret was a domesticated animal. He noted that continued litigation would transpire if the Commission continued to prohibit ferrets from California. Commissioner Bryant asked Denis Smaage what were the Commission's alternatives if there was pending legal action. Mr. Smaage stated that the threat of a lawsuit should not impact the Commission's decision making process. He stated that he was unfamiliar with the Willits case, but that the outcome at the trial level was not usually precedent setting. He then read from Section 2118 of the Fish and Game Code which explained that the Legislature had listed the family Mustelidae which included ferrets as restricted from the state because such animals were undesirable and a menace to native wildlife, the agricultural interest of the state or the public health or safety.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT
THE FISH AND GAME COMMISSION PURSUANT TO THE AUTHORITY
VESTED BY SECTIONS 1002, 2118, 2120, AND 2122 OF THE FISH
AND GAME CODE AND TO IMPLEMENT AND INTERPRET AND MAKE SPECIFIC
SAID SECTIONS OF SAID CODE HEREBY REPEALS SECTION 671.2, TITLE 14,
CALIFORNIA ADMINISTRATIVE CODE, TO PROHIBIT THE IMPORTATION,
TRANSPORTATION AND POSSESSION OF NEUTERED MALE ANIMALS THAT ARE
LISTED AS PROHIBITED SPECIES IN SECTION 671, TITLE 14, CALIFORNIA
ADMINISTRATIVE CODE AS FOLLOWS:

Section 671.2, Title 14, CAC, is repealed as follows:

~~671.2 Neutered Male Animals~~

~~With the concurrence of the Departments of Health, and Food and Agriculture, permits may be issued by the Department of Fish and Game authorizing the entry of neutered male animals, that are not otherwise admissible, provided the application for permit is accompanied by a certificate issued by a licensed veterinarian evidencing that he personally performed such neutering surgery and setting forth the date thereof, or that he has examined said animal and has determined that said animal has been neutered.~~

~~Authority: Sections 1002, 2116, 2118, 2120 and 2122, Fish and Game Code~~

~~Reference: Sections 1002, 2116, 2118, 2120 and 2122, Fish and Game Code~~

PASSED UNANIMOUSLY.

18. REQUEST OF WM (WILL) S. HOUCK, MC KINLEYVILLE, FOR AUTHORIZATION TO POSSESS PROHIBITED SPECIES FOR REHABILITATION AND EDUCATIONAL PURPOSES.

The Executive Secretary stated that Wm (Will) S. Houck, McKinleyville, had requested authorization to possess prohibited species for rehabilitation and educational purposes. He stated that subsequent to Mr. Houck's request, he had contacted the Commission office and requested that this item be postponed until the Commission's August 7, 1987 meeting in Sacramento.

19. REQUEST OF KRISTEN L. SOCHER, TAMPA, FLORIDA, FOR AUTHORIZATION TO IMPORT AND POSSESS A MOUNTAIN LION FOR PET PURPOSES.

The Executive Secretary stated that Kristen L. Socher, Tampa, Florida, had requested authorization to import and possess a mountain lion for pet purposes. He pointed out that the Commissioners had been provided with a copy of her March 13, 1987 letter. He indicated that the Department had reviewed Ms. Socher's request and had provided the following recommendation:

"At its January meeting, the Commission took a stand against people possessing wild animals as pets. The Department also has taken this stance, and for this reason, recommends against the Commission granting Ms. Socher's request.

"It has been the Department's experience that wild animals maintain their wild instincts and do not make good pets. Wild animals must be maintained in escape proof cages. To do otherwise, creates high liability problems and a threat to the public. This is hardly a pet situation.

"If the Commission does grant Ms. Socher's request, it should be conditioned upon her applying for and receiving an import permit and a game breeder's permit from the Department. Ms. Socher should be advised that she must have these permits in hand prior to her cat entering California. She should also be advised that before the Department can issue the above permits, she will have to have a permanent facility for the cat and the facility will have to be inspected and approved by the Department."

Kristen Socher stated that she had had her pet mountain lion for two years and had used it for modeling purposes, in addition to several commercials. She indicated that when she first made her request to the Commission, it was for pet purposes, but she since learned that the Commission was no longer granting requests for pet purposes; therefore, she changed her request to include educational and filmmaking purposes. She further explained that she had submitted an application to the United States Department of Agriculture (USDA) for an exhibitor's permit.

DeWayne Johnston stated that the Department at this time, had not received a copy of her USDA permit. He explained that Ms. Socher shown him some photographs which indicated that she had used her mountain lion in commercials and for modeling purposes. He stated that based on this information, it looked as if Ms. Socher would be eligible for an exhibitor's permit.

The Executive Secretary stated that based on this information, the Commission was not required to take action at this time, and that Ms. Socher should work with the Department to obtain an exhibitor's permit. He pointed out however, that if she was unable to meet the requirements for an exhibitor's permit, she had the option to come before the Commission concerning her request for authorization to import and possess a mountain lion for pet purposes.

20. REQUEST OF FRANK X. TABARES, MIAMI, FLORIDA, FOR AUTHORIZATION TO IMPORT AND POSSESS A MOUNTAIN LION FOR PET PURPOSES.

The Executive Secretary stated that Frank X. Tabares, Miami, Florida, had requested authorization to import and possess a mountain lion for pet purposes. He pointed out that the Commissioners had been provided with a copy of Mr. Tabares' request as well as additional background information on this item. He noted that the Department had reviewed Mr. Tabares' request and had provided the following recommendation:

"The Commission has taken a stand against people possessing wild animals as pets. The Department concurs with this stand; therefore, recommends against the Commission granting Mr. Tabares' request.

"Wild animals do not, as a rule, make good pets. They retain their wild instincts and can be dangerous. They must be maintained in escape-proof facilities. To do otherwise creates high liabilities and a danger to the public. This is not a pet situation.

"If the Commission does grant his request, it should be conditioned upon Mr. Tabares' applying for and receiving an import permit and a game breeder's permit from the Department. Mr. Tabares should be advised that he must have these permits in hand prior to his cat entering California. He should also be advised that before the Department can issue the above permits, he will have to have a permanent facility for the cat and the facility will have to be inspected and approved by the Department.

"Mr. Tabares should also be reminded that it will be necessary for him to contact city and county government and comply with their requirements before he brings his cat into California."

Mr. Tabares stated that he had worked as an animal health technician for a veterinarian in Florida. He explained that in February 1985, a male cub mountain lion had been abandoned at the clinic where he worked and that the Tampa Zoo would not take the animal. He explained that he was in charge of caring for the animal during the time it was at the clinic and in addition, the animal incurred about \$1,800 worth of surgical and health costs. He stated that the veterinarian had tried to sell the mountain lion for the costs incurred, but was unable to find a willing buyer. Mr. Tabares stated that he then made an agreement with the veterinarian to take the animal and pay off the costs on a monthly basis. He noted that he was legally permitted to have the animal in the state of Florida. He also pointed out that he could have letters sent to the Commission attesting to his character and expertise in handling big game animals. He indicated that in his original letter, he had pointed out that he wished to also contact the education department within California to set up a program where he could take his mountain lion to various schools in an attempt to teach students about mountain lions.

The Executive Secretary explained to Mr. Tabares that if he was to bring the mountain lion into the state for educational purposes, then he should set up his program prior to importing the mountain lion. He directed Mr. Tabares to work with the Department to determine if he qualified for an exhibitor's permit. Mr. Cribbs explained that if Mr. Tabares did not qualify for an exhibitor's permit, then he had the option to come back to the Commission to have his request regarding the authorization to import and possess his mountain lion for pet purposes.

21. REQUEST OF ROBERTA M. ROMAN, FRESNO, FOR AUTHORIZATION TO IMPORT AND POSSESS A SPIDER MONKEY FOR PET PURPOSES.

The Executive Secretary stated that Roberta M. Roman, Fresno, had requested authorization to import and possess a spider monkey for pet purposes. He pointed out that the Commissioners had been provided with a copy of that request as well as background information on this issue. He noted that the Department had reviewed Mrs. Roman's request and had provided the following recommendation:

"The Department recommends against the Commission granting Mrs. Roman's request. The Commission has taken a stand against possessing exotic wildlife for pet purposes and the Department concurs with this stand.

"We feel that primates make particularly inappropriate pets. They are inappropriate for the reasons enumerated in Fish and Game Code Section 2116.5. In addition, the primates are inappropriate because of their social requirements and the behavior that results if these requirements are not met.

"Mrs. Roman is requesting the spider monkey for a companion for her husband who has cancer. Although we sympathize with Mr. Roman's condition, we are concerned with the status of the monkey if and when Mr. Roman no longer needs it. This, coupled with the fact that the monkey would have to be maintained in a caged enclosure, may frustrate the Roman's use or desire of the monkey."

Roberta Roman stated that her husband has terminal cancer, and that she wanted a monkey to keep her husband company while she was at work. She indicated that when her husband dies, she would like to retain the pet monkey because of the memories; and therefore, she was requesting a permanent permit.

DeWayne Johnston stated that the Commission had taken a stand against possessing exotic wildlife for pet purposes. He indicated that the Department concurred with this stand; and therefore, the Department recommended that the Commission deny this request. He pointed out that the Department was opposed to the importation of any primates into the state.

Mr. Roman stated that the animal was already in California, and was being raised by a breeder in the Hanford area. DeWayne Johnston stated that if the animal was already in the state under an existing permit, then the Department recommended approval of the transfer of the animal.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF ROBERTA M. ROMAN, FRESNO, FOR AUTHORIZATION TO IMPORT AND POSSESS A SPIDER MONKEY FOR PET PURPOSES, PROVIDED THAT THE ANIMAL IS ALREADY IN CALIFORNIA AND IS PURCHASED FROM A LICENSED USDA BREEDER. FURTHER, APPROVAL IS SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

22. REQUEST OF RICK AND VICKI DI GILIO, ORCUTT, FOR AUTHORIZATION TO IMPORT AND POSSESS A SPIDER MONKEY FOR PET PURPOSES.

Mr. Cribbs stated that Rick and Vicki DiGilio, Orcutt, had requested authorization to import and possess a spider monkey for pet purposes. He pointed out that the Commissioners had been provided with a copy of their letter dated April 13, 1987. He noted that the Department had reviewed the DiGilio's request and had provided the following recommendation:

"The Department recommends against the Commission granting Mr. and Mrs. DiGilio's request. The Commission has taken a stand against possessing exotic wildlife for pet purposes and the Department concurs with this stand.

"We feel that primates make particularly inappropriate pets. They are inappropriate for the reasons enumerated in Fish and Game Code Section 2116.5. In addition, the primates have social requirements which can result in bizarre behavior if these requirements are not met."

DeWayne Johnston stated that this request was similar to the Roman's request as the DiGilio's were also getting a spider monkey from the USDA breeder from Hanford. Commissioner Bryant asked if approving these requests would set a precedent which would be contrary to the Commission's policy established at its January 9, 1987 meeting regarding the importation and possession of exotic animals for pet purposes. Mr. Cribbs stated that it would be setting a precedent. He noted that the reason for an USDA Breeding Permit was to provide animals for scientific or educational study, not to increase the pet trade.

Rick DiGilio stated that he had contacted the Department approximately six months ago and was told that if he purchased the monkey within California, he would be able to obtain a permit and was then provided with the name and address of the breeder in Hanford. He explained that he had already put a deposit on the animal and had started construction of its cage. In fact, he pointed out that at this time that he had spent over \$1,000 on this matter.

Commissioner Murdy stated that he was concerned with someone breeding and selling monkeys within California. Director Parnell agreed, and noted that the Department would talk with the individual breeder and inform him of the regulations regarding the licensed USDA Breeding Program.

