

State of California
FISH AND GAME COMMISSION

Aug
30-31

Minutes, Meeting of August 30 and 31, 1990

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**State of California
FISH AND GAME COMMISSION**

Minutes, Meeting of August 30-31, 1990

Pursuant to the call of the President, the Commission met in the Resources Building Auditorium, at 1416 Ninth Street in Sacramento, California, on August 30, 1990. The meeting was called to order at 10:10 a.m. by President Bryant.

Persons Present:

FISH AND GAME COMMISSION

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

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Paul Jensen	Deputy Director
Spike Naylor	Assistant Director
Bob Rawstron	Chief, Inland Fisheries Division
Pete Chadwick	Chief, Bay-Delta Fisheries Prog.
Mel Odemar	Inland Fisheries Division
Steve Taylor	Inland Fisheries Division
Al Petrovich	Chief, Marine Resources Division
Bill Maxwell	Marine Resources Division
Don Schultze	Marine Resources Division
DeWayne Johnston	Chief, Wildlife Protection Div.
Red Hunt	Chief, Wildlife Management Div.
Terry Mansfield	Wildlife Management Division
Paul Kelley	Natural Heritage Division
Kathy Noia	Chief, Personnel Programs Branch
Chuck Graves	Natural Heritage Division
Ken Berg	Natural Heritage Division
Sandy Morey	Natural Heritage Division

The following persons were also present and heard:

Louis deBottari	Concerned Citizen
Teri Barnato	Animal Protection Institute
Mike Moreford	Salmon Unlimited
Dr. Peter Moyle	Professor, U.C. Davis

Dr. David Anderson
David Kennedy

Dr. Randall Brown
William Davoren
Dr. David Vanicek
Dr. Bruce Herbold
Greg Wilkinson
Steve Evans
John L. Marshall
Bill Geyer
Barry M. Nelson
Zeke Grader

John Merz

John Beuttler
Jerry Suich

Douglas Aikins
Stephen McCabe

Dr. John H. Thomas
Gunther H. Schiff
Dr. Norman Boke
Dr. Mark Skinner
Allan Butler
Catherine Ashley
Cindy Mueller
Ilson W. New
Judy Verhaag
Norman Burns
Paul Turnbull
Malcolm M. Giblin
Ted Wheeler
Sergei E. Tavasieff
Ed Beck
Bob Burrows

Department of Water Resources
Director, Department of Water
Resources

Department of Water Resources
Bay Institute of San Francisco
American Fisheries Society

U.C. Davis

State Water Contractors
Director, Friends of the River
Central Valley Proj. Water Assn.
State Water Contractors

Save San Francisco Bay Assn.

Pacific Coast Federation of
Fishermen's Association

Sacramento River Preservation
Trust

United Anglers

Santa's Village Joint Venture
Dividend Development

Ware & Freidenrich

Ca. Native Plant Society

Pres., Santa Cruz Co. Ch.

Stanford University

Glenwood Development Company

University of Oklahoma

Ca. Native Plant Society

APC/Glenwood

Concerned Citizen

Concerned Citizen

AGDP Nearshore Trawl Permittees

Senator Mello

United Anglers

Central Calif. Diving Council

Monterey Fishing Community

Aqua Tutus/Scuba Knights Diving

Commercial Wire Line Fisherman

Moss Landing Hook/Line Fisherman

S.A.R.A.

President Bryant introduced members of the Commission, its staff, Director Bontadelli, Deputy Director Jensen, Assistant Director Naylor and Peter Van der Naillen of the Attorney General's office.

1. COMMISSION SUBCOMMITTEE REPORT RE: PROCEDURES TO FILL ITS EXECUTIVE SECRETARY POSITION; AND ITS RECOMMENDATION TO APPOINT ROBERT R. TREANOR AS EXECUTIVE SECRETARY, AND RONALD J. PELZMAN AS ASSISTANT EXECUTIVE SECRETARY.

Summary of Issue

As you will recall, the Commission established a subcommittee of Commissioners Bryant and Biaggini at the Commission's June 28, 1990, meeting in South Lake Tahoe, to develop procedures to fill its vacant Executive Secretary position. That subcommittee has met and will be prepared to make a recommendation to the Commission at the meeting regarding filling the Executive Secretary and Assistant Executive Secretary positions.

Action

President Bryant recessed the meeting so that the Commissioners could go into Executive Session to discuss the appointment of an Assistant Executive Secretary. When they returned from the Executive Session Meeting, it was announced by President Bryant that they had appointed Ronald J. Pelzman as Assistant Executive Secretary. President Bryant asked whether there were any comments by the public regarding the issue of the appointment of Robert R. Treanor to the position of Executive Secretary. There was no response. He continued to give a brief description of the findings of the subcommittee.

Commissioner Taucher requested that the Department look into the issue of raising the salaries of both Mr. Treanor and Mr. Pelzman to an equitable level for the positions they would now be holding, i.e., comparable with the Wildlife Conservation Board's Executive Director and Assistant Executive Director.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MCCracken, THAT
THE FISH AND GAME COMMISSION HEREBY APPOINTS
ROBERT R. TREANOR AS ITS EXECUTIVE SECRETARY.

PASSED UNANIMOUSLY.

2. REQUEST OF NORMAN B. (IKE) LIVERMORE, JR., REGARDING COMMISSION HISTORY.

Summary of Issue

This item is scheduled to afford former Commissioner Norman B. (Ike) Livermore, Jr., an opportunity to discuss the issue of preparing a history of the Fish and Game Commission. Mr. Livermore will be in attendance to discuss this item with the Commission on August 30.

Action

Norman Livermore, Jr., a former Fish and Game Commissioner, and Secretary for Resources, asked for the Commission's approval to write a history of the Commission and the Department modeled after the one completed by the California Department of Forestry. He also presented a funding idea. Commissioner Taucher asked if he could prepare an outline and a budget, and stated that Commission approval would depend on the cost of the project. Commissioner Murdy asked if it was possible to have money appropriated from the Department's budget. Deputy Attorney General Van der Naillen stated that, as money was short at this time, it would need to be evaluated very carefully whether the Commission could legally have money allocated from the Department's budget.

3. PUBLIC FORUM.

Summary of Issue

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

Action

Louis deBottari, concerned citizen, briefly discussed the history of the fish ladder at the West Walker River and all the delays with its construction that had been occurring. He expressed exasperation with the length of time that it has taken for this project to begin construction. He asked the Deputy Attorney General what he could do at this point, because the Department was not following through on its commitments. Deputy Attorney General Van der Naillen stated that he was doing the proper thing now, by coming to the Commission, so that the Commission could look into the issue. Deputy Director Jensen explained that the Department now had to return to the Wildlife

Conservation Board for \$50,000 to \$60,000 for the completion of the project. He noted that the Department had also received the property owners' permission to cross their property to build the fish ladder. He also explained that the Department was having trouble obtaining additional bidders so it could be considered a competitive bid process. He stated that they were also being constrained by the short building season, especially since they had to go out for bid again, which would delay the start of construction. He pointed out that the Department could not even begin work until the construction season of 1991, and it was more likely to be late summer of 1991. Commissioner McCracken asked for a schedule that the Department was going to be following.

Commissioner Biaggini asked whether it was possible that if the Department had the \$50,000, could it enter into an agreement with an organization like Cal Trout to get the work done. Mr. Jensen explained that the Department would have to write a Memorandum of Understanding allowing for that organization to construct the fish ladder. Director Bontadelli explained that the Department was "in a bind" with General Services as they dictated the terms of the agreement, even when contracting out the construction. He stated that the contractor would have to go through the entire bid process in the same way as the Department; however, legislation was now pending to alleviate some of these hurdles. President Bryant stated that this issue would be considered by the Wildlife Conservation Board in November to request additional funding, and that the Commission would send Mr. deBottari a letter with the timetable to be followed by the Department.

Executive Secretary Treanor stated that the draft Agenda had initially contained an Item for the Commission to reconsider alligator farming; however, it would be rescheduled for the October meeting in Santa Barbara since the alligator farm in question was in southern California. Teri Barnato, Animal Protection Institute, expressed her and her Association's opposition to the concept of alligator farms. She questioned the ability of the Department to monitor conditions at alligator farms, and to monitor the import and export of alligators and alligator products. She requested the Commission reconsider its authorization of alligator farms in California.

Mike Moreford, Salmon Unlimited, stated that based on the information available to him, the summer-run steelhead and spring-run king salmon numbers in the Klamath River areas were very low.

4. ADOPTION OF COMMISSION FINDINGS RE: PETITION TO LIST THE DELTA SMELT (*Hypomesus transpacificus*) AS A THREATENED SPECIES.

Summary of Issue

You will recall that the Commission, at its August 3, 1990, meeting in Monterey, received the Department's report and recommendation regarding the petition to list the Delta smelt (*Hypomesus transpacificus*) as a threatened species. Pursuant to Section 2075.5 of the Fish and Game Code, this item is scheduled for the Commission to receive public comments on the Department's status report and recommendation and to make a finding of whether or not the petitioned action is warranted.

Commissioners were provided with a copy of the Department's status report on Delta smelt, as provided for in Section 2074.6 of the Fish and Game Code, as well as any correspondence the Commission has received regarding this issue.

The Department recommends that the Commission list the Delta Smelt as a threatened species.

The Department indicates that the U.S. Fish and Wildlife Service's biologists are reviewing the Delta smelt petition, but have not transmitted their official recommendation to the Commission. Staff suggests that the Commission receive the Department's status report and recommendation first, followed by the petitioner and then the public, with those in opposition to the proposed listing preceding those in support. Director David Kennedy, Department of Water Resources, would like to speak on the issue after Dr. Moyle makes his presentation.

Action

Mr. Pete Chadwick, Manager of the Bay-Delta Fisheries Program, briefly summarized the information transmitted in the report completed by Department of Fish and Game staff, and provided the Commission with the Department's recommendation that the Delta smelt be listed as a threatened species. He stated that the Department was of the opinion that the most significant reason that the Delta smelt's population numbers were dropping so dramatically was the diversion of water to other water projects. He noted that the species was not in danger of becoming extinct within the near future; however, the Department was recommending the listing as threatened because it believed that without some sort of attention the population numbers would drop so low that it would not be able to recover. He stated that if the Department had been able to find any clear evidence that there was one specific cause of the decline, it would be much easier to manage this controlling factor; however, since the Department had not been able to arrive at such a determination, it could not come to the Commission with any real confidence and say that the population was not going to decline any further, thereby becoming endangered.

Commissioner Taucher asked if the Department was going to be working with the water contractors to make an extensive study of the Delta smelt. Mr. Chadwick stated that the Department was indicating a commitment to support a three to five year study program. President Bryant asked why a plan similar to the ten-point plan for the winter-run chinook had not been developed for the Delta smelt. Mr. Chadwick noted that the information on Delta smelt had only recently been made available; prior to 1982, the population appeared to be doing well. He stated that in the late 1970's the Department of Water Resources, along with the Bureau of Reclamation and the Fish and Wildlife Service, developed a program that was widely believed would improve conditions in the estuary. He noted that the plan appeared to have worked; however, it was also now clear that the plan was not sufficient. He pointed out that the manner in which the water was transported within the Delta was going to be a large part of the solution; however, it was something that was extremely controversial. He also stated that the Department had a good working relationship with the Department of Water Resources, the State Water Resources Control Board, industry groups and environmental groups. He described some of the ongoing negotiations with them.

President Bryant inquired about the suggestions made by the water users. He asked whether any of them had been implemented and whether they were helping with the recovery of the Delta smelt. Mr. Chadwick stated that, to the degree which they had been implemented, they had not shown to have been sufficient to prevent the declines in the populations.

Commissioner Biaggini asked whether the designation of the Delta smelt would add any additional protection to the fishery as a whole, since they were already protecting winter-run salmon and striped bass. Mr. Chadwick stated that, under current provisions of law, the designation would require more rigorous analysis and more formal negotiations between the agencies. He added that it would add some leverage to negotiations with the other agencies because of the Endangered Species Act. Commissioner Biaggini stated that these things ought to be happening, anyway. Mr. Chadwick responded that they were. President Bryant asked whether the precautions to protect the Delta smelt were the same as those applied to protecting endangered winter-run salmon. Mr. Chadwick agreed that they were applicable to other species, to varying degrees.

Dr. Peter Moyle, petitioner, stated that he was pleased with the Department's report, and that it basically agreed with his assessment that the Delta smelt population was in very bad shape and showed no sign of rebounding. He also stated that he was in disagreement with the Department, in that he believed it should be listed as endangered rather than just threatened. He indicated that his data had gone through a rigorous outside review process prior to being published. He also stated that the Delta smelt was an indicator species for the entire Sacramento-San Joaquin estuary, which was in trouble. He noted that listing

the Delta smelt would be good for the entire Bay-Delta system; plus, it would allow all of the fish populations to rebound.

Mr. David Kennedy, Director of the Department of Water Resources (DWR), stated that the Department of Water Resources was aware it was entraining some Delta smelt at its pumping facility; however, they were also aware that the estuary supplied water for most of California; the entire Bay Area, the Sacramento Valley, the San Joaquin Valley, and southern California all depend substantially upon the water from the Delta. He noted that when the Department talked about providing more water for Delta smelt or any other fish, the water all comes out of California's common water supply, the Delta. He indicated that DWR believed that the Department of Fish and Game prepared a good report; however, DWR believed the report could have ventured down one of a couple of available alternate roads. He stated that one of those "roads" would be listing the Delta smelt as threatened; DWR believed, however, that it would make more sense to put more emphasis on the studies that needed to be conducted. Mr. Kennedy pointed out that through the process of listing something, the criminality aspect was brought into play, and when someone "took" the species, it could be considered a criminal act. He noted that his Agency was aware that it was "taking" these fish at the pumping plants, and it had a chilling effect on the ongoing discussions when Agency employees may be subjected to criminal prosecution for the performance of their duties as authorized and directed.

Commissioner Murdy asked how much of the monetary commitment would DWR make if the Commission recommended continued studies rather than list the Delta smelt. Mr. Kennedy stated that DWR was going to provide whatever was required, but would not be "writing a blank check." Commissioner Murdy asked if there were fish screens at the pumping stations. Mr. Kennedy stated they had very large fish screens. President Bryant asked if being screened would create a hardship on the diversions not yet screened. Mr. Kennedy stated it would require a very substantial amount of money. He pointed out that more water needed to be made available in the Delta in order to push the saltwater out to provide better habitat. He noted that DWR and the Department of Fish and Game had entered into an agreement which covered the entrainment of fish at the pumps. He proposed that the Delta smelt be included into that existing agreement.

Mr. David Anderson, Legal Counsel for the Department of Water Resources, reaffirmed that DWR agreed that the Department of Fish and Game had submitted an excellent report; however, they disagreed with the conclusion. He stated that DWR's conclusion was that it was a relatively stable population that was actually slightly increasing. He indicated that DWR believed that the non-listing response would be appropriate, and that DWR would conduct more intensive studies and present periodic reports to the Commission. He noted that these reports would be made with the recognition that the Commission would maintain its power to undertake an emergency listing at any time. Mr. Anderson stated

that a non-listing would allow for a productive, cooperative study program.

Dr. Randall Brown, Chief of the Environmental Studies Branch, DWR, stated that although DWR agreed with both Dr. Moyle and the Department of Fish and Game that the Delta smelt population had declined; the question was: to what level was the population down? Was it in danger of becoming extinct? He pointed out that there had been a number of atypical water years; either a series of high water, or a series of droughts. He stated that if all of the Delta smelt that were able to spawn would deposit their eggs and have a good year, there might not even be a problem at this point. He reiterated DWR's support for additional studies.

Mr. William T. Davoren, Executive Director of the Bay Institute of San Francisco, supported Dr. Moyle's recommendation and petition. He stated that action should be taken right now to protect the Delta smelt, as well as many other species that were in the same situation. He added that complete scientific studies should be made; however, the species should be protected while the studies were being completed, before it was too late.

Dr. David Vanicek, American Fisheries Society, expressed the Society's support for Dr. Moyle's proposal to list the Delta smelt as endangered. He stated that prior to 1983 Delta smelt populations would always bounce back after they were reduced to lower levels; however, since 1983 this had not occurred and the population had failed to recover. He explained that factors such as low population levels and lack of resiliency, along with a very restrictive geographic distribution and its relatively short life span, make this species vulnerable to extinction. He indicated that any further delay in the listing of the species may lead to its extinction.

Dr. Bruce Herbold, U.C. Davis, stated that during the course of his studies, as of 1983, he saw a precipitous decline in the populations of Delta smelt. He noted that this decline was not just specific to Delta smelt, but also included the longfin smelt, starry flounder, striped bass, and split-tail. President Bryant asked if Dr. Herbold had any idea of population numbers needed for maintaining a viable population. Dr. Herbold stated that no, he did not know, but that even if population studies were made, Delta smelt only live for one year and by the time the analysis for the one year class had been completed, the studied generation would have died off, and it would be on to the next generation. He indicated that what they did know was that the numbers were now only approximately one-tenth (1/10) of the former figure.

President Bryant asked if these samples had been taken from the entire Delta. Dr. Herbold stated that the samples had been taken in the Suisun Marsh, which was a dependable area, and second only to their preferred area. Dr. Herbold indicated that although his joint study with Dr. Moyle had been done in a small

area, they used the data from studies that had been done over larger areas, and under a variety of sampling techniques. He also noted that he and Dr. Moyle had mainly been sampling the Delta smelt when they were migrating upstream, which was a dependable methodology.

Mr. Greg Wilkinson, an attorney representing the State Water Contractors, stated that listing the Delta smelt would do nothing additional for the survival of the species. He pointed out that the Water Contractors were willing to fund the additional studies that had been proposed. He indicated that because of the tremendous impact this listing would have on water diversions from the Delta, the data needed to be without question. He stated that in his opinion the Department's report failed to convey the certainty of this requirement of the Endangered Species Act, and that the report makes it clear that there was no imminent danger that this species would become extinct; therefore, it should not be listed as endangered. He stated he did not believe there was enough data available to make any kind of decision on this matter.

Mr. Steve Evans, Conservation Director for the Friends of the River, supported the listing of Delta smelt as endangered; but, at the very minimum, believed it should be listed as threatened. He compared this issue with the winter-run salmon petition scenario.

John Marshall, attorney for Central Valley Project Water Association, briefly summarized the July 18 letter from that Association indicating that: 1) The sampling by Dr. Moyle was very small and was not a reliable interpretation of trends; 2) The populations have remained relatively stable despite four years of drought; 3) The Delta smelt population levels have recovered from such levels before; and 4) The Department had concluded that the present population was stable and not in imminent danger of extinction; thereby, it was their recommendation that the Delta smelt be studied to obtain sufficient facts before any listing takes place.

Dr. Peter Moyle stated that the only people who had questioned the taxonomy of the Delta smelt, so far, had been the Water Contractors. He explained that the Delta smelt had been described by a Canadian ichthyologist back in the 1950's and their taxonomy had been reviewed by both Russian and Japanese taxonomists, and there was no question that Delta smelt was a distinct species. He pointed out that the water saki, a Japanese smelt, had been introduced into California, and was sometimes confused by people that were not experts. He emphasized that all of the people conducting the studies were experts and were able to tell the difference.

Mr. Bill Geyer, State Water Contractors, first complimented the Department on its report and the process it had utilized in notification of interested individuals regarding this listing. He stated that he believed there was a gap in the evidence

between the report and the statutory requirement for listing. He did not believe that there was enough evidence to support the recommendation that the Delta smelt was likely to become endangered in the near future.

Mr. Barry Nelson, Save San Francisco Bay Association, urged the Commission to list the Delta smelt as an endangered species. He stated that variations in abundance were normal for this species; however, what was occurring now was not a variation; it had lasted for six years. He indicated that, if the Commission had the authority to list the Delta estuary as an endangered habitat, his Association would request such an action. He noted that the health of all species in the Delta estuary appeared to be on the decline. He stated that he believed that additional studies were needed to confirm that extinction was a real possibility for the Delta smelt.

Zeke Grader, Executive Director for the Pacific Coast Federation of Fishermen's Association (PCFFA), urged the Commission to list the Delta Smelt as an endangered species pursuant to Dr. Moyle's recommendation. He stated that PCFFA believed that this listing would protect the Delta smelt as well as the other species within the San Francisco Bay Delta. He also referred to the winter-run chinook salmon as an example of what could happen to the species. He stated that the listing of the Delta smelt would not impact water supplies to individuals in California, because the water could be taken out of the supply that was diverted for the cotton farmers.

John Merz, Sacramento River Preservation Trust, supported all of the statements made in support of listing. He stated that he personally believed that listing as threatened would be fine.

John Beuttler of United Anglers of California also supported the petitioned action, and requested that the Commission list the Delta smelt as an endangered species.

Executive Secretary Treanor indicated that the public testimony had concluded. He stated that the Department would have an opportunity to respond to any of the public's comments at this time. Director Bontadelli stated that the basic issue before the Commission today was one interpretation of the best available data. He explained that Dr. Moyle and others have analyzed the data and have concluded that the population numbers have dropped to such low levels that recovery was unlikely; whereas, Dr. Brown of DWR has analyzed the same data and has concluded that the Delta smelt was a depressed species, that population numbers were relatively stable, and based on past history, could rebound. He stated that the Department of Fish and Game, upon evaluation of the same data, determined that the Delta smelt was a depressed species, and may not recover without additional protection of the Endangered Species Act. He indicated that it was the Department's conclusion that as a candidate, Delta smelt fit the definition of a threatened species. He stated that these were the interpretations of three

different parties, and it was now up to the Commission to interpret the data and recommendations and make its finding.

President Bryant asked if there was any discussion by the Commissioners, and there was no response. He summarized that the recommendation by the Department was for a threatened listing; one was for an endangered listing, while the other was not to list at all. He indicated that it was his opinion that there was sufficient data to warrant no listing.

It was then:

MOVED BY MR. BIAGGINI THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE PROVISIONS OF SECTION 2075.5 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SAID SECTION OF SAID CODE, HEREBY FINDS THAT THE INFORMATION CONTAINED IN THE PETITION TO LIST THE DELTA SMELT (*Hypomesus transpacificus*) WARRANTS LISTING THAT SPECIES AS THREATENED.

MOTION DIED FOR LACK OF A SECOND.

Commissioner Murdy asked how long the population levels had been stable. Bay-Delta Chief Chadwick answered that the Department's analysis indicated that the population had been basically stable at a low level since 1983. He stated that Dr. Brown and others have stated that they felt that there was a slight increase in trend; however, the Department could not support that conclusion.

Commissioner Murdy asked why the Department did not submit a petition in 1984 or 1985 when the low levels began. Mr. Chadwick responded that the Department became concerned after that time, because there had been periods of up to two years where population levels would be depressed, but then rebound. He indicated that the population levels had been low since 1983 and six years of constant low levels resulted in the Department's concern.

Commissioner Murdy asked if declaring the Delta smelt a threatened species would guarantee that the population levels would rebound to 1982 or 1983 levels. Mr. Chadwick stated the listing did not guarantee the population levels would rebound. Commissioner Murdy stated that Commissioner Biaggini's motion did not ensure that the population levels would increase to the 1982 or 1983 levels, and because the populations were currently stable, he could not second the motion.

Commissioner Taucher agreed with Commissioner Murdy's comments. He stated that because there had been monies promised to study the Delta smelt further, and in light of the fact that the Commission did have emergency listing powers, he did not want to second the motion.

President Bryant asked what would be done differently for the benefit of the Delta smelt if the species were listed since there was a lot being done in the Delta and the rivers because of the listing of the winter-run salmon, as well as for the management of striped bass. Mr. Chadwick stated that the leverage of the Endangered Species Act would compel the negotiations that were currently being conducted on a voluntary basis. He noted that the winter-run salmon population was being aided by the Endangered Species Act; however, they have different needs than the Delta smelt. President Bryant asked whether screening was an ongoing process. Mr. Chadwick responded that the screening effort was an ongoing process, and that new programs were in the planning stages since the passage of Senate Bill 2261.

President Bryant asked in what months were Delta smelt migrating and vulnerable. Mr. Chadwick indicated that they were vulnerable on a year-round basis; however, they were most vulnerable during the spring migration, although the data was not very clear and additional study was needed. President Bryant asked whether those studies would be done if the Delta smelt was not listed. Mr. Chadwick stated that they would, but the level of commitment might not be as high.

Deputy Attorney General Van der Naillen reminded the Commission that what would be or not be done because of the opinion of the Attorney General that the efficiency of listing was not a basis for making the decision to list or not to list because there would be no proper standards on which to base the decision. Therefore, his advice was that in terms of the standards for listing whether a species would benefit from listing or not was not one of the standards that was properly before the Commission.

President Bryant asked the Commissioners if they would like to reconsider Commissioner Biaggini's motion. Commissioner Biaggini stated that he believed there were two great resources in the Sacramento and San Joaquin rivers, and that his motion was to simply give the people who were in charge a hand in preserving our fishery resources. He indicated that agriculture was a legitimate activity for the State of California, and he was not trying to place blame, but that he was trying to protect the Delta's fishery resources.

President Bryant stated that it was a good motion, and that he would like to entertain another motion. Commissioner Taucher stated that he believed the Commission did not have everything it needed to make a decision, and he would like to make a motion to deny the petition, with the stipulation that studies start immediately and, if anything changed, the Department could return to the Commission requesting an emergency listing. Deputy Attorney General Van der Naillen clarified for the Commission that the proper motion in this situation was that the petition was not warranted for any reason(s) for which it wanted to express, but that it was not to deny the petition. Commissioner

Taucher stated he believed the Commission needed more information before a decision could be made on a biological basis.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MCCrackEN, THAT THE FISH AND GAME COMMISSION, PURSUANT TO PROVISIONS OF SECTION 2075.5 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SAID SECTION OF SAID CODE, HEREBY FINDS THAT THE INFORMATION CONTAINED IN THE PETITION IS LACKING; AND THEREFORE, THE PETITION DOES NOT WARRANT LISTING THE DELTA SMELT (*Hypomesus transpacificus*) AS A THREATENED SPECIES. FURTHER, THE DEPARTMENT OF FISH AND GAME AND THE DEPARTMENT OF WATER RESOURCES ARE TO CONDUCT STUDIES IMMEDIATELY TO DETERMINE THE STATUS OF THE DELTA SMELT POPULATION, AND IF THE CURRENT STATUS DECLINES, THE DEPARTMENT OF FISH AND GAME IS TO RECOMMEND THE COMMISSION TAKE EMERGENCY LISTING ACTION. THE DEPARTMENT OF FISH AND GAME IS TO REPORT ANNUALLY TO THE COMMISSION REGARDING THE RESULTS OF ITS STUDIES.

AYES: COMMISSIONERS TAUCHER, MCCrackEN AND MURDY.

NAY: COMMISSIONER BIAGGINI.

MOTION CARRIED.

5. CONSIDERATION OF DEPARTMENT PETITION TO LIST THE SCOTTS VALLEY SPINEFLOWER (*Chorizanthe robusta* var. *hartwegii*) AS AN ENDANGERED SPECIES CANDIDATE.

Summary of Issue

On July 3, 1990, the Department of Fish and Game, pursuant to Section 2072.7 of the Fish and Game Code, submitted a petition to list the Scotts Valley spineflower (*Chorizanthe robusta* var. *hartwegii*) as an endangered species candidate. The Department determined that, based upon the information contained in the petition, there was sufficient information to indicate that the petitioned action may be warranted. Commissioners were provided with a copy of the Department's petition as well as letters opposing that listing.

The Commission postponed action on this matter from its August 2 meeting to allow the Department additional time to research the taxonomic status of this species as well as obtain additional information on the proposed listing.