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. BRYANT, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF RICK AND VICKI DI GILIO, ORCUTT, FOR AUTHORIZATION TO IMPORT AND POSSESS A SPIDER MONKEY FOR PET PURPOSES, PROVIDED THAT THE ANIMAL WAS ALREADY IN CALIFORNIA AND WAS PURCHASED FROM A LICENSED USDA BREEDER. FURTHER, APPROVAL IS SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

AYES: COMMISSIONERS BRYANT AND MC CRACKEN.
ABSTAIN: COMMISSIONER MURDY.

23. REQUEST OF CHERYLRENEE RENDES, FULLERTON, FOR AUTHORIZATION TO IMPORT AND POSSESS A PAIR OF BENNETT WALLABIES FOR EDUCATIONAL PURPOSES.

The Executive Secretary stated that Cherylrenee Rendes, Fullerton, had requested authorization to import and possess a pair of Bennett wallabies for educational purposes. He pointed out that the Commissioners had been provided with a copy of her request. He noted that the Department had reviewed Ms. Rendes' request and provided the following recommendation:

"The Department has no objections to the Commission granting Ms. Rendes' request; however, we do have questions as to why Ms. Rendes wants both a male and a female. Hopefully, it is not her intent to breed these animals because we know of no zoos needing these animals and both the Department and the Commission are opposed to pet ownership of wildlife.

"Ms. Rendes has held an animal welfare permit with the Department since 1982. We are not aware of any problems with Ms. Rendes during the time that she has held her permit. We are awaiting an inspection of her facility prior to issuing a current permit, but we do not anticipate any problems with the inspection.

"Ms. Rendes received a permit to import a female Bennett wallaby in March 1986. This female died in July apparently due to an acute allergy."

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF CHERYLRENEE RENDES, FULLERTON, FOR AUTHORIZATION TO IMPORT AND POSSESS A PAIR OF BENNETT WALLABIES FOR EDUCATIONAL PURPOSES SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

24. REQUEST OF COASTAL FISHERIES FOUNDATION, BERKELEY, FOR FOUR EXPERIMENTAL GEAR PERMITS RE: USING A PAIR TRAWL, A SCOTTISH SEINE, A BEAM TRAWL AND AN OTTER TRAWL IN OCEAN WATERS OFF CENTRAL CALIFORNIA.

The Executive Secretary stated Stephanie Thornton, Staff Consultant, Coastal Fisheries Foundation, Berkeley, had submitted a request for four experimental gear permits regarding the use of a pair trawl, a Scottish seine, a beam trawl, an otter trawl and a modified gill net in ocean waters off central California. He pointed out that the Commissioners had been provided with a copy of that request dated April 15, 1987. He stated that the Commissioners had before them the following summary of the Coastal Fisheries Foundation's request which reads as follows:

"We are writing to respectfully request that five experimental permits be issued to the Coastal Fisheries Foundation for the purpose of testing alternatives to the use of traditional gill and trammel nets. Specifically, the permits will be used to test and evaluate pair trawling, Scottish seining, beam trawling, otter trawl (for vessels less than 30 feet in length), and a modified gill net.

"The Coastal Fisheries Foundation makes this request in order to effectively carry out our Saltonstall-Kennedy funded research study on alternative gear development. At a time when gill net fishermen have been severely impacted by drastic closures, it is critical to provide comprehensive information that will assist them in mitigating these changes. Since various types of alternative gear and methods of targeting on halibut may be unfamiliar to and untested in California fisheries, the information derived from our project will be extremely beneficial towards the maintenance of an economically viable fishing industry. Our information will ease the burden of risk inherent in any new development and will provide fishermen with substantive data with which to make informed decisions.

"Enclosed please find a summary of our study objectives, identification of the fishermen who will test each gear type, the test locations and testing time frames (Commissioners had been provided a copy of this item). Please note that, even though we will be testing other types of fishing gear, we are only requesting permits for the pair trawl, Scottish seine, beam trawl, small otter trawl and modified gill net.

"Our pair trawling experiment will be conducted from late July through late October and will terminate prior to the opening of crab season, November 10. Unlike the Vietnamese pair-trawling experiments using four and one-half inch mesh, our fishermen will be using a considerably larger mesh size which will allow for better escapement of nontarget fish species. However, it will be important that these fishermen be allowed to experiment with varying mesh sizes (with a minimum of four and one-half inches) in order to determine the optimum net construction and configuration for catching halibut. In addition, we will be in direct communication with the Vietnamese Fishermen's Association in order to coordinate our efforts.

"Since Scottish seining is relatively new on the West Coast, little is known about the construction and configuration required for its use on California halibut. As with pair-trawling, we will be experimenting with varying mesh sizes, and following the completion of our research, a recommendation will be made for an optimum mesh size for halibut. It is our understanding that the F/V Ronnie, fishing out of Half Moon Bay, has been highly successful harvesting flatfish outside of three miles with no incidental catches of birds or mammals. We feel it is important to investigate the effectiveness of this gear inside three miles since Scottish seining offers several advantages over other types of fishing gear targeted on halibut: (1) The gear is 'continually worked' thereby minimizing incidental catches of birds or mammals; (2) compared to drag gear, it causes little or no degradation to the bottom; (3) the quality of fish harvested is excellent, allowing for better market prices and increased profit for the fishermen; and (4) drawn over a distance, the potential for gear conflicts with other fisheries is minimal.

"Research into the use of a beam trawl will provide a valuable comparison between this gear type and an otter trawl. Even though the beam trawl has primarily been used for shrimping, we will explore several modifications to its use and construction so as to be effective for catching halibut. One of the advantages of this gear type over an otter trawl is that it rides over the bottom on 'skids', with less potential for bottom damage. Additionally, a beam trawl can be used on a relatively small boat (i.e. 35 feet) which is an important consideration for gill net fishermen who primarily have small vessels.

"The purpose for exploring the conversion of an otter trawl to a small vessel less than 30 feet in length is essentially the same as previously mentioned for the beam trawl. The experimental work undertaken by Fish and Game to examine otter trawling targeted on halibut has proven that this gear can successfully harvest halibut. However, many of the displaced gill net fishermen have small fishing vessels and feel that otter trawling is not an option for them. Therefore, we will explore the possibility of scaling an otter trawl down for effective small boat use.

"Our proposal to test a modified gill net is designed to determine if changes in the physical characteristics and methods of use will eliminate the problem of incidental catches of birds and mammals. We wish to emphasize to the Commission that the problems lie not in the name of a particular gear type, but rather in its physical characteristics, the actual fishing location and the traditional methods of use. In the case of the inshore gill net closures, the stated purpose was to eliminate incidental catches of birds and mammals, not necessarily to eliminate gill nets. If a gill net can be modified to result in a solution to these problems, there is no reason why that gear could not be considered for use. In order to determine if these modifications can be implemented successfully, testing needs to be undertaken. Should we be granted this permit, no testing will be undertaken within the sea otter range.

"We feel our program is in line with the Commission's policy of encouraging the development of alternative fishing gear and methods and so we respectfully urge your support for our permit requests."

Mr. Cribbs stated that Ms. Thornton had indicated that, while she had submitted this overall proposal, the proposed permits should be issued to those fishermen indicated in the enclosures. He also pointed out that the Commissioners had been provided with a subsequent letter from Ms. Thornton, in which she noted that the Coastal Fisheries Foundation was withdrawing its proposal for a permit to use a modified gill net. He stated that the Department had reviewed Ms. Thornton's request and had provided the following recommendation:

"The Department has reviewed the subject request and discussed various aspects of the proposal with CFF staff. Results of the proposed research efforts, which will be carried out under a Saltonstall-Kennedy grant administered by the National Marine Fisheries Service, will serve to both compliment and supplement on-going efforts to investigate the development of alternative gear to the use of gill and trammel nets.

"CFF studies propose to look at a broader range of alternative gear that is currently being investigated and will also provide more detailed information and data regarding the economic and market factors of each specific gear type. The Department supports CFF's proposal and we intend to cooperate with them to insure adequate monitoring both during and subsequent to scheduled field work.

"Because of the importance and need to develop viable alternatives to the use of gill and trammel nets, and also the fact that the proposed experimental gear activities will provide important information that both fishermen and resource managers can use to make informed decisions regarding potential gear alternatives to the use of gill and trammel nets, the Department recommends that the Commission approve subject request."

Al Petrovich, Chief Marine Resources Division, stated that the Department was aggressively studying alternative methods to the use of gill nets and recommended that the Commission approve the Coastal Fisheries Foundation's request for these different fishing alternatives. He noted that this request included gear types which the Department was not now studying.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF COASTAL FISHERIES FOUNDATION, BERKELEY, ON BEHALF OF FOUR COMMERCIAL FISHERMEN FOR ISSUANCE OF FOUR EXPERIMENTAL GEAR PERMITS PERTAINING TO USING A PAIR TRAWL, A SCOTTISH SEINE, A BEAM TRAWL AND AN OTTER TRAWL IN OCEAN WATERS OFF CENTRAL CALIFORNIA SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

could not be used in waters less than 500 fathoms in depth. He pointed out that if this method was used in southern California (south of Point Arguello), there could be an incidental take of marlin which the Department opposed.

Bob McKay stated that he had recently attended a meeting in Ventura that was sponsored by the southern counties Fish and Game Commissions. He noted that based on a discussion at that meeting concerning this type of activity, he recommended that the Commission deny Mr. Shipkey's request.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION PURSUANT TO THE AUTHORITY
VESTED BY SECTION 8606 OF THE FISH AND GAME CODE HEREBY
DENIES THE REQUEST OF STEVEN A. SHIPKEY, NEWPORT BEACH, FOR
AUTHORIZATION FOR AN EXPERIMENTAL GEAR PERMIT WHICH WILL ALLOW
HIM TO USE A MULTI-HOOK SURFACE LINE TO TAKE SHARK AND SWORDFISH
IN OCEAN WATERS SOUTH OF POINT ARGUELLO.

PASSED UNANIMOUSLY.

27. U.S. FISH AND WILDLIFE SERVICE PROPOSALS FOR STEEL SHOT ZONES FOR THE
1987-88 WATERFOWL SEASONS.

Mr. Cribbs stated that the issue before the Commission was for discussion of the Fish and Wildlife Service's proposals for steel shot zones for the 1987-88 waterfowl season, and for direction to the Commission staff to address this issue in the future. He pointed out that the Commissioners had been provided with a memo dated January 7, 1987 from the Department to the Commission regarding steel shot zone implementation and the Federal Register dated January 15, 1987, outlining proposed nontoxic (steel shot) zones for California for the 1987-88 waterfowl hunting season. He noted that the Department had reviewed the U.S. Fish and Wildlife Service's proposals and had provided the following recommendation:

"The attached Federal Register document of January 15, 1987 listed those areas in which steel shot will be required for waterfowl hunting under proposals by the U.S. Fish and Wildlife Service (USFWS). Changes from 1986-87 include establishment of the following countywide zones:

Butte	Colusa
Contra Costa	Glenn
Imperial	Inyo
Merced	Sacramento
San Bernardino	San Joaquin
Solano	Sutter
Yolo	Yuba

"The USFWS has been informed by letter, and concurs, that Inyo and San Bernardino counties should not convert at this time because they harvest less than 20 birds per square mile.

"Though prohibited by the terms of the final rules on steel shot zone implementation criteria (the Commissioners were provided with a copy of the Federal Register of November 21, 1986), from attempting to use data collected after 1985-86 for deferring conversion of counties, the Department did monitor during 1986-87 a number of the counties scheduled to convert to steel in 1987-88. Based on the number of diagnosed lead poisoning cases, gizzard ingestion rates or no monitoring effort conversion should proceed in Colusa, Contra Costa, Glenn, Merced, San Joaquin and Solano counties. We are still analyzing liver data from Butte, Imperial, Sacramento, Sutter, Yolo and Yuba counties; but, based on gizzard ingestion rates, we recommend to the USFWS that conversion in these counties be deferred until 1991-92. The USFWS has refused to accept that proposal and we are attempting to resolve the issue.

"The Department recommends to the Commission that steel shot zones be accepted in those counties for which evidence dictates conversion, as well as in the zones which required steel in 1986-87. If the Department cannot resolve the dispute regarding the remaining counties in 1987-88, I would recommend acceptance of steel shot zones in those counties as well."

Eldridge Hunt stated that the Federal Register listed 14 counties which were proposed to become steel shot areas for the upcoming waterfowl season. He noted that subsequent to the Federal Register notice, the Department had contacted the USFWS and informed them by letter that Inyo and San Bernardino should not be converted at this time because they harvest less than 20 birds per square mile. He noted that the USFWS concurred with that comment. Mr. Hunt stated that the remaining 12 counties were the major waterfowl hunting areas in California. He explained that the Department felt that six of those twelve counties should be exempted from the USFWS's proposal because they did not meet the state's criteria. He pointed out that Illinois, Louisiana and California had not responded to the USFWS's proposals at this time. He stated that based on the number of diagnosed lead poisoning cases, gizzard ingestion rates or no monitoring effort, conversion to steel shot should proceed in Colusa, Contra Costa, Glenn, Merced, San Joaquin and Solano counties. He indicated that the Department was still analyzing liver data from Butte, Imperial, Sacramento, Sutter, Yolo and Yuba counties; but based upon gizzard ingestion rates, the Department recommended to the USFWS that conversion in those counties be deferred until 1991-92. He noted that the USFWS had refused to accept that proposal and that the Department was attempting to resolve that issue. Mr. Hunt also pointed out that the Department had been working with the Attorney General's office to determine if the Department should take legal action at this time.

Commissioner Murdy stated that it was his recommendation that the Commission consider the USFWS's proposals under protest as it had done the previous year.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BRYANT, THAT
THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF
TO PUBLISH NOTICE OF ITS INTENT TO CONSIDER THE U.S. FISH
AND WILDLIFE SERVICE'S PROPOSALS FOR NONTOXIC (STEEL SHOT)
ZONES FOR CALIFORNIA FOR THE 1987-88 WATERFOWL HUNTING
SEASON, BUT IS DOING SO UNDER PROTEST.

PASSED UNANIMOUSLY.

President Taucher stated that he had been contacted by Mike Maier, Waterfowl Habitat Owners Alliance, regarding the release of domesticated mallard ducks. He stated that these birds would be released during the waterfowl season, and would be available for waterfowl hunters on many of the southern California duck clubs. He requested that the Executive Secretary contact Mr. Maier to follow up with this proposal.

28. RECEIPT OF DEPARTMENT REPORT RE: RESERVATION SYSTEM FOR STATE-OPERATED PUBLIC HUNTING AREAS.

The Executive Secretary reminded the Commission that last year it instituted a revised reservation system for handling waterfowl hunters on state-operated public hunting areas. He explained that at the time the system was imposed, the Commission requested that the Department report back to it concerning implementation of the program and to provide an evaluation of the impact of that system on waterfowl hunting within the state. He pointed out that the Commissioners had been provided with a copy of the Department's report. Mr. Cribbs then summarized the Department's report as follows:

"In order to attempt to balance state-operated hunting program costs with revenues, the Department made several changes in the waterfowl reservation application procedures and fee structure. This report evaluates the results of these changes in terms of the stated goal of balancing the program budget.

"Licenses and Revenue Branch has prepared a report on income generated from the new program. Discounting duck stamp sales, revenues increased from \$357,145 in 1985-86 to \$696,876 in 1986-87. The most recent estimate of program operating costs reported a total program cost of \$712,288. Therefore, income from the new fees was approximately \$15,000 less than costs. Evaluation is now underway by the area managers to determine updated operating costs, but the three areas which have reported thus far have indicated a decrease in costs of \$35,800, or 15 percent from the previous period. It remains to be seen if these savings will be realized by the other areas.

"Preference by hunters for types of permit use was measured in several ways. Several wildlife areas monitored use at the check stations. Season passes accounted for 24 percent of hunter trips, two-day passes for 23 percent and daily permits for 52 percent. Permit sales as reported by Licenses, compared with hunter days reported by the areas, indicated almost identical results. The 35,618 one-day permits sold represent 55 percent of the paying adult hunters. Assuming each two-day permit sold was used twice, 22 percent of trips were under this type of permit. By simple subtraction then, 23 percent of hunter days were by season permit holders which means that each season permit was used an average of 11 times.

"The postcard survey produced dramatically different results. Respondents reported 51 percent of trips on season passes, 31 percent on two-day passes and 17 percent on daily passes. An interview conducted on the last weekend of the season at Sacramento NWR reported similar

percentages with season passes accounting for 51 percent of use, and 24 percent and 26 percent for two-day and daily passes, respectively. These figures suggest that both surveys were heavily biased toward season pass holders, who tend to be regular, more successful hunters, and more likely to respond or be contacted at a check station late in the year.

"Total hunter use for 1986-87 was down only 2 percent from the previous year, but state duck stamp sales declined almost 10 percent, from 95,000 to 86,000. Number of reservation applications submitted were down 18 percent from 1985-86, but were running ahead of last year for the second half of the season. Odds of being drawn for a reservation were 1 in 2.84 this year and 1 in 4.09 last year. Percentage of hunters receiving reservations who actually used them was 45 percent in 1986 and 30 percent in 1985."

Eldridge Hunt stated that he did not have anything to add to the Department's written report at this time, but indicated that the Department was happy with the way things had occurred last year, especially late in the season when the hunters became more familiar with the new procedures. The Commission thanked the Department for its report and had no questions concerning that report.

CONSENT CALENDAR

The Executive Secretary noted that Items 29 - 43 had been placed on the Commission's consent calendar. He stated that the Department requested that item No. 42 be removed from the consent calendar to provide some clarification. Mr. Cribbs stated that Commission staff knew of no other opposition to these proposals at this time other than as specified in the analysis and that the Department had provided a recommendation on each of these items which either called for approval or modified approval by the Commission. He pointed out that any item could be removed from the consent calendar by the Commission or upon request of the Department or someone in the audience who would like to speak to that item. He noted that the Commission staff had prepared a summary of the consent items which were available to the audience. Mr. Cribbs then stated that one overall motion was appropriate for approval of these items.

29. AMENDMENT OF SECTION 554, TITLE 14, CAC, RE: COOPERATIVE DEER HUNTING AREAS.

The Department is requesting that the Commission amend Section 554, Title 14, CAC, regarding cooperative deer hunting areas. At the Commission's January 9, 1987 meeting in Monterey, it authorized its staff to publish notice of its intent to amend this section. That legal notice has been published.

This section provides for cooperative deer hunting areas in deer quota zones. The existing regulation defines the cooperative hunting area as encompassing not less than a total of 5,000 acres, except that such area may consist of neighboring lands not less than 640 acres in size under the control of one or more owners. Applicants for the cooperative deer hunting area program are to obtain an application from the Department's headquarters or regional offices and submit the completed application to the License and Revenue Branch in Sacramento. The completed application is to be received by July 23.

The proposed regulation changes the following: restricts application to the program to landowners, deleting lessees; clarifies deer quota zones to be those which require public drawings; changes the location for submitting the completed application from Licenses and Revenue Branch in Sacramento to the regional offices; and changes the due date for the completed applications to a relative time instead of the specific date of July 23. These changes are proposed to clarify the intent of the regulation and reduce administrative time to process completed applications.

The Executive Secretary pointed out that the Commissioners were provided with a copy of the Department's pre-publication of notice and pre-adoption statements as well as the proposed regulations in strike-out and underline format.

The Commission office received no correspondence on this matter.

Department Recommendation

The Department recommends final adoption of the proposed regulations as submitted to the Commission on January 9, 1987.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT
THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY
VESTED BY SECTION 1572 OF THE FISH AND GAME CODE AND TO IMPLEMENT,
INTERPRET OR MAKE SPECIFIC SECTIONS 1570-1572 OF SAID CODE HEREBY
AMENDS SECTION 554, TITLE 14, CALIFORNIA ADMINISTRATIVE CODE,
REGARDING COOPERATIVE DEER HUNTING AREAS AS FOLLOWS:

Section 554, Title 14, CAC, is amended to read:

554. Cooperative Deer Hunting Areas.

To encourage the protection and enhancement of critical deer habitat, to provide added protection to landowners and lessees from depredations of trespassers and to provide greater access for the public to hunt on privately owned or controlled lands, the department may establish cooperative hunting areas and issue permits for the take of deer as specified subject to the following conditions:

(a) Definition and Scope: A cooperative deer hunting area is an area of private or leased land located within critical deer habitat as determined by the department in deer quota zones (see Section 360) which require public drawings. The cooperative hunting area shall encompass not less than a total of 5,000 acres, except that such area may consist of neighboring lands not less than 640 acres in size under the control of one or more owners.

(b) Application Process: Application forms are available from the department's headquarters and regional offices. The applicant for a cooperative deer hunting area permit shall be the owner/fee title holder or lessee of said land. The completed application form and a completed one deer tag application for the appropriate deer zone shall be submitted to one of the following offices of the Department of Fish and Game:

Region 1, 601 Locust Street, Redding 96001 (916) 225-2300

Region 2, 1701 Nimbus Road, Rancho Cordova 95670 (916) 355-0978

Region 3, 7329 Silverado Trail, Box 47, Yountville 94599 (707) 944-2011

Region 4, 1234 East Shaw Avenue, Fresno 93710 (209) 222-3761

Region 5, 245 West Broadway, Long Beach 90802 (213) 590-5132

License and Revenue Branch, 3211 S Street, Sacramento, California 95816, The completed applications must be received prior to July 23 the first Friday in August. No individual may submit more than one cooperative deer hunting area application or deer tag application per deer season nor may there be more than two cooperative deer hunting area applicants for a given parcel of land. The department shall review the cooperative deer hunting application, verify the content thereof and certify that the lands consist of critical deer habitat prior to the issuance of a cooperative deer hunting area permit and deer tag.

Only those applications that are filled out completely will be accepted. Incomplete applications will be returned within 15 days of receipt by the department. There shall be no fee for a cooperative hunting area permit.

(c) A deer tag issued pursuant to the provisions of this section is valid only during the open deer season for the deer zone specified on the tag and may only be used on the lands specified in the landowner's or lessee's application.

(d) All provisions of the Fish and Game Code relating to the take of birds and mammals shall be a condition of all permits and tags issued pursuant to this section.

(e) Any permit or tag issued pursuant to Section 554 may be cancelled or suspended at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of this regulation by a court of competent jurisdiction.

Authority: Section 1572, Fish and Game Code.

Reference: Sections 1570-1572, Fish and Game Code.

PASSED UNANIMOUSLY.

30. AMENDMENT OF SECTION 107.1, TITLE 14, CAC, RE: POSSESSION OF GILL NETS BY SWORDFISH PERMITTEES.

At the Commission's October 3, 1986 meeting in Sacramento, it authorized its staff to publish notice of its intent to amend Section 107.1, Title 14, CAC, pertaining to the possession of gill nets and harpoons aboard shark and swordfish vessels. That legal notice has been published.

The Executive Secretary pointed out that the Commissioners had been provided with a copy of the Department's pre-publication of notice and pre-adoption statements as well as the text of the regulations in strike-out and underline format.

The Commission office has received a letter from Anthony West, Gillnetters Association in support of this proposal and copies of his letter were provided to the Commissioners.

Department Recommendation.

"Under current regulations (Section 107.1, Title 14, CAC), any fisherman who is operating under a permit to use harpoons to take swordfish may not possess a drift gill net aboard his vessel. This restriction applies to all swordfish harpoon fishermen, including those who also possess a limited-entry fishery permit allowing the use of drift gill nets to take swordfish. Thus, fishermen who hold both types of permits [drift gill net swordfish (and shark) permit and a swordfish harpoon permit] must decide which gear (drift gill net or harpoon) they will use on a trip-by-trip basis. Fishermen, who hold both types of permits and who operate vessels capable of using both types of fishing gear on the same fishing trip, feel these restrictions unnecessarily limit their flexibility and fishing opportunities.