Action

Ken Berg, Natural Heritage Division, stated that the Commission had already received the Department's recommendation; however, he would like to discuss some of the correspondence that had been received by the Department since the last meeting. He first briefly discussed the taxonomy issue and stated that the

Department believed that, based upon the majority of the taxonomic experts literature, the spineflower was an individual species. He indicated that although the Department agreed that the issue needed to be resolved, it believed that the appropriate time to resolve that issue would be during the one-year status review. He noted that the U.S. Fish and Wildlife Service (USFWS) had received a petition to consider federal listing of this species, and that the USFWS was willing to work with the Department to clarify the taxonomic issue. Mr. Berg stated that some of the correspondents were concerned that the Department had not written the actual petition; however, that was untrue. He explained that it was a Fish and Game biologist who had written the petition. He noted that the Federal petition was submitted and written by the California Native Plant Society, and that might be the source of some of the confusion.

Mr. Berg stated that others were concerned that this petition was merely an attempt to stop two developments that were planned for the area which the spineflower inhabited. He pointed out that the Department had been working with the developer to re-design the project in order to mitigate for impacts to the spineflower. He noted that other criticisms of the petition centered on population estimates and the identification of the lead agency. Mr. Berg emphasized that the Department maintained that the petition contained sufficient data to indicate that the listing action may be warranted.

Commissioner Taucher asked if the Department ever translocated sensitive species when it was notified that they may be adversely impacted by some action. Mr. Berg stated that yes, the Department did, if the activity was not covered under the California Environmental Quality Act (CEQA). Commissioner McCracken inquired if the Department would require the landowner to pay for the maintenance of these protected areas. Mr. Berg stated that, if the project was conducted under CEQA, the Department would usually require that funds be set aside for the maintenance and monitoring of the sensitive species when the project was approved.

President Bryant inquired about the plant's distribution. Mr. Berg briefly discussed what the Department had observed and what had been found in the literature. Commissioner McCracken inquired about the populations of the spineflower that had been found in Fort Ord. Mr. Berg stated that a few flowers had been found, but their identification was not conclusive and they did not want to consider those sightings at this time. He stated that Dr. Beal, University of Maryland, who was considered the foremost expert on this species, asserts that to the best of his knowledge the species was found only in Scotts Valley.

Jerry Suich, Santa's Village Joint Venture Dividend Development, stated that the opinion of independent experts (namely, Dr. Thomas, Stanford University; and Dr. Boke, University of Oklahoma) was that the spineflower was merely part of a common family of plants and it was not a separate variety,

species or subspecies. He also referred to Dr. Thomas, who then discussed the distribution of the plants. Mr. Suich then discussed Dr. Thomas' and Dr. Boke's qualifications as experts. He recommended that this species not be considered a separate species, but only a common plant that did not require any protection.

Douglas Aikins, representing Ware & Freidenrich, briefly discussed the taxonomic issue. He stated that he believed the taxonomy was being used for local political purposes, and that the Commission was being asked to make its decision not at the species or subspecies level, but at the variety level, which was not allowed by CESA. Commissioner Murdy asked how the spineflower was originally found on the property. Mr. Aikins briefly described the history of the issue.

Stephen McCabe, California Native Plant Society (CNPS), stated it was not his organization's intention to use the listing of the spineflower to stop development in Scotts Valley. He felt confident that, if the developer was willing to work with them, they could both save the spineflower and also have development. He noted that the following were crucial issues which needed the Commission's attention: 1) Is the taxon rare? 2) Is it endangered? 3) Is it a valid taxon? and, most importantly, 4) Is there enough data available to protect it for a year as a candidate species while gathering data to decide whether or not a listing is warranted. He discussed in detail the distribution and taxonomy of the spineflower. He also he wanted to draw the attention of the Commission to this particular spineflower and how many characteristics of it were completely different from other spineflowers. He recommended that the Scotts Valley spineflower be made a candidate species. Mr. McCabe then answered some of the Commissioners' questions about the distribution of the Scotts Valley spineflower.

Commissioner McCracken asked if the California Native Plant Society intended to purchase the land that the spineflower inhabited in order to protect it. Mr. McCabe stated that there were no plans at this time to purchase the property. Commissioner McCracken asked Mr. McCabe whether there was anyone interested in purchasing the land from the landowner. Mr. McCabe indicated that CNPS did not want to administer the land, but there was a possibility that The Nature Conservancy may want to do it; however, it was up to the Department and the landowner to decide what was going to be done if the species was declared endangered.

President Bryant asked if there had been any proposals made by the developer. Mr. McCabe stated that the only proposal made so far was to set aside about one percent of the existing numbers with essentially no buffers between the plants and the proposed residences. He indicated that the species would probably need from 20 to 30 acres of protected area. Director Bontadelli stated that it was the usual process for the Department to attempt to mitigate the impacts of development with the project

developer; however, occasionally, when all else failed, the Department would try to purchase the land.

Dr. John Thomas, Stanford University, stated that he opposed the petition to list the spineflower. He discussed the taxonomic history of the Scotts Valley spineflower. He then briefly described the plants that were recently found at Fort Ord. He summed up by saying he did not support the petition because he could not recognize the spineflower as being a distinct species. President Bryant asked Dr. Thomas if, while walking through a field, one would be able to tell the difference between these flowers. Dr. Thomas responded that the Scotts Valley spineflower would appear lighter in color; however, there were some very similar species in Monterey County found at Fort Ord.

Commissioner Murdy asked Dr. Thomas if, in his opinion, these were all the same flowers. Dr. Thomas indicated that the only other place that he could find something similar right now was at Fort Ord; however, they did not know how extensive the distribution of the spineflower actually was. Commissioner Murdy asked Dr. Thomas if he could speculate as to whether there had been earlier populations of this species which had been destroyed by development. Dr. Thomas stated that he believed it was possible; he would first have to determine the distribution of the mudstone soil type (limestone) over which the spineflower grew.

Deputy Attorney General Van der Naillen stated that there had been extensive discussion as to whether this was a variety of plant or not, but there was an additional question as to whether a variety was excluded from being listed. He then quoted from the statutes which read, "...the following species, subspecies or variety..." He indicated that there may be some confusion as to whether or not the Commission could list a species by variety, but it had done so in the past. He added that the Native Plant Act which Commissioner Taucher had referred to did include species and varieties of native plants. He stated that, in his mind, even if this plant was only different at the variety level, it should not be excluded from listing based only on that fact.

Gunther Schiff, counsel for Glenwood Development Company, stated that his client had been negotiating in good faith for three years to develop their property. He explained that the ridge where the largest population was located was originally, and was still, planned to be a natural area that was going to be protected by the CC&R's. He pointed out that there were smaller areas which would also be protected as natural settings or set aside, as well. He stated that he believed that the scientific evidence was lacking and that this petition should not be accepted. He indicated that the problem with this issue was that the law allowed the Department to submit a petition without the review of experts who could give the Commission their opinion as to the merits of the petition.

Dr. Norman Boke stated that taxonomy was something that scientists created to enable them to put order among the many individual types of plants and animals in the world. He indicated that there was not much substance to the petition and that it did not show that listing may be warranted; therefore, he did not support the petition.

Dr. Mark Skinner, California Native Plant Society, briefly discussed the Memorandum of Understanding between the CNPS and the Department which allowed CNPS to work on these projects. He stated that the issue of the spineflower could be reduced to two issues: the taxonomic status; and if the plant was endangered or threatened. He explained that, regardless of what taxonomic status was finally assigned to the species, it was an individual species, and there were only six populations of the whole species in the entire world. He stated that, in his expert opinion, it was a completely different species and that he would think that declaring it a candidate species, and allowing further study, would be the best possible way to protect the species.

President Bryant asked Drs. Thomas and Boke if they were consultants and had been hired to work on this issue. They both replied that they were testifying only as concerned citizens.

Allan Butler, Glenwood Development Company, outlined the protection plan being discussed with the Department of Fish and Game to set aside some plots of land. He stated they had initiated discussions with the Department early because they did not want to have to wait the entire year for a final decision.

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION FINDS THAT THE PETITIONED ACTION TO DESIGNATE THE SCOTTS VALLEY SPINEFLOWER (*Chorizanthe robusta* var. *hartwegii*) AS A CANDIDATE FOR ENDANGERED SPECIES STATUS IS NOT WARRANTED. THE COMMISSION FINDINGS ARE AS FOLLOWS:

1. It was not demonstrated to the Commission that the taxonomic status of subject plant is clear. Experts are not in agreement as to whether or not the plant is sufficiently distinct to warrant the proposed taxonomic designation.
2. Additional populations of subject plant are likely present at other locations, particularly at Fort Ord.
3. Notwithstanding the limited distribution of subject plant, the petition does not contain sufficient information to indicate that its continued existence throughout all or a significant portion of its range is threatened.

PASSED UNANIMOUSLY.

6. CONSIDERATION OF PETITION TO LIST THE SONOMA SUNSHINE
(*Blennosperma bakeri*) AS AN ENDANGERED SPECIES CANDIDATE.

Summary of Issue

On May 14, 1990, Golden Bear Biostudies submitted a petition to list the Sonoma sunshine (*Blennosperma bakeri*) as an endangered species candidate. Pursuant to Section 2073 of the Fish and Game Code, the Commission, on May 17, 1990, referred the petition to the Department of Fish and Game for its evaluation. As required by Section 2073.5 of the Fish and Game Code, the Department has up to 90 days from receipt of the petition to provide its recommendation to the Commission. Commissioners were provided with a copy of the petition and a letter from Joan Vilms, Sonoma Land Trust. This item was also postponed from the Commission's August 2, 1990, meeting in Monterey to allow the Department additional time to clarify issues raised at that time.

Department Recommendation

"The Department of Fish and Game has reviewed the petition transmitted by your memo of May 17, 1990, to list *Blennosperma bakeri* (Sonoma sunshine) as endangered. As stipulated in Fish and Game Code sections 2072.3 and 2073.5, the Department has determined that, based upon the information contained in the petition, there is sufficient information to indicate that the petitioned action may be warranted. The petition should be accepted and considered, and the subject species should be noticed as a candidate species."

Action

Ken Berg, Natural Heritage Division, stated that the Department had not changed its original recommendation after reviewing the additional information. He indicated that the Department still recommended that the Commission accept the petition for the Sonoma sunshine. Commissioner McCracken inquired as to the large numbers that were given for each population of the Sonoma sunshine at the last meeting. Mr. Berg clarified that although it appeared there were large numbers of individuals, they only took up a small amount of space. He explained that impacts were usually based on the loss of habitat, rather than on the total number of individuals lost.

President Bryant asked Mr. Berg for clarification of where exactly the 50,000 plants were located; and what were the risks of being lost during development. Mr. Berg stated that there were no longer 50,000 plants.

Commissioner Murdy asked if the listing of the Sonoma sunshine would preclude the use of effluent water for agriculture by the City of Sonoma. Mr. Berg stated he did not believe that the listing would preclude the City from using effluent water on vineyards. Catherine Ashley, co-author of the petition, stated

that she believed that to be incorrect because the Federal regulations for endangered species listings took into consideration loss of habitat, which would happen if effluent water was used in agriculture. She indicated that continued irrigation would not allow the vernal pools to dry up, thereby making these into marshes, rather than vernal pools.

A brief discussion took place between Commissioner McCracken and Catherine Ashley as to some of the areas in which the plants were found. A brief discussion between Commissioner Murdy and Deputy Attorney General Van der Naillen took place regarding the requirement to inform landowners impacted by the petitioned action. Deputy Attorney General Van der Naillen stated that the statute indicates that a landowner does not need to be notified until a species has been designated a candidate species.

Catherine Ashley briefly described the flaws contained in the report by Charlie Patterson which gave very high numbers of individuals for the Sonoma sunshine. Deputy Attorney General Van der Naillen explained that a decision should be made by the Commission, and that the landowners did not need to be notified until after a species was designated a candidate species. He indicated that extending this issue was actually contrary to the intent of the statutes, which was protecting species which might be in danger. He stated that because this was a decision on whether or not this species would be a candidate species, that once the species was designated a candidate species, the landowner would be notified and would then have the option to oppose the action when the Commission considered the listing of the species. Deputy Attorney General Van der Naillen noted that the fact that landowners did not show up at this hearing did not mean that they were unaware that the species was on their land.

Commissioner Murdy inquired about the Commission's responsibility to notify the public when a petition was received by the Commission? Deputy Attorney General Van der Naillen explained that he was researching that issue at this time. He indicated that the conflict caused by that action was the competition between the notification of the interested public and the notification of the landowner who may disc the land to eradicate a species. Deputy Attorney General Van der Naillen advised the Commission to maintain a list of people interested in receiving petitions and notify them as soon as a petition was received.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DESIGNATES THE SONOMA SUNSHINE (*Blennosperma bakeri*) AS A CANDIDATE FOR ENDANGERED SPECIES STATUS. FURTHERMORE, THE DEPARTMENT IS DIRECTED TO REPORT BACK TO THE COMMISSION WITHIN ONE YEAR FROM THE DATE OF THE COMMISSION'S FINDINGS CONCERNING THIS PETITION WITH A RECOMMENDATION AS TO WHETHER THE SPECIES SHOULD BE LISTED AS EITHER THREATENED OR ENDANGERED.

PASSED UNANIMOUSLY.

7. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSES (1990-93) AND 1990-91 MANAGEMENT PLANS FOR:
- A. DILLON LAKE WILDLIFE PRESERVE, LASSEN COUNTY;
 - B. PBM FARMS, SISKIYOU COUNTY;
 - C. SUGARLOAF LAND AND CATTLE COMPANY, YUBA COUNTY;
 - D. TULE PROPERTIES, MODOC COUNTY;
 - E. WEBER, MARTINEZ AND HOLTEMANN RANCHES, MODOC COUNTY.

Summary of Issue

The following applicants request Private Lands Wildlife Management Area (PLM) licenses. The required applications and management plans have been submitted to the Department. The license period would be from 1990-93. The Department has determined that these plans conform to the regulations provided in Section 601, Title 14, CCR, and to the Commission's policy relating to Private Lands Wildlife Management Areas. Summaries of each of the proposals were provided to the Commissioners. Should the Commission desire complete packets which were included with the applications, please contact the Commission office.

Action

Executive Secretary Treanor briefly summarized the issue and stated that staff knew of no objections to these Private Lands Wildlife Management Area plans. He stated that a letter had been provided to the Commissioners from Kurt Sorensen regarding the issue and that the Wildlife Management Division had already been in contact with Mr. Sorensen regarding his letter.

Terry Mansfield, Wildlife Management Division, stated that the Department had been in contact with the individual who was concerned with the Weber, Martinez and Holtemann Ranches. He noted that the CEQA requirements had been addressed through the environmental document that was prepared for the deer hunting regulations. He indicated that, in addition, the Section 601 regulations had been adopted with all the requirements to CEQA in mind. Mr. Mansfield stated that the Department would be preparing a written response to Mr. Sorensen regarding his concerns. He pointed out that the Sugarloaf Land and Cattle

Company had a one-week deer season in December, and explained the rationale for allowing the longer season. President Bryant asked Mr. Mansfield about the number of tags that were being allowed for the Sugarloaf Land and Cattle Company. Mr. Mansfield responded that the Department recommended allowing 25 buck permits.

A. Dillon Lake Wildlife Preserve, Lassen County

Department Recommendation

"The Department has reviewed the annual report, application and new management plan for the 488-acre Dillon Lake Wildlife Preserve in western Lassen County. The new management plan reflects the merging of the Dillon Lake and Silva Flat Reservoir Private Lands Wildlife Management Areas. Since these two areas are owned and managed as waterfowl units by the same person, the Department concurs with the merger. The area was previously licensed under Commission regulations in Section 601, Title 14, CCR. This plan, which is within the boundaries of the Hayden Hill Game Refuge, allows waterfowl hunting only. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources on and around the Dillon Lake Private Lands Wildlife Management Area.

"Habitat improvements completed in 1989 included plantings of willows, alfalfa, clovers, grasses and winter wheat to enhance nesting cover and forage conditions. The licensee maintained a modified fence around the area during the waterfowl nesting period to exclude livestock, yet permit pronghorn antelope movement. Management activities for 1990 will include installation of riprap on existing mounds to prevent wave erosion and continued planting of wildlife food and cover plants.

"No hunting occurred on Dillon Lake in 1989-90. One Canada goose was harvested on the Silva Flat Unit. The applicant observed 20 pairs of Canada geese and numerous shorebirds utilizing the area this spring. Prior to this program, livestock grazing reduced available nesting cover and limited waterfowl production. Significant benefits to waterfowl and nongame wildlife have accrued through the applicant's activities.

"The Department recommends that the Commission approve the Dillon Lake Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. All waterfowl hunting will be conducted in accordance with the regular seasons and bag limits in effect for northeastern California during the 1990-91 waterfowl season.

- "2. A trespass permit card with the licensee's signature shall be issued to each hunter entering the area. Hunters must have these cards on their person while on the area."

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE DILLON LAKE WILDLIFE PRESERVE, LASSEN COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1990-1993) AND FURTHER APPROVES THE 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

B. PBM Farms, Siskiyou County

Department Recommendation

"The Department has reviewed the management plan and license application for the 2,996-acre PBM Farms in northeastern Siskiyou County. This is the initial application for license under Commission regulations in Section 601, Title 14, CCR. The management plan is in compliance with Commission policy requirements for private lands management. A public notice was published in a local paper, and certified letters were mailed to adjacent landowners with notification of the applicant's intent to enter the program. In addition, the applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The goals and objectives outlined in the management plan are compatible with the McCloud Flats Deer Herd Management Plan and Pronghorn Antelope Management Plan.

"Wildlife management activities over the next three years will be directed toward improving habitat for deer, pronghorn antelope, waterfowl and upland game. Specific projects for 1990-91 include establishment or maintenance of about 2,480 acres of legumes and grain to provide summer green forage for exclusive wildlife use; protection of over 237 acres of pasture vegetation to retain antelope and deer fawning areas; removal of fencing to allow unrestricted deer and antelope movement; development of two water sources to provide year-round water for wildlife; maintenance of 176 areas of wetlands; and total exclusion of livestock.

"Herd composition surveys for the McCloud Flats deer herd show 16 bucks and 36 spring fawns per 100 does. Composition counts are currently slightly below herd goals. The applicant is requesting six buck and three antlerless deer tags for the 1990 hunting season.

"The pronghorn antelope census to be conducted in late July 1990 will provide a baseline population for the ranch. The Department's guidelines for hunting antelope on private lands preclude the applicant from requesting antelope tags for the initial license year. Antelope tags issued during the remainder of the license period will be based on demonstrated increases in the ranch population from the 1990 baseline figure.

"The Department recommends that the Commission approve the PBM Farms Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue six buck deer tags to take forked horn or better buck deer for the period of October 6 through November 4, 1990.
- "2. Issue three antlerless deer tags for the period of October 6 - 21, 1990.
- "3. No person shall take more than one buck and one antlerless deer."

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE PBM FARMS, SISKIYOU COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1990-1993) AND FURTHER APPROVES THE 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

C. Sugarloaf Land and Cattle Company, Yuba County

Department Recommendation

"The Department of Fish and Game has reviewed the new application and management plan for the 4,400-acre Sugarloaf Land and Cattle Company in Yuba County. The ranch was previously licensed (1987-1989) under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags issued under the previous license. The plan is in compliance with Commission policy requirements for private lands management. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. Planned habitat improvements will enhance and maintain wildlife resources of Yuba County on and around the Sugarloaf Land and Cattle Company Ranch. The goals and objectives outlined in the management plan are consistent with the Bucks Mountain/Mooretown Deer Herd Management Plan.

"In 1989, habitat projects included the preparation of 300 acres for burning of brush crushed in previous years; bulldozing 600 acres of brush to rejuvenate quail habitat; cleaning and maintaining springs; grading and winterizing roads; and constructing firebreaks around the perimeter of the ranch.

"Habitat improvement projects proposed for 1990 include test plot planting of live oak acorns, continuing preparation for controlled burning, completing burning when conditions permit, manipulating mechanical brush, and discing and maintaining roads and firebreaks, as well as controlling livestock grazing to protect habitat.

"The 1989 harvest was 15 forked horn or better buck deer, two antlerless deer and 491 quail.

"Land adjacent to the Sugarloaf Land and Cattle Company Ranch is zoned Rural Residential, with a five-acre minimum parcel size, and there is a significant threat of potential subdivision of the area. This plan offers a means to encourage protection of this portion of the critical deer winter range for deer Zone D-3.

"Fall 1989 herd composition counts showed 19 bucks and 28 fawns per 100 does. Over-winter fawn survival appeared to be good, as fawn ratios were slightly higher in spring.

"The Department recommends that the Commission approve the Sugarloaf Land and Cattle Company Ranch Wildlife Management Plan and 1990 harvest program under the following conditions:

- "1. Issue 10 buck deer tags to take forked horn or better buck deer for the period of September 22 through October 28, 1990.
- "2. Issue 15 buck deer tags to take forked horn or better buck deer for the period of November 10 through December 9, 1990.
- "3. Issue 1,000 quail seals for the period October 13, 1990 through February 28, 1991. Initially, 500 quail seals shall be issued, with option for 500 additional seals in increments of 100 if requested by December 1, 1990."

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE SUGARLOAF LAND AND CATTLE COMPANY, YUBA COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1990-1993) AND FURTHER APPROVES THE 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

D. Tule Properties, Modoc County

Department Recommendation

"The Department has reviewed the annual report, new application and management plan for the 1,419-acre Tule Properties in northwest Modoc County. The acreage change from previous years reflects a slight reconfiguration of the property and a correction in actual ranch acreage. The ranch was previously licensed (1986-1989) under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. 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 on and around Tule Properties. The goals and objectives outlined in the management plan are compatible with the Interstate Deer Herd Management Plan.

"Wildlife enhancement activities completed in 1989 included irrigation of 20 acres of alfalfa and 30 acres of oats for exclusive wildlife use; juniper thinning to improve understory brush growth; stacking juniper limbs for upland game cover; seeding of wildlife food and cover plants at field perimeters and reservoir shorelines; and elimination of all livestock use on the entire ranch.

"Habitat improvements scheduled for 1990 include irrigation of 20 acres of alfalfa for wildlife forage; continued seeding of wildlife food and cover plants; juniper thinning to reduce competition to the bitterbrush understory; development of additional brush piles for upland game cover; willow planting around reservoirs; continued elimination of all livestock grazing on the area; and improvement of a goose nesting platform.

"Tule Properties is located on winter range for the Interstate deer herd. Due to the removal of livestock and habitat improvements over the past three years, a resident

deer herd has established on the area. Herd composition surveys in fall of 1989 indicated there were eight bucks and 37 fawns per 100 does. The buck ratio goal for this herd is 12 per 100 does. The spring fawn ratio showed 25 per 100 does, which is under this herd's goal of 35-40 spring fawns per 100 does. The low fawn ratio is attributed to harsh climatic conditions on winter ranges.

"The licensee was authorized three buck deer tags in 1989. Three buck deer were harvested.

"The Department recommends that the Commission approve the Tule Properties Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue three buck deer tags to take forked horn or better buck deer for the period of October 6 through November 15, 1990.
- "2. No person may take more than one buck deer."

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE TULE PROPERTIES, MODOC COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1990-1993) AND FURTHER APPROVES THE 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

E. Weber, Martinez and Holtemann Ranches, Modoc County

The Commissioners were given not only a copy of the summarized proposal, but also a letter from Kurt Sorensen, dated August 7, 1990, opposing the application.

Department Recommendation

"The Department has reviewed the management plan and license application for the 6,680-acre Weber, Martinez and Holtemann ranches in eastern Modoc County. This is the initial application for license under Commission regulations in Section 601, Title 14, CCR. While this is a new plan and license request, 4,240 acres of this plan were part of the previously licensed Weber and Bailey ranches. Because of a change in ownership, the area has been expanded and incorporated into a new plan. The management plan is in compliance with Commission policy requirements for private lands management. A public notice was published in a local paper, and certified letters were mailed to adjacent landowners with notification of the applicant's intent to

enter the program. In addition, the applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The goals and objectives outlined in the management plan are compatible with the Warner Mountains Deer Herd Management Plan and the Pronghorn Antelope Management Plan.

"Wildlife management activities over the next three years will be directed toward improving habitat for deer, pronghorn antelope and upland game. Specific projects for 1990-91 include establishing 40 acres of alfalfa to provide summer green forage to enhance wildlife use and maintaining 167 acres in current production; protecting a cottonwood grove to enhance deer fawning areas; constructing 1/4-mile modified perimeter fencing to exclude free-ranging livestock, yet allow unrestricted deer and antelope movement; developing a water source to provide year-round water for wildlife; planting 55 acres of willows and aspens; maintaining 757 acres of meadows; clearing 25 acres of junipers to increase bitterbrush production; instituting a conservative grazing schedule; and controlling coyote populations.

"Herd composition surveys for the Warner Mountains deer herd show 22 bucks and 39 spring fawns per 100 does. Composition counts are consistent with the herd goal of 15-20 bucks and 40-50 spring fawns per 100 does. The applicant is requesting 13 buck deer tags and three antlerless deer tags for the 1990 hunting season. Based on the estimated resident deer population of 250 deer on this area and a similar migratory population, the request for deer tags is warranted in a stratified season.

"The Department's guidelines for hunting antelope on private lands preclude the applicant from requesting antelope tags for the initial license year. Antelope tags issued during the remainder of the license period will be based on demonstrated increases in the ranches' population from the 1990 baseline figure.

"The Department recommends that the Commission approve the Weber, Martinez and Holtemann Ranches Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue six buck deer tags to take forked horn or better buck deer for the period of September 22 through October 21, 1990.
- "2. Issue seven buck deer tags to take forked horn or better buck deer for the period of September 22 through November 18, 1990.

- "3. Issue three antlerless deer tags for the period of September 22 through October 21, 1990."

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE WEBER, MARTINEZ AND HOLTEMANN RANCHES, MODOC COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1990-1993) AND FURTHER APPROVES THE 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

8. RECEIPT OF ANNUAL REPORT AND APPROVAL OF 1990-91 PRIVATE LANDS WILDLIFE MANAGEMENT AREA PLANS FOR:

- A. BUCK FEVER LODGE, SHASTA COUNTY;
- B. DIAMOND "H" RANCH, MENDOCINO COUNTY;
- C. FIVE DOT RANCH, WILLOW CREEK UNIT, LASSEN COUNTY;
- D. HANSEN RANCH, LASSEN COUNTY;
- E. KRAMER RANCH, LASSEN AND MODOC COUNTIES;
- F. LYNETA RANCH, ASH VALLEY UNIT, LASSEN COUNTY;
- G. QUAIL VALLEY RANCH, YUBA COUNTY;
- H. SNOWSTORM RANCH, LASSEN COUNTY.

Summary of Issue

The following applicants have requested renewal of their private lands wildlife management area (PLM) licenses and approval of their 1990-91 management plans. The Department has reviewed the annual report for each of these ranches and recommends that the Commission approve the management plans for the coming year. The Department has determined that the activities on the ranches, unless otherwise specified, have been completed as proposed in the 1989-90 objectives. The Commissioners were given summaries of each one of these proposals. Copies of the complete annual report and full management plans are available for the Commissioners upon request.

Action

Executive Secretary Treanor briefly summarized the issue for the Commission and indicated that the Department recommended approval of all applications. There was no discussion on this issue.

A. Buck Fever Lodge, Shasta County

Department Recommendation

"The Department has reviewed the license application and annual report for the 4,480-acre Buck Fever Lodge Private Lands Wildlife Management Area in southwestern Shasta County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags issued in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. 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 on and around the Buck Fever Lodge. The goals and objectives outlined in the management plan are compatible with the Yolla Bolly Deer Herd Management Plan.

"Prescribed burning of chamise brushfields has been a historical management practice on this ranch to reduce the fuel load fire hazard and increase the area's ability to support more deer. The goals of the prescribed burning program are to develop a forage-to-cover ratio of approximately 60-to-40 percent and improve the quality and palatability of forage species. Riparian habitats and black oak stands will be protected under the applicant's management program.

"This management program has provided significant benefits to wildlife through brush rejuvenation and increasing free water at dormant spring sites. In 1989, over 590 acres of decadent chaparral were burned, exceeding the applicant's 1989 habitat improvement goal of 250 acres.