"This proposed regulatory action would remove these apparently unnecessary restrictions and allow fishermen, who hold both a swordfish harpoon permit and a permit allowing the use of drift gill nets to take swordfish, to use both types of gear (harpoons and drift gill nets) on the same fishing trip. We do not believe that this proposed regulatory action would have any negative impact on the swordfish or any other marine resource.

"In addition, the prohibition concerning possession of drift gill nets by fishermen who hold only a permit allowing the use of harpoons would continue, as it is necessary to insure effective enforcement of restrictions (limits on the number of fishermen, gear length, etc.) concerning the use of drift gill nets to take swordfish (and sharks).

"The Department recommends adoption of the proposed amendment to Section 107.1, Title 14, CAC, and attached is a pre-adoption statement concerning this proposed regulatory action. Also, for additional background information, please refer to the pre-publication of notice statement and/or our previous memorandum (February 18, 1987) concerning this issue."

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTION 8394 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SAID SECTION OF SAID CODE HEREBY AMENDS SECTION 107.1, TITLE 14, CALIFORNIA ADMINISTRATIVE CODE, REGARDING POSSESSION OF GILL NETS BY SWORDFISH PERMITTEES AS FOLLOWS:

Section 107.1, Title 14, CAC, is amended to read:

(a) Except as provided in subsection (b), any person operating under the authority of a swordfish permit as specified in Section 107 of these regulations may not possess a gill net aboard a swordfish permit vessel, except that set gill nets may be possessed, provided that the intent to use such gear has been declared on the application for a swordfish permit.

(b) Drift gill nets may be possessed onboard a swordfish permit vessel and used by a swordfish permittee who also possesses a valid permit which authorizes the use of a drift gill net to take swordfish.

NOTE: Authority cited: Section 8394, Fish and Game Code.

Reference: Section 8394, Fish and Game Code.

PASSED UNANIMOUSLY.

31. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 147, TITLE 14, CAC,
RE: COMMERCIAL ANCHOVY FISHERY.

Summary of Proposal

The Department is requesting that the Commission authorize its staff to publish notice of its intent to amend Section 147, Title 14, CAC, regarding the commercial anchovy fishery. The Commissioners were provided with copies of the Department's pre-publication of notice statement as well as the proposed regulations in strike-out and underline format. Final adoption of the regulations will take place at the Commission's August 7 meeting in Sacramento.

32. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 163, TITLE 14, CAC,
RE: COMMERCIAL HERRING FISHERY.

Summary of Proposal

The Department is requesting that the Commission authorize its staff to publish the required notice to amend Section 163, Title 14, CAC, pertaining to the commercial herring fishery. The Commissioners were provided with copies of the Department's pre-publication of notice statement as well as the proposed regulations in strike-out and underline format. Because of the controversial nature of some of the recommendations from the public pertaining to these regulations and the proposed amendments submitted by the Department, a tentative approval hearing will be scheduled for June 26 at South Lake Tahoe to hear initial testimony on this issue. Final adoption of the regulations will take place at the Commission's August 7 meeting in Sacramento.

The Commissioners were also provided copies of additional background information regarding this issue.

33. ADOPTION OF SECTION 167, TITLE 14, CAC, RE; PENALTIES IN LIEU OF
SUSPENSION OR REVOCATION - SALMON PERMITTEES.

At the Commission's August 29, 1986 meeting in San Francisco, it authorized its staff to publish notice of its intent to adopt Section 167, Title 14, CAC, regarding penalties in lieu of suspension or revocation of the permits of commercial salmon fishermen. That legal notice has been published.

This matter was adopted on December 5, 1986; however, OAL has required the Commission to provide the public with an additional opportunity to comment on the modified regulation. The Commissioners were provided with the text of the regulations.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 8237 AND 8237.2 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SAID SECTIONS OF SAID CODE HEREBY ADDS SECTION 167, TITLE 14, CALIFORNIA ADMINISTRATIVE CODE, REGARDING PENALTIES IN LIEU OF SUSPENSION OR REVOCATION - SALMON PERMITTEES AS FOLLOWS:

Section 167 is added to Title 14, CAC, to read:

167. Penalties in Lieu of Suspension or Revocation - Salmon Permittees.

Pursuant to the provisions of Section 8237 of the Fish and Game Code, the Commission, after notice and an opportunity to be heard, may suspend or revoke the commercial salmon fishing privileges of any person licensed or required to be licensed under the authority of sections 7852.5 and 7860 of the Fish and Game Code upon conviction of a commercial salmon fishing violation. Notwithstanding this provision, the Executive Secretary of the Commission may enter into a stipulated compromise settlement agreement with the agreement of the licensee on terms and conditions which may include, but are not limited to, the payment of monetary penalties, the reduction of a revocation to a suspension for a specified period of time, a period of probation not to exceed three years or any other terms and conditions, mutually agreed upon by the Executive Secretary acting for the Commission and the licensee, without further hearing or appeal. Conviction of multiple violations, committed at the same time shall be treated as one conviction for the purposes of implementing the provisions of this section.

A compromise settlement agreement may be entered before, during or after the Commission hearing on the matter, but is valid only if executed and signed by the Executive Secretary and the licensee prior to the adoption of the decision by the Commission. Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties as prescribed in subsection (a) of these regulations and shall be due and payable within 30 days after the compromise is entered into. Any and all funds submitted as payment in whole or in part by a licensee of any monetary penalties stipulated in a compromise settlement agreement shall be nonrefundable.

If the licensee fails to perform all of the terms and conditions of the compromise settlement agreement, such agreement is thereby declared void and the Commission, notwithstanding the compromise settlement agreement, may take any action authorized by Section 8237 of the Fish and Game Code against the licensee.

(a) Procedures for determining monetary penalties:

(1) Monetary penalties (score range multiplied by the monetary range) for compromise settlement agreements shall be based on the following point system:

<u>SCORE RANGE</u> <u>(Total Points)</u>	<u>MONETARY RANGE</u>
<u>1-20</u>	<u>\$100 per point as provided in subsection (a)(2) below.</u>
<u>21+</u>	<u>\$150 per point as provided in subsection (a)(2) below.</u>

that conceptually he had no problem with the "open pond method". Director Parnell agreed with the Executive Secretary and noted that the Herring Advisory Committee would be discussing this issue at its May 29 meeting and the Department would be able to provide additional comments to the Commission at its June 26, 1987 meeting in South Lake Tahoe.

The Executive Secretary explained that the reason for Section 8606 of the Fish and Game Code regarding the issuance of experimental gear permits was to move toward a viable fishery if the experimental basis proved effective. He indicated that by allowing the Commission to make a decision, at this time, he could notice the Commission's intent to consider the "open pond method" during the normal regulatory process for amendments to the herring regulations (i.e. Section 163, Title 14, CAC). President Taucher asked what would happen with the fishermen's purse seine permits. The Executive Secretary indicated that at this time, those permits were exchanged for the experimental permits to utilize the "open pond method", and if the fishermen decided not to utilize the "open pond method" he would retain his purse seine permit. Mr. Cribbs pointed out that no additional fishermen were allowed to enter the fishery.

The Commission concurred that notice should be given that the Commission would discuss the "open pond method" as a possible amendment to the herring regulations Section 163, Title 14, CAC.

26. REQUEST OF STEVEN A. SHIPKEY, NEWPORT BEACH, FOR EXPERIMENTAL GEAR PERMIT RE: USE OF A MULTI-HOOK SURFACE LINE TO TAKE SHARK.

The Executive Secretary stated that Steven A. Shipkey, Newport Beach, had requested an experimental gear permit which would be issued pursuant to the provisions of Section 8606 of the Fish and Game Code to allow him to use a multi-hook surface line to take shark. He pointed out that the Commissioners had been provided with a copy of Mr. Shipkey's request. He noted that the Department had reviewed Mr. Shipkey's request and provided the following recommendation:

"In a telephone discussion with Mr. Shipkey concerning this matter, he indicated that he proposed to use drift longline gear approximately 20 miles in length to take sharks, with the primary target species being bonito shark. Also, he indicated that he plans to use this longline gear at the same time he is using a drift gill net to take sharks and swordfish and in the same general fishing areas, including ocean areas outside of the Channel Islands and Cortes Bank off southern California.

"This issue, concerning the issuance of experimental gear permits for the use of drift longline gear to take sharks and/or swordfish, has been considered several times by the Commission during the past three years. During this time, the Commission has authorized the issuance of four experimental gear permits allowing the use of drift longlines under specified conditions, namely the drift longline gear could not be used off southern California (south of Point Arguello) and could not be used in waters less than 500 fathoms in depth.

"Three of these permits have expired and no requests for renewal have been received. Also, our information indicates that no fishing activities were conducted under these three permits. In addition,

regarding the fourth permit, the Commission, at its October 3, 1986 meeting, approved the request of Mark Sanders, for an experimental gear permit, allowing him to use drift longline gear to take sharks, subject to the aforementioned area and depth restrictions. However, Mr. Sanders decided not to pursue this experimental fishing opportunity.

"The Department has consistently recommended against the use of drift longline gear off southern California due to the likelihood of high incidental catches of striped marlin. When drift longlines were used in ocean waters off Mexico by Japanese fishermen several years ago, marlin comprised over one-half the catch. Therefore, we continue to believe that the experimental use of drift longlines should be restricted to the waters off central and northern California, where the potential marlin take would be minimal.

"In addition to prohibiting fishing south of Point Arguello, the previous permits limited the use of drift longlines to ocean waters 500 fathoms or greater in depth. This depth restriction was included to avoid conflicts with existing trawl net fisheries off central and northern California.

"Therefore, we recommend that if the Commission approves Mr. Shipkey's request, the following conditions should be imposed:

1. Drift longline gear shall not be used south of a line running due west from Point Arguello.
2. Drift longline gear shall not be used in waters less than 500 fathoms in depth.
3. Any marlin captured and alive must be returned immediately to the water. In the event the fish is dead, the Department must be notified prior to removal of the marlin from the boat.
4. The Department may assign an observer to determine the effect of fishing operations upon target and nontarget species.
5. The permittee shall contact our Long Beach office prior to any fishing trips involving the use of drift longline gear and submit monthly fishing records to our Long Beach office.

"However, if Mr. Shipkey feels that he cannot successfully fish drift longline gear under these conditions, we then would recommend denial of his request for an experimental gear permit."

Joseph Luz stated that he was a partner with Mr. Shipkey and requested that swordfish be added to their request. He stated that their request was to use a drift longlines to take shark and swordfish while at the same time, they were utilizing their drift gill net to take shark and swordfish off of southern California.

Al Petrovich stated that the Commission had authorized the issuance of experimental gear permits for the use of drift longline gear to take shark and swordfish; however, it was always for the waters north of Point Arguello and

25. REQUEST FOR COMMISSION POLICY STATEMENT RE: USE OF "OPEN POND METHOD" TO TAKE HERRING EGGS ON SEAWEED.

The Executive Secretary stated that the issue of permitting the use of the "open pond method" to take herring eggs on seaweed had come before the Commission at previous meetings. He explained that the methodology used was to suspend edible seaweed in areas where herring were known to spawn in order to collect the spawn and then harvest the seaweed for sale for human consumption. He noted that currently, one experimental gear permit for the San Francisco Bay had been issued by the Commission utilizing this method. He pointed out that there had been requests from others for similar permits. He indicated that the request before the Commission at this time was for the policy direction to its staff concerning whether or not the Commission desires to permit this type of operation in the future, and thus, pursue the adoption of regulations governing this type of fishery.

Mr. Cribbs stated that in light of the fact that the Commission would be considering amendments to Section 163, Title 14, CAC, the commercial herring fishing regulations, at its June and early August meetings, it would seem appropriate for the Commission to authorize its staff to publish notice of its intent to consider this issue in conjunction with the amendments to Section 163, Title 14, CAC. He explained that the public would thus have the opportunity for input on the matter before the Commission makes its final policy determination. He noted that should the Commission concur in considering a regulatory approach to this fishery, an appropriate pre-publication of notice statement would be drafted, and notice would be published of the Commission's intent to hear the matter at its June and early August meetings.

Ilson New stated that he represented the following purse seine permittees for the San Francisco Bay Roe Herring Fishery: Darrell G. Kapp, Stanley J. Nelson, James Glenovich, William Glenovich and Wallace K. Green. He noted that these fishermen were requesting that the Commission adopt a favorable Commission policy statement regarding the use of the "open pond method" to take herring-eggs-on-seaweed (HEOS). Mr. New provided the Commission with a letter summarizing the fishermen's reasons for recommending the use of the "open pond method" to collect herring roe. The following is the list of reasons outlined in Mr. New's letter:

- (1) The HEOS "open pond method" and its effects upon the herring biomass is conceptually 100 percent/unmeasureably more biologically beneficial because one hundred percent (100%) of the biomass involved was allowed to live and spawn again in subsequent years.
- (2) The "passive" nature of the open pond fishing method, without any devices of pursuit, entanglement, corralling and entrapment, resulted in the elimination of any physical shock and disruption to any of the biomass during the spawning process, such as occurs with net fishing.
- (3) The fishing method eliminates entirely the concentration upon specific age classes of the herring which allowed a more natural and healthy growth of the biomass. The HEOS fishery targets and affects only spawning herring (and even those herring are not physically

touched or injured) as compared to the large incidental catch of pre-spawn herring which occurs in normal purse seining (and other net methods).

- (4) The "passive" and minimized water activity involved in the "open pond method" eliminated and/or results in no new biological or social problems to the industry or the public.
- (5) The establishment of the fishery by exchange for purse seine permits requires minimal Fish and Game Department research and analysis as the biological information and individual purse seine permit quotas were already available; requiring only a conversion of the exchanged individual purse seine permit quota to an individual HEOS permit quota.
- (6) A HEOS fishery would tend to be more efficiently managed and conducted in a more orderly manner.
- (7) The physically less active and more efficient and orderly conduct of the fishery combined with the method of fishing itself (anchored raft) would require less Department enforcement activity and reduce enforcement costs.

Mr. New then showed the Commission a video tape made by Darrell G. Kapp which showed his operation for the previous year.

Al Petrovich stated that the Department had not taken a formal position on this request at this time, as it considered it to be still in the experimental phase. He explained that this issue had been raised at the Director's Herring Advisory Committee and several concerns were expressed which are as follows:

- (1) The fact that fishing structures (i.e., rafts) need to be placed and/or moved to known, or active spawning areas in order to be successful, could create significant gear conflicts with gill nets if these activities were expanded or increased.
- (2) This fishing method is used in British Columbia and Alaska in a significantly larger area and without any direct competition, with other harvesting methods.
- (3) Concern was also expressed regarding the Department's ability to accurately determine the amount (i.e., weight) of eggs/kelp harvested as processing takes place aboard a fishing vessel and the "product" was ultimately unloaded in totes or boxes filled with brine and salt.

Mr. Petrovich pointed out that the Department believed that it should proceed cautiously at this time, and that it would discuss this item again at the Director's Herring Advisory Committee Meeting on May 29, 1987.

The Executive Secretary pointed out that the reason for this item being scheduled at this time was to provide the Commission with an option to discuss it later as a regulation proposal if it so desired. Commissioner Murdy stated

(2) The score range shall be based on a cumulative total of the points assigned in this subsection:

(A) GRAVITY OF THE VIOLATION.

1. Take of undersize salmon, when such fish comprise (Note: The following points assigned shall be doubled if any part of the load or lot was intentionally hidden by the licensee):

a. 1-25 percent of the total load or lot of salmon.

(i) When there are 3 or less undersized salmon in the total load or lot.

1 point, plus
1/2 point for each
undersized fish

(ii) When there are more than 3 undersized salmon in the total load or lot.

3 points, plus
1/2 point for each
undersized fish

b. 26-50 percent of the total load or lot of salmon.

(i) When there are 3 or less undersized salmon in the total load or lot.

2 points, plus
1/2 point for each
undersized fish

(ii) When there are more than 3 undersized salmon in the total load or lot.

4 points, plus
1/2 point for each
undersized fish

c. 51-100 percent of the total load or lot of salmon.

(i) When there are 3 or less undersized salmon in the total load or lot.

3 points, plus
1/2 point for each
undersized fish

(ii) When there are more than 3 undersized salmon in the total load or lot.

1 point, plus
1 point for each
fish

2. Take of silver salmon which are unlawfully retained during the closed season for silver salmon but during the open season for king salmon, when such fish comprise (Note: The following points assigned shall be doubled if any part of the load or lot was intentionally hidden by the licensee):

a. 1-25 percent of the total load or lot of silver salmon.

(i) When there are 3 or less silver salmon in the total load or lot.

1 point, plus
1/2 point for each
silver salmon

(ii) When there are more than 3 silver salmon in the total load or lot.

3 points, plus
1/2 point for each
silver salmon

- b. 26-50 percent of the total load or lot of silver salmon.
- (i) When there are 3 or less silver salmon in the total load or lot. 2 points, plus 1/2 point for each silver salmon
- (ii) When there are more than 3 silver salmon in the total load or lot. 4 points, plus 1/2 point for each silver salmon
- c. 51-100 percent of the total load or lot of silver salmon.
- (i) When there are 3 or less silver salmon in the total load or lot. 3 points, plus 1/2 point for each silver salmon
- (ii) When there are more than 3 silver salmon in the total load or lot. 1 point, plus 1 point for each silver salmon
3. Take of salmon during closed salmon season. 5 points
4. Take of salmon within a closed area.
- a. When the vessel is found fishing within one mile inside the closure boundary. 2 points
- b. When the vessel is found fishing within more than one mile inside the closure boundary. 5 points
5. Transfer of salmon from nonpermitted vessel to a permitted vessel. 10 points
6. Use of more than six wires or lines. 10 points
7. Use of barbed hooks: for each 5 hooks or portion thereof. 1 point
8. Take of salmon; no valid commercial license in possession. 2 points, plus purchase of required license
9. Take of salmon; no valid commercial salmon vessel permit in possession. 10 points
10. Take of salmon; no valid commercial fishing salmon stamp in possession. 2 points, plus purchase of required stamps
11. Failure to document landing. 2 points
12. Any other commercial salmon fishing violation. 1 point

(B) PRIOR VIOLATIONS

1. For each prior conviction of the licensee within the past three years for violations of the laws or regulations pertaining to the commercial take of salmon, the following additional points shall be assessed:

a. For one prior conviction for a violation of the commercial salmon fishing laws or regulations within the past three years, the accumulative point score shall be doubled to determine the total point score.

b. For two prior convictions for violations of the commercial salmon fishing laws or regulations within the past three years, the accumulative point score shall be tripled to determine the total point score.

c. The provisions of this section regarding compromise settlement agreements shall not apply to any person who has been convicted of three or more convictions, as defined in this section, of the commercial salmon laws or regulations within the past three years or if action is brought to recover civil damages under Section 2014 of the Fish and Game Code from the person subject to action under this section.

(3) When determining total monetary penalties for compromise agreements, an adjustment shall be made in the monetary value of the accumulative point score for points assigned under subsections (a)(2)(A)1. through (a)(2)(A)5. by the total amount of any fine and/or assessment imposed and received by any court.

(4) All monetary penalties for compromise agreements for points assigned under subsections (a)(2)(A)1. through (a)(2)(A)7. are resource oriented and, therefore, all monetary penalties assessed under these subsections shall be deposited by the Department into the special account established by Section 7861 of the Fish and Game Code. All other monetary penalties assessed under this section shall be deposited by the Department to the Fish and Game Preservation Fund.

Authority: Sections 8237 and 8237.2, Fish and Game Code.

Reference: Sections 8237 and 8237.2, Fish and Game Code.

PASSED UNANIMOUSLY.

34. REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER PROPOSED CHANGES IN THE 1987-88 RESIDENT AND MIGRATORY UPLAND GAME BIRD AND MIGRATORY NONGAME BIRD (AMERICAN CROWS ONLY) REGULATIONS.

Summary of Proposal

The Department is requesting that the Commission authorize its staff to publish notice of its intent to consider proposed changes in the 1987-88 Resident and Migratory Upland Game Bird and Migratory Nongame Bird (American Crows Only) Regulations. The Commissioners were provided with a copy of the Department's pre-publication of notice statement pertaining to its proposed changes in sections 300-306, 310.5-312, 354 and 500-501, Title 14, CAC.

As you are aware, by statute, the Commission must receive recommendations by the public pertaining to these regulations at its June 26 meeting. The matter will then be considered for final adoption at the Commission's August 7, 1987 meeting in Sacramento. The Commissioners were provided with a copy of the Department memo, dated March 25, 1987, which responds to President Taucher's request that the Department provide him with the rationale for opening mourning dove season on September 1, rather than on the weekend as most other hunting seasons.

Department Recommendation

The Department recommends publication of notice on this matter.

35. REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER PROPOSED CHANGES IN THE 1987-88 WATERFOWL HUNTING REGULATIONS.

Summary of Proposal

The Department is requesting that the Commission authorize its staff to publish notice of its intent to consider proposed changes in the 1987-88 Waterfowl Hunting Regulations. At the Commission's June 26, 1987 meeting in South Lake Tahoe, it will receive Department and public recommendations for changes in these regulations. This matter will then be considered for final action at the Commission's August 28, 1987 meeting in San Luis Obispo.

As you are aware, the Commission must adopt its regulations within the federal framework provided by the federal government. This will be available in draft form shortly, and in final form just prior to the Commission's August 28, 1987 meeting in San Luis Obispo. The purpose of the public notice is to provide the public with the dates of the hearings regarding the adoption of the 1987-88 Waterfowl Hunting Regulations.

Department Recommendation

The Department recommends publication of the notice pertaining to the hearings for establishment of the 1987-88 Waterfowl Hunting Regulations.

36. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTIONS 550, 551, 551.5, 552 AND 553, TITLE 14, CAC, RE: ADDING TO THE LIST OF STATE WILDLIFE AREAS AND MODIFYING REGULATIONS PERTAINING TO THE USE OF SUCH AREAS AND STATE-OPERATED PUBLIC HUNTING AREAS.

Summary of Proposal

The Department is requesting that the Commission authorize its staff to publish notice of its intent to amend sections 550, 551, 551.5, 552 and 553, Title 14, CAC, regarding adding to the list of state wildlife areas and modifying regulations pertaining to the use of such areas and state-operated public hunting areas.

The Commissioners were provided with copies of the Department's pre-publication of notice statement as well as the proposed regulations in strike-out and underline format. This matter will be scheduled for initial discussion at the Commission's June 26, 1987 meeting in South Lake Tahoe, with final adoption of the regulation to take place at the August 7 meeting in Sacramento.

Department Recommendation

The Department recommends publication of notice on this matter.

37. CONFIRMATION OF EMERGENCY AUTHORIZATION TO DR. BRIAN JAMES WALTON, THE PEREGRINE FUND, SANTA CRUZ, FOR THE TEMPORARY PLACEMENT OF A NESTLING LANNER FALCON IN A PEREGRINE NEST AT DIABLO CANYON, SAN LUIS OBISPO COUNTY.

Summary of Proposal

On April 3, 1987, the Commission granted emergency approval to Dr. Brian James Walton, The Peregrine Fund, Santa Cruz, to permit the temporary placement of a nestling Lanner falcon in a peregrine nest at Diablo Canyon, San Luis Obispo County. The matter before the Commission is for confirmation of that emergency action.

The Commissioners were provided with a copy of Dr. Walton's request.

Department Recommendation

"At its last meeting, the Commission provided emergency authorization to Brian James Walton for the temporary placement of a nestling Lanner falcon in a peregrine nest at Diablo Canyon, San Luis Obispo County. This measure was necessary because the Diablo Canyon site was the earliest known nesting in the state this year and there were no appropriate aged peregrine chicks available for the required nest manipulation.