"In 1990, the burning program will continue, with approximately 270 acres to be burned. The goal of the program is to develop a forage-to-cover ratio of approximately 60-to-40 percent and improve the quality and palatability of forage species.

"Attempts at obtaining herd composition counts on the Buck Fever Lodge have been ineffective due to dense brush conditions. Composition counts for the Yolla Bolly deer herd, however, revealed 23 post-season bucks and 40 spring fawns per 100 does.

"While the buck ratios are currently below the long-term herd-management goal of 30 bucks per 100 does, the 1990 spring fawn ratio exceeds the goal of 30 fawns per 100 does. The Yolla Bolly Deer Herd Management Plan identifies decadent chaparral conditions as a factor which has contributed to fawn ratios being below the goal in the past. The habitat improvements implemented under this program will

increase range quality on site, thereby improving conditions for fawn production.

"Thirteen buck deer tags were authorized in 1989, and six buck deer were harvested. By the Department's request, the applicant is collecting detailed harvest data for the purpose of assessing the impacts of late-season buck hunting on the age structure of the Beegum subherd of the Yolla Bolly deer herd.

"The Department recommends that the Commission approve the Buck Fever Lodge Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue five buck deer tags to take forked horn or better buck deer for the period of September 15 through October 7, 1990.
- "2. Issue eight buck deer tags to take forked horn or better buck deer for the period of September 15 through November 4, 1990."

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE BUCK FEVER LODGE, SHASTA COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

B. Diamond "H" Ranch, Mendocino County

Department Recommendation

"The Department has reviewed the annual report and renewal application for the 5,750-acre Diamond "H" Ranch, which is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The plan is in full compliance with Commission policy requirements for private lands management. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources of Mendocino County on and around the Diamond "H" Ranch. The goals and objectives outlined in the management plan are compatible with the Mendocino Deer Herd Management Plan.

"The Diamond "H" Ranch proposes to add 2,750 acres, the Round Mountain subunit, to the program, making a total of 5,750 acres. The additional acreage is to provide

improved hunter access during late season hunts. Some of the 1989 controlled burns occurred in this new addition. The adjacent landowners have been notified by certified mail of this proposed new addition.

"In 1989 approximately 20 acres of the proposed 50 acres were cultivated and seeded in a pasture mix. The seeded area was to be fenced to exclude livestock. However, the cattle lease on 3,000 acres was terminated in the fall of 1989 in lieu of the fencing. Approximately 1,000 acres on the Diamond "H" Ranch were controlled burned in the fall of 1989, including some burns in the Round Mountain subunit. Four "wild horses" were removed from the herd to maintain a population of approximately 20 horses.

"The ranch has already completed most of the habitat work identified in the management plan. Therefore, habitat work for 1990 will consist of maintaining existing improvements and deferment of livestock grazing on 3,000 acres.

"Deer herd composition counts were completed by ground observations and information gathered from helicopter flights by the Department. The December buck ratio was 43 bucks per 100 does, and the spring fawn count was 52 fawns per 100 does. The post-season buck ratio for the Covelo subunit of the Mendocino deer herd is 30 bucks per 100 does.

"During the March 1990 tule elk helicopter survey, 23 elk (four bulls, 14 cows and five calves) were observed in the Elk Creek/Covelo herd.

"In 1989 the ranch issued three of the 15 authorized tags to harvest no more than 12 buck deer. Three buck deer were harvested. The operator is requesting 15 tags to harvest 15 buck deer from October 1 through November 30, 1990. Based on the high buck ratio, the addition of 2,750 acres into the area and the completion of habitat work, the harvest is considered conservative.

"Tags for tule elk were not requested. Habitat work for elk, mainly planting of pasture and removal of cattle grazing, was completed in anticipation of including tule elk in the program at some future date.

"The Department recommends that the Commission approve the Diamond "H" Ranch Wildlife Management Plan and the 1990 harvest program under the following condition:

- "1. Issue 15 buck deer tags to take no more than 15 forked horn or better buck deer for the period of October 1 through November 30, 1990."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE DIAMOND "H" RANCH, MENDOCINO COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

C. Five Dot Ranch, Willow Creek Unit, Lassen County

Department Recommendation

"The Department has reviewed the annual report and renewal application for the 6,825-acre Five Dot Ranch-Willow Creek Unit in south central Lassen County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat work accomplished under this plan will enhance and maintain the resources of Lassen County on and around the Willow Creek Unit of Five Dot Ranch. The goals and objectives outlined in the management plan are compatible with the East Lassen Deer Herd Management Plan.

"During 1989, the applicant planted 30 acres of oats for deer and goose use; mechanically manipulated 175 acres of unproductive brushland; maintained the 100-acre alfalfa field, leaving the third cutting for deer and pronghorn antelope use; protected 150 acres of sagebrush habitat known to support sage grouse from agricultural conversion; established a 100-acre protection zone around a bald eagle nest site on the property; and maintained all projects completed under the initial management plan.

"In 1990, the applicant will maintain four cattle exclosures for fawning habitat; replant 30 acres of oats; leave the third cutting of alfalfa for wildlife; leave 185 acres unfarmed; crush 75 acres of brush; and maintain a 100-acre protection zone for bald eagle nesting, as well as maintain all previous projects.

"The Five Dot Ranch-Willow Creek Unit was authorized 13 buck deer tags in 1989; seven buck deer were harvested. For 1990, the Department is recommending 13 buck deer tags be authorized, with a maximum harvest of nine buck deer, to maintain herd goals prescribed by the applicant's management plan.

"Herd composition counts for the Eagle Lake subherd of the East Lassen deer herd (Zone X-5c) revealed seven bucks and 45 spring fawns per 100 does. The current buck ratio is under the herd goal of 25. The proposed harvest is a reduction from the previous allocation.

"The applicant, Mr. Tom Swickard, has been instrumental in forming a coalition of Lassen County Private Lands Wildlife Management Area (PLM) Program licensees that donate hunting opportunities for an auction which raises funds for local charity. Mr. Swickard's efforts have helped to offset adverse public opinion regarding the PLM Program, while providing substantial revenues for Lassen County charities.

"The Department recommends that the Commission approve the Five Dot Ranch-Willow Creek Unit Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue 13 buck deer tags to take no more than nine forked horn or better buck deer for the period of October 6 through November 18, 1990.
- "2. No person may take more than one buck deer."

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE FIVE DOT RANCH, WILLOW CREEK UNIT, LASSEN COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

D. Hansen Ranch, Lassen County

Department Recommendation

"The Department has reviewed the annual report and renewal application for the 21,000-acre Hansen Ranch in central Lassen County. This area is being reduced by 2,000 acres. The deletion of 2,000 acres represents parcels which have been found to be unmanageable. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The management plan is in compliance with Commission policy requirements for private lands management. The goals and objectives outlined in the management plan are compatible with the East Lassen Deer Herd Management Plan.

"The Hansen Ranch is located in summer range habitat for the Horse Lake subherd of the East Lassen deer herd. Management goals for the ranch are directed at improving fawning habitat and deer forage conditions in the Pine Creek drainage, Branham Reservoir and McCoy Flat areas. Management activities conducted in 1989 involved livestock exclusion and grazing deferments in over 1,600 acres of meadow and riparian habitat, significantly improving the forage and cover components in these critical fawning areas.

"Habitat improvements scheduled for 1990 include the following livestock exclusions and deferments:

- "1. Pine Creek Pasture (150 acres, year-round exclusion).
- "2. Branham Pasture (120 acres, year-round exclusion).
- "3. McCoy Flat Pasture (800 acres, grazing deferment June 15 - April 1).
- "4. School Section Pasture (650 acres, grazing deferment June 15 - April 1).

"Additionally, a 1,200-acre meadow will not be hayed to eliminate the accidental loss of fawns to machinery during haying operations.

"The Hansen Ranch was authorized seven buck deer tags in 1989. Two buck deer were harvested. The Department is recommending the same number of deer tags for the 1990 season.

"Herd composition counts for the Horse Lake subherd reveal 17 bucks and 55 spring fawns per 100 does. This represents an increase in both buck and fawn ratios over last year. Herd goals targeted for 1992 are 25 bucks and 35-45 fawns per 100 does, respectively. The conservative tag allocation (one buck deer tag per five square miles) and the substantial improvements to deer summer range accomplished under this plan can reasonably be expected to result in increased fawn recruitment, with a projected increase in the buck ratio.

"The Department recommends that the Commission approve the Hansen Ranch Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue seven buck deer tags to take forked horn or better bucks for the period of October 6 through November 18, 1990.
- "2. No person may take more than one buck deer."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE HANSEN RANCH, LASSEN COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

E. Kramer Ranch, Lassen and Modoc Counties

Department Recommendation

"The Department has reviewed the renewal application and annual report for the 5,200-acre Kramer Ranch in northwestern Lassen County and southwestern Modoc County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources of Lassen and Modoc counties on and around the Kramer Ranch. The goals and objectives outlined in this plan are compatible with the McCloud Flats Deer Herd Management Plan.

"In 1989, the applicant completed a 260-acre conifer-thinning project to improve understory forage production. Black oak stands were enhanced by the removal of competing conifers. Thirty acres of winter wheat were planted and reserved for exclusive use by wildlife.

"In 1990, proposed habitat work will include maintaining previous work, thinning 200-250 acres of timber and replanting 30 acres of grain. These projects will have a direct benefit to deer by providing more high-quality forage in fall and spring to better carry deer through critical winter months and late stages of pregnancy.

"Herd composition counts for the Day subherd of the McCloud Flats deer herd indicated 19 bucks and 54 fall fawns per 100 does. The spring 1990 fawn ratio revealed 33 fawns per 100 does. The buck and spring fawn ratios approximate the Day subherd average over the last 10 years.

"Kramer Ranch was authorized six buck deer tags in 1989. Four buck deer were harvested. This level of harvest is conservative for the acreage involved and the adequate buck ratio of this subherd.

"The Department recommends that the Commission approve the Kramer Ranch Wildlife Management Plan and 1990 harvest program under the following conditions:

- "1. Issue six buck deer tags to take forked horn or better buck deer for the period of October 6 through November 18, 1990.
- "2. No person may take more than one buck deer."

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE KRAMER RANCH, LASSEN AND MODOC COUNTIES, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

F. Lyneta Ranch, Ash Valley Unit, Lassen County

Department Recommendation

"The Department has reviewed the annual report and renewal application for the 12,240-acre Lyneta Ranch-Ash Valley Unit in northern Lassen County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. Access to public lands will be maintained under this program. The goals and objectives of the management plan are compatible with the Adin Deer Herd Management Plan.

"Wildlife management activities on the Ash Valley Unit are directed towards improving summer range for the Adin deer herd by increasing forage quality and fawning cover. In 1989, these improvements included fencing wet meadows to exclude livestock; maintaining previous exclosures to improve cover conditions in meadow areas; reducing cattle grazing by 10 percent from the 1987 level; shortening the season of use on Lyneta property and public lands; and manipulating five acres of *Ceanothus velutinus* to enhance forage production.

"Habitat projects proposed for 1990 include fencing two springs to exclude livestock; hand-lopping 10 acres of unproductive brush to promote sprouting of higher-quality deer forage; and maintaining reduced numbers of cattle and existing exclosures constructed under the previous license.

"Tag authorization for the Lyneta Ranch-Ash Valley Unit in 1989 was 12 tags to take no more than 10 buck deer. Seven buck deer were harvested. The applicant is requesting the same tag authorization for the 1990 harvest program.

"Fall surveys produced a buck ratio for the Adin deer herd of 15 bucks per 100 does, which is consistent with the herd goal of 15-20 bucks per 100 does. Spring fawn ratios for 1990 showed 39 per 100 does. Composition counts were conducted off the ranch, as deer in this area are migratory and not present on the area during the time herd composition data are collected.

"The Department recommends that the Commission approve the Lyneta Ranch-Ash Valley Unit Wildlife Management Plan and 1990 harvest program under the following conditions:

- "1. Issue 12 buck deer tags to take no more than 10 forked horn or better buck deer for the period of October 6 through November 18, 1990.
- "2. No person may take more than one buck deer."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE LYNETA RANCH, ASH VALLEY UNIT, LASSEN COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

G. Quail Valley Ranch, Yuba County

Department Recommendation

"The Department of Fish and Game has reviewed the renewal application and annual report for the 770-acre Quail Valley Ranch in Yuba County. The ranch is currently licensed under Commission Regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has identified the contact person and the location where records will be kept and made available for inspection. Planned habitat improvements will enhance and maintain wildlife resources of Yuba County on and around the Quail Valley Ranch.

"Habitat improvements completed in 1989 included creating brush piles and openings in dense brush and developing springs and ponds to provide water for wildlife. Seeding of clovers and reduction of cattle grazing was also accomplished.

"Habitat improvements scheduled for 1990 include creating brush piles and openings in dense stands by selectively thinning live oaks, planting clover and fertilizing 150 acres, creating small ponds (puddles) below year-round springs, and control of livestock grazing for retention of adequate cover. Other habitat improvement measures will include creation of firebreaks, disking of lanes between cover and water sources, installation of wood duck nest boxes and patrol of property to discourage poaching.

"In 1989, 400 quail seals were issued, with a harvest of 59 quail.

"The Department recommends that the Commission approve the Quail Valley Ranch Wildlife Management Plan and the 1990 harvest program under the following condition:

- "1. Issue 400 quail seals for the period of October 20, 1990, to February 28, 1991."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE QUAIL VALLEY RANCH, YUBA COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

H. Snowstorm Ranch, Lassen County

Department Recommendation

"The Department has reviewed the annual report and renewal application for the 3,000-acre Snowstorm Ranch in Lassen County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. 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 on and around the Snowstorm Ranch. The goals and objectives outlined in the management plan are compatible with the East Lassen Deer Herd Management Plan.

"Habitat projects completed in 1989 included screening 500 small bitterbrush plants to promote leader growth. This was done to mitigate a shortfall in thinning 15 acres of juniper to release understory growth. A 30-acre livestock enclosure was maintained in Snowstorm Creek. The applicant, as

directed by the Commission, provided an amendment for submission with his 1989 license application. The amendment addressed past habitat work commitments to be completed within accompanying time frames. These projects included construction of a five-acre livestock exclosure around Sales Meadow Spring, a 45-acre livestock exclosure in Snowstorm Creek, completion of boundary posting and repair of a three-acre livestock exclosure. All projects were completed.

"Habitat improvement goals for 1990 include maintaining over 80 acres of livestock exclosures and thinning 30 acres of junipers. In addition, 1,500 willows will be planted in the Section 34 cattle exclosure.

"Deer herd composition counts performed in fall 1989 and spring 1990 showed 17 bucks and 55 fawns per 100 does. These herd composition estimates were made off site, as deer are not present on the ranch during the appropriate time to collect herd composition data due to migration. The current buck-to-doe ratio (17:100) suggests that buck harvest in this area is near maximum, with the herd goal at 25:100.

"In 1989, eight tags were authorized to harvest a maximum of five buck deer in a season coinciding with the regular rifle season. Two buck deer were harvested. The requested number of bucks to be harvested in 1990 (five) is conservative for the acreage involved in the plan and consistent with public harvest for Zone X-5a. The season will again coincide with the regular X-5a deer season.

"The Department recommends that the Commission approve the Snowstorm Ranch Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "1. Issue 10 buck deer tags to take no more than five forked horn or better buck deer for the period of October 6-21, 1990.
- "2. No person may take more than one buck deer."

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF SNOWSTORM RANCH, LASSEN COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

9. REQUEST OF CINDY MUELLER, TORRANCE, FOR AUTHORIZATION TO POSSESS A RACCOON.

Summary of Issue

Ms. Cindy Mueller, Torrance, requests an opportunity to appear before the Commission to show cause why she should be allowed to possess a raccoon. Commissioners were provided with Ms. Mueller's July 16, 1990, letter as well as additional background information she provided on this matter.

Department Recommendation

"The Department recommends denial of Ms. Mueller's request for authorization to possess a raccoon.

"On May 21, 1990, Ms. Cindy Mueller was convicted of violating Sections 2002 and 2118, Fish and Game Code and Section 671, Title 14, California Code of Regulations. A formal complaint had been filed against her, along with several other subjects, as the result of an extensive covert operation. Ms. Mueller was found to be in possession of three ferrets, one raccoon, and six desert tortoises without the benefit of the required permits. She participates with a network of people who breed and sell prohibited species i.e. ferrets, for profit. One of the investigating officers made the following statements to the court:

- "1. Defendant Mueller deliberately violated California Fish and Game laws.
- "2. Defendant Mueller encouraged and advised others to violate Fish and Game laws.
- "3. Defendant Mueller has failed to comply with condition #2 of her sentence.
- "4. It is the belief of this officer that defendant Mueller has in the past, and will continue in the future to use her job in the animal care business to violate and assist and encourage others to violate the laws of this state.
- "5. Defendant Mueller has networked with other convicted offenders to breed illegal animals and sell them for profit.

"The failure to comply with her sentence mentioned above refers to the court order to dispose of the raccoon within 30 days of the conviction date (May 21, 1990). Rather than comply with the court order, she now seeks Commission authorization to maintain possession of the raccoon. Such authorization would be in direct conflict with the court order and with the Commission's regulations.

"A review of the attached reports clearly paints the picture of an individual who has no respect for the wildlife laws of this state nor for the department charged with enforcing them. A continued lack of compliance in the past would lead

one to believe that compliance would not be achieved in the future. Therefore, in keeping with the court order, the Department strongly recommends denial of Ms. Mueller's request for authorization to possess a raccoon."

Action

Cindy Mueller explained that she would like to maintain possession of the raccoon to use for educational purposes. She answered the questions posed by Commissioner McCracken regarding the health of the raccoon.

WPD Chief Johnston stated that the Department was in firm opposition against allowing Ms. Mueller to maintain possession of this animal because she has a record of deliberately violating Fish and Game laws regarding possession of wild animals. He indicated that in May 1990, she was ordered to get rid of this raccoon by a Court Order, and yet she was here before the Commission asking to keep it. He added that the Department would be happy to help her find a home for the raccoon. He did not agree that it had suffered poor health from its time away from Ms. Mueller.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF MS. CINDY MUELLER, TORRANCE, FOR AUTHORIZATION TO POSSESS A RACCOON FOR EDUCATIONAL PURPOSES.

PASSED UNANIMOUSLY.

10. REQUEST OF U.S. FISH AND WILDLIFE SERVICE RE: PROPOSAL TO REDUCE WILDLIFE DISTURBANCE AT FARALLON NATIONAL WILDLIFE REFUGE.

Summary of Issue

Mr. Ben Crabb, Acting Refuge Manager, Farallon National Wildlife Refuge, requests an opportunity to appear before the Commission to discuss a proposal to reduce wildlife disturbance at Farallon National Wildlife Refuge by decreasing the boat activity within the refuge. The U.S. Fish and Wildlife Service will be prepared to make its presentation to the Commission on August 30. Commissioners were provided a copy of the U.S. Fish and Wildlife Service's proposal as well as letters from several individuals and organizations concerning this proposal.

NOTE: Subsequent to this item being placed on the Agenda, the U.S. Fish and Wildlife Service contacted the Commission office and requested it be withdrawn from the Agenda.

11. CONSIDERATION OF RENEWAL OF ALTERNATIVE GEAR DEVELOPMENT PROGRAM EXPERIMENTAL GEAR PERMITS TO USE MODIFIED HALIBUT TRAWLS PURSUANT TO COURT ORDER AND ESTABLISHMENT OF CONDITIONS FOR 1990 PERMITS PURSUANT TO SECTION 8606 OF THE FISH AND GAME CODE.

Summary of Issue

As you will recall, the Commission, at its February 5, 1990, meeting in Sacramento, received public comment regarding the reauthorization of eight experimental halibut trawl permits. The Commission then discussed the matter at its March 1, 1990, meeting and declined to renew the eight experimental halibut trawl permits for ocean waters off central California and made the finding that it was inappropriate to continue the use of these modified halibut trawls within the three-mile limit. Further, the Commission believed that there was another alternative gear type available to displaced gillnetters. The Commission's action was appealed in court by the permittees; and the court has found in favor of the permittees that, pursuant to Section 8614 of the Fish and Game Code, the Commission is required to renew the experimental gear permits. Peter Van der Naillen, Deputy Attorney General, is prepared to provide direction to the Commission regarding the court order on this matter.

The Commission will receive public testimony and a Department recommendation regarding what terms and conditions should be placed on these experimental gear permits pursuant to Section 8606 of the Fish and Game Code. Commissioners were provided a copy of the court order and a copy of its letter to the permittees, as well as the Department's recommendation for "Option Two".

Department Recommendation

"At the Commission's March 1, 1990, meeting, the Commission denied the request to renew subject permits issued pursuant to the authority of Fish and Game Code Section 8606. Also, the affected fishermen petitioned the court challenging the Commission's action, with the court deciding in favor of the permittees (requiring the Commission to renew the permits). In this regard, the experimental gear permittees are presently fishing under the permits issued to them last year, which the aforementioned court action extended. Therefore, the Commission will be considering the renewal of the permits for the remainder of this season and to consider specified conditions for those permits.

"Also, during the Commission's consideration of renewing subject permits at its February and March 1990 meetings, the Department presented the Commission with two options: Option 1) no fishery; and Option 2) a limited-quota fishery. The Department recommends that the Commission consider renewal of subject experimental gear permits based on the

conditions the Department specified under Option 2, including a maximum quota of 60,000 pounds of California halibut (15,000 pound/boat quota) in the San Francisco area (February 20, 1990, memo to the Fish and Game Commission)."

Action

Executive Secretary Treanor summarized the issue and provided the Commissioners with a letter from Senator McCorquodale which recommended that the experimental permits not be reauthorized. His letter also suggested four methods in which the Commission could approach this matter, as the Commission had been ordered to allow the use of modified halibut trawls. A letter was also provided to the Commissioners from Senator Mello, which suggested terms and conditions for the Commission. Mr. Treanor also brought to the Commission's attention a letter from United Anglers as well as several letters from private individuals.

Deputy Attorney General Van der Naillen briefed the Commissioners on the issue and reminded them that they had discussed the matter in Executive Session at their June meeting. He explained that it was a statutory problem, which needed to be corrected, that had led to the current situation. He indicated that, in light of the court order, the only action which the Commission could take to close down this fishery would be to revoke each one of the permits. He noted that there were a couple of methods which the Commission could use. He then referred to Fish and Game Code Section 8606 which states, "These permits shall be revoked if the continued use would have an adverse impact on any resource." He then qualified his earlier remarks by saying that the action the Commission would take today was pursuant to Fish and Game Code Section 8614, and the Court Order, which required them to renew the permits. He noted that the Commission could put conditions on these permits, which was allowable under Section 8606, but qualified that the conditions had to be reasonable. He indicated that the Department would probably be making some recommendations which would fall under that category.

MRD Chief Petrovich reminded the Commissioners that the Department had gone through a rather extensive review of the experimental gear permit program. He noted that the Department had presented the Commission with two options at its February 5, 1990, meeting. He pointed out that Option One was to terminate the fishery and Option Two was a closely-regulated, scaled-down fishery. Mr. Petrovich stated that in light of the recent court action the Department would recommend the Commission use Option Two as a baseline for its consideration and allowing the public input to be used to set restrictions on the fishery. He then provided the Commissioners a handout which contained the original terms of Option Two, one of which would eliminate any near-shore trawling in Bodega Bay. He noted that because there were two permittees who operated in Bodega Bay, the Commission had to renew their permits; therefore, the new Option Two

recommendation was to allow fishing from the Sonoma-Mendocino county line to Point Reyes.

President Bryant asked why they had to allow near-shore trawling. Deputy Attorney General Van der Naillen explained that they had to renew the permits at this time; however, the Commission could revoke a permit at a future meeting if the Department recommended that it was injuring the fisheries. Mr. Petrovich pointed out that the Court Order requires the Commission to extend the permits; however, the current permit terms were more permissive than the options being recommended to the Commission now. He noted that the new Option Two had restrictions on gear type, landing restrictions, etc.

Commissioner McCracken inquired whether that was legal. Deputy Attorney General Van der Naillen replied that yes, it was. Commissioner McCracken then inquired about the usefulness of placing an observer on each boat. Mr. Petrovich responded that it would be useful; however, with all the cuts made to the Marine Resources Division's budget, it was impractical. Commissioner McCracken asked whether it would be possible for the permittee to bear the expense of the observer. Deputy Attorney General Van der Naillen stated that it sounded like a reasonable condition.

Commissioner Murdy inquired whether Marine Resources Division had any documentation on the condition of the fishery. Mr. Petrovich stated that yes, they had data available. Commissioner Murdy asked whether this fishery was damaging the resource. Mr. Petrovich stated that it was a highly-efficient gear type; and therefore, it would have to be a very highly-controlled fishery.

Commissioner Biaggini asked whether a permit had to be reissued for a permittee that would drop out of the program. Mr. Petrovich stated that no, they would not have to reissue. Don Schultze, Marine Resources Division, explained the different areas for fishing that were presented under Option Two.

Ilson New, attorney for the Near Shore Trawl Permittees, requested that the three San Francisco permittees be granted 30-day extensions on their permits because they had missed approximately 80 percent of the fishing season so far this year. He stated that the two Monterey permittees would also like a 30-day extension for taking starry flounder. A brief discussion took place between Commissioner Taucher and Ilson New regarding the effect of the fishery on starry flounder.

Judy Verhaag, representing Senator Henry Mello, indicated that the Senator was opposed to inshore trawling. She indicated that the Senator was requesting that the Department evaluate an equitable fishing program for those individuals, as he did not want them to be put out of business, but he sees the fishery as a threat to the resource. She stated that Senator Mello urged strict conditions on the permits, especially through the Monterey

Bay area, and that he was also advocating an observer on each trawling boat. Ms. Verhaag also stated that the Senator was willing to assist the Department if a legislative change was needed in order to make these regulations more appropriate. Commissioner Taucher asked Ms. Verhaag to inform the Senator that the Commission did not want to put people out of business, but it wanted to stop this fishery because it was a threat to the resource.

Executive Secretary Treanor stated for the record that a letter had been received in the Commission office from Senator Wenkoff via facsimile transmission (fax), who also had concerns about this fishery and offered to help legislatively in correcting this issue.

John Beuttler, United Anglers of California, questioned whether the Commission had to reissue the permits. He recommended that the Commission and its legal counsel look at other sections of the Code to provide them with a way out of this situation. He provided his brief history of the experimental gear permit program. He then stated that, in the 1988-89 fishing season, 64 percent of the non-targeted fish were returned to the ocean by these trawlers; over 345 of those fish were known to be dead when they were returned to the ocean. He indicated that United Anglers believed that a vast majority of the "live" fish that were returned to the ocean eventually died, which was verified by some experts they had consulted. He then presented a paper to the Commission, written by Jim Brennan, who made the statement that few, if any, of the rays or skates that were caught in the trawls would survive after being released. He stated that United Anglers maintained that this waste of fish was in violation of Fish and Game Code sections 1700, 7704, and 8606. He stated that United Anglers recommended that the Commission:

- 1) Prohibit trawling from Monterey Bay north within two miles of the coast;
- 2) Require 100 percent observers;
- 3) Set aside three-mile non-trawl zones (listed on handout);
- 4) Require permittees to report their landings, as in the herring fishing industry;
- 5) Allow permittees to fish only from sunup to sundown, and any violation of permits would result in permanent revocation;
- 6) Set quotas that would take into account the actual percent of halibut caught by gillnetters in the past in the areas where the trawlers are allowed to fish; the Department would obtain data to set quotas for the trawlers since they are actually replacing the gillnetting fishing industry.

Commissioner Taucher asked Mr. Beuttler if he believed observers were effective. Mr. Beuttler responded that he did not know for certain, but believed that the permittees should pay for the observers.

Norman Burns, Monterey Chapter of United Anglers, supported the two-mile limit around Monterey Bay. He stated that 90

percent of the fish caught in Monterey Bay were by-catch, and only 10 percent were halibut. He indicated that once an area had been trawled, there were no sport fish left. He stated that there were also a number of commercial hook-and-line fishermen who made a good living and that this was a viable alternative method for the trawlers.