"Based on the Commission action, a single captive bred Lanner falcon chick was placed in the peregrine nest. It was removed one week later (April 14, 1987) and replaced with two peregrine chicks. The Lanner falcon has been returned to its owner and the peregrine chicks are reported to be doing well. The Commission's timely action in this matter is greatly appreciated and will be significant in helping to achieve this year's goals for the peregrine recovery effort."

38. REQUEST OF WADE NOLTE, SAN CARLOS, FOR AUTHORIZATION TO SALVAGE AND MAINTAIN SPECIMENS OF ACCIDENTALLY KILLED BIRDS.

Summary of Proposal

Wade Nolte, San Carlos, is requesting authorization to salvage and maintain specimens of accidentally killed birds for artistic purposes. Mr. Nolte's letter to the Department reads as follows:

"I recently wrote to Sandi Stadler, Manager of Wildlife Services at Peninsula Humane Society, regarding the dead birds they receive from the wardens at Crystal Spring Lake. She states that educational facilities such as the Steinhart Aquarium, the San Francisco Zoo, etc., occasionally request bodies for an educational display. She also says that these outfits have a permit to possess birds for educational purposes. So, I would like an application to apply for a permit. If that is out of the question, you might be able to point me in the right direction.

"Also, Joanie Bell, a taxidermist, says that all birds except those on "game cards" for hunting are considered totally protected and unmountable. So how would I go about getting a professional to treat the birds? Will I need to get the taxidermist a special permit? I have read a book on bird taxidermy and do not see a problem with doing it myself. Now, I just need the birds (preferably song and garden birds).

"Photographs can do a lot if one wants to draw and carve birds as realistic and professional as possible. But reference material in the form of mounted birds would surely prove to be indispensable. Artists such as Roger Tory Peterson and master carver Bruce Burk are good examples of true professionals and surely their use of the birds they possess was of great importance to their work. I do not intend to exploit any bird. If and when I do acquire such specimens, I plan to store them in a glass case to preserve them for years to come. Any information would be appreciated."

Department Recommendation

"If Mr. Nolte adequately demonstrates to the Commission that he has a bona fide use for salvaged bird specimens, the Department has no objections to the Commission granting Mr. Nolte's request. Mr. Nolte implies, but does not state, that the skins would be used for wildlife artist endeavors. In the past, the Commission has authorized and the Department has issued permits for wildlife artists to obtain and maintain a study skin collection.

"If the Commission grants Mr. Nolte's request, he should be informed that the permit will not allow him to salvage birds from the field, but will allow him to receive the carcasses from various legal sources. Mr. Nolte should also be told that he must have received the permit prior to possessing any bird carcasses."

39. REQUEST OF U.S. FISH AND WILDLIFE SERVICE TO PUBLICIZE COMMISSION INTENT TO HOLD A PUBLIC HEARING ON JUNE 24, 1987 IN SACRAMENTO, RE: REQUEST OF U.S. FISH AND WILDLIFE SERVICE FOR AUTHORIZATION TO OBTAIN A STATE PERMIT TO ESTABLISH AN EXPERIMENTAL POPULATION OF SOUTHERN SEA OTTERS AT SAN NICOLAS ISLAND, VENTURA COUNTY.

The purpose of this agenda item is to obtain Commission authorization to publicize its intent to hold a public hearing at 1:00 p.m. on June 24, 1987 in Sacramento to obtain public testimony pertaining to the request of the U.S. Fish and Wildlife Service for authorization to obtain a state permit to establish an experimental population of southern sea otters at San Nicolas Island, Ventura County. Final action of the Commission on this issue will take place without additional public testimony on June 26, 1987 at South Lake Tahoe.

Copies of the request of U.S. Fish and Wildlife Service, as well as the Department's recommendations were provided to the Commission at its May 15 meeting.

The Commissioners were provided with copies of an executive summary of the U.S. Fish and Wildlife Service's Final Environmental Impact Statement as well as copies of state agency and legislative correspondence.

This item will initiate a public review period prior to the hearing on June 24 and final action on June 26.

40. REQUEST OF ANTON KONATICH, NASKI ENTERPRISES, INC., POINT REYES, FOR RENEWAL OF EXPERIMENTAL GEAR PERMIT NO. X-1111 RE: USE OF A HYDRAULIC DREDGE TO TAKE CLAMS IN OCEAN WATERS OFF NORTHERN CALIFORNIA.

Summary of Proposal

Anton Konatich, Naski Enterprises, Inc., Point Reyes, is requesting renewal of his experimental gear permit No. X-1111, pertaining to the use of a hydraulic dredge to take clams in ocean waters off northern California.

The Commissioners were provided with a copy of Mr. Konatich's request and a copy of his 1986 permit.

Department Recommendation

"Consideration of request from Mr. John Konatich for renewal of his experimental gear permit No. X-1111 authorizing the use of a hydraulic dredge to harvest clams in specified ocean waters north of Bodega Head, Sonoma County.

"Mr. Konatich has applied for an additional one-year extension of his experimental gear permit No. X-1111. Subject permit was originally issued on May 7, 1982, and subsequently renewed on August 26, 1983, December 6, 1984 and on April 7, 1986. The permit authorizes the use of a deep-water hydraulic clam dredge.

"To date, the applicant has conducted sea trials with a prototype of his dredge and has built a new vessel suitable for towing a deep-water clam dredge. Few clams have actually been taken to date as construction of a new dredge during 1986 was held up for lack of funding. Funding has finally been obtained for the applicant's dredge project and his dredge and other equipment are currently under construction. The applicant proposes to complete his dredge and conduct sea trials during 1987.

"The Department recommends that the Commission authorize renewal of subject permit authorizing the use of a hydraulic dredge for harvesting clams off the coast of Sonoma, Mendocino, Humboldt and Del Norte counties. However, since the applicant has not actually taken clams under the auspices of subject permit, we also recommend that if the permit is not utilized during the current permit year, then any subsequent requests be denied."

41. REQUEST OF CARY D. CHEVALIER, U.C. IRVINE, FOR AUTHORIZATION TO IMPORT AND POSSESS KINKAJOUS (Potos flavus) FOR SCIENTIFIC AND EDUCATIONAL PURPOSES.

Summary of Proposal

Cary D. Chevalier, School of Biological Sciences, U.C. Irvine, is requesting authorization to import and possess eight kinkajous (Potos flavus) for scientific and educational purposes. His letter reads as follows:

"I again extend my thanks to you and the Commission for your support of my research efforts involving members of the raccoon family (Procyonidae), including species residing in Mexico. I have just returned from Mexico where I have completed my obligation to the Mexican government by returning the five cacomixtles (Bassariscus sumichrasti) as originally agreed upon. I have enclosed a copy of the receipt signed by the responsible Mexican authorities (the Commissioners were provided a copy of the receipt).

"I have also enclosed a copy my Mexican permit to collect and export the requested maximum of eight kinkajous (Potos flavus) for your records. Commissioners were also provided with copies of this permit. Copies of both these documents have been provided to Captain Herlache's office as well."

Department Recommendation

"The Department has no objections to the Commission granting Mr. Chevalier's request. Letters supplied to the Department by Mr. Chevalier under University of California, Irvine letterhead indicate that he is involved with bona fide scientific research.

"Mr. Chevalier also supplied letters of correspondence with the Mexican Government which states that the kinkajous will remain the property of Mexico. The kinkajous will be returned to Mexico upon completion of the study."

43. AMENDMENT OF COMMISSION POLICY RE: DISSEMINATION OF INFORMATION REGARDING PROPOSED CHANGES IN MAMMAL HUNTING AND TRAPPING, SPORT FISHING, MIGRATORY AND RESIDENT UPLAND GAME AND WATERFOWL REGULATIONS.

Summary of Proposal

After a discussion with Assemblyman Eaves on April 30, 1987, regarding his legislation AB 406, the Commission staff now proposes additional language to the Commission policy pertaining to the "Dissemination Of Information Regarding Changes In Mammal Hunting and Trapping, Sport Fishing, Migratory and Resident Upland Game and Waterfowl Regulations" which was adopted on April 10, 1987. The proposed amended policy would now read as follows:

"It is the policy of the Fish and Game Commission that:

At least 30 days prior to the meeting when mammal hunting and trapping, sport fishing, migratory and resident upland game, and waterfowl regulations are adopted, the Department shall include in its statewide and regional news releases a clear summary, in legislative counsel format, of proposed substantive changes in those regulations. Such news releases shall contain a designation of the county or counties affected and the species proposed to be taken if that species was not subject to sport take in the county or counties affected during the preceding season. A copy of such releases shall also be sent to each member of the Legislature and the Board of Supervisors of each county."

Department Recommendation

The Department concurs in the proposed amendment.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITEMS 29-41
AND 43 ON ITS MAY 15, 1987 CONSENT CALENDAR.

PASSED UNANIMOUSLY.

42. REQUEST OF SOUTHWEST DIVERSIFIED DEVELOPERS, REDWOOD CITY, FOR AUTHORIZATION TO LANDSCAPE A PORTION OF THE REDWOOD SHORES ECOLOGICAL RESERVE, SAN MATEO COUNTY.

The Executive Secretary stated that Michael B. Wilmar of Nossaman, Guthner, Knox and Elliott, San Francisco, had requested authorization for Southwest Diversified Developers, Redwood City, to landscape a portion of the Redwood Shores Ecological Reserve, San Mateo County. He pointed out that the Commissioners had been provided with a copy of Mr. Wilmar's letter dated April 24, 1987. Mr. Cribbs summarized Mr. Wilmar's proposal as follows:

"I am writing to you at the direction of Don Lollock and Jim Swanson. We represent Southwest Diversified ("Southwest"), the developer of Lots 4 and 5 of the Sandpiper Subdivision at Redwood Shores in Redwood City. The two parcels that Southwest proposes to develop lie inboard of

a dike adjacent to Steinberger Slough, a part of south San Francisco Bay. As you may know, as a result of two land exchanges entered into between the State Lands Commission ("the Lands Commission") and Southwest's predecessors in title in this same area (Mobil Oil Estates [Redwood] Limited and Redwood Shores, Inc.), the state's sovereign ownership extends inboard of the existing dike. There it abuts the southerly property line of one of the parcels Southwest proposes to develop and the southerly and westerly property lines of the other.

"For your reference, the state-owned parcels involved are (1) a portion of that described as 'Parcel S-1' in 'Exhibit A 1' to the Phelps Slough Boundary and Exchange Agreement between the Lands Commission and Mobil Oil Estates (Redwood) Limited, dated December 3, 1973, as modified by the exchange of interests in real property pursuant to the Exchange Agreement between the Lands Commission and Redwood Shores, Inc., dated February 22, 1985 ('The Exchange Agreement'); and (2) Parcels B and C as described in Exhibit 1 to the Exchange Agreement.

"As a result of the two exchange agreements, there is an area of state-owned land lying between Southwest's property line and San Francisco Bay. This land has been leased to the Department and is now part of the Redwood Shores Ecological Reserve. However, the area is presently undeveloped, largely unvegetated, and includes a portion of the existing Redwood Shores dike. Southwest believes it would be desirable from its own perspective and from that of the public for the area within state ownership and inboard of the dike to be landscaped and enhanced. Southwest, therefore, proposes to install low maintenance landscaping and a temporary irrigation system in the area.

"For your further assistance, I am also enclosing the following attachments:

1. Attachment 1 is Exhibit 2 from the Exchange Agreement, which shows generally the State parcels (Parcels B, C, and a portion of D) that would be involved.
2. Attachment 2 is a reduced copy of the landscape plan for the subdivision. The state-owned property where the work will occur is located adjacent to Steinberger Slough.
3. Attachments 3A and 3B consist of the plant species list for the area prepared by Closson and Closson and a letter from Pecoff Brothers to Closson and Closson containing recommendations for plant species. Southwest intends to landscape and maintain the area in accordance with these recommendations.
4. Attachment 4 is a copy of an aerial photo showing the general location of the subdivision in the Redwood Shores area.