Paul Turnbull, Central California Diving Council, reminded the Commission that he was the individual that had turned in over 2,000 signatures opposed to the use of trawls. He described for the Commission how the shallow areas looked after a trawl had been through. He expressed his opinion that the Commission should have used Fish and Game Code Section 8606(a) to revoke the permits initially, rather than reissue them.

Malcolm Giblin, Monterey Fishing Community, submitted a petition to the Commission with over 200 signatures requesting that the experimental halibut trawl permits be revoked. He indicated that they were also requesting that no fishing be allowed within five fathoms or two miles from shore, from Indian Head Beach to 1.5 miles from Moss Landing Harbor. He also stated that when the trawlers were in the bay, there were absolutely no sport fish taken.

Ted Wheeler, scuba diver, stated that he had been spear fishing in the bay for a number of years, and believed that trawling should not be allowed within the bay. He added that people taking halibut for their individual consumption should have priority over those taking them for profit. He noted that trawling was too efficient and too destructive to the environment.

Louis deBottari stated that in this day and age, the trawlers could be monitored through a video camera, rather than having observers on their boats. He also mentioned that the speed of the trawl should be controlled, as should its length.

Sergei Tavasieff, commercial Wire Line fisherman, San Francisco Bay, noted that trawling was a very destructive form of fishing, and suggested the following conditions which the Commission could place on the trawlers:

- 1) A season should be established inside the three-mile limit in the San Francisco area, to begin August 1;
- 2) Boats must remain outside the three miles until August 1;
- 3) A quota should be set for each individual, based on an average of that permittee's previous five-years' collections with a gill net;
- 4) The fish caught outside of the three-mile limit would count towards the quota;
- 5) Specific areas should be set aside for inside trawlers; these areas should be no closer than one mile to shore.
- 6) A three-mile radius should be allowed around Seal Rocks and around Point Bonita.

He recommended that all of the above conditions should be reviewed after one year and changed, if necessary.

Ed Beck, commercial fisherman, Moss Landing, stated that the observer program was okay; however, what had not yet been addressed was the fact that the trawls damaged the ocean floor. He pointed out that the report that the Department had received from the Coastal Conservancy was not valid because information on the hook-and-line fishery had not been included in the report. He indicated that it was profitable to be a hook-and-line fisherman, and that it was a viable option for the trawlers.

A discussion took place between the Commissioners, Deputy Attorney General Van der Naillen and Al Petrovich concerning the Department's recommendations, potential Commission actions and what conditions the Commission could require for these permits. It was decided that the following additional conditions should be included in Option Two:

- 1) Observers would be required, and they would be paid by the permittees;
- 2) Seven and one-half fathoms limit at Monterey Bay;
- 3) A one-mile limit off of Ocean Beach; and,
- 4) A limited fishery for existing permittees only.

Ilson New requested that the San Francisco Bay permittees and the Monterey Bay permittee be granted 30-day extensions. John Beuttler stated that United Anglers was opposed to the one-mile limit and that they felt that it should be a two-mile limit. Three individuals recommended that the seven and one-half fathoms at Monterey Bay be increased to over 15 fathoms, and one individual recommended that the limit be consistent throughout the coast, and that it be set at one mile, which would include Monterey Bay. A brief discussion was then held between the Commissioners, Mr. Petrovich and the Executive Secretary to establish the month in 1991 during which these restrictions would be reconsidered. It was tentatively agreed that it would probably be February or March of 1991.

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY RENEWS THE EIGHT EXPERIMENTAL HALIBUT TRAWL PERMITS ISSUED FOR THE ALTERNATIVE GEAR DEVELOPMENT PROGRAM AS REQUIRED BY SECTION 8614 OF THE FISH AND GAME CODE. PURSUANT TO SECTION 8606 OF THE FISH AND GAME CODE, THE COMMISSION HEREBY APPROVES THE FOLLOWING TERMS AND CONDITIONS FOR THOSE EIGHT PERMITS:

OPTION TWO: FISHERY CONDITIONS
GEAR TYPE: OTTER TRAWL

TABLE A	SAN FRANCISCO	MONTEREY
AREA	Point San Pedro (San Mateo County) north to Double Point (Marin County).	Point Sur (Monterey County) north to Waddell Creek (Santa Cruz County).
CLOSURES	Current closures to be retained. That is, no fishing within one mile from shore, with certain exceptions (Seal Rocks, to one mile).	No fishing in less than 7.5 fathoms throughout the entire area; and, No fishing in Monterey Bay south of Indian Head Beach, within 3 miles of Capitola Pier, and within 1.5 miles of Moss Landing Harbor mouth.
SEASON	Fishing allowed from May 1 through September 30 (5 months).	Fishing allowed from May 1 through August 31 (4 months).
TIME	One-half hour before sunrise to one-half hour after sunset.	One-half hour before sunrise to one-half hour after sunset.
BOAT LENGTH	Fifty-five feet maximum (waterline length).	Fifty-five feet maximum (waterline length).
MESH	7.5 inches throughout body and cod-end.	7.5 inches throughout body and cod-end.
FOOTROPE	100 feet maximum. No tickler chains. No roller gear.	100 feet maximum. No tickler chains. No roller gear.
DOORS	Maximum weight: 350 pounds each.	Maximum weight: 350 pounds each.
MUDLINES	40 fathoms maximum.	40 fathoms maximum.
NET	Maximum 29 meshes long. Minimum 47 meshes circumference. No liners, no other nets on board with less than 7.5 inch mesh. Chafing gear okay on bottom only.	Maximum 29 meshes long. Minimum 47 meshes circumference. No liners, no other nets on board with less than 7.5 inch mesh. Chafing gear okay on bottom only.
NUMBER OF PERMITS	4	3
SELECTION CRITERIA	Candidate must have landed some specified minimum landings for some specified time period in the San Francisco/Half Moon Bay area.	Candidate must have landed some specified minimum landings for some specified time period in the Monterey/Santa Cruz area.
SELECTION PROCESS	Current active permittees to be "grand fathered" in.	Current active permittees to be "grand fathered" in.
QUOTAS	Yes	Yes
POUNDS OVERALL	60,000 pounds	40,000 pounds
POUNDS PER VESSEL	15,000 pounds	13,333 pounds

TABLE B	BODEGA BAY AREA
AREA	Point Reyes (Marin County) north to the Gualala River.
CLOSURES	No fishing in waters less than 10 fathoms deep. No fishing in waters east of a line extending from Tomales Point to Bodega Head. From Fort Ross to the Sonoma County line, no fishing inside of 0.25 nautical mile from the beach. From Mussel Point to Bodega Head, no fishing inside of 0.25 nautical mile from the beach. From Tomales Point to the northern end of Point Reyes Beach, no fishing inside of 0.25 nautical mile from the beach.
SEASON	Fishing allowed from May 1 through September 30.
TIME	One-half hour before sunrise to one-half hour after sunset.
BOAT LENGTH	Fifty-five feet maximum. Permit to be fished on a specified vessel unless approved for use aboard another vessel by the Department.
MESH	7.5 inches throughout body and cod-end.
FOOTROPE	100 feet maximum. No tickler chains. No roller gear, 9-inch discs at two- to three-foot intervals.
DOORS	Maximum weight: 350 pounds each.
MUDLINES	40 fathoms maximum.
NET	Maximum 29 meshes long. Minimum 47 meshes circumference. No liners, no other nets on board with less than 7.5 inch mesh.
NUMBER OF PERMITS	2
ANNUAL LANDING LIMIT ON CALIFORNIA HALIBUT	20,000 pounds
POUNDS OF CALIFORNIA HALIBUT PER VESSEL	10,000 pounds

PASSED UNANIMOUSLY.

12. DISCUSSION OF DEPARTMENT'S PROPOSAL FOR THE RED BARN
PHEASANT HUNTING PROGRAM.

Summary of Issue

Director Bontadelli requests an opportunity to discuss the Department's proposal for the Red Barn Pheasant Hunting Program. The Department will be prepared to discuss this issue on August 30, 1990.

Action

WMD Chief Hunt briefly summarized the Department's proposal for the Red Barn Pheasant Hunting Program. He explained the Department's actions to date on this matter. He stated that the Department was currently evaluating three parcels of land for the development of this program; and of the three, the one in the Wister area appeared to be the best one to begin with. President Bryant suggested that, in addition to having upland game and waterfowl hunting, fishing should also be allowed on the area. Mr. Hunt indicated that the entire program should be put together fairly quickly. He offered to take Commissioner Taucher out to see the property if he wished.

13. DEPARTMENT REQUEST FOR AUTHORIZATION TO IMPLEMENT PROPOSED
SECTION 671.3(c), TITLE 14, CCR, REQUIREMENTS RE: VARIANCES
TO CAT CAGING FACILITIES.

Summary of Issue

The Department of Fish and Game requests authorization to begin implementing proposed Section 671.3(c), Title 14, CCR, regulations regarding requirements for variances to cat caging facilities. As background, the Commission has previously adopted changes in its regulations regarding the care and humane treatment of captive held wild animals. Those regulations have not become effective due to some technical reasons; and therefore, the Department requests authorization to begin implementing the Commission's new regulations. The Department will be prepared to discuss this matter on August 30, 1990.

Department Recommendation

"The Department of Fish and Game requests authorization be given to the Department, to implement proposed title 14, CCR 671.3(c), variance from caging.

"Current regulations do not provide for the housing of cats in unusual facility design, such as moats, natural habitat enclosures etc. However, proposed regulations allow for variances of this type. The Department requests authorization to implement proposed regulation CCR 671.3(c)."

Action

WPD Chief Johnston indicated that this was merely a request to implement a regulation that had already been approved by the Commission. He mentioned that the Department had already brought two separate requests to the Commission, and it was now requesting authorization to handle the requests administratively, rather than having to bring each variance to the Commission prior to the regulations being approved by the Office of Administrative Law. He provided some examples of the types of variances that people may be requesting.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MCCracken, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES THE DEPARTMENT TO IMPLEMENT SECTION 671.3(c), TITLE 14, CCR, REQUIREMENTS REGARDING VARIANCES TO CAT CAGING FACILITIES.

PASSED UNANIMOUSLY.

14. DEPARTMENT REPORT RE: SALMON AND STEELHEAD HABITAT RESTORATION PROGRAM.

Summary of Issue

The Department of Fish and Game will provide a presentation regarding its work on the Salmon and Steelhead Habitat Restoration Program. The Department will give a brief slide presentation regarding its program as well as answer any questions the Commission may have regarding this matter.

Department Recommendation

"The Department will present a brief status report on the progress that has been made to implement the 'Salmon, Steelhead Trout and Anadromous Fisheries Program Act' which was passed by the Legislature and signed by the Governor on September 29, 1988.

"The Legislature through this Act has declared that:

"(a) It is the policy of the State to significantly increase the natural production of salmon and steelhead trout by the end of this century. The Department shall develop a plan and a program that strive to double the current natural production of salmon and steelhead trout resources.

"(b) It is the policy of the State to recognize and encourage the participation of the public in privately and publicly funded mitigation, restoration, and enhancement programs in order to protect and increase

naturally spawning salmon and steelhead trout resources.

- "(c) It is the policy of the State that existing natural salmon and steelhead trout habitat shall not be diminished further without offsetting the impacts of the lost habitat."

Action

John Turner, Inland Fisheries Division, briefly explained the Salmon and Steelhead Trout Anadromous Fisheries Program Act and the status of the program authorized by the Act. He indicated that Phase 1 of the program would create about 40 new positions for the Department. He noted that these positions were distributed among the Regions and within Headquarters staff with about three million dollars of Prop. 99 funds already invested. Mr. Turner emphasized that for most of these projects it would take a number of years before any results would be evident. He indicated that part of the reason could be attributed to the drought conditions and the abnormally low numbers of fish.

15. DEPARTMENT REPORT RE: STATUS OF THE SACRAMENTO RIVER WINTER-RUN CHINOOK SALMON POPULATION.

Summary of Issue

As you may recall, the Commission has requested that the Department provide an annual status report regarding the Sacramento River winter-run chinook salmon population. The Department will be prepared to submit that report at the Commission's August 30, 1990, meeting.

Department Recommendation

"The number of returning adult winter-run chinook salmon in 1990 remained at a very low level. We predict that the run will remain low in 1991 but should rebound somewhat in 1992. The prolonged drought is seriously impacting our efforts to restore this endangered fish.

"Nevertheless, excellent progress is being made on a broad array of activities to restore the winter run. These efforts are described in the report. If the weather would cooperate, a major comeback of the winter run can be anticipated."

Action

Jim Schuler, Inland Fisheries Division, stated that the Department was optimistic because the data it had been receiving regarding the out-migration of the juvenile salmon was positive and moving upward. He indicated that this year they counted 441 adult fish which was an estimate. He noted that Coleman National Hatchery was allotted 20 fish and the Department took 14 adults

for the captive breeding program. He indicated that from the first pair spawned, they got 3,000 eggs and 1500 survived. He pointed out that the male fish started to die so they spawned them and froze the sperm. He explained that after all the males had died they spawned two females and fertilized them with the frozen sperm; however, no eggs survived. He stated the Department was not sure why the fish didn't do well at that hatchery, but it might be because of stress. Mr. Schuler briefly described the program that the Department was considering to move juvenile winter run salmon to Coleman Hatchery to raise them to a larger size. He also described some of the other programs that the Department was developing.

16. REQUEST OF CHARLES KAVANAGH, SANTA BARBARA, TO APPEAL DEPARTMENT DENIAL OF HIS RENEWAL APPLICATION FOR A COMMERCIAL SEA URCHIN DIVING PERMIT.

Summary of Issue

Mr. Charles Kavanagh, Santa Barbara, requests an opportunity to appear before the Commission to appeal the Department's denial of the renewal of his commercial sea urchin diving permit. Commissioners were provided with a copy of Mr. Kavanagh's letter.

Department Recommendation

"By way of background, a moratorium concerning the issuance of new sea urchin diving permits was established by Commission regulation in 1987, was replaced by a limited entry permit system (Section 120.7, Title 14, CCR) which became effective on March 8, 1989, and the Commission has just adopted a regulatory package which became effective on June 7 which:

1. restricts sea urchin fishing to four days per week from May to October, statewide;
2. closes the northern California sea urchin fishery for the entire month of July;
3. increases the minimum size limit for red sea urchins in northern California;
4. reduces the maximum possible number of sea urchin apprentice permits from 171 to 103 (one new apprentice permit for each five divers that leave the fishery, instead of one for each three).

"These actions were taken to reduce fishing effort and lower the annual harvest. The Department, in consultation with a sea urchin industry advisory group, has set the target number of sea urchin permits at 400 divers and 103 apprentices. At the time of the moratorium (July 1987) there were 915 permits, and today there are 597 sea urchin diving and 64 sea urchin apprentice permits. The reduction

in the total number of permits can only take place by attrition.

"Our records indicate that Mr. Kavanagh has not fished for sea urchins since at least the 1986-87 permit year, prior to the time that the Commission established the moratorium on the issuance of permits. The fishery has changed dramatically since then, from one of unrestricted access to one of strict regulatory control, and mere participation at some prior time is no longer a valid basis for re-entry into the fishery as it is today.

"Also, we feel that the plan to reduce the level of harvest by limiting the amount of fishing effort is beginning to work, and we believe it would be counterproductive to issue additional permits at this time.

"Therefore, we recommend denial of subject request."

Action

Mr. Kavanagh supplied the Commission with copies of his fish landing receipts, a letter from his processor, a letter from his ex-wife, and a letter from his physician explaining the injuries he received in 1986 and 1987 and his recovery from those injuries. Executive Secretary Treanor explained that, in a letter received from Mr. Kavanagh on July 30, the second paragraph stated that, "for medical reasons beyond his control, he was forced to withdraw from diving."

MRD Chief Petrovich reviewed the documentation that Mr. Kavanagh had just handed the Commission. He stated that the Department was still of the opinion that the fishery was over-subscribed and it needed to reduce the number of sea urchin divers. He indicated it would be counter-productive for the Commission to issue additional permits at this time.

Commissioner Murdy stated that the Commission had always maintained that, if there were compelling reasons why a person could not dive, the Commission had authorized additional permits. Mr. Kavanagh stated that it had been necessary for him to stay out of the fishery due to a back injury; however, his doctor was present and available to discuss his case with anyone who wished.

It was then:

MOVED BY MR. MCCracken, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF CHARLES KAVANAGH, SANTA BARBARA, FOR
REINSTATEMENT OF HIS SEA URCHIN DIVING PERMIT, SUBJECT
TO THE TERMS AND CONDITIONS RECOMMENDED BY THE
DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

17. REQUEST OF LARRY FORTADO, EL GRANADA, TO APPEAL DEPARTMENT DENIAL RE: TRANSFER OF COMMERCIAL SALMON VESSEL PERMIT FROM FISHING VESSEL (F/V) JULIA MARIE TO ANOTHER VESSEL.

Summary of Issue

Mr. Larry Fortado, El Granada, requests an opportunity to appear before the Commission to appeal the Department's denial of his transfer request of his commercial salmon vessel permit from F/V JULIA MARIE to another vessel. Commissioners were provided with a copy of Mr. Fortado's letter dated July 24, 1990, his commercial salmon vessel transfer application, a copy of his canceled check for his application fee, as well as his 1990 commercial boat license permit application.

Department Recommendation

"Mr. Fortado is requesting the commercial salmon vessel permit for the Fishing Vessel (F/V) JULIA MARIE (FG 29497) be reinstated in order to transfer the vessel permit to another boat at some time in the future.

"The Department received a transfer application and accident report from Mr. Fortado on March 20, 1990, regarding the June 26, 1989, sinking of the F/V JULIA MARIE. The requirements of Fish and Game Code Section 8239.1(a) are that the boat owner must submit a transfer application and accident report 'within one year after the date that a permitted vessel was lost, stolen, or destroyed . . .'. Mr. Fortado met the requirements of this section of the Fish and Game Code.

"The Department responded with a letter to Mr. Fortado on March 21, 1990, which apparently was not received. Copies of the letter and enclosure were then sent return receipt on May 1, 1990. Reference was made in the letter of the need for Mr. Fortado 'to be aware of the legislation that address lost, stolen or destroyed vessels...' and that the 'wording from Section 8239 of the Fish and Game Code is enclosed for your reference'. The letter and wording are attached. The return receipt card was signed by Mrs. Mary Fortado on May 2, 1990, acknowledging that they received this information.

"Unfortunately, June 26, 1990, passed without any action taken by Mr. Fortado. Fish and Game Code Section 8239.1(b) states 'the owner . . . may request an extension of time to complete a transfer . . . if the . . . extension is submitted before the end of the (one year) time . . . '

"The Department consulted with the Commercial Salmon Review Board and concluded that, since a transfer was not completed and there was no letter requesting an extension of time to complete the transfer, the permit for the F/V JULIA MARIE is no longer valid."

Action

Mary Fortado stated that she had immediately submitted her husband's paperwork declaring that their vessel had sunk. She indicated that they had then received an additional notice from the Department, almost a year later, that stated that they needed to send in the paperwork, which had already been sent in. She explained that she was late in sending in that paperwork, which was after the one-year deadline; however, she felt that since the first year deadline had been met by her first mailing, they were entitled to transfer the permit.

IFD Chief Rawstron briefly described the Department's actions and recommendation.

Commissioner Bryant asked the Fortados why they had not responded to the Department's letter in a timely manner. Mary Fortado indicated that in 1989 they had originally asked T. R. Pagel for an extension. She noted that the reason they had initially requested the extension of time was because they did not have a replacement vessel. She indicated that the second letter that had been sent to them read that it was for their records. Mrs. Fortado stated that she had just assumed that the letter was a duplicate of the initial letter they had received, so she had just filed it.

Commissioner Bryant asked the Department whether that letter was, in fact, just a duplicate. Mr. Rawstron stated that the second letter was similar to the first letter; however, it reminded them that a first letter had already been sent.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY GRANTS AN EXTENSION
TO LARRY FORTADO, EL GRANADA, TO TRANSFER HIS
COMMERCIAL SALMON VESSEL PERMIT FROM F/V JULIA MARIE TO
ANOTHER VESSEL BY DECEMBER 26, 1990, OR TO APPEAR
BEFORE THE COMMERCIAL SALMON REVIEW BOARD TO OBTAIN A
FURTHER EXTENSION BEFORE THAT DATE.

PASSED UNANIMOUSLY.

18. REQUEST OF WALTER L. TOCCI, NEWCASTLE, TO APPEAL DEPARTMENT
DENIAL RE: TRANSFER OF COMMERCIAL SALMON VESSEL PERMIT FROM
F/V SANDY R TO ANOTHER VESSEL.

Summary of Issue

Mr. Walter L. Tocci, Newcastle, requests an opportunity to appear before the Commission to appeal the Department's denial of his transfer request of his commercial salmon vessel permit from F/V SANDY R to another vessel. Commissioners were provided a copy of the Department's letter to Mr. Tocci dated July 16, 1990, concerning this matter, copies of pictures taken of the two

vessels, as well as a copy of a Department of Motor Vehicles' registration printout.

Department Recommendation

"Recently the Commercial Salmon Review Board recommended approval for a request to transfer a commercial salmon vessel permit from one boat to a replacement boat. Events which followed brought about unresolved discrepancies and have led the Commercial Salmon Review Board to recommend the Commission revoke the commercial salmon permit number 26855 for apparent fraud. Following are the chronological highlights of this case:

"On March 28, 1990, a request for guidance to transfer a commercial salmon vessel permit was received by the Department from Mr. Walter Tocci. Included with that request were photographs of a fishing vessel (F/V) in the water showing the number CF1793FV and identified by Mr. Tocci as being the F/V SANDY R. Mr. Tocci noted on the form that this boat was destroyed in 1989.

"On March 30, 1990, a letter was written to Mr. Tocci asking for the specific date and a copy of the accident report describing how the F/V SANDY R was destroyed.

"On April 9, 1990, during a telephone conversation, Mr. Tocci commented that the F/V SANDY R was not destroyed, but rusted out and "just not usable". At that point, current photographs were requested to have available for the next Commercial Salmon Review Board meeting.

"On April 12, 1990, the Commercial Salmon Review Board met. Mr. Tocci attended this meeting and submitted current photographs of the F/V SANDY R to the Review Board. The Review Board recommended that Mr. Tocci be given approval for his transfer request on the condition that he meet all of the requirements of the commercial salmon limited-entry law.

"On April 24, 1990, as the transfer request was about to be processed, a discrepancy was noted on the photographs of the F/V SANDY R. The first photograph Mr. Tocci submitted showed the number CF1793FV on the boat. The number on the boat in a photograph submitted by Mr. Tocci at the April Review Board meeting looked different and, when placed under magnification, was noted to be CF2264HV.

"On April 27, 1990, the boat was inspected at Lee's Boatyard in Clarksburg by a member of the Commercial Salmon Review Board and Department staff where it was discovered that the boat had the name "Winderer" painted on the stern and CF2264HV painted on both sides of the bow. There is convincing evidence that it is the same boat because of the particular design and vessel identification number (VIN).

The VIN on the boat is A14849 and the Department of Motor Vehicles (DMV) registration for CF1793FV also shows VIN A14849. The caretaker at the boatyard thought the boat belonged to Mr. Lee Colter, the owner of the boatyard, and did not recognize Mr. Tocci's name as possible owner.

"On April 27, 1990, a telephone call with the Department of Motor Vehicles (DMV) revealed that Mr. Tocci is not the owner of CF2264HV and that Mr. Colter had sold this boat to another individual in 1987.

"On May 3, 1990, a letter was written to Mr. Tocci asking him to resolve the discrepancies and to show ownership of the boat with the number CF2264HV before the transfer could be completed.

"On June 29, 1990, the Commercial Salmon Review Board met again and concluded that because Mr. Tocci had not been able to resolve the discrepancies of ownership, change of boat name and change of "CF" numbers, there may have been falsified records or possible fraud. The Review Board recommended that the Department pursue revocation of this commercial salmon vessel permit.

"On July 16, 1990, a letter was sent to Mr. Tocci stating this recommendation of the Review Board and that, if Mr. Tocci did not resolve these issues by August 16, 1990, the matter would be presented to the Fish and Game Commission.

"It is the recommendation of the Commercial Salmon Review Board that, since Mr. Tocci has not been able to resolve the discrepancies called to his attention in the letter of May 3, 1990, the Commission revoke his commercial salmon vessel permit pursuant to Fish and Game Code Section 8246.4 which states 'the Commission . . . shall revoke a commercial salmon vessel permit . . . if the vessel permit was obtained by fraudulent means.'

"The Department, after further examination, finds that Mr. Tocci originally qualified for this permit in 1983. It is noted that the DMV registration Mr. Tocci submitted for the F/V SANDY R expired 12/31/85. Apparently, Mr. Tocci sold the boat with the intention of keeping the salmon vessel permit but without retiring it from the commercial salmon fishery as required by the commercial salmon limited entry law in effect at that time. While Mr. Tocci may not have obtained the permit fraudulently, it appears he has been maintaining the permit without a boat in a way that falls outside of the intent of the commercial salmon limited entry law. The Department recommends revocation for this reason."

Action

IFD Chief Rawstron briefly summarized the issue and presented the Department's recommendation that the commercial salmon vessel permit be revoked.

Mr. Tocci stated that he had purchased the boat in 1979 and fished it every year until 1986. He indicated that he then put the vessel to dry-dock and was stripping off the paint when he noticed that there was a lot of rust on the boat. He stated that it was not feasible to put a completely new hull on the boat. He explained that Lee's Boatyard, where the work was being done, took the boat to Clarksburg for storage. He stated that there were no numbers on the boat at that time, and that he sent the boatyard a check for the storage fee, but heard nothing back from them, so he decided to transfer the license. He pointed out that he had been paying for the license and permit fees for the boat every year. He indicated that he took the matter to the Salmon Review Board, which had granted him everything, except they requested some pictures. He noted that he took a picture of the boat, but did not even look at the CF numbers to determine whether it was his boat or not that he had been paying for all these years. Mr. Tocci stated he then went to the owner of the boatyard and asked him to clarify the situation. He explained that the owner of the boatyard indicated that he had no records. He noted that whoever bought the boat, had reconstructed it as a new boat because there were no CF numbers on it. Mr. Tocci stated he then requested DMV tell him who the owner of the boat was and they said that they could not give it to him because it was privileged information. He stated that the boat stills belonged to him because there had not been a lien put on it even though the owner of the boatyard may have sold it, he contended that it would be an invalid sale.

Mr. Rawstron stated that the Department had contacted the Department of Motor Vehicles and they had said that the owner of the boat was not Mr. Tocci and that Mr. Colter, the owner of the boatyard, had sold it to another individual in 1987. He pointed out that the Department had asked Mr. Tocci to, through a letter, show that he was the actual owner of the boat and he was unable to do so. He stated that the Department had the same problem that Mr. Tocci has in that the owner of the boat is unknown to them. He explained that the issue at hand was not whether Mr. Tocci still owned the boat, but whether he still is entitled to the permit because he was under the impression that he was still the legal owner of the boat and holder of a permit.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF WALTER L. TOCCI, NEWCASTLE, FOR AUTHORIZATION TO TRANSFER HIS COMMERCIAL SALMON VESSEL PERMIT FROM F/V SANDY R TO ANOTHER VESSEL, PENDING SATISFACTION OF THE DEPARTMENT THAT THIS MATTER IS SUFFICIENTLY RESOLVED.

PASSED UNANIMOUSLY.

19. NONRENEWAL OF 1990-91 WATERFOWL FEEDING CLUB PERMITS OF ORVIL E. COATES, OPTIMISTIC FARM, CULVER CITY; DELL H. DEREVERE, DESERT SEA RANCH, NEWPORT BEACH; AND FRED A. HOWSER, PINTAIL DUCK CLUB, NEWPORT BEACH.

Summary of Issue

The Department requests that the Commission not renew the 1990-91 Waterfowl Feeding Club permits of: Orvil E. Coates, Optimistic Farm, Culver City; Dell H. DeRevere, Desert Sea Ranch, Newport Beach; and Fred A. Howser, Pintail Duck Club, Newport Beach. Certified letters have been sent to each of these individuals notifying them of the possible action to be taken at the August 30, 1990, meeting. Commissioners were provided a copy of the Department's Region 5 memo to DeWayne Johnston, Chief, Wildlife Protection Division, dated July 25, 1990.

The Department predicates these requests upon the following information:

A. Orvil E. Coates, Optimistic Farm

From January 1, 1990, through February 3, 1990, in the County of Riverside, State of California, Optimistic Farm failed to provide a minimum of 100 pounds of feed daily for migratory waterfowl at the feeding area licensed by the Department. Commissioners were provided a copy of a letter from Mr. Orvil E. Coates to the Commission, the Department's arrest report, the complaint filed by the Municipal Court of the Desert Judicial District, Indio Branch, and Section 508, Title 14, CCR.

Department Recommendation

"The Department's memo of August 14, 1990, requests that Mr. Coates's waterfowl feeding permit not be renewed for the coming year because the club failed to feed waterfowl as required.

"However, if the Commission feels that this course of action is too severe, and/or wishes to sustain the wetland and food benefits of permit operation, an alternative recommendation

is that Mr. Coates be authorized to purchase the permit and be required to adhere to all permit requirements throughout the term of the permit, but that no hunting be allowed on the club for the first two weeks of the waterfowl season."

Action

Executive Secretary Treanor stated that Mr. Coates was unable to be present at the meeting, but requested that his letter be read into the record. He indicated that Mr. Coates had requested that his permit not be reissued as he would like to leave the program.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCracken, THAT THE FISH AND GAME COMMISSION HEREBY ACCEPTS THE WITHDRAWAL OF ORVIL E. COATES, OPTIMISTIC FARM, CULVER CITY, FROM THE WATERFOWL FEEDING PROGRAM.

PASSED UNANIMOUSLY.

B. Dell H. DeRevere, Desert Sea Ranch

From January 1, 1990, through February 3, 1990, in the County of Riverside, State of California, Desert Sea Ranch failed to provide a minimum of 100 pounds of feed daily for migratory waterfowl at the feeding area licensed by the Department. Commissioners were provided a copy of a letter from Mr. Dell H. DeRevere to the Commission, the Department's arrest report, the complaint filed by the Municipal Court of the Desert Judicial District, Indio Branch, and Section 508, Title 14, CCR.

Department Recommendation

"The Department's memo of August 14, 1990, requests that Mr. DeRevere's waterfowl feeding permit not be renewed for the coming year because the club failed to feed waterfowl as required.

"However, if the Commission feels that this course of action is too severe, and/or wishes to sustain the wetland and food benefits of permit operation, an alternate recommendation is that Mr. DeRevere be authorized to purchase the permit and be required to adhere to all permit requirements throughout the term of the permit, but that no hunting be allowed on the club for the first two weeks of the waterfowl season."

Action

WPD Chief Johnston stated that the Department recommended suspension of Desert Sea Ranch's permit for one year. He indicated that the Department believed that these were serious violations because they have violations of their permit terms and

conditions and had habitat implications. Mr. Johnston noted that if the Commission believed a one year suspension was too severe, the Department would recommend that no hunting be allowed at the ranch for the first two weeks of waterfowl season.

Commissioner Taucher stated that his assessment of the situation was that the wardens in southern California did not like the waterfowl feeding clubs and rather than educate or try to rectify certain situations, they would cite the owners instead. Mr. Johnston admitted that yes, that could be a fair assessment. Commissioner Murdy stated that if this was the situation, he would recommend that, rather than suspend any licenses, the owners of the feeding clubs be sent a strong letter of warning ordering them to adhere to the regulations. He pointed out that this would allow for the maintenance of the birds, which was the whole object behind the program. WPD Chief Johnston stated that the Department had held hearings with the permittees to remind them, time and again, that they had to adhere to the regulations, but to let them off without any kind of action would send the wrong message. He maintained that these permittees were not feeding the waterfowl as they had promised.

Commissioner McCracken commented that these permittees had committed to a certain feeding schedule and that they should be held to that feeding schedule regardless of whether the wardens liked them or not. He stated that these permittees should have been following the conditions of their permit.

WPD Chief Johnston noted for the record that according to the citation records, notes and other information were left at the areas where feeding was to occur requesting that the permittees give the wardens a call so they could discuss the problems. No such information or phone calls had been received by the wardens.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION SEND A STRONG LETTER OF
WARNING TO DELL H. DEREVERE, DESERT SEA RANCH, NEWPORT
BEACH, TO ADHERE TO THE CONDITIONS OF HIS WATERFOWL
FEEDING PERMIT ISSUED PURSUANT TO SECTION 508,
TITLE 14, CCR.

AYES: COMMISSIONERS BIAGGINI, MURDY AND TAUCHER.
NAY: COMMISSIONER MCCRACKEN.

MOTION PASSED.

C. Fred A. Howser, Pintail Duck Club

From January 1, 1990, through February 3, 1990, in the County of Riverside, State of California, Pintail Duck Club failed to provide a minimum of 100 pounds of feed daily for migratory waterfowl at the feeding area licensed by the

Department. Commissioners were provided a copy of the Department's arrest report, the complaint filed by the Municipal Court of the Desert Judicial District, County of Riverside, and Section 508, Title 14, CCR.

Department Recommendation

"The Department's memo of August 14, 1990, requests that Mr. Howser's waterfowl feeding permit not be renewed for the coming year because the club failed to feed waterfowl as required.

"As of this date, a warrant of arrest is still outstanding for Mr. Howser as he failed to resolve this issue in court. Until the warrant is cleared and the resulting court action is completed, we request that no permit be authorized.

"However, once the court action is resolved, if the Commission feels that this course of action is too severe, and/or wishes to sustain the wetland and food benefits of permit operation, an alternate recommendation is that Mr. Howser be authorized to purchase the permit and be required to adhere to all permit requirements throughout the term of the permit, but that no hunting be allowed on the club for the first two weeks of the waterfowl season."

Action

WPD Chief Johnston explained that the Department's recommendation was the same as for the prior club. He indicated that this case, however, had not yet been decided in court. He requested that, if the Commission was going to follow the same motion as in the prior item, that the Commission add the stipulation that the Department did not have to issue the permit until after the citation had been adjudicated in court.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION SEND A STRONG LETTER OF WARNING TO FRED A. HOWSER, PINTAIL DUCK CLUB, NEWPORT BEACH, TO ADHERE TO THE CONDITIONS OF THE WATERFOWL FEEDING PERMIT. FURTHER, THE DEPARTMENT DID NOT HAVE TO REISSUE THE PERMIT UNTIL THE CITATION IS SETTLED IN COURT.

AYES: COMMISSIONERS BIAGGINI, MURDY AND TAUCHER.
NAY: COMMISSIONER MCCracken.

MOTION PASSED.

20. REQUEST OF JOHN VER VALIN, EL GRANADA, TO APPEAL DEPARTMENT DENIAL OF REQUEST FOR AN EXPERIMENTAL GEAR PERMIT TO TAKE ROCK CRAB.

Summary of Issue

Mr. John Ver Valin, El Granada, requests an opportunity to appeal the Department's denial of his request for an experimental gear permit to take rock crab.

Department Recommendation

"The Commission has delegated to the Department the authority to issue experimental gear permits to individuals to take rock crabs without escape ports. Mr. John Ver Valin has requested such a permit and the Department has denied his request.

"On September 24, 1985, Mr. Ver Valin was cited for failing to fill out fish landing receipts for red abalone. He pled guilty and paid a \$170 fine.

"Further, the Department has filed complaints against Mr. Ver Valin for the following alleged activities for which court charges are pending:

"On June 28, 1990, Mr. Ver Valin sold four red abalone, less than legal size, to a fish dealer who then sold them to an undercover warden. This charge is pending in court.

"On June 30, 1990, Mr. Ver Valin sold live Dungeness and rock crabs at a flea market in Stockton with no transportation receipt. This case is also pending in court.

"The Department recommends that action on Mr. Ver Valin's request for an experimental gear permit be withheld until consideration can be given to the disposition of the two citations."

Action

Executive Secretary Treanor briefly summarized the background of the issue and asked if Mr. Ver Valin was present, and there was no response.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF JOHN VER VALIN, EL GRANADA, FOR AN EXPERIMENTAL GEAR PERMIT TO TAKE ROCK CRAB UNTIL HE APPEARED TO SHOW CAUSE WHY THE COMMISSION SHOULD ISSUE HIM A PERMIT.

PASSED UNANIMOUSLY.

21. DEPARTMENT REQUEST FOR AUTHORIZATION TO DENY ISSUANCE OF
A COMMERCIAL HERRING PERMIT TO VITO JAMES LIBERATI,
NAKNEK, ALASKA.

Summary of Issue

The Department requests that the Commission authorize the Department to deny Vito James Liberati a commercial herring permit and/or participation in the commercial herring fishery, should he so apply. A certified letter has been sent to Mr. Liberati notifying him of the possible action to be taken by the Commission. The Department predicates its request upon the fact that the vessel owned by Vito James Liberati was used in all three commercial herring seasons. Mr. Liberati attempted to conceal this fact by renaming his vessel and by putting on Fish and Game boat plates, which belonged to another boat he owns. Mr. Liberati was a substitute permittee for H-426-SF after the permittee's death, the substitute for H-164-SF who was ill, and he contracted for H-239-SF as an operator/deckhand.

On February 21, 1990, in the San Francisco Municipal Court, Mr. Liberati pled nolo contendere to a violation of Section 163, Title 14, CCR, use of a fishing vessel in all three commercial herring seasons. He was fined \$500. He has prior commercial fishing violations in the states of Alaska and Washington. Commissioners were provided with a copy of a Position and Argument Letter dated August 23, 1990, from Ilson New on this matter.

Department Recommendation

"On February 21, 1990, Mr. Liberati was convicted of using a vessel to fish herring in all three herring seasons. His boat was used to commit this violation. He renamed the vessel and replaced the Fish and Game plates on the boat with those belonging to another boat, which he owns, to avoid detection.

"The Department has submitted a request to deny issuance or transfer of a herring permit to Mr. Liberati in the future, until he appears before the Commission and shows evidence why he should be granted a permit. We also now request that the Department be authorized to deny the use of either of his vessels, #41299 or #41300, in the herring fishery under the same conditions."

Action

This item was withdrawn from the agenda pending consultation with the Attorney General's Office.

22. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

Summary of Issue

This item is set aside to afford the Director an opportunity to present the Commission with informational items. The Director or his representative will be prepared to make a presentation to the Commission.

Action

The Commission had been provided with Department informational items which included the North Fork Feather River, the Modoc Sucker, Healdsburg Fish Passage and the Sea Otter Program.

Director Bontadelli stated that the Department had received correspondence from the U.S. Fish and Wildlife Service in regard to the Sea Otter Program, stating that it believed that the long-term relationships with the Commission and the Department were critical to maintaining this program; therefore, it would honor this year's Commission decision and would not attempt to take any sort of federal action that would interfere. Mr. Bontadelli explained that the USFWS would continue monitoring the program, but if anything negative appeared to be happening, they would come back to the Commission to request its assistance.

Director Bontadelli provided the Commissioners information regarding a loss of young steelhead at the Feather River Fish Hatchery.

Deputy Director Jensen briefed the Commissioners on the Cache Creek Tule Elk Hunt which had been affected by a wildfire, but that the Department did not anticipate any adverse effects from the wildfire. Deputy Director Jensen also mentioned that the Department would be appearing before the State Water Resources Control Board to discuss the progress in the plans being developed to address the temperature problems in the American River. He stated that once the plans were completed the Department would bring them to the Commission for its information and approval. Commissioner Bryant inquired whether any of the wildfires in the state were going to require the closing down of any of the hunting seasons. Director Bontadelli stated that the only one that may be affected was the one in Tehama County. He indicated that there may have been some long-term benefit because it had burned part of the property that was slated to be burned in a couple of years.

Director Bontadelli also mentioned that the Resource Academy for new wardens was not going to be fully covered this year.

Deputy Director Naylor updated the Commissioners on the scheduled rotenoning of Frenchman Reservoir. He also mentioned the types of fish and sizes that the fishermen were removing from the reservoir and the fact that some of the local people were not

happy about the rotenoning. He noted that the chemical treatment was set for September 18th. Mr. Naylor stated that restocking would occur approximately four weeks after the rotenone treatment and would mainly consist of catchable trout, but would be supplemented with sub-catchables and fingerlings.

Commission Taucher asked the Department's opinion on the bear situation in southern California. Commissioner Taucher also asked the Department to investigate the matter of the City of Moreno allowing development next to a wildlife area. He indicated that the City was allowing some residential development right along side of the wildlife area. He stated that he did not believe that it was a suitable arrangement and requested the Department to vigorously comment on the Environmental Impact Reports for these developments to assure adequate buffers and disclosures to alert buyers of hunting activities on the adjacent wildlife area. He stated that he had talked to the developers and they were willing to put up fences or do whatever was necessary, but he was still concerned that if the housing developments were allowed to be built with no buffer areas or CCR conditions that there would be problems for the hunters in the long run. Director Bontadelli stated that the Department had requested significant buffers be placed on the property adjacent to the state wildlife area. He also briefly mentioned some of the other problems which had not yet been resolved with the developers.

23. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

Summary of Issue

This item has 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 Commission should start considering possible meeting locations for 1991. During 1991, the Commission has the ability to select meeting sites for its January, May, June and early August meetings. The remaining meeting locations are set by statute.

Commissioners have already informed staff that they would appreciate scheduling the January meeting in Palm Springs and the early August meeting in Newport Beach. Also as a point of interest, the Commission in recent years has scheduled a meeting in May or June in the Bishop area. It should be noted that the Department has also received numerous inquiries for the Commission to hold one of its meetings in the Fresno area. Staff suggests that the Commission schedule its May meeting in Monterey and its June meeting in Bishop. If there are any other locations desired by the Commission or if it wishes to hold one of its meetings in Fresno, please contact your staff at your earliest convenience.

Action

Executive Secretary Treanor indicated that the Department's Public Affairs Office would be judging the art work for the Native Species stamp and would like to know if one of the Commissioners would be interested in being one of the judges.

Executive Secretary Treanor stated that for the October 4-5 meeting, the Santa Barbara County Fish and Game Commission had suggested a dinner on Thursday, October 4. He noted that they had invited the Commissioners and their wives and would like to select a restaurant overlooking the ocean.

24. RECEIPT OF DEPARTMENT STATUS REPORT RE: LEGISLATION.

Summary of Issue

This item has been scheduled for the Commission to receive a status report from the Department regarding legislation which may be of interest to the Commission. The Director or his representative will be prepared to make a presentation to the Commission.

Action

Executive Secretary Treanor provided an update on Assembly Bill 3160. He expressed staff's concerns with the current version of the bill. He also mentioned Mr. Felando's bill which would repeal the Commission's authority to revoke permits and licenses. The Commission expressed its opposition to both bills and requested the Department oppose the proposed legislation.

There being no further business, the meeting recessed at 4:00 p.m. to reconvene in Executive Session.

EXECUTIVE SESSION
AUGUST 30, 1990

PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 11126(q),
THE COMMISSION MET IN CLOSED EXECUTIVE SESSION. THE PURPOSE OF
THIS EXECUTIVE SESSION IS TO CONSIDER:

1. PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY:
 - A. CALIFORNIA FISH AND GAME COMMISSION VS. COUNTY OF NEVADA, UNAUTHORIZED COUNTY TRAPPING ORDINANCES.
 - B. MITCHELL, ET AL., VS. FISH AND GAME COMMISSION, ET AL. SAN FRANCISCO SUPERIOR COURT, CASE NO. 919628.
 - C. FUND FOR ANIMALS, ET AL., VS. FISH AND GAME COMMISSION, ET AL., RE: BEAR HUNTING, SACRAMENTO SUPERIOR COURT.
2. POTENTIAL LITIGATION TO WHICH THE COMMISSION MAY BE A PARTY:

VALIDITY OF PROVISIONS OF SECTION 508, TITLE 14, CCR.

Persons Present:

FISH AND GAME COMMISSION

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

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Paul Jensen	Deputy Director
Kathy Noia	Chief, Personnel Programs Branch

The Executive Session adjourned at 4:45 p.m.

EXECUTIVE SESSION
AUGUST 31, 1990

PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 11126(q),
THE COMMISSION MET IN CLOSED EXECUTIVE SESSION. THE PURPOSE OF
THIS EXECUTIVE SESSION IS TO CONSIDER:

1. PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY:
 - A. CALIFORNIA FISH AND GAME COMMISSION VS. COUNTY OF NEVADA, UNAUTHORIZED COUNTY TRAPPING ORDINANCES.
 - B. MITCHELL, ET AL., VS. FISH AND GAME COMMISSION, ET AL. SAN FRANCISCO SUPERIOR COURT, CASE NO. 919628.
 - C. FUND FOR ANIMALS, ET AL., VS. FISH AND GAME COMMISSION, ET AL., RE: BEAR HUNTING, SACRAMENTO SUPERIOR COURT.
2. POTENTIAL LITIGATION TO WHICH THE COMMISSION MAY BE A PARTY:

VALIDITY OF PROVISIONS OF SECTION 508, TITLE 14, CCR.

Persons Present:

FISH AND GAME COMMISSION

Robert A. Bryant	President
John A. Murdy III	Vice President
Albert C. Taucher	Member
Benjamin F. Biaggini	Member

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Paul Jensen	Deputy Director
Spike Naylor	Deputy Director

PRIVATE ATTORNEY

Mark Glosser

The Executive Session adjourned at 9:10 a.m.

**State of California
FISH AND GAME COMMISSION**

Minutes, Meeting of August 30-31, 1990

Pursuant to the call of the President, the Commission met in the Resources Building Auditorium, at 1416 Ninth Street in Sacramento, California, on August 31, 1990. The meeting was called to order at 9:20 a.m. by President Bryant.

Persons present:

FISH AND GAME COMMISSION

Robert A. Bryant	President
John A. Murdy III	Vice President
Benjamin F. Biaggini	Member
Albert C. Taucher	Member

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

OFFICE OF THE ATTORNEY GENERAL

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Paul Jensen	Deputy Director
Spike Naylor	Assistant Director
Eldridge Hunt	Chief, Wildlife Management Div.
DeWayne Johnston	Chief, Wildlife Protection Div.
Robert Rawstron	Chief, Inland Fisheries Division
Al Petrovich	Chief, Marine Resources Division
Ted Thomas	Chief, Public Affairs/Cons. Ed.
Steve Taylor	Inland Fisheries Division
John Turner	Inland Fisheries Division
Jim Schuler	Inland Fisheries Division
Ken Berg	Natural Heritage Division (NHD)
Chuck Graves	Program Manager, NHD
Sandy Morey	Natural Heritage Division

The following persons were also present and heard:

Dan Chapin	California Waterfowl Association
Peter Struffenegger	California Aquaculture Assn.
Zeke Grader	Pacific Coast Federation of Fishermen's Associations
Andrew Stock	Herring Fisherman
Paul Wood	Herring Fisherman
Harold Ames	Herring Fisherman

Jackie Temple
Casey L. Jones
Arthur Howell
Boyd Stolba
David Cunningham

Bass Fishing Clubs & Orgs.
Crayfish International
Individual
Individual
Individual

25/26. FINAL CERTIFICATION OF ENVIRONMENTAL DOCUMENT AND ADOPTION
OF FINDINGS AND PROPOSED PROJECT RE: TRAPPING REGULATIONS
SECTIONS 461 - 479, TITLE 14, CCR, FOR 1990-91.

Summary of Issue

This is the time and place for the Fish and Game Commission hearing on the adoption of proposed 1990-91 trapping regulations - Sections 461 through 479, Title 14, CCR. This matter was put over from the Commission's April 26, 1990, meeting in Sacramento.

The Department of Fish and Game prepared an initial draft environmental document regarding trapping. This document was made available for a 49-day public comment period commencing on February 16, 1990, and ending on April 6, 1990. In response to the resulting input, the Department prepared a revised draft environmental document to ensure that interested members of the public and decision makers had an opportunity to consider additional information related to the proposed project.

The revised draft environmental document was made available on June 29, 1990, for a 47-day public comment period ending on August 15, 1990. A copy of the amended regulations, the Office of Administrative Law Notice of Regulatory Action, and availability of the revised draft environmental document were mailed to all interested and affected parties in July 1990.

Today, the Commission is scheduled to review the final environmental document and to consider the materials and comments that have been presented by individuals, groups and other public agencies. There will be no formal public testimony here today. The Commission will, however, have the option to request information and responses from staff and may have questions related to the public comments and responses presented in the environmental document. The process to be used at this certification and adoption meeting will be to consider certification of the final environmental document and adoption of the proposed project (or an alternative) followed by consideration of adoption of proposed regulations for Sections 461-479, Title 14, CCR, regarding 1990-91 trapping regulations.

The Commission has been provided with the final environmental document as well as the responses to public comments concerning the document. It would be appropriate for the Commission to make motions regarding certification and

adoption of the environmental document prepared by the Department.

Action

Executive Secretary Treanor indicated that Items 25 and 26 are to consider certification of the final environmental document and adoption of findings and proposed project for trapping regulations for 1990-91 and then consider final adoption of the 1990-91 trapping regulations. He explained that, based on the public comments received by the Department and the Commission on the revised environmental document concerning trapping, it has been decided to address those concerns and go out with an additional revised environmental document. He stated that the Department was prepared, at that time, to brief the Commission on that time schedule.

WMD Chief Hunt indicated that the Department was preparing a second draft environmental document for trapping and sending it out for public review on September 24 through October 24. He explained that the Department would be ready to come back to the Commission at its November 9 meeting.

President Bryant asked Mr. Hunt to describe an offset trap. After describing an offset trap, Mr. Hunt also briefly discussed the padded jaw trap. He indicated that the issue was being studied throughout the United States and, depending on the results, the Department would of course change its proposals to reflect those results.

No action taken; both items were rescheduled for the November 9, 1990, meeting.

27. RECEIPT OF PUBLIC RECOMMENDATIONS FOR CHANGES IN THE MIGRATORY GAME BIRD (WATERFOWL) REGULATIONS FOR 1990-91. (ADOPTION OF REGULATIONS AT OCTOBER 4, 1990, MEETING IN SANTA BARBARA. ACTION ONLY - NO FURTHER PUBLIC TESTIMONY.)

Summary of Issue

This item is scheduled for the Commission to receive public recommendations regarding changes in the migratory game bird (waterfowl) regulations for 1990-91. As the Commission may recall, the law firm of Remy and Thomas filed comments regarding the environmental document on migratory game birds at 4:57 p.m. on August 3, 1990, raising several issues concerning the adequacy of the environmental document. The Department is responding to those comments and is preparing a revised environmental document. That document will be circulated beginning August 27, 1990, and the 30-day public comment period will end on September 25, 1990. The Commission will then consider certification of the final environmental document regarding migratory game birds and adoption of waterfowl regulations at its October 4, 1990, meeting in Santa Barbara. The Department will also be available on August 31 to provide an update on this matter as well as to

respond to any questions regarding the proposed federal framework.

Commissioners were provided with the Department's proposed changes in sections 502, 507.1 and 509, Title 14, CCR.

Action

Executive Secretary Treanor summarized the issue and also stated that three letters had been provided to the Commissioners as handouts which had been received that morning; all three concerned the opening day for the waterfowl season in southern California. Commissioner Taucher asked about different opening dates and shooting times for southern California as well as the rest of the state.

WMD Chief Hunt reviewed the many options which had been previously provided to the Commission.

Director Bontadelli stated that if a change was made to any part of the southern California zone, it would have to apply to the entire southern California zone. He explained that the Federal Government had tried to curtail the use of zones and the Department was fighting to maintain them. A discussion took place between the Commissioners, the Director and Red Hunt as to zones for different parts of the state and what was allowed within the Federal Framework.

Dan Chapin, California Waterfowl Association, commented on the draft environmental document regarding the wording for season opening and closing dates. He recommended that the Commission set the seasons so as to allow for the maximum number of days for each zone to allow for the longest length of time for the fields to be flooded. He further recommended that before the Department and Commission consider reducing the number of zones, they carefully review the balance of the state zone and consider making it two separate zones. Director Bontadelli requested the Commission consider increasing the number of zones that the Department could request the Pacific Flyway Council to seek their approval for next year's waterfowl season. Mr. Hunt reported that the U.S. Fish and Wildlife Service would be working extensively on the issue of zones next year. Deputy Director Jensen stated that what the Commission needed to remember when requesting additional zones, was that once it had them, the zones would be locked-in for five years.

28. ADD SECTION 251.1, TITLE 14, CALIFORNIA CODE OF REGULATIONS,
RE: HARASSMENT OF ANIMALS.

Summary of Issue

As you will recall, the Commission adopted Section 251.1, Title 14, CCR, regarding harassment of animals, with its mammal hunting regulations on April 26, 1990, in Sacramento. However, the Office of Administrative Law disapproved those regulations because it felt not all of the public was fully aware of the proposed regulations; therefore, it required the Commission to separate Section 251.1 from the mammal hunting regulations and to recirculate the issue for another 45-day notice. This item is scheduled for adoption of those regulations. Commissioners were provided a copy of the Pre-publication of Notice and Pre-adoption Statements concerning this matter.

Action

Executive Secretary Treanor briefly summarized the issue and stated that the California Aquaculture Association had expressed concerns on this item. He reported that Commission staff had been working with the Department's Aquaculture Coordinator on this issue and that staff suggested that this item be carried over for another month to address the concerns of the aquaculture and agriculture communities. He explained that staff believed that, as presently written, these regulations may provide some restraints to those industries.

Peter Streuffenegger, California Aquaculture Association, stated that the way these regulations were written it was not clear to them to what extent agriculture was exempt from dealing with depredating animals. He explained that a lot of the aquaculture and agriculture community was having trouble obtaining depredation permits from the U.S. Fish and Wildlife Service and when they were asked by the U.S. Fish and Wildlife Service what they had done to scare the birds away from their hatchlings, they would not be able to respond that they had been scaring them at all because it was going to be illegal. He indicated that the scare tactics they use are of such a variety that they have not been addressed by these proposed regulations.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT
THE FISH AND GAME COMMISSION HEREBY POSTPONES TAKING
ACTION ON THIS ISSUE UNTIL ITS OCTOBER 5, 1990,
MEETING.

PASSED UNANIMOUSLY.

29. AMENDMENT OF SECTION 163, TITLE 14, CCR, RE: COMMERCIAL
HERRING FISHERY FOR 1990-91.

Summary of Issue

As a reminder, the Commission, at its May 18, 1990, meeting in San Luis Obispo, authorized its staff to publish notice of its intent to amend Section 163, Title 14, CCR, to provide for the commercial herring fishery for 1990-91. That legal notice has been published. Commissioners were given a copy of the Department's Pre-publication of Notice and Pre-adoption Statements with the text of the regulations in strikeout-underline format. The Commission was to adopt these proposed changes at its August 3, 1990, meeting in Monterey; however, at the request of the Department, this item was postponed until the Commission's August 31 meeting in Sacramento. In the meantime, the Department has transmitted to all interested parties a 15-day notice with proposed alternatives selected by the Commission at its August 3 meeting. Commissioners were given a copy of that 15-day notice with the proposed alternatives. Commissioners were also provided copies of correspondence received by the Commission office both for and against the transfer issue.

Department Recommendation

"The Department recommends that the Commission take action to adopt subject amendments, as proposed in the Pre-publication of Notice Statement of May 3, 1990, and the Pre-adoption Statement of July 11, 1990.

"Also, at the August 2-3, 1990, Commission meeting, several additional modifications were proposed by the fishing industry which the Commission agreed to review and consider for adoption at the subject hearing.

"The additional modifications would: provide for the use of any number of permits on a single fishing vessel during a season; provide for the redistribution of any unused individual round haul quotas to those round haul permittees still active in the fishery; and provide for up to 16 Tomales-Bodega Bay herring permittees to fish in San Francisco Bay for a two year period."