"We have been advised that the necessary approval for this work must come from the Fish and Game Commission itself because the land is located within an Ecological Reserve. It is also our understanding that the Commission may be able to act on this matter at its May meeting, given the noncontroversial character of the approval sought. Since we would

like to begin the work on or before June 15, 1987, and still need our BCDC permit, we would appreciate your placing this matter on the agenda for the May meeting.

"For your information, we have submitted a draft application to BCDC for this work. That application will be finalized and filed as soon as we receive the Commission's approval. The Lands Commission has advised us that no approvals are required from that agency, and we received all necessary local discretionary approvals on April 21, 1987."

Chief Deputy Director Bontadelli stated that the Department did not have a problem with Southwest Diversified Developers landscaping with specified native vegetation within the easement area located adjacent to Steinburger Slough, provided Southwest Diversified Developers submitted an acceptable plan to the Department.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF
THE SOUTHWEST DIVERSIFIED DEVELOPERS, REDWOOD CITY, FOR
AUTHORIZATION TO LANDSCAPE A PORTION OF THE REDWOOD SHORES
ECOLOGICAL RESERVES, SAN MATEO COUNTY, UNDER THE TERMS AND
CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE
COMMISSION.

PASSED UNANIMOUSLY.

LICENSE AND PERMIT CONSIDERATIONS

44. REQUEST FOR WAIVERS OF 1986-87 COMMERCIAL ABALONE LANDING REQUIREMENTS.

The Executive Secretary reminded the Commission that Section 100 (b)(1)(A), Title 14, CAC, required any person who applied for an abalone diving permit to have held such a permit for the previous season, and further that he/she shall have landed 6,000 pounds of abalone or made 20 landings for each of which an official receipt (pink ticket) was received by the Department. He stated that those failing to meet the minimum landing requirements were denied a permit by the Department with the opportunity to appeal such a denial to the Commission.

Mr. Cribbs stated that the Commission office had received requests from Lad Handelman, James McClelland, Jerry Myers and Warren K. Sears asking for waivers of the 1986-87 commercial abalone landing requirements. He pointed out that Messrs. Handelman, McClelland and Myers had medical reasons for not meeting the necessary landing requirements. He noted that Mr. Sears had been serving time in County Jail.

DeWayne Johnston stated that the Department recommended approval of the requests for Messrs. Handelman, McClelland and Sears, but for Mr. Myers, the Department recommended approval contingent upon Mr. Myers submitting the appropriate medical documentation.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUESTS OF LAD HANDELMAN, JAMES MC CLELLAND AND WARREN K. SEARS FOR WAIVERS OF THE 1986-87 COMMERCIAL ABALONE LANDING REQUIREMENTS. FURTHER THE COMMISSION ADMONISHED MESSRS. HANDELMAN, MC CLELLAND AND SEARS THAT THEY SHOULD DO EVERYTHING WITHIN THEIR POWER TO MEET THE LANDING REQUIREMENTS FOR THE 1987-88 COMMERCIAL ABALONE SEASON.

PASSED UNANIMOUSLY.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF JERRY MYERS, VENTURA, FOR A WAIVER OF THE 1986-87 COMMERCIAL ABALONE LANDING REQUIREMENTS PROVIDED THAT HE PROVIDES THE NECESSARY MEDICAL DOCUMENTATION TO THE DEPARTMENT. FURTHER, MR. MYERS WAS ADMONISHED TO DO EVERYTHING WITHIN HIS POWER TO COMPLETE THE NECESSARY LANDING REQUIREMENTS FOR THE 1987-88 COMMERCIAL ABALONE SEASON.

PASSED UNANIMOUSLY.

45. REVOCATION OF WHOLESALE FISH DEALER'S LICENSE OF VINCENT ANTHONY LIGUORI, (DBA: LIBERTY FISH COMPANY) MONTEREY.

The Executive Secretary reminded the Commission that at its April 10, 1987 meeting in Sacramento, it considered the revocation of the wholesale fish dealer's license of Vincent Anthony Liguori (DBA: Liberty Fish Company), Monterey. He explained that the Commission at that time, after hearing Mr. Liguori's case, took action to suspend Mr. Liguori's privilege to purchase California caught salmon for the first 30 days of the 1987 commercial salmon season. He noted that action was stayed for a period of ten days, during which time Mr. Liguori, acting through his attorney, Mr. Carl Zerbe, Monterey, would have the opportunity to request a continuance of the hearing on the matter to the Commission's May 15, 1987 meeting in Newport Beach. Mr. Cribbs pointed out that the Commissioners were provided with a copy of letter dated April 20, 1987 from Mr. Zerbe indicating that Mr. Liguori had elected to comply with the 30-day suspension of his privilege to purchase California-landed commercial salmon. He noted that the matter before the Commission was to confirm that action.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY SUSPENDS THE PRIVILEGES OF VINCENT ANTHONY LIGUORI (DBA: LIBERTY FISH COMPANY), MONTEREY, TO PURCHASE CALIFORNIA-LANDED SALMON FOR THE FIRST 30 DAYS OF THE 1987 COMMERCIAL SALMON SEASON.

PASSED UNANIMOUSLY.

46. REQUEST OF HUNG CHI VO, SEASIDE, FOR REINSTATEMENT OF HIS GILL/TRAMMEL NET PERMIT.

Mr. Cribbs reminded the Commission that at its April 10, 1987 meeting in Sacramento, it suspended the gill/trammel net permit of Hung Chi Vo, Seaside. He pointed out that that action was predicated upon the following information:

On June 7, 1986, Hung Chi Vo, Seaside, was found to be aboard the commercial gill net boat "Eagle" when it docked at Moss Landing Harbor. Mr. Vo was in illegal joint possession with his deckhand, Quang Nguyen, of eight salmon. The salmon had been taken in a gill net and possessed on a gill net boat. Mr. Vo also failed to show the fish on demand.

On August 14, 1986, in the Monterey Municipal Court, Mr. Vo pled guilty to a violation of sections 8685.5, taking salmon with a gill net, 8370, unlawful possession of salmon, and 2012, failure to show fish on demand. He was placed on three years probation and sentenced to 30 days in jail, commencing on November 10, 1986.

Mr. Cribbs pointed out that the Commissioners were provided with copies of a list of several prior violations.

Mr. T.K. McCleerey stated that he was an attorney representing Mr. Hung Chi Vo in this matter. He stated that he did not represent Mr. Vo in the court case, but pointed out that Mr. Vo had plead guilty of the violation. He explained that Mr. Vo and his family relied heavily on his commercial fishing activities for its livelihood. He stated that Mr. Vo had worked very hard since the August 1986 conviction, and to his knowledge, had not violated any other Fish and Game Code sections. He noted that the loss of his commercial fishing license would be a severe hardship on his family. Mr. McCleerey asked that the Commission reinstate Mr. Vo's gill/trammel net permit, but they were willing to have a strict probationary term instituted.

The Executive Secretary asked Mr. McCleerey if Mr. Vo fully understood the hearing and the procedures which were taking place at this time. Mr. McCleerey stated that Mr. Vo did understand as he had been discussing this process with him at great length. Commissioner Bryant asked why Mr. Vo did not show the salmon on demand; Mr. McCleerey stated that Myo Nyugen, a friend of Mr. Vo's would act as an interpreter. Mr. Nyugen asked Mr. Vo Commissioner Bryant's question and the response was that Mr. Vo was going to take the fish home, that they were out on the dock and that he was not hiding the fish from anybody. President Taucher asked if Mr. Vo was a member of the Vietnamese Fishermen's Association of America (VFAA), Mr. Nyugen stated that Mr. Vo was a member for approximately four years. Mr. Cribbs pointed out that during the past year, the VFAA had been very helpful in providing its members with the laws and regulations of the state and saw to it that their members adhered to the Fish and Game Code.

DeWayne Johnston stated that Mr. Vo had three prior violations. He noted that in addition, the Commission had previously suspended Mr. Vo's gill net privileges; and therefore, the Department recommended the Commission suspend Mr. Vo's gill/trammel net permit for one year.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF HUNG CHI VO, SEASIDE, FOR REINSTATEMENT OF HIS GILL/TRAMMEL NET PERMIT AND SUSPENDS HIS GILL/TRAMMEL NET PRIVILEGES UNTIL APRIL 10, 1988.

PASSED UNANIMOUSLY.

47. REQUEST OF SAMUEL GENE HARPER, DOWNEY, FOR REINSTATEMENT OF HIS SPORT FISHING PRIVILEGES.

The Executive Secretary stated that Samuel Gene Harper, Downey, had requested authorization to appear before the Commission to show cause why his sport fishing privileges should be reinstated. He pointed out that the Commissioners had been provided with a copy of Mr. Harper's letter which he summarized and read into the record as follows:

"On May 15, 1986, my fishing license was revoked due to too many fishing violations. I feel I was not totally guilty; so therefore, I would like a hearing date at Long Beach, California, to present my views on why my license should be reissued."

Mr. Cribbs pointed out that pursuant to Section 12154 of the Fish and Game Code, the Commission had revoked Mr. Harper's sport fishing privileges for a period of three years or until May 14, 1989. He pointed out that the revocation action was predicated upon the following convictions:

1. May 14, 1986, Section 10.03, Title 14, CAC, Fishing Closed Season.
2. April 26, 1986, Section 4.10, Title 14, CAC, Angling With Trout as Bait.
3. December 16, 1985, Section 6.05, Title 14, CAC, Possess Overlimit of Trout."

Mr. Cribbs stated that the Department had reviewed Mr. Harper's request and had provided the following recommendation:

"On September 16, 1986, Mr. Harper was advised that his fishing privileges were being revoked for three years or until May 14, 1989, for being convicted of three violations within five years. In fact, Mr. Harper has been convicted of three violations within a period of six months.

"Because of Mr. Harper's obvious disregard for the law, the Department recommends that his three-year revocation be upheld."

Mr. Harper stated that he had been fishing in the Bishop Canal and had thought it was part of the Owens River; and therefore, open all year to fishing. He explained that his first violation was for possession of an overlimit of trout, but he had only one fish over the limit. He said that

after he had caught his limit and was walking back to his vehicle, he decided to try one more hole to see if he could catch and release some fish. He stated that he had caught a small fish which swallowed the hook; and therefore, he kept the fish and was over the limit. He explained that his second violation was for using trout as bait. He had been fishing with a trout head for catfish and was not aware that it was against the law.

DeWayne Johnston stated that based on the fact that Mr. Harper had three violations within a six-month period, the Department felt that he had a disregard for fish and game laws and recommended that Mr. Harper's three-year revocation period be upheld.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF SAMUEL GENE HARPER, DOWNEY, FOR REINSTATEMENT OF HIS SPORT FISHING PRIVILEGES. FURTHER, MR. HARPER'S SPORT FISHING PRIVILEGES CONTINUE TO BE REVOKED FOR A PERIOD OF THREE YEARS OR UNTIL MAY 14, 1989.

PASSED UNANIMOUSLY.

48. REQUESTS OF LAWRENCE E. HAGEN, IMPERIAL BEACH, AND JOHN AUGUST KASTLUNGER, CHULA VISTA, FOR REINSTATEMENT OF THEIR COMMERCIAL LOBSTER FISHING PRIVILEGES.

Mr. Cribbs stated that Lawrence E. Hagen, Imperial Beach, and John August Kastlunger, Chula Vista, had requested an opportunity to appear before the Commission to show cause why their commercial lobster fishing privileges should be reinstated. He pointed out that the Commissioners had been provided with copies of Messrs. Hagen and Kastlunger's requests.