Action

Executive Secretary Treanor briefly summarized the issue. He added that the Department had been working with attorney Ilson New, who represented several commercial herring fishermen. Executive Secretary Treanor indicated that Mr. Kacudo had also been provided with the financial information that the Department had promised him on this matter, and that he had requested that the Commission only make some tentative approvals at this meeting, but that final approval be held over until the October meeting as this would allow the fishermen to know which direction the Commission was leaning.

MRD Chief Petrovich stated that the Department recommended that the Commission adopt the regulations as proposed at the May 18, 1990, meeting. He indicated that, in regard to the changes discussed at the August 3 meeting, the only one that the Department had comments on was the transferring of up to 16 permittees from the Tomales-Bodega Bay to San Francisco Bay for a two-year period. He explained that one option was to create a fourth platoon in San Francisco Bay and the other was to incorporate those 16 permittees into the X-H fishery. He stated that from the Department's standpoint, it would be easier to incorporate them into the existing fishery.

Zeke Grader, Pacific Coast Federation of Fishermen's Association, urged the Commission to adopt the proposed regulations. He stated that PCFFA had no opinion on the two options regarding to the Tomales Bay fishery.

Andrew Stock recommended that as the fishermen give up their permits, the permits be held until it was determined how well the fishery was doing. He also recommended that the mesh size be increased.

Paul Wood encouraged the Commission to adopt tentative regulations so that the fishermen could decide how to run their different platoons. He also recommended that the fishermen be allowed to fish after the normal season, rather than accept the X-H alternative. He suggested that the late season option have a quota.

Harold Ames recommended that if, after the regular season a fishery was held for the Tomales Bay fishermen, then it be allowed for all 41 boats rather than only 16. He stated that if the Commission was going to transfer 16 boats, it should go with the X-H option rather than a late season option.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 1050 AND 8550 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SECTIONS 8550, 8553, 8554, 8556, 8557 AND 8559 OF SAID CODE, HEREBY TENTATIVELY AMENDS SECTION 163, TITLE 14, CCR, TO PROVIDE FOR THE COMMERCIAL HERRING FISHERY OF 1990-91. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

30. DISCUSSION OF DEPARTMENT REPORT RE: REVIEW OF PROPOSAL
TO OPEN LAKES AND RESERVOIRS IN CALIFORNIA TO COMMERCIAL
CRAYFISH FISHING.

Summary of Issue

The Commission, at its August 3, 1990, meeting in Monterey, received the Department's report relating to its review of a proposal to open lakes and reservoirs in California to commercial crayfish fishing. Commissioners were provided a copy of the Department's report, as well as the Department's letters sent to the states of Oregon and Washington and to British Columbia requesting information on the commercial harvesting of crayfish in their lakes and reservoirs.

The commercial crayfish industry will have representatives present at the meeting to make its presentation to the Commission concerning this matter.

Action

IFD Chief Rawstron, explained the history of the opposition to commercial fishing for crayfish in lakes and reservoirs. He stated that their main concern was that crayfish were a very important source of food for fish in reservoirs and lakes. He explained that the Department had never spent much time studying the populations of crayfish; therefore, the Department had no idea of the potential impacts. He pointed out that the Department maintained that because the landings were stable in the Bay-Delta area, there was really no reason to open the lakes and reservoirs and cause a disruption to the sport fisheries in those waters.

Jackie Temple, representing various Black Bass Associations and the Adopt-A-Lake Conservancy, stated her opposition to allowing the commercial take of crayfish in lakes and reservoirs. She indicated that the take of crayfish would impact both the warm and cold water fisheries because they were such an important food item.

Casey Jones, Crayfish International, recommended allowing the commercial take of crayfish in lakes and reservoirs. He stated that crayfishing did not interfere with any sport fishing because crayfishing was done on the bottom of lakes or reservoirs. He pointed out that commercial crayfish fishermen only harvested crayfish that were three to five inches or above. He noted that it is the smaller crayfish that make up the food chain. He also stated that there would be restrictions placed on the fishery. He indicated that the commercial crayfishermen would be willing to absorb the cost of the administration of this fishery by paying additional landing taxes or fees. Mr. Jones clarified the type of gear used and how a reservoir was fished. President Bryant expressed concern that there would be unlimited numbers of crayfishermen because there was no limitation on who could purchase permits.

Zeke Grader recommended that the Commission approach this request to open a lake or reservoir on a case by case basis, not with a blanket denial. He recommended that this fishery be made self-supporting by establishing fees and quotas on the fishermen. He also recommended that the Commission determine which reservoirs should be allowed open and regulate them accordingly.

IFD Chief Rawstron stated that he had to differ with the fishermen's comments that adult crayfish were not prey items for bass or trout. He stated that a six-inch crayfish would be easy prey for a two to three pound largemouth bass. He pointed out that there have been many studies done throughout the United States and the principle food item of the largemouth bass, smallmouth bass and spotted bass, in any reservoir in this state, has been crayfish. He also noted that populations of crayfish were not unlimited, and that sport fishing for crayfish was on the increase, which could cause conflict between sport and commercial fishermen.

A brief discussion took place between the Commissioners and Deputy Attorney General Van der Naillen regarding the options available to the Commission. It was explained that they would not be changing regulations at this time, but discussing whether or not a change should be made to allow commercial crayfishing in lakes or reservoirs.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY DECIDES NOT TO
MODIFY EXISTING REGULATIONS TO ALLOW THE COMMERCIAL
FISHING OF CRAYFISH IN LAKES AND RESERVOIRS.

PASSED UNANIMOUSLY.

31. REQUEST OF ARTHUR HOWELL, SACRAMENTO, FOR AUTHORIZATION TO
POSSESS A CAPUCHIN MONKEY.

Summary of Issue

Mr. Arthur Howell, Sacramento, requests an opportunity to appear before the Commission to request authorization to possess a capuchin monkey. Commissioners were provided with a copy of Mr. Howell's letter.

Department Recommendation

"The Department recommends denial of Mr. Howell's request for authorization to possess a Capuchin monkey.

"All nonhuman primates are prohibited species. Therefore, their possession is prohibited except by zoological gardens, bona fide research institutions, and professional exhibitors. In 1987 the Commission made it clear that no further pet permits would be issued for prohibited species.

Mr. Howell's stated purpose is to possess ' . . . this monkey as a pet'.

"Further Mr. Howell has not provided any evidence that he has any experience handling and caring for primates. It is in the animal's best interest to be transferred to one of our professional permittees.

"It should be noted that Mr. Howell wishes to obtain the Capuchin monkey from one of our permittees, Mr. Boyd Stolba. Mr. Stolba, in May of this year, contacted the Department because his health is failing and he needs to find a home for his monkey. In a letter dated June 27, 1990, the Department explained to Mr. Stolba what he must do to legally relinquish possession of his animal. Under the circumstances, the Department would be willing to assist Mr. Stolba in locating a home for his Capuchin monkey, but we cannot recommend approval of the issuance of a new permit to an inexperienced individual. This would set an unwelcome precedent."

Action

Mr. Boyd Stolba spoke on behalf of Arthur Howell and provided the Commission with Mr. Howell's qualifications to care for the monkey. The Commissioners asked Mr. Stolba questions about what type of business it was and Mr. Stolba explained that he had been an organ grinder since 1945, but had retired in 1987 due to a serious illness. He explained that he had been training this monkey for seven years and when permits became required, he had obtained his permit and had been keeping it up ever since. He stated that Mr. Howell had better cages than most zoos.

WPD Chief Johnston stated that Mr. Stolba's testimony was new information from what Mr. Howell had indicated in his first letter. He indicated that Mr. Howell had indicated he wanted the animal as a pet which was against the Commission's policy. He stated that the Department's main concern was for Mr. Howell's qualifications. One of the Commissioners asked if a year's experience working full time with the animal would be more acceptable. Mr. Johnston responded that yes it would be. Then, Mr. Stolba stated that this would not work because he had terminal cancer and did not have a year. The Commissioners asked whether Mr. Howell would be given all of the cages for the monkey. Mr. Stolba indicated that yes all of the equipment would be given to Mr. Howell, who was his grandson. Mr. Howell indicated that he would not be performing with the monkey every day because he had a full time job. He stated that, at the most, it would be weekends that he would be working with the monkey. He noted that he had worked several fairs with Mr. Stolba and had watched how he had fed and cared for the monkey. He stated that he had even located a veterinarian that could take care of the monkey if he became ill.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF ARTHUR HOWELL, SACRAMENTO, FOR AUTHORIZATION TO POSSESS A CAPUCHIN MONKEY FOR EXHIBITION PURPOSES, SUBJECT TO TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

32. DISCUSSION OF DEPARTMENT REPORT RE: MANAGEMENT AND RECOVERY STRATEGIES FOR THE FOLLOWING SIX PLANT SPECIES LISTED AS THREATENED OR ENDANGERED:

- | | | |
|----|---------------------|--------------------------------|
| A. | MARSH SANDWORT | (<i>Arenaria paludicola</i>) |
| B. | LA GRACIOSA THISTLE | (<i>Cirsium loncholepis</i>) |
| C. | SURF THISTLE | (<i>Cirsium rhotophilum</i>) |
| D. | BEACH SPECTACLE POD | (<i>Dithyrea maritima</i>) |
| E. | GAMBEL'S WATERCRESS | (<i>Rorippa gambellii</i>) |
| F. | TIBURON JEWELFLOWER | (<i>Streptanthus niger</i>) |
-

Summary of Issue

The Commission has received copies of the Department's reports regarding management and recovery strategies for the following six plant species listed as threatened or endangered:

- | | | |
|----|---------------------|--------------------------------|
| A. | MARSH SANDWORT | (<i>Arenaria paludicola</i>) |
| B. | LA GRACIOSA THISTLE | (<i>Cirsium loncholepis</i>) |
| C. | SURF THISTLE | (<i>Cirsium rhotophilum</i>) |
| D. | BEACH SPECTACLE POD | (<i>Dithyrea maritima</i>) |
| E. | GAMBEL'S WATERCRESS | (<i>Rorippa gambellii</i>) |
| F. | TIBURON JEWELFLOWER | (<i>Streptanthus niger</i>) |

The Department will be prepared to discuss those reports and answer any questions the Commission may have on this matter.

Action

Ken Berg, Natural Heritage Division, stated that these reports had been prepared for use by Department biologists and Regional Managers when setting priorities for management of recovery actions which would hopefully lead to the eventual delisting of these species. He then answered several questions asked by the Commissioners.

CONSENT CALENDAR

Agenda Item Nos. 33 through 37 have been placed on the Commission's Consent Calendar. Your staff knows of no opposition to these proposals at this time other than as specified in the analysis. The Department has provided a recommendation on each of these items which either calls for approval or modified approval by the Commission. Any item may be removed from the Consent Calendar by the Commission, or upon request by the Department or someone in the audience who would like to speak to that item. Your staff has prepared a summary of consent items which will be made available to the audience. One overall motion is appropriate for approval of these items.

Action

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS
AUGUST 31, 1990, CONSENT CALENDAR, ITEMS 33 THROUGH 37.

PASSED UNANIMOUSLY.

33. AMENDMENT OF SECTION 710, TITLE 14, CCR, RE: HUNTER SAFETY
TRAINING EQUIVALENCY.

Summary of Issue

The Department requests that the Commission amend Section 710, Title 14, CCR, re: hunter safety training equivalency, to bring the regulations into compliance with State law which took effect on January 1, 1990. State law now requires that nonresidents show proof of hunter education training. The appropriate legal notice has been published. Commissioners were provided with a copy of the Department's Pre-publication of notice and Pre-adoption statements as well as the text in strikeout-underline format. The following summarizes the proposed action:

"The Department of Fish and Game, in its ongoing effort to simplify and to standardize its regulations regarding hunter education training requirements, has sought and obtained legislative action to require proof of hunter education for both resident and nonresident hunters. Currently, the resident hunters have the option of either taking the 10-hour course or to take the equivalency test. Since the nonresident hunters were not required to show proof of hunter safety training when purchasing a nonresident hunting license, they were not included in Section 710, Title 14, CCR, when it was written.

"The Fish and Game Code change, which took effect on January 1, 1990, now requires that nonresidents must show proof of hunter education training; and the Department needs

to change Section 710 so that the nonresident hunters may either take the training course, show a certificate from another state, or take the equivalency test.

"This change will provide for equal treatment for both resident and nonresident hunters as it pertains to hunter education training."

Action

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 1050 AND 3050 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SECTIONS 711, 1050, AND 3049-3055 OF SAID CODE, HEREBY AMENDS SECTION 710, TITLE 14, CCR, REGARDING HUNTER SAFETY TRAINING EQUIVALENCY AS FOLLOWS:

Section 710, Title 14, CCR, is amended to read:

710. Hunter Safety Training Equivalency.

(a) The department may evaluate the quality and coverage of hunter education courses offered by other countries, their political subdivisions, or by the Armed Forces of the United States. Upon satisfactory evidence that a course fully meets or exceeds the requirements of the California hunter safety course, the department may issue to graduates of such courses a California Certificate of Competency Equivalency. NOTE: See Section 3050(a)(3) of the Fish and Game Code regarding hunter safety certificates from other states.)

(b) The department shall prepare a comprehensive hunter safety equivalency examination, to be administered to qualified applicants ~~only at departmental offices during normal business hours~~. Pass/fail criteria will be established by the department. Qualification to take the equivalency examination must include:

~~(1) Status as a California resident, as defined in Section 70 of the Fish and Game Code.~~

~~(2) Affirmation that the applicant has not previously taken and failed the examination.~~

Applicants who successfully pass the equivalency examination will be issued a hunter safety certificate of equivalency.

(c) An administrative fee of \$25.00 (twenty-five dollars) shall be charged for administering the test. Applicants for the equivalency test shall be provided a copy of the California Hunter Education Equivalency Test Study Manual.

PASSED UNANIMOUSLY.

34. RECEIPT OF DEPARTMENT RECOMMENDATIONS RE: CORRECTIVE CHANGES IN THE SPORT FISHING REGULATIONS. (ADOPTION AT THE NOVEMBER 9, 1990, MEETING IN NEWPORT BEACH. NO PUBLIC RECOMMENDATIONS THIS YEAR. PUBLIC RECOMMENDATIONS FOR SPORT FISHING REGULATIONS ARE CONSIDERED EVERY TWO YEARS, AND WILL BE CONSIDERED AT THE COMMISSION'S AUGUST 30, 1991, MEETING IN LONG BEACH.)
-

Summary of Issue

As the Commission may recall, the Commission adopted its sport fishing regulations in December of 1989. At that time, the Commission modified the format of those regulations and simplified the sport fishing regulations. Subsequent to adoption of those regulations, the Department has identified certain corrections that should be made in the sport fishing regulations. Commissioners were provided with a copy of a list of the Department's proposed corrections.

Commissioners were also provided with a copy of a letter from Abe Seabolt, Chairman, Imperial County Board of Supervisors, requesting that the Commission reopen Sunbeam Lagoon, Imperial County, to fishing. As you may recall, the Commission closed Sunbeam Lagoon in 1989 due to an infestation of hydrilla. Hydrilla now has been eradicated from Sunbeam Lagoon.

Adoption of the Department's proposals will be considered at the Commission's November 9, 1990, meeting in Newport Beach. As you are aware, the Commission adopts its sport fishing regulations on a two-year cycle; therefore, no public recommendations will be accepted this year, but will be considered at the Commission's August 30, 1991, meeting in Long Beach.

35. RECEIPT OF THE DEPARTMENT'S 1989-90 ANNUAL REPORT.
(DISCUSSION OF REPORT WILL TAKE PLACE AT THE COMMISSION'S OCTOBER 5, 1990, MEETING IN SANTA BARBARA.)
-

Summary of Issue

This item is scheduled to receive the Department's annual report for 1989-90. Discussion of this report will take place at the Commission's October 5, 1990, meeting in Santa Barbara. The Department will provide the Commissioners with copies of the report at the August 31, 1990, meeting.

36. NOTICE OF COMMISSION INTENT TO AMEND ITS POLICY RE: KELP.
(ADOPTION MEETING WILL BE OCTOBER 5, 1990, IN
SANTA BARBARA.)

Summary of Issue

The Department has reviewed the status of the kelp resources along the California coast and has submitted its report to the Commission, which was discussed on August 3, 1990, in Monterey. At that time, the Department recommended that the Commission's policy regarding kelp be amended. The suggested wording is as follows:

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

"I. Endeavor to maintain a maximum sustained harvest and utilization of the state's kelp resources and derive a maximum return therefrom, whenever the same are in the best interest of fish and wildlife resources.

"II. Insure a supply of kelp for all interested harvesters. Approximately At least one-fourth of the total area of the State's kelp beds, as designated by the Department, shall remain unleased and thus available to any licensed harvester."

Commission consideration of this amendment will be considered at its October 5, 1990, meeting in Santa Barbara. This notice will allow the public an opportunity to review and comment on the proposed changes before the Commission considers the proposed amendments.

37. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION
INTENT TO AMEND SECTION 630, TITLE 14, CCR, RE: ECOLOGICAL
RESERVES.

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of its intent to amend Section 630, Title 14, CCR, regarding ecological reserves. Commissioners were provided with a copy of the Department's Pre-publication of notice statement and the text of the regulations in strikeout-underline format. Those changes are summarized as follows:

"Existing regulations provide for the management of Kaweah River Ecological Reserve and Springville Clarkia Ecological Reserve. Proposed regulation changes modify the names of these two reserves and correct a spelling error wherein the word 'grazing' is transcribed as 'gracing.'

"Proposed regulation changes also designate Kerman Ecological Reserve, Panoche Hills Ecological Reserve, and San Joaquin River Ecological Reserve. At present these three State properties are undesignated. Proposed

designations as ecological reserves will provide authority to protect wildlife habitat values thereon. Proposed changes will regulate public use and authorize certain departmental management activities. Proposed regulation changes will accommodate or restrict public use as outlined below:

- "1) Kerman Ecological Reserve - authorizes grazing by departmental permit only; authorizes hunting between July 1 and January 31, using certain specified firearms only; disallows firearms use not associated with legitimate hunting activities.
- "2) Panoche Hills Ecological Reserve - authorizes grazing by departmental permit only; authorizes hunting between July 1 and January 31; restricts firearms possession to licensed hunters only; disallows firearms use not associated with legitimate hunting activities.
- "3) San Joaquin River Ecological Reserve - specifies manner in which vehicles may be operated on the reserve; authorizes fish and wildlife management activities, flood control, and vector control; authorizes the use of lightweight, hand-carried boats on the reserve for angling and other purposes; authorizes public use from one-half hour before sunrise until one-half hour after sunset; authorizes the Regional Manager to permit overnight use for educational purposes; authorizes the Department to maintain, for management purposes, populations of nonendemic fish species already naturalized to waters on the reserve; clarifies the meaning of subsection 630(a)(17) regarding airspace, as it pertains to this reserve."

The adoption hearing on this matter will be scheduled for the Commission's November 9, 1990, meeting in Newport Beach.

38. ANNOUNCEMENT OF FUTURE MEETINGS.

Date and Time	Meeting Location
10/04/90 10:00 a.m.	Planning Commission Hearing Room, No. 17 County Administration Building 123 East Anapamu Street Santa Barbara
10/05/90 08:30 a.m.	Board Hearing Room County Administration Building 105 East Anapamu Street Santa Barbara

11/08/90	10:00 a.m.	Marriott Hotel 900 Newport Center Drive Newport Beach
11/09/90	08:30 a.m.	City Council Chambers 3300 Newport Boulevard Newport Beach
12/06/90	10:00 a.m.	Supervisors Chambers Humboldt County Courthouse
12/07/90	08:30 a.m.	825 Fifth Street Eureka

38a. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION
INTENT TO AMEND SECTION 100, TITLE 14, CCR, REGARDING
COMMERCIAL ABALONE FISHING.

Summary of Issue

After the Agenda had been prepared, the Department contacted the Commission office requesting that the Commission authorize its staff to publish notice of its intent to amend Section 100, Title 14, CCR, regarding commercial abalone fishing. Commissioners were provided with the Department's August 15, 1990, memo outlining the proposed amendments to Section 100, Title 14, CCR. The Department will provide the Commission with a Pre-publication of Notice Statement at the August 30-31, 1990, meeting.

The reason for the Department's request is that it has anticipated that Assemblyman Hauser's legislation (AB 3705) will pass and become effective January 1, 1991.

The Department provides the following information:

"The Department requests that the Commission publish notice of intent to amend Section 100, Title 14, CCR, as a result of the anticipated passage of AB 3705, Hauser, which would become effective January 1, 1991. The topics to be addressed in the proposed amendments include:

- "1. the goal level regarding the total number of abalone diving permits issued each year will be reduced to 70;
- "2. procedures for transfer of existing abalone diving permits;
- "3. the minimum landing requirements will be reduced from 6,000 pounds to 1,200 pounds;

- "4. the qualifications needed to obtain a permit if a person does not qualify as a prior permittee;
- "5. the time period to meet minimum landing requirements for permit renewal will be changed from the preceding permit year to the preceding calendar year;
- "6. abalone crewmember permittee activities;
- "7. abalone diving equipment and methods of take;
- "8. minor technical changes."

Action

Director Bontadelli provided a brief overview of the proposed regulatory changes and the penalties that would be associated with these new regulations.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF ITS INTENT TO AMEND SECTION 100, TITLE 14, CCR, REGARDING COMMERCIAL ABALONE FISHING.

PASSED UNANIMOUSLY.

38b. REQUEST OF DANIEL H. CUNNINGHAM, LA HONDA, FOR REINSTATEMENT OF SPORT FISHING PRIVILEGES.

Summary of Issue

Mr. Daniel H. Cunningham, La Honda, requests an opportunity to appear before the Commission to show cause why his sport fishing privileges should be reinstated. Commissioners were provided a copy of Mr. Cunningham's August 17, 1990, letter, as well as a copy of the Commission's letter to him dated May 14, 1990, revoking his sport fishing privileges until January 2, 1993. Mr. Cunningham had informed the Commission office that he had previously contacted the Commission requesting an appearance at its August 2-3, 1990, meeting in Monterey; however, the Commission office has no record of receiving his original letter.

Department Recommendation

The Department will be prepared to make a recommendation on August 31, 1990.

Action

Daniel Cunningham explained that he would like to have his sport fishing privileges reinstated because he had no other source of income other than working on a party boat. He referred the Commissioners to two letters, one from his Captain of the boat he had been working on, and one from his mother.

WPD Chief Johnston, stated that Mr. Cunningham had three resource violations in a period of five years and the Department did not see why having a sport fishing license was necessary to work on a party boat because you were not allowed to sell sport caught fish. He noted that apparently it was a condition of employment that had been placed upon Mr. Cunningham by the owners of the boat he worked on; however there was not any legal requirement that stated he had to have a sport fishing license to work on a party boat. He then stated that the Department recommended denial.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF DANIEL H. CUNNINGHAM, LA HONDA, FOR REINSTATEMENT OF HIS SPORT FISHING PRIVILEGES UNTIL JANUARY 2, 1993.

PASSED UNANIMOUSLY.

38c. REQUEST OF MALCOLM LEE, ALPINE, TO APPEAL THE DEPARTMENT'S DENIAL REGARDING TRANSFER OF HIS DRIFT GILL NET SHARK AND SWORDFISH PERMIT FROM F/V SAN PEDRO BOY TO F/V LITTLE TIM.

Summary of Issue

Mr. Malcolm Lee, Alpine, requests an opportunity to appeal the Department's denial of his request to transfer his Drift Gill Net Shark and Swordfish Permit from the F/V SAN PEDRO BOY to the F/V LITTLE TIM. Commissioners were provided with a copy of Mr. Lee's letter of August 17, 1990, and related background material.

Action

This item was handled administratively by the Department prior to the Commission meeting.

There being no further business, the Fish and Game Commission meeting was adjourned at 2:00 p.m.

AMENDMENTS TO SECTION 163, TITLE 14, CCR

- (1) Section 163, 1st paragraph is amended to read:

Herring may be taken for commercial purposes only in those areas and by those methods specified in subsections (f)(1) and (f)(2) of this section under a revocable, nontransferable permit issued to an individual on a specified fishing vessel by the department. No fishing vessel may be used by more than two permittees during a season. Transfer of permits from one boat to another may be authorized by the department. Such transfers will be allowed only when the permittee submits a notarized statement from a boatyard or licensed marine surveyor that the vessel named on the permit is inoperable. The department may require an inspection. The fee for any approved transfer or substitution of a permit pursuant to paragraph one shall be \$50. Any permittee denied a transfer pursuant to paragraph one of this section may request a hearing before the commission to show cause why his request should not be denied. Permittees shall have their permit in their possession and shall be aboard the vessel named on their permit at all times during herring fishing operations, except that a permittee may request to have a crewmember temporarily serve in his or her place aboard the vessel during a season. if the permittee is unable to participate due to serious illness or injury. Proof of illness or injury must be substantiated by medical documentation to the satisfaction of the department. A temporary substitution shall not be granted for more than two consecutive seasons.

- (2) Subsection 163(a)(4) is amended to read:

(4) Qualify for an "XH" "DH" gill net permit as specified in subsection (c)(1)(C).

- (3) Subsection 163(a)(5) is amended to read:

(5) Any person denied a permit for 1989-90 under these regulations may request a hearing before the commission to show cause why his permit should not be denied. Such request must be submitted in writing no later than October 16. Applicants disqualified under subsections (c)(1)(B) or (c)(1)(C) will be granted a hearing if the number of points claimed would have placed them in the point category from which new permits will be issued.

- (4) Subsection 163(b)(2) is amended to read:

(2) Permittee will be issued permits for the same area and gear type they held during the previous season except that in Tomales and Bodega Bays beach seine permittees may transfer gear type to gill net, and in San Francisco Bay round haul permittees may transfer gear type to gill net. For every transfer of gear type to gill net by a permittee, 76 61 tons will be transferred from the round haul quota to the appropriate gill net quota.

- (5) Subsection 163(c)(1) is amended to read:

(1) Permits to take herring for roe purposes will be issued by the department beginning November 16 15. Permits will be sent by certified mail, return receipt requested, to the permittees. Not more than three permits shall be issued for Crescent City and not more than four permits shall be issued for Humboldt Bay. See subsection 699(b) of these regulations for the fee for this permit.

No new round haul permits shall be issued for San Francisco Bay. No new gill net permits shall be issued for the Tomales-Bodega bay permit areas until the permits shall be issued for San Francisco Bay until the maximum number of permits is less than 232. The department may issue "XH" "DH" gill net permits for San Francisco Bay. The issuance of such permits is predicated on the health of the resource. Such permits shall not be issued if the spawning biomass, as determined by the department during the previous spawning season, is less than 36,000 tons (including catch). No new "XH" "DH" permits shall be issued until the maximum number of permits is less than 116. The permittee shall be responsible for all crew members acting under his or her direction or control to assure compliance with all Fish and Game regulations as provided in this section, or in the Fish and Game Code, relating to herring.

- (6) Subsection 163(c)(1)(C) is amended to read:

(C) Individuals not qualifying and receiving permits under subsections (a)(2) or (c)(1)(B) will be eligible to apply for any available "XH" "DH" gill net permits provided they are a currently licensed California commercial fisherman and the owner or operator of a current California registered commercial fishing vessel.

- (7) Subsection 163(c)(1)(D)(2) is amended to read:

(2) One point for each year an applicant participated in the California herring fishery as a crewmember, owner or operator, beginning with the 1978-79 herring fishing season. Five points for one year of service as a paid crewmember in the herring fishery, three points for a second year of service as a paid crewmember, and two points for a third year as a paid crewmember, beginning with the 1978-79 herring fishing season, not to exceed a maximum of 10 points.

- (8) Subsection 163(c)(2) is amended to read:

(2) Fresh Fish Market. Ten permits will be issued to take herring for the fresh fish market in San Francisco Bay and five in Tomales Bay. See subsection 699(b) of these regulations for the fee for this permit. However, no permittee may take or possess herring except in the amount specified on a current daily market order, not to exceed 500 pounds, from a licensed fish dealer. Fresh fish market permits will be issued beginning November 1 at 411 Burgess Drive, Menlo Park, California 94025. In the event there are more applicants than the specified number of available fresh fish permits, a lottery will be held to determine the permittees. Applicants may apply for only one bay. Fresh fish market permits shall be in force from November 2 through November 27 and April 1 through October 31.

- (9) Subsection 163(e)(2) is amended to read:

(2) Within two weeks of the date an individual quota is reached, or within two weeks of the end of the season, the permittee shall submit to the Department of Fish and Game, 411 Burgess Drive, Menlo Park, California 94025 a list of crewmembers assisting in fishing operations during the current herring season. The list shall include the full name and California commercial fishing license number of each crewmember. Gill net permittees shall notify the department's Menlo Park office within 24 hours if they terminate fishing operations for the season prior to the overall quota being taken.

- (10) Subsection 163(e)(4) is amended to read:

(4) It is unlawful to transfer herring or herring nets from one permittee to another or from one boat to another, or from one gear type to another except that, nonmotorized lighters may be used, provided they do not carry aboard any gear capable of taking herring, including net reels, and that the catches of not more than one permittee are aboard the lighters at any time. Permit vessels shall not serve as lighters for other permit boats. In San Francisco Bay a permittee and his gear must stay together when delivering fish to market. All fish taken by gill nets shall be retained and landed, regardless of roe quality. Gill net permit vessels may not be used to assist in herring fishing operations during their off-week.

- (11) Subsection 163(e)(7) is added to read:

(7) During the period beginning at noon on January 2 and ending at noon on February 14, no herring may be taken by round haul nets except designated test boats subject to the following provisions:

(A) Number of test boats and area of operation.

(1) The total number of test boats shall be four (4) during any test boat fishing period (TBFP).

(2) The test boats may operate in any area of San Francisco Bay in which round haul permittees may legally fish. Herring may not be unloaded between the hours of 10 p.m. and 6 a.m., or at any time on Saturdays and Sundays, unless the permittee has notified and received prior approval from the department to conduct such activities during those hours.

(B) Starting time of each "TBFP".

(1) After each spawning episode, the department shall announce the date, day and time at which the next "TBFP" shall start.

(2) This information shall be broadcast by the department, or its designee, on VHF Channel 16 every hour on the hour for a minimum of four (4) hours prior to that time.

(3) Only designated test boats are allowed to fish during TBFP. If none of the designated test boats choose to fish, the department may designate one or more alternate test boats.

(4) The department shall determine, based on the presence or absence of spawning activities, if the opening of the season at noon on January 2, shall be a TBFP or open fishing period. The department shall announce its determination every hour on the hour beginning at 8:00 a.m. on January 2, on VHF Channel 16.

(5) A test boat may retain on board the catch from only one (1) set during a TBFP until such time as the U.S. Coast Guard has announced the opening of the fishery to all round haul permittees.

(C) End of test boat fishing period and opening of fishing. Fishing shall be open to all round haul permittees when all of the following conditions are met:

(1) At least two (2) test boats have each taken and retained a load of herring with a roe content of 9% or more, and

(2) each roe content of 9% or more has been verified by a herring buyer licensed pursuant to subsection (j) of these regulations, or such buyer's representative, and

(3) the buyer, or buyer's representative, has notified the U.S. Coast Guard that a test boat has retained a load of herring with a roe content of 9% or more, and has identified himself or herself to the U.S. Coast Guard by name of speaker, buying company, and test boat, and

(4) the U.S. Coast Guard has announced the opening of the fishery on VHF Channel 16.

(D) Possession of herring during open fishing period.

(1) During any open fishing period, all fish taken or encircled by a round haul net shall be retained and landed, regardless of roe quality.

(E) End of open fishing period and start of "TBFP".

(1) During an open fishing period, the department shall continuously monitor landing receipts to determine the daily average roe content for all round haul permittees landing fish. If the daily average roe content is less than 9%, the department shall announce the end of the open fishing period and the start of a TBFP.

(2) This information shall be broadcast by the department on VHF Channel 16 every half hour beginning at 2:00 p.m. and the TBFP shall begin at 4:00 p.m.

(F) Selection of test boats and notification by the department.

(1) The department shall determine, by random drawing, the order in which all permitted round haul vessels shall be designated as test boats or alternate test boats. Boats shall be designated in the order in which they are drawn.

(2) The random drawing shall be conducted prior to the season and all round haul permittees shall be notified of the selection order at the time permits are mailed.

- (12) Subsection 163(f)(2) is amended to read:

(2) The use of round haul nets to take herring for roe purposes is prohibited in districts 6, 8, 9, 10 (including Tomales Bay) and in district 11, in waters greater than 20 fathoms in depth, west of the Golden Gate Bridge. Round haul permittees may fish in district 13 in waters greater than 6 fathoms in depth and in that portion of district 12 west of a line extending between the westerly tip of Yerba Buena Island and the most westerly portion of Castro Rocks, and north of the Oakland Bay Bridge in waters greater than 6 fathoms in depth except that round haul permittees may fish in waters less than 6 fathoms in depth between Southampton Shoal Channel and the main shipping lanes. Round haul permittees may fish in all of district 12 and district 13 only after gill net quotas have been reached, or upon prior notification by the department in the event that gill net fishing is temporarily suspended. Round haul permittees shall not fish or possess more than total of 240 fathoms of net. Set and drift nets may be used only to take herring pursuant to these regulations.

- (13) Subsection 163(f)(2)(C) is amended to read:

(C) No net shall be set or operated to a point of land above lower low water or within 300 feet of the following piers and recreation areas: Berkeley Pier, Paradise Pier, San Francisco Municipal Pier between the foot of Hyde Street and Van Ness Avenue, Pier 7 (San Francisco), Candlestick Point State Recreation Area and the jetties in Horseshoe Bay. In the Crescent City area and Humboldt Bay gill nets may be set or operated within 300 feet of any pier.

- (14) Subsection 163(f)(2)(D) is amended to read:

(D) No nets shall be set or operated in the buoyed channel entrance leading to the San Francisco-Sausalito ferry slip located at Sausalito, within the Richmond Harbor buoyed entrance channel, or in Belvedere Cove north of a line drawn from the tip of Peninsula Point to the tip of Point Tiburon. Also, no gill nets shall be set or operated from November 28 through February 14 between a line drawn from the middle anchorage of the western section of the Oakland Bay Bridge (Tower C) to the easternmost point at Hunter's Point (Point Avisadero) and a line from the Y"A" buoy to the R"2" buoy (entrance to Alameda Carrier Channel) and extending 320° magnetic to the Oakland Bar Channel. The northern extent of the closure will be a line drawn from Tower C, Bay Bridge, to the first Bar Channel buoy. The southern extent of the closure will be a line drawn from the Y"A" buoy to Point Avisadero. However, gill nets may be set in the aforementioned area provided that no portion of the net is set in waters deeper than 40 feet mean lower low water.

- (15) Subsection 163(f)(2)(E) is amended to read:

(E) No boats or nets shall be operated or set in violation of existing state ~~or federal~~ regulations applying to the navigation or operation of fishing vessels in any area, including but not limited to San Francisco Bay, Tomales Bay, Humboldt Bay and Crescent City Harbor.

(16) Subsection 163(g)(3)(A) is amended to read:

(A) In Bodega Bay waters north of a line drawn due west, ~~270°~~ 240° magnetic, from the mouth of Estero de San Antonio, a fishing quota, not to exceed 200 tons shall be permitted.

(17) Subsection 163(g)(3)(B) is amended to read:

(B) In all Bodega Bay and Tomales Bay waters south of a line drawn due west, ~~270°~~ 240° magnetic, from the mouth of Estero de San Antonio, no fishing shall be permitted unless, and until, spawning escapement, as determined by the department, reaches or exceeds 2,000 tons. If the 2,000 ton escapement goal is reached, a fishing quota, not to exceed 400 tons, shall be permitted in such waters. However, if the 2,000 ton escapement goal is not met by January 31, 1990, no fishing shall be permitted in such waters for the 1989-90 season.

(18) Subsection 163(g)(4) is amended to read:

(4) San Francisco Bay: The total take of herring in San Francisco Bay for commercial purposes shall not exceed ~~9,500~~ 7,650 tons per season. Tonnage shall be allocated on the following basis:

(A) Round haul vessels: ~~3,255~~ 2,562 tons. No round haul permittee shall take more than ~~76~~ 61 tons of herring per season.

(B) Gill net vessels: ~~6,245~~ 5,088 tons; ~~2,123~~ 1,742 tons of the gill net vessel quota shall be allocated to permittees described in subsection (h)(2)(A), and ~~2,123~~ 1,768 tons to permittees described in subsection (h)(2)(B) and ~~1,999~~ 1,578 tons to permittees described in subsection (h)(2)(C) of these regulations.

(C) Fresh fish market: 20 tons; may not be sold for roe purposes, 10 permits.

(19) Subsection 163(h) is amended to read:

(h) Season.

(1) ~~Crescent City~~ area and Humboldt Bay: The season shall be from sunset noon on January 2 until noon on March 9 13.

(2) Crescent City: The season shall be from noon on January 15 until noon on March 28.

~~(2)~~ (3) San Francisco Bay: The season shall be from sunset on ~~Wednesday~~ Sunday November 29 ~~December 1~~ until noon on December 22 20, and from noon on January 2 until noon on March 9 13.

(A) In San Francisco Bay, gill net permittees with even permit numbers shall be permitted to fish only on the following dates: January 7-12, January 21-26, February 4-9, February 18-23, and March 4-9. January 2-3, January 5-10, January 19-24, February 2-7, February 16-21, March 1-6.

(B) In San Francisco Bay, gill net permittees with odd permit numbers shall be permitted to fish only on the following dates: January 3-5, January 14-19, January 27-29, February 11-16, and February 25-March 2. January 12-17, January 26-31, February 9-14, February 23-28, March 8-13.

(C) In San Francisco Bay, gill net permittees with "XH" "DH" permit numbers shall be permitted to fish only on the following dates: November 29-December 1, December 3-8 and December 10-15, and December 17-22 November 27-29, December 1-6, December 8-13, and December 15-20. In the event permittees described under subsections (h)(2)(A) and (h)(2)(B) both reach their quotas pursuant to subsection ~~(g)(4)(C)~~ (g)(4)(B), "XH" "DH" permittees, on notification by the department, may resume fishing operations until such group has reached the successive established termination date or quota.

(D) In San Francisco Bay, round haul permittees shall be permitted to fish from noon on January 2 until noon on March 9 13.

(3) In Tomales and Bodega Bays, the season shall be from sunset on ~~December 3 until noon on December 22 and from sunset noon on~~ January 2 until noon on March 9 29.

(4) Herring fishing in Bodega Bay, Tomales Bay and San Francisco Bay is not permitted from noon Friday through sunset Sunday night.

(5) Ocean waters: The season shall be from April 1 to October 31 for all authorized fishing gear except in districts 16 and 17 where the season shall be from April 1 to November 27.

(6) In the event permittees described under subsections (h)(2)(A) or (h)(2)(B) reach their quota pursuant to subsection ~~(g)(4)(C)~~ (g)(4)(B), the alternative group of permittees on notification by the department may commence fishing operations until such group has reached the successive established termination date or quota.

(20) The first paragraph of subsection 163(j) is amended to read:

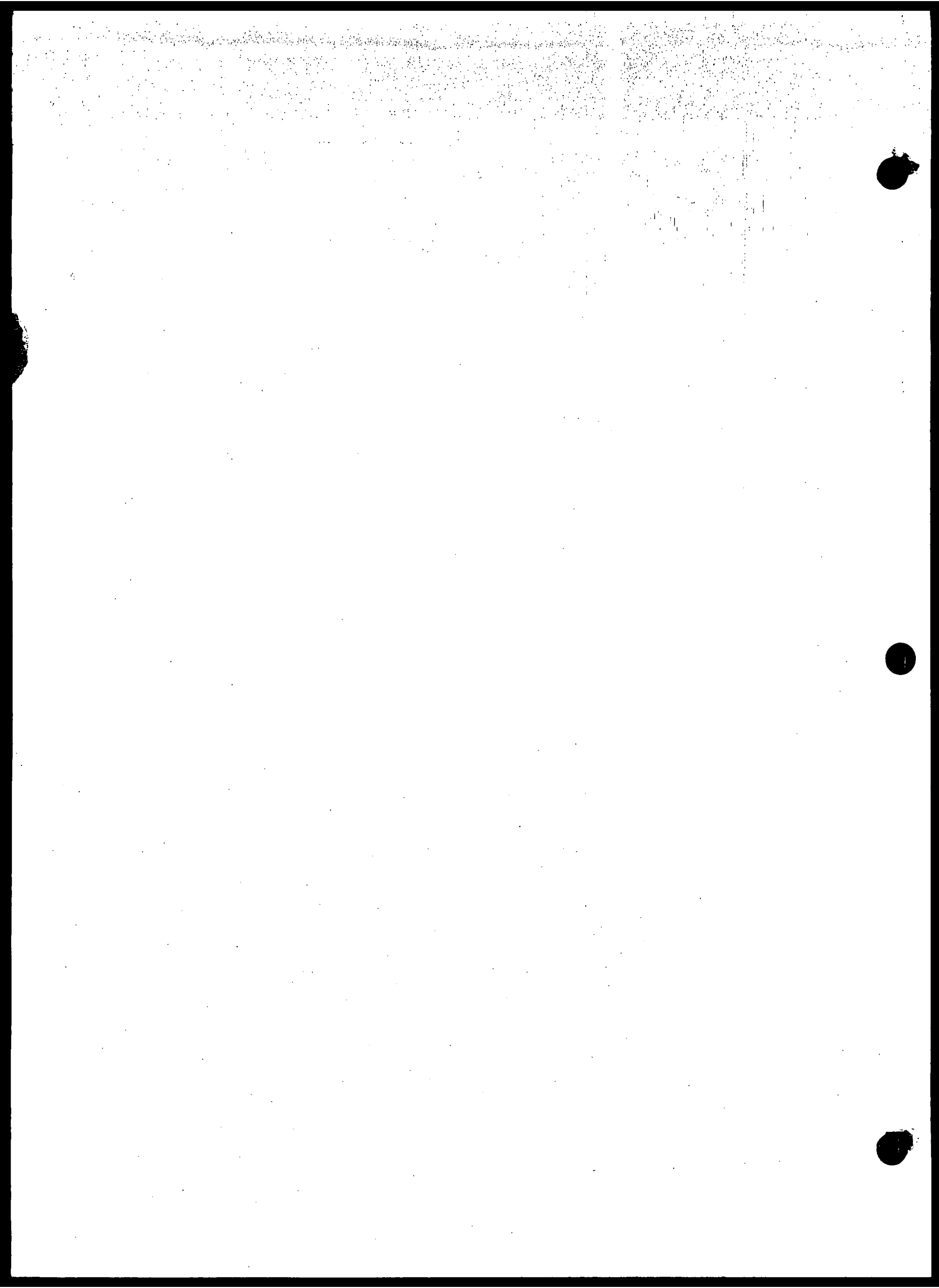
(j) Herring Buyer's Permit. A holder of a current wholesale fish dealer's primary fish receiver's license shall obtain a permit for each scale used to buy herring for each specific location and approved by the department. After approval of an application and payment of the \$750 filing fee (filing fees in Humboldt Bay and Crescent City area shall be waived), a revocable, nontransferable permit to buy herring may be issued subject to the following regulations:

Authority: Sections 1050, 8550 and 8553, Fish and Game Code
Reference: Sections 8043, 8550, 8557 and 8559, Fish and Game Code

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of October 4-5, 1990

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State of California
FISH AND GAME COMMISSION

Minutes, Meeting of October 4-5, 1990

Pursuant to the call of the President, the Commission met in the Planning Commission Hearing Room, County Administration Building, 123 East Anapamu Street, Santa Barbara, California, on October 4, 1990. The meeting was called to order at 10:10 a.m. by President Bryant.

Persons present:

FISH AND GAME COMMISSION

Robert A. Bryant	President
Albert C. Taucher	Member
Benjamin F. Biaggini	Member

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

ATTORNEY GENERAL'S OFFICE

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Spike Naylor	Deputy Director
Vern Goehring	Legislative Coordinator
Eldridge Hunt	Chief, Wildlife Management Div. (WMD)
Al Petrovich	Chief, Marine Resources Div. (MRD)
Fred Worthley	Regional Manager, Region 5
Terry Mansfield	Wildlife Management Division
Duncan Snell	Wildlife Protection Division (WPD)
Bob Hulbrock	Aquaculture Coordinator

The following persons were also present and heard:

Tom Porter	Amateur Herpetologist
Carmen DePala	Upland Game Hunter
Theron Miller	River Valley Fish Ranches
Jim Bates	Biologist, Western Aquatic
David Hastie	Sea Urchin Diver
Clinton Perry	Abalone Diver
Dennis Hathaway	Citizen

President Bryant introduced members of the Commission, its staff, Director Bontadelli, Deputy Director Naylor and Peter Van der Naillen of the Attorney General's office.

1. PUBLIC FORUM.

Summary of Issue

This item is scheduled to afford any member of the public an opportunity to address and/or ask questions of the Commission relating to the implementation of its policies or to any related matter within the jurisdiction of the Commission.

Action

Tom Porter requested the Commission ease the restrictions for amateur bag and possession limits for the take of reptiles and amphibians. He presented a written request to the Commission for future consideration.

The Department responded that the Commission's authority to regulate reptiles and amphibians was pursuant to Section 205 of the Fish and Game Code, and the appropriate time to consider changes would be as part of the biennial review of the Sport Fishing Regulations coming up next year.

In response to a question from Carmen DePala, WMD Chief Hunt explained the regulations regarding the bag limit for band-tail pigeons and doves.

2. CONSIDERATION OF FINAL CERTIFICATION OF ENVIRONMENTAL DOCUMENT, ADOPTION OF FINDINGS AND PROPOSED PROJECT (OR ALTERNATIVE) AND FINAL ADOPTION OF THE 1990-91 MIGRATORY WATERFOWL REGULATIONS - SECTIONS 502, 507.1 AND 509, TITLE 14, CCR. (ACTION ONLY - NO FURTHER PUBLIC TESTIMONY.)

Summary of Issue

This is the time and place for the Fish and Game Commission hearing on the adoption of proposed 1990-91 Migratory Waterfowl Regulations - sections 502, 507.1 and 509, Title 14, CCR. As you may recall, the law firm of Remy and Thomas filed comments regarding the environmental document on migratory game birds at 4:57 p.m. on August 3, 1990, raising several issues concerning the adequacy of the environmental document. The Department responded to those comments and prepared a revised environmental document which was circulated beginning August 27, 1990, and with a 30-day public comment period ending on September 26, 1990. The Department's initial draft environmental document was made available to the public for a 45-day public comment period commencing on June 19, 1990, and ending on August 3, 1990. Today, the Commission is scheduled to review the final environmental document and to consider the materials and comments that have been presented by individuals, groups and other public agencies. There will be no formal public testimony here today. The Commission will, however, have the option to request information and responses from staff and may have questions related to the public comments and responses presented in the environmental document. The process to be used at this certification and

adoption meeting will be to consider certification of the final environmental document and adoption of the proposed project (or an alternative) followed by consideration of the adoption of proposed regulations for sections 502, 507.1 and 509, Title 14, CCR, regarding Migratory Waterfowl Regulations for 1990-91.

Commissioners have been provided with the environmental document as well as the responses to public comments concerning the document. It would be appropriate for the Commission to make motions concerning certification of the adoption of the environmental document prepared by the Department. Those proposed motions are as follows:

Action

Executive Secretary Treanor summarized the item.

WMD Chief Hunt provided background information on preparation of the environmental documents completed in cooperation with the U. S. Fish and Wildlife Service.

It was then:

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

PASSED UNANIMOUSLY.

Mr. Hunt summarized the proposed project and alternatives relative to sections 502, 507.1 and 509, Title 14, CCR, regarding Migratory Waterfowl Regulations.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 21080.5 OF THE PUBLIC RESOURCES CODE, HEREBY ADOPTS THE PROPOSED PROJECT FOR THE PROPOSED REGULATORY ACTION RELATING TO SECTIONS 502, 507.1 AND 509, TITLE 14, CCR, WITH MINOR MODIFICATIONS IN THE DUCK SEASON, INCLUDING THE COOTS AND MOORHENS, REGARDING THE TIMING FOR THE SOUTHERN CALIFORNIA ZONE, AS PROVIDED FOR IN ALTERNATIVE NUMBER 2 OF THE DOCUMENT. THE SEASON FOR THE SOUTHERN CALIFORNIA ZONE WILL RUN FROM OCTOBER 27, 1990, THROUGH NOVEMBER 18, 1990, AND

FROM DECEMBER 1, 1990, THROUGH JANUARY 5, 1991. ALSO, THE SEASON FOR THE BALANCE OF THE STATE ZONE WILL RUN FROM OCTOBER 27, 1990, THROUGH NOVEMBER 18, 1990, AND THEN FROM DECEMBER 1, 1990 THROUGH JANUARY 5, 1991.

PASSED UNANIMOUSLY.

Commissioners have been provided with copies of the proposed Migratory Waterfowl Regulations as proposed at the August 31, 1990, meeting at South Lake Tahoe. The Commission will now have an opportunity to adopt regulations consistent with its previous determination relative to the proposed project (or an alternative) as identified in the environmental document and conforming to the federal framework.

Commissioners were provided with a copy of the proposed federal framework as well as sample letters from the public concerning a later opening for the southern California zone. Those letters are summarized as follows:

Thirty letters were received favoring an opening date for ducks later than October 13, 1990, (23 were specific to October 27). One letter was received favoring an opening date for ducks of October 13, 1990, for the southern California zone.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 355 AND 3000 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SECTIONS 355, 356 AND 3000 OF SAID CODE, HEREBY AMENDS SECTIONS 502, 507.1 AND 509, TITLE 14, CCR, REGARDING THE 1990-91 MIGRATORY WATERFOWL REGULATIONS. THE COMMISSION HEREBY DIRECTS STAFF TO PREPARE A NOTICE OF DETERMINATION CONSISTENT WITH THE APPROVAL AND ADOPTION OF THE ASSOCIATED REGULATIONS. THIS NOTICE OF DETERMINATION IS TO BE FILED WITH THE SECRETARY FOR RESOURCES PURSUANT TO SECTION 781.5, TITLE 14, CCR, AND SECTION 21080.5 OF THE PUBLIC RESOURCES CODE. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

3. **FORMAL ACTION TO VOID AND SET ASIDE SECTION 366, TITLE 14, CCR, RE: RESPONSE TO SACRAMENTO SUPERIOR COURT ORDER NO. 361662, DEPARTMENT 16, PERTAINING TO ARCHERY BEAR HUNTING AND REQUEST TO PUBLISH NOTICE OF INTENT TO VOID AND SET ASIDE SECTION 366, TITLE 14, CCR, AND TO AMEND SECTIONS 353 AND 354, TITLE 14, REGARDING METHODS OF TAKE.**
-

Summary of Issue

Commissioners received a copy of the Sacramento Superior Court Order No. 361662, Department 16, pertaining to archery bear hunting. That order directs the Commission to void and set aside Section 366, Title 14, CCR, pertaining to archery bear hunting. In addition, to avoid confusion by the public, the Commission will also amend sections 353 and 354, Title 14, CCR, regarding methods authorized for taking big game and archery equipment and crossbow regulations. This is considered an emergency action to comply with the court order and to avoid confusion by the public to provide for the general public welfare.

Department Recommendation

The Department provides the following:

"In response to a mutual agreement between Commission and Department staff, the following is a statement of facts constituting the need for emergency action to amend the subject regulations to implement the August 20, 1990, order of Judge Cecily Bond, Sacramento Superior Court. Action on this matter is appropriate to implement the Court Order regarding prohibiting the use of archery equipment in taking bear in 1990. Merely setting aside and voiding Section 366 will not prohibit the take of bear during the general season pursuant to Section 365.

"Appropriate Department personnel will be available to discuss the matter further on October 4.

"STATEMENT OF FACTS CONSTITUTING THE NEED FOR EMERGENCY ACTION

"By order dated August 20, 1990, Judge Cecily Bond, Sacramento Superior Court of the State of California, County of Sacramento, ruled that Section 366, Title 14, California Code of Regulations (CCR), regarding archery bear hunting must be voided and set aside. In addition, the Court's order specified that no hunting of black bears with archery equipment could take place until the Fish and Game Commission meaningfully considered in an environmental document potential effects of such hunting.

"In an effort to comply with the Court's order as soon as possible, it is necessary to amend Section 353, methods of taking big game, and Section 354, archery equipment and crossbow regulations. While the action to void and set

aside Section 366 will technically preclude the use of archery equipment during the archery and general seasons, the public may be confused relative to sections 353 and 354 as they relate to the use of archery equipment to take bear. The Department has determined that these sections need to be amended to preclude the use of archery equipment (and crossbows) for the take of bear to satisfy the intent of the Court judgment and for the public welfare. In light of the fact that the general bear season is scheduled to open on October 13, 1990, emergency action is necessary to make appropriate changes to implement the Court's order."

Action

Executive Secretary Treanor explained that the Commission and Department had prevailed in Court regarding the general bear hunting season, which will commence on October 13, 1990; however, Judge Bond required setting aside the archery bear regulations until the Commission completed a more meaningful review of the impacts of the use of archery equipment to take bear.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY VOIDS AND SETS ASIDE SECTION 366, TITLE 14, CCR, ARCHERY BEAR HUNTING AND TAKES EMERGENCY ACTION TO AMEND SECTIONS 353 AND 354, TITLE 14, CCR, REGARDING METHODS AUTHORIZED FOR TAKING BIG GAME AND ARCHERY EQUIPMENT AND CROSSBOW REGULATIONS PURSUANT TO SACRAMENTO SUPERIOR COURT ORDER NO. 361662, DEPARTMENT 16. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

4. REVIEW OF WHITE STURGEON BROODSTOCK COLLECTION PROGRAM AND CONSIDERATION OF PERMIT RENEWALS.
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Summary of Issue

This item is scheduled to receive the Department's report regarding a review of the 1990 White Sturgeon Broodstock Collection Program. Commissioners were provided with a copy of the Department's report and recommendation as well as a copy of the permit terms and conditions. Commissioners also received a copy of the third annual report for the Research and Development Program for Domestic White Sturgeon Broodstock from the Aquaculture and Fisheries Program at the University of California at Davis.

Department Recommendation

"The Department recommends that:

- "1. The White Sturgeon Broodstock Collection Program be

continued for 1991. 1991 permits to be valid from date of issue after October 5, 1990, to September 30, 1991.

"2. The only changes in the permits be in the record-keeping requirement term #10:

"A. Substitution of the language requested by the permittees to provide for use of their own record-keeping forms.

"B. Addition of language to clarify that up-to-date inventories be maintained on all three (3) inch and larger fish.

"The Department recommends that the permit term read:

"10. All permittees shall be responsible for keeping up-to-date records on adult capture, spawning and rearing operations, and the disposition of all adult and juvenile fish. These records shall include up-to-date farm inventories of all three (3) inch and larger fish. These records shall be kept on forms provided or approved by the Department and shall be available for inspection at the facility during normal business hours. Forms shall be submitted to the Department as part of the annual report.

"3. The Broodstock Development Plan updates of The Fishery, Sea Farms, Sierra Aquafarms, PAS Delta Aquafarms and WAR be approved.

"4. The Fishery, Sea Farms, Sierra Aquafarms, PAS, and Delta Aquafarms be authorized for broodstock collection in 1991.

"5. Western Aquatic Resources not be authorized for collections in 1991 for failure to adhere to terms of their 1990 permits.

"6. No action be taken on continued participation by Calaveras Trout or Crows Landing Fishery. No violations have occurred, but no reports of activity have been submitted. Broodstock development plans required for consideration for a permit were not received from either farm.

"7. Fishermen who do not submit log books not be permitted for white sturgeon broodstock collection in 1991."

Action

Executive Secretary Treanor highlighted the background of the White Sturgeon Broodstock Program.