Lawrence E. Hagen

The Executive Secretary reminded the Commission that at its December 6, 1985 meeting in Sacramento, the Commission suspended the commercial lobster privileges of Lawrence E. Hagen, Imperial Beach, until such time as he appeared before the Commission to show cause why his privileges should be reinstated. He noted that at this time, Mr. Hagen was requesting an opportunity to show cause why those privileges should be reinstated. He noted that the Department had reviewed Mr. Hagen's request and provided the following recommendation:

"At the Commission's December 6, 1985 meeting, Mr. Hagen's commercial lobster fishing privileges were suspended. His history of violations were:

1. June 28, 1985 - Take 130 short lobsters and fail to show fish on demand.
2. January 24, 1985 - Use lobster traps with small escape ports.
3. August 6, 1982 - Take/possess lobster out of season.

"Because Mr. Hagen lost his privileges for one-and-a-half seasons, the Department now recommends that his commercial lobster fishing privileges be restored with a warning that further violations will result in a long-term suspension."

Lawrence Hagen stated that he was a widower with three kids and had been fishing all of his life. He stated that he needed to continue commercial lobster fishing to provide for his family; and therefore, he requested reinstatement of his commercial lobster fishing privileges. He stated that he had learned his lesson and would abide by all Fish and Game Laws.

DeWayne Johnston stated that Mr. Hagen had been out of the commercial lobster fishing business for the last year-and-a-half; and therefore, the Department recommended Commission approval of his request. He noted, however, that Mr. Hagen had submitted a personal check for his commercial fishing license which had not been honored by the bank. He therefore, requested that Mr. Hagen provide a new check to cover the costs of his commercial license and lobster permit.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MC CRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF LAWRENCE E. HAGEN, IMPERIAL BEACH, FOR REINSTATEMENT OF HIS COMMERCIAL LOBSTER PRIVILEGES AS OF MAY 15, 1987, PROVIDED MR. HAGEN PROVIDES A CERTIFIED CHECK OR MONEY ORDER TO COVER THE COSTS OF ALL PREVIOUS LICENSES AND PERMITS WHICH WERE COVERED BY HIS ORIGINAL PERSONAL CHECK, AND IN ADDITION, ALL COSTS FOR ANY NEW LICENSES OR PERMITS. FURTHER, MR. HAGEN WAS ADMONISHED THAT ANY FUTURE VIOLATIONS OR REGULATIONS PERTAINING TO THE COMMERCIAL LOBSTER FISHING PRIVILEGES WILL BE DEALT WITH IN THE MOST SEVERE MANNER AVAILABLE TO THE COMMISSION.

PASSED UNANIMOUSLY.

John August Kastlunger

Mr. Cribbs reminded the Commission that at its August 1, 1986 meeting in Eureka, the Commission had suspended the commercial lobster fishing privileges of John August Kastlunger, Chula Vista, until such time as he appeared before the Commission to show cause why his privileges should be reinstated. He pointed out that at this time, Mr. Kastlunger had requested an opportunity to show cause why those privileges should be reinstated. He noted that the Department had reviewed Mr. Kastlunger's request and had provided the following recommendation:

"On August 1, 1986, the Commission suspended Mr. Kastlunger's commercial lobster permit for setting baited lobster traps four days before the season. He has a prior violation in 1984 for not having a gill net permit.

"Since Mr. Kastlunger has forfeited one season of commercial lobster fishing, the Department recommends restoring his privileges."

John Kastlunger stated that he had not been fishing lobster much recently because he had been fishing for his swordfish. He explained, however, that he wished to have his commercial lobster fishing privileges reinstated in case there was a future limited entry in this fishery.

DeWayne Johnston stated that Mr. Kastlunger had forfeited one season of commercial lobster fishing; and therefore, the Department recommended reinstatement of those privileges.

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST
OF JOHN AUGUST KASTLUNGER, CHULA VISTA, FOR REINSTATEMENT OF HIS
COMMERCIAL LOBSTER PRIVILEGES AS OF MAY 15, 1987. FURTHER,
MR. KASTLUNGER WAS ADMONISHED THAT ANY FUTURE VIOLATION OF THE
LAWS OR REGULATIONS PERTAINING TO THE COMMERCIAL LOBSTER FISHERY
WILL BE DEALT WITH IN THE MOST SEVERE MANNER AVAILABLE TO THE
COMMISSION.

PASSED UNANIMOUSLY.

49. REQUEST FOR REINSTATEMENT OF COMMERCIAL FISHING PRIVILEGES OF ALLEN ANTHONY MARTINS, SALINAS.

The Executive Secretary reminded the Commission that at its December 5, 1986 meeting in Long Beach, it revoked the commercial fishing privileges of Allen Anthony Martins, Salinas, for a period of one year or until December 5, 1987. He explained that that action was predicated upon the following information:

"On June 10, 1986 in the San Luis Obispo Municipal Court, Mr. Martins was convicted of a violation of Section 8015 of the Fish and Game Code, failure to submit fish transit receipts."

Mr. Cribbs stated that Mr. Martins was represented at this time by Ilson New, an attorney from San Francisco.

Ilson New stated that Mr. Allen Martins was a long time commercial fishermen and that his family had also been long time commercial fishermen. He explained that he would be asking for a reduction in Mr. Martin's license suspension. He pointed out that Mr. Martins had entered a no contest plea to try to end the case, and thought that no action would be taken against his license based upon that plea. Mr. New stated that he had spent many hours studying the transcript of the two meetings at which Mr. Martins appeared before the Commission, and felt that the Department had been asking the Commission to take an action based on statements that were unsubstantiated. He pointed out that since Mr. Martins had plead no contest, there was no actual court case to substantiate many of the statements which the Department presented to the Commission at its November 6 and December 5, 1986 meetings. Mr. New then went through a lengthy review of the transcripts for the November 6 and December 5, 1986 meetings to try to convince the Commission that these facts were unproven and were not germane to the actual action taken by the Commission.

The Executive Secretary pointed out that the Commission received testimony from the Department regarding the case and its actions which lead to the actual citation and conviction of the individual. He noted that the Commission could act on that testimony in making its decision. Denis Smaage pointed out that in the past, he had provided advice to the Commission explaining that it should consider a suspension or revocation action based upon the conviction, but that it could also use other evidence, such as previous violations in determining the severity of the Commission action.

Mr. New stated that the Fish and Game Commission had suspended the commercial fishing privileges of Allen A. Martins based upon Mr. Martins' no contest plea to Fish and Game Code Section 8015. He explained that as the file reflected, the Commission's action was pursuant to Fish and Game Code Section 8025 which read:

"The Commission, upon recommendation of the Department, may suspend or revoke the commercial fishing privileges of any fisherman or the license of any person required to be licensed under Article 7 (commencing with Section 8030) convicted of a violation of this article."

He pointed out that Section 8025 was contained in Article 6 of the Fish and Game Code, and that the words contained in Section 8025 referred to '...this Article.' then, it must mean Article 6. Mr. New indicated that prior to September 24, 1986, Article 6 contained Sections 8010 through 8024 inclusive, including Section 8015. He stated based upon Assemblyman Felando's urgency legislation which became effective September 24, 1986; Section 8015 was removed from Article 6 and placed in Article 7.5. He noted that as a result, after September 24, 1986 and prior to the November 6 and December 6, 1986 meetings, the dates of the subject Commission action, Section 8015 was not part of Article 6. He explained that Section 8025 empowered the Commission to suspend or revoke commercial fishing privileges only for convictions of the provisions of Article 6. He concluded that based upon the fact that the Commission did not have the legal authority to suspend (or revoke) Mr. Martins' commercial fishing privileges at the time of its action (and at no other time after September 24, 1986) and as Mr. Martins' final attempt to seek an administrative remedy, he requested that the Commission withdraw its current suspension of Mr. Martins' commercial fishing privileges and that Mr. Martins be credited as time served from December 5, 1986 through the present.

Commissioner McCracken asked the Attorney General if the Commission had lost its authority. Denis Smaage stated that it was obvious that the Legislature had made an oversight when they adopted the urgency legislation. He stated that the Legislature had removed all of the code sections from Article 6 and put them in different articles except Section 8025. He noted, therefore, it was an obvious oversight on the Legislature's part. He explained that the court can construe that it was a legislative oversight and that the Attorney General's office was confident that if this matter was pursued in court, that the state would win. Ilson New explained that in his opinion, there was no savings clause by the Legislature which dealt with all pending cases prior to the adoption of the urgency legislation. He said, therefore, it was his opinion that it was not a legislative oversight.

DeWayne Johnston stated that he believed the Department provided sufficient information to the Commission at its November 6 and December 5, 1986 meetings regarding this matter and that the Commission took the appropriate action based on that information. He noted, however, that since Mr. Martins had been out of the fishery for approximately five months, that the Department would accept Mr. New's recommendation and recommended the Commission reinstate Mr. Martins' commercial fishing privileges as of May 15, 1987.

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF ALLEN ANTHONY MARTINS, SALINAS, FOR REINSTATEMENT OF HIS COMMERCIAL FISHING PRIVILEGES AS OF MAY 15, 1987. FURTHER, MR. MARTINS WAS ADMONISHED THAT ANY FUTURE VIOLATION OF THE LAWS OR REGULATIONS PERTAINING TO COMMERCIAL FISHING WILL BE DEALT WITH IN THE MOST SEVERE MANNER AVAILABLE TO THE COMMISSION.

AYES: COMMISSIONERS MC CRACKEN AND MURDY.
ABSTAIN: COMMISSIONER BRYANT.

OTHER

50. ANNOUNCEMENT OF FUTURE MEETINGS

6/24/87 (1:00 p.m.) "SPECIAL SEA OTTER AND WINTER-RUN SALMON MEETING"	Auditorium, Room 102 Office Bldg. 9, 744 P Street Sacramento
6/25/87 (1:00 p.m.) 6/26/87 (8:00 a.m.)	City Council Chambers 1900 Lake Tahoe Blvd. South Lake Tahoe
8/7/87 (9:00 a.m.)	Auditorium, Resources Bldg. 1416 Ninth Street Sacramento
8/27/87 (1:00 p.m.) 8/28/87 (8:00 a.m.)	Board of Supervisors Chambers County Government Center 1050 Monterey Street San Luis Obispo
10/2/87 (8:00 a.m.)	City Council Chambers 333 W. Ocean Boulevard Long Beach

11/13/87 (9:00 a.m.)

City Council Chambers
1313 California Street
Redding

12/4/87 (9:00 a.m.)

Auditorium, Resources Bldg.
1416 Ninth Street
Sacramento

The Executive Secretary then asked the Commission to suspend its rules to consider an additional item.

It was then:

MOVED BY MR. MC CRACKEN, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY SUSPENDS ITS RULES
TO HEAR ADDITIONAL ITEMS.

PASSED UNANIMOUSLY.

50a. REQUEST OF ALBERT FRENCH, MORRO BAY, FOR EXPERIMENTAL GEAR PERMIT TO USE TRAPS WITHOUT "ESCAPE PORTS" TO TAKE ROCK CRABS NORTH OF MONTEREY.

Mr. Cribbs stated that Albert French had requested an experimental gear permit be issued pursuant to the provisions to Section 8606 of the Fish and Game Code which would allow him to use traps without "escape ports" to take rock crabs north of Monterey. He noted that in the past, similar requests had been granted by the Commission, and that the Department had recommended terms and conditions for those previous permits. He explained that the item before the Commission at this time was to consider Mr. French's request and that the Commission could grant the request provided that Mr. French agreed to all terms and conditions established by the Department.

It was then:

MOVED BY MR. BRYANT, SECONDED BY MR. MC CRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST
OF ALBERT FRENCH, MORRO BAY, FOR AN EXPERIMENTAL GEAR PERMIT
TO USE TRAPS WITHOUT "ESCAPE PORTS" TO TAKE ROCK CRABS NORTH
OF MONTEREY COUNTY, SUBJECT TO THE TERMS AND CONDITIONS
RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

There being no additional items before the Commission, the meeting was adjourned at 1:30 p.m.