Mr. Hulbrock summarized the Department's report and recommendations.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE RENEWAL OF THE WHITE STURGEON BROODSTOCK COLLECTION AND BREEDING PERMITS ISSUED TO DELTA AQUAFARMS, CLARKSBURG; SIERRA AQUAFARMS, SACRAMENTO; THE FISHERY, GALT; PROFESSIONAL AQUACULTURE SERVICES, CHICO; AND SEAFARMS OF CALIFORNIA, HAROLD, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

5. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT LICENSES (1990-93) AND 1990-91 MANAGEMENT PLAN FOR RANCHO GARATE RANCH, LASSEN COUNTY.
-

Summary of Issue as Provided to Commissioners

The Rancho Garate Ranch, Lassen County, requests a Private Lands Wildlife Management Area license. The required application and management plan has been submitted to the Department. The license period would be from 1990 to 1993. The Department has determined that this plan conforms to the regulations provided in Section 601, Title 14, CCR, and to the Commission's policy relating to private lands wildlife management areas. A summary of this proposal was provided to the Commissioners. Should the Commission desire a complete packet which was included with the application, please contact the Commission office.

Department Recommendation

"The Department has reviewed the new application and management plan for the 6,640-acre Rancho Garate in Lassen County. The Ranch was previously licensed (1987-1989) under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags issued in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The management 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 on and around the Rancho Garate. The goals and objectives outlined in the management plan and amendment are compatible with the East Lassen Deer Herd Management Plan.

"This plan provides for improvements to summer range for the East Lassen deer herd by increasing forage quality and fawning cover. Habitat work completed in 1989 included installation of a 3,000-gallon wildlife guzzler, placement

of 800 bitterbrush protective devices to recruit young plants for deer forage, one spring improvement excluded from livestock use, predator control, reduced level of livestock grazing on 2,040 acres of Rancho Garate deeded lands and establishment of five acres of alfalfa for exclusive wildlife use.

"The applicant's proposed projects for 1990-91 include placement of 800 additional protective devices on young age class bitterbrush plants, completion of one spring improvement fenced from livestock use, construction of a livestock enclosure around Juniper Spring, establishment of five acres of dryland alfalfa for exclusive wildlife use, reduction of livestock grazing on over 2,000 acres and predator control.

"A pre-season helicopter deer herd composition count was conducted in late August 1989, on Rancho Garate deeded lands. From a sample size of 259 deer, on-site herd ratios showed 20 bucks and 64 fawns per 100 does. Spring fawn ratios for the entire X-5b deer zone showed 42 fawns per 100 does, which is consistent with goal levels of 35-45 spring fawns per 100 does.

"In 1989, Rancho Garate was authorized 17 buck deer tags to take no more than 10 buck deer. Ten buck deer were harvested. While this plan does not request season dates extending past the regular season, it does request a season starting two weeks earlier than the regular deer season. This is to help ensure that deer raised on the area are harvested on the area.

"The Department recommends that the Commission approve the Rancho Garate Wildlife Management Plan and the 1990 harvest program under the following conditions:

"(1) Issue 17 buck deer tags to take no more than nine forked horn or better buck deer for the period of September 22 through October 21, 1990.

"(2) No person may take more than one buck deer."

Action

Executive Secretary Treanor summarized Rancho Garate Ranch's request.

Mr. Mansfield responded to concerns raised in a letter received objecting to approval of the application. He then discussed the proposed management plan and proposed conditions for the permit.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF RANCHO GARATE, LASSEN COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1990-93), AND FURTHER, APPROVES THE 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

6. RECEIPT OF ANNUAL REPORT AND APPROVAL OF 1990-91 PRIVATE LANDS WILDLIFE MANAGEMENT AREA PLANS FOR:

- (A) DIAMOND E RANCH, SISKIYOU COUNTY;
 - (B) MILL CREEK RANCH, TEHAMA COUNTY;
 - (C) OILAR RANCH, MODOC COUNTY;
 - (D) R-R RANCH, MENDOCINO COUNTY.
-

Summary of Issue

The following applicants have requested renewal of their private lands wildlife management area (PLM) licenses and approval of their 1990-91 management plans. The Department has reviewed the annual report for each of these ranches and recommends that the Commission approve the management plans for the coming year. The Department has determined that the activities on the ranches, unless otherwise specified, have been completed as proposed in the 1989-90 objectives. The Commissioners received summaries of each one of these proposals. Copies of the complete annual report and full management plans are available for the Commissioners upon request.

(A) Diamond E Ranch, Siskiyou County

Department Recommendation

"The Department has reviewed the renewal application and annual report for the 1,757-acre Diamond E Ranch in northeastern Siskiyou County. The Ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. An amendment to this plan, which includes alternative prescriptions for work scheduled in the management plan, accompanies this renewal. The Department feels that the amendment is appropriate and has agreed to the alternative prescriptions provided. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources on and around the Diamond E Ranch. The

goals and objectives outlined in the management plan are compatible with the McCloud Flats Deer Herd Management Plan.

"In 1989, habitat improvements included excluding livestock and harvesting hay on 180 acres of alfalfa and alfalfa/grass pasture, excluding livestock from 700 acres of rangelands in the winter range of the McCloud Flats deer herd, maintenance of 3.5 acres of wetlands, planting of grains and native grasses in areas adjoining wetlands, and removing one mile of fence to facilitate deer movement and to reduce fence related mortality.

"Work to be conducted in 1990-91 includes continued exclusion of livestock and farming activities, removal of an additional mile of fence, thinning of 50 acres of junipers, continued maintenance of the wetland and planting seven acres of native grasses.

"Herd composition counts for the McCloud Flats deer herd showed 16 bucks per 100 does. Fall and spring fawn ratios revealed 54 and 36 fawns per 100 does, respectively.

"The Ranch was authorized eight buck deer tags in 1989. One buck deer was harvested. The applicant is requesting the same number of permits and season for 1990.

"The Department recommends that the Commission approve the Diamond E Ranch Wildlife Management Plan as amended for 1990-91 and the 1990 harvest program under the following conditions:

- "(1) Issue four buck deer tags to take forked horn or better buck deer for the period November 1-15, 1990.
- "(2) Issue four buck deer tags to take forked horn or better buck deer for the period November 16-30, 1990.
- "(3) No person may take more than one buck deer."

Action

Executive Secretary Treanor summarized Diamond E Ranch's request.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE DIAMOND E RANCH, SISKIYOU COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(B) Mill Creek Ranch, Tehama County

Department Recommendation

"The Department has reviewed the renewal application and management plan for the 15,272-acre Mill Creek Wildlife Area in southeastern Tehama County. The area was previously licensed (1986-1989) under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. 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 Mill Creek Wildlife Area. The goals and objectives outlined in the management plan are compatible with the East Tehama Deer Herd Management Plan. The Area ownership has changed, but the new owner wishes to carry on the terms of the existing management plan. A reduction in acreage is due to the loss of a leased parcel that was not part of the real estate transaction. Thus, the boundary and acreage of the Area has been adjusted.

"Habitat improvement activities in 1989 primarily involved elimination of livestock grazing. The original management plan called for a 20 percent livestock reduction (1,200 cow/calf pairs reduced to 960 pairs). The applicant exceeded his goal and affected 100 percent reduction in cattle grazing. In addition, two springs were improved and 30 'wild' cows were removed.

"Habitat improvements scheduled for 1990, include continued maintenance of reduced livestock numbers and development of three spring sites. However, a recent wildfire has burned a mosaic pattern on about 3,000 acres of the area. This more than fulfills the requirements for a 1991 prescribed burn. The applicant has requested that the spring developments be put off until 1991 so that an emphasis can be placed on seeding forage plants in the newly burned site.

"Fall deer herd composition counts for the East Tehama deer herd showed 18 bucks and 48 fawns per 100 does. Spring counts on the area indicated 61 fawns per 100 does, well above the herd average of 35. A December 1989 deer survey on the area revealed 24 bucks and 73 fawns per 100 does from a sample size of 647 animals. These on-site ratios are substantially higher than ratios for the entire herd.

"In 1989, the Mill Creek Hunting Ranch was authorized 51 buck and 35 antlerless deer tags for a three-period season. Harvest was 41 buck and 32 antlerless deer, for a success rate of 85 percent. The applicant is proposing a similar harvest program for 1990.

"The Department recommends that the Commission approve the Mill Creek Wildlife Area Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "(1) Issue 36 buck deer tags to take forked horn or better buck deer for the period of October 13 through November 7, 1990.
- "(2) Issue 15 buck deer tags to take forked horn or better buck deer for the period of October 13 through November 30, 1990.
- "(3) Issue 35 antlerless deer tags for the period of October 13 through November 7, 1990.
- "(4) No person may take more than one buck deer and one antlerless deer."

Action

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE MILL CREEK RANCH, TEHAMA COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(C) Oilar Ranch, Modoc County

Department Recommendation

"The Department has reviewed the renewal application and annual report for the 640-acre Oilar Ranch in southwestern Modoc County. The Ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The plan is in compliance with Commission policy requirements for private lands management. The applicant has provided a list of persons authorized to validate tags and has identified the location where records will be kept and made available for inspection. The habitat improvements performed under this plan will enhance deer habitat in Modoc County on and around the Oilar Ranch. The goals and objectives outlined in the management plan are compatible with the McCloud Flats Deer Herd Management Plan.

"This relatively small area of land, which is under significant threat to subdivision, contains some of the most critical deer habitat in Region 1. Management practices over the last five years have been directed at improving oak-woodland thickets to maximize acorn and understory brush production, establishing dryland alfalfa, planting hedgerows for wildlife food and cover and spot-burning unproductive chaparral stands. Habitat work accomplished in 1989

included spot-burning five acres of decadent buckbrush, planting 150 wildlife forage and cover plants, restricting livestock season of use to one week on a 100-acre alfalfa field and eliminating livestock in three other fields. Maintenance of existing alfalfa fields was not accomplished. If the alfalfa does not regrow this year, grazing will be eliminated in 1990, from selected fields.

"Habitat work scheduled for 1990 includes spot-burning five acres of chaparral, planting 150 additional hedgerow seedlings, continuation of limited cattle grazing, maintenance of six watering areas for wildlife and planting 10 acres of dryland alfalfa by a specified timeframe.

"Deer herd composition counts for the Day subherd of the McCloud Flats deer herd showed 19 bucks and 34 fall fawns per 100 does. The spring 1990 fawn ratio reflects 33 fawns per 100 does. The buck ratio is below and the spring fawn ratio is above the Day subherd average over the past 10 years. Fall 1989 fawn ratios are below the subherd 10-year average of 44 fawns per 100 does. Department of Fish and Game herd composition counts are routinely conducted on the Oilar Ranch due to localized high deer densities and easy visibility.

"The Oilar Ranch was authorized eight buck and five antlerless deer tags in 1989; five buck deer were harvested. For 1990, the Department is recommending that 10 buck and five antlerless deer tags be issued in a stratified season.

"The Department recommends that the Commission approve the Oilar Ranch Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "(1) Issue seven buck deer tags to take forked horn or better buck deer for the period of October 6-28, 1990.
- "(2) Issue three buck deer tags to take forked horn or better buck deer for the period of October 6 through November 18, 1990.
- "(3) Issue five antlerless deer tags for the period of October 6-28, 1990.
- "(4) No person may take more than one buck deer and one antlerless deer."

Action

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE OILAR RANCH, MODOC COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(D) R-R Ranch, Mendocino County

Department Recommendation

"The Department has reviewed the annual report and renewal application for the 5,727-acre R-R Ranch, which is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1989. The plan is in full compliance with Commission policy requirements for private lands management. The licensee has provided the Department with a list of persons authorized to validate elk tags and has identified the location where records will be kept and made available for inspection. Habitat improvements accomplished under this plan will enhance and maintain wildlife resources of Mendocino County on and around the R-R Ranch. The goals and objectives outlined in the R-R Ranch Management Plan are compatible with the Department's long-term elk management goals and objectives established in the Mendocino Tule Elk Management Plan.

"In 1989, the licensee planted willow sets along 100 feet of Newhinney Creek to stabilize the stream channel and to establish riparian vegetation. Mud Lake, a pond on the Ranch, was enlarged to hold water longer into the critical summer months. Three spring developments were maintained, and one was equipped with a bathtub water holding tank.

"In 1990, habitat work will include maintenance of springs, continued willow plantings along Newhinney Creek, maintenance of hardwood snags, planting of oat/vetch, establishment of brush piles for upland game cover, treatment of Mud Lake to seal the pond bottom for water retention, and development of a long-range water plan for permanent pastures.

"A bull elk tag was donated by the licensee to the California Waterfowl Association in February 1990, and one bull elk tag will be donated to the Rocky Mountain Elk Foundation (RMEF) in February 1991. The proceeds from the RMEF donation are to be returned to the Department's elk management program.

"In 1989, the Ranch issued all of the 15 tags authorized to take no more than seven bull and eight cow elk. Harvest was three bulls and four cows. Observed composition of the Potter Valley Herd in the Mendocino Tule Elk Management Unit has remained stable after a period of herd decline due to four years of drought. Herd composition in 1988 was 51 bulls and 22 calves per 100 cows, and herd composition in 1989, was 57 bulls and 23 calves per 100 cows, which is slightly below the 1987 ratio of 57 bulls and 38 calves per 100 cows.

"The Mendocino Tule Elk Management Plan calls for a population size of one to two tule elk per square mile. The current estimated population is nearly double that size. Herd composition has remained stable, with a high bull ratio.

"The Department recommends that the Commission approve the R-R Ranch Wildlife Management Plan and the 1990 harvest program under the following conditions:

- "(1) Issue seven bull elk tags for the period of October 14 through December 1, 1990.
- "(2) Issue eight cow elk tags to take no more than five cow elk for the period of October 14 through December 1, 1990."

Action

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE R-R RANCH, MENDOCINO COUNTY, FOR APPROVAL OF ITS 1990-91 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

7. CONSIDERATION OF RENEWAL OF ALTERNATIVE GEAR DEVELOPMENT PROGRAM EXPERIMENTAL GEAR PERMITS TO USE MODIFIED HALIBUT TRAWLS IN MORRO BAY PURSUANT TO COURT ORDER AND ESTABLISHMENT OF CONDITIONS FOR 1990 PERMITS PURSUANT TO SECTION 8606 OF THE FISH AND GAME CODE.

Summary of Issue

As you will recall, the Commission's action not to renew the Alternative Gear Development Program experimental gear permits to use modified halibut trawls was appealed in the San Francisco Superior Court. The court found in favor of the permittees that, pursuant to Section 8614 of the Fish and Game Code, the Commission is required to renew the experimental gear permits. In light of that court decision, the attorney for the eight experimental gear permittees in the San Francisco Bay and Monterey Bay areas has requested that the Commission renew the issuance of the experimental gear permits to the four fishermen in the Morro Bay area. Those fishermen are Ed Sylvester, Ed Ewing, Sandy Winston and Neal Tobin. Peter Van der Naillen, Deputy Attorney General, will be prepared to provide direction to the Commission regarding the court order as it affects the renewal of the permits in the Morro Bay area.

By way of background, the Commission decided at its December 2, 1988, meeting in Eureka only to extend these four permits for the Morro Bay area until May 15, 1989. Pursuant to a

recommendation made by the Department of Fish and Game, the Commissioners received a copy of the letter from Mr. Ilson New dated September 7, 1990, requesting Commission action and a copy of the court order, as well as a copy of the minutes of the December 2, 1988, meeting concerning this matter.

The Commission will receive public testimony and a Department recommendation regarding what terms and conditions should be placed on these experimental gear permits pursuant to Section 8606 of the Fish and Game Code.

Department Recommendation

"At its August 30, 1990, meeting, the Commission renewed and amended terms and conditions of experimental gear permits to use trawl nets to take California halibut in State waters off the coasts of Monterey, San Francisco, and Bodega Bay in response to a Superior Court ruling. Subsequent to the Commission's August 30, 1990, action and based on the aforementioned Superior Court ruling, the former experimental gear permittees in the Morro Bay/Avila area have requested that their permits be renewed to use trawl nets in State waters to take California halibut.

"The Department recommends that, should the Commission approve subject request, the attached terms and conditions be made a part of any experimental gear permits issued to use trawl gear in the Morro Bay/Avila area."

Action

Executive Secretary Treanor summarized the item.

MRD Chief Petrovich provided a list of conditions under which the permits should be renewed. He pointed out that the recommended season in the Morro Bay area was May 1 through September 30, so, in essence, the season had terminated. He stated that legislation would be pursued to return the authority to the Commission.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY RENEWS THE FOUR EXPERIMENTAL HALIBUT TRAWL PERMITS IN THE MORRO BAY AREA ISSUED FOR THE ALTERNATIVE GEAR DEVELOPMENT PROGRAM AS REQUIRED BY SECTION 8614 OF THE FISH AND GAME CODE AND, PURSUANT TO SECTION 8606 OF THE FISH AND GAME CODE, THE COMMISSION HEREBY APPROVES THE SAME TERMS AND CONDITIONS FOR THOSE FOUR PERMITS AS FOR THE ONES WHICH WERE ISSUED TO PERMITTEES IN THE SAN FRANCISCO BAY AND MONTEREY BAY AREAS.

PASSED UNANIMOUSLY.

Executive Secretary Treanor stated that an item would be scheduled for February 1991, to discuss possible renewal of the permits for 1991 season.

8. RECEIPT OF DEPARTMENT RECOMMENDATION FOR CATCH-AND-RELEASE WATERS PURSUANT TO SENATE BILL 192.

Summary of Issue

This item is scheduled to receive the Department's recommendation for catch-and-release waters pursuant to Senate Bill 192 (the Trout and Steelhead Conservation and Management Planning Act of 1979). Pursuant to 1727 (b) of the Fish and Game Code, the Department shall each year prepare a list of no less than 25 miles of stream or stream segments and at least one lake that it deems suitable for consideration as catch-and-release trout waters and submit its recommendation to the Commission at its October Commission meeting. The Commissioners received a copy of the Department's list of recommended catch-and-release waters for 1990. All four waters currently have catch-and-release angling regulations; therefore, no action needs to be taken by the Commission at this time other than to receive the report. Pursuant to Section 1727(d) of the Fish and Game Code, the Commission is to report each January to the Legislature regarding the progress in implementing Senate Bill 192. The Commission may wish to direct the Department to prepare that report for the Commission and transmit it to the Commission office no later than December 15, 1990, in order that the Commission may comply with Section 1727.

Action

Executive Secretary Treanor summarized the issue. He stated that the waters recommended by the Department currently had catch-and-release regulations; therefore, no action was necessary.

9. REQUEST OF LESLIE WYMAN, NORTH OLMSTED, OHIO, FOR AUTHORIZATION TO IMPORT AND POSSESS TWO RACCOONS.

Summary of Issue

Leslie Wyman, North Olmsted, Ohio, requests an opportunity to appear before the Commission to show cause why she should be allowed to import and possess two raccoons. The Commissioners received a copy of Ms. Wyman's August 6, 1990, letter as well as some background information she had provided on this matter. It is uncertain whether or not Ms. Wyman will be attending this meeting as she contacted the Commission office on or about September 5 from the agricultural inspection station between southern California and the Arizona border. She indicated that she was moving from Ohio to California to complete a contract job she had accepted. The agricultural inspection station found in her possession two raccoons and three ferrets and Ms. Wyman called to ask permission to bring the ferrets into California.

She was informed that the Commission would not authorize the importation and possession of ferrets into California and it was recommended to her that she contact an animal shelter or a veterinarian in Arizona to keep the animals until she completed her job and moved out of California. She indicated that she was going back to Ohio; therefore, it is uncertain whether or not she will appear on October 4. If she does appear, the Commission should be aware that she also possesses three ferrets which she wishes to bring into California.

Department Recommendation

"The Department recommends denial of Ms. Wyman's request for authorization to possess two raccoons for pet purposes.

"The Department is approached daily by persons wishing to move to California and bring with them their exotic pets. These requests are always accompanied by compelling stories, but pursuant to the Fish and Game Commission action, the Department must deny these requests. We see nothing in Ms. Wyman's request which makes it exceptional from any of the other requests we receive.

"Moreover, effective October 20, 1981, the Commission prohibited the importation and possession of raccoons due to the threat of rabies. First, pursuant to testimony given to the Commission at that time, a wild animal could be carrying the virus at the time it was vaccinated unbeknownst to the veterinarian. In this instance the vaccine would do no good and the animal would still be incubating rabies. Another concern is that the importation of raccoons into California could transfer a new strain of rabies to our endemic raccoons, thus creating a potential for a rabies epidemic.

"The departments of Health Services, Food and Agriculture and Fish and Game agree that approval of this request would set a dangerous precedent; therefore, our Department must recommend denial."

Action

Executive Secretary Treanor reported that Ms. Wyman was unable to attend the meeting. He stated that Ms. Wyman had been stopped several weeks ago at the California border with two raccoons and three ferrets and she was told to leave the animals in the care of a veterinarian in Arizona.

Deputy Attorney General Van der Naillen suggested postponing the item so that if Ms. Wyman appeared later, the Commission could bring it up at that time, if Ms. Wyman did not appear before the end of the next day's meeting, the Commission could take action on her request.

Ms. Wyman appeared on October 5 and presented her case for

retaining the two raccoons. She stated they would be housed at the Wildlife Way Station where she will be working.

Mr. Snell requested denial of the permit because they are pets, which is against the regulations.

Virginia Handley stated she had no objection to Ms. Wyman retaining the raccoons. She stated that the exotic pet law was not intended to apply to this kind of situation.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF LESLIE WYMAN, NORTH OLMSTED, OHIO, FOR AUTHORIZATION TO IMPORT AND POSSESS TWO RACCOONS, PROVIDED THE ANIMALS NEVER LEAVE THE WILDLIFE WAY STATION, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT.

PASSED UNANIMOUSLY.

10. REQUEST OF THERON MILLER, RIVER VALLEY FISH RANCHES, PARKER, ARIZONA, FOR WAIVER OF SECTION 171, TITLE 14, CCR, TO ALLOW IMPORTATION OF LIVE CHANNEL CATFISH FROM ARIZONA FOR RETAIL SALES.

Summary of Issue

Theron Miller, River Valley Fish Ranches, Parker, Arizona, requests authorization to import live channel catfish into California for retail sales purposes. This issue has been discussed previously by the Commission and the Commission has established strict terms and conditions on the importation of these live channel catfish. Commissioners were provided with a copy of Mr. Miller's August 8, 1990, letter.

Department Recommendation

"The Department of Fish and Game (Department) recently (March 1990) reviewed a similar application by Val Aqua in Arizona for a waiver of Section 171 (Title 14, CCR) that would allow them to import live channel catfish into California. The Department, in consultation with the Aquaculture Disease Committee, carefully considered the application and, with concurrence of the Committee, recommended terms and conditions that would minimize the risks involved in allowing importations of live catfish. (The Commissioners received a copy of those terms and conditions which were developed and approved at that time.)

"The Department has not had adequate time to investigate the specifics of the River Valley operation. However, its application appears to raise the same issues that were raised by the Val Aqua application. The Department's initial reaction is that the waiver would probably be

acceptable under the same terms and conditions as were established for Val Aqua. However, we request that final approval of the waiver be put over until the November 8-9, 1990 Commission meeting to allow time for the Department to complete our investigation.

"It should be noted that the recommendation for approval for Val Aqua included a caution about committing the Department's pathology staff to the inspections and certifications required by the permit. The need to rely at least partially on pathologists outside of the Department, but acceptable to the Department, was noted. This second application only increases the Department's concern about diverting our pathology staff's efforts from important in-state disease programs.

"Val Aqua has not begun regular shipments and the number of shipments they may make into California is still unknown. The number of shipments that River Valley Ranch will make is likewise unknown. It is not possible, then, to evaluate the magnitude of the impact of these permits on Department pathologists who already have a heavy workload. Since a negative impact from administering these permits has not yet been demonstrated, the Department recommends that the waiver be granted under terms and conditions that minimize the risk of disease introduction. However, the number of these waivers that the Department's current pathology staff can safely administer is limited.

"The Department recommends that:

- "(1) The waiver be tentatively approved under the same terms and conditions as were approved for Val Aqua, but held in abeyance until the Commission's November 8-9 meeting in Newport Beach.
- "(2) The Department and the Aquaculture Disease Committee have until the November 8-9 meeting to consider the specifics of River Valley's operation. Any new information indicating that the waiver should be denied will be presented at that meeting for the Commission's consideration."

Action

Executive Secretary Treanor summarized the issue.

Mr. Hulbrock stated that Mr. Miller's request had not been thoroughly reviewed by the Department, but that it was similar to Val Aqua's request, which was approved earlier in the year. He indicated that the Department recommended tentative approval under the same terms and conditions as Val Aqua's, but requested delay in final approval until the Commission's November meeting. He noted that the delay would allow time for the Disease Advisory Committee and the Department to complete their review of the application.

Mr. Miller summarized the information in his letter and responded to questions from the Commission.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY TENTATIVELY APPROVES THE REQUEST OF THERON MILLER, RIVER VALLEY FISH RANCHES, PARKER, ARIZONA, TO ALLOW THE IMPORTATION OF LIVE CATFISH FROM ARIZONA FOR RETAIL SALES PURPOSES, SUBJECT TO THE TERMS AND CONDITIONS TO BE RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

11. NONRENEWAL OF 1990-91 WHITE STURGEON BROODSTOCK COLLECTION PERMIT OF DONALD CLARK, WESTERN AQUATIC RESOURCES, DELANO.

Summary of Issue

The Department requests that the Commission not renew the 1990-91 white sturgeon broodstock collection permit of Donald Clark, Western Aquatic Resources, Delano. A certified letter has been sent to Mr. Clark notifying him of the possible action to be taken by the Commission at its October 4, 1990, meeting. The Commissioners received a copy of the Department's request.

Department Recommendation

"The Department of Fish and Game (Department) recommended in its September 7, 1990, memo to the Commission that the white sturgeon broodstock collection permit of Western Aquatic Resources (WAR) not be renewed. WAR had failed to adhere to the terms of their 1990 permit; specifically, they had not submitted the unused tags and required reports on their 1990 activities. On September 7, the Department received the tags and reports that were due no later than July 1. WAR has now submitted all of the required reports, and has complied with all other permit requirements.

"Last year WAR also missed deadlines for completing requirements of their 1989 permit.

"The Department recommends that WAR be required to appear before the Commission to explain why they have been negligent in meeting their permit terms. We recommend that a permit be authorized for 1991 only if there is sufficient assurance that WAR will be diligent in meeting all of its terms. If the Commission decides to authorize a permit, the Department recommends that it be accompanied by a warning that failure to conform to the deadlines outlined will be cause for denial of future permits."

Action

Executive Secretary Treanor summarized the item.

Mr. Hulbrock stated the Department's recommendation not to renew Western Aquatic Resources' permit was because it had not submitted all of the required information. He recommended renewal of the permit if Western Aquatic Resources promises to be diligent in their reporting.

Jim Bates spoke for the Western Aquatic Resources and explained why the reports were late.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY RENEWS THE 1990-91 WHITE
STURGEON BROODSTOCK COLLECTION PERMIT OF DONALD CLARK,
WESTERN AQUATIC RESOURCES, DELANO, FOR A PERIOD OF ONE YEAR,
SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE
DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

12. REQUEST OF STEVE ESTES, SPRINGFIELD, ILLINOIS; DAVE HASTIE
AND STEVE PRATT, GOLETA; AND CLIFFORD F. JOHNSON,
WILMINGTON; TO APPEAL DEPARTMENT DENIAL OF THEIR RENEWAL
APPLICATIONS FOR SEA URCHIN DIVING PERMITS.

Summary of Issue

Steve Estes, Springfield, Illinois; Dave Hastie and Steve Pratt, Goleta; and Clifford F. Johnson, Wilmington, request an opportunity to appear before the Commission to appeal the Department's denial of the renewal of their sea urchin diving permits.

Department Recommendation

The Department provides the following:

"By way of background, a moratorium concerning the issuance of new sea urchin diving permits was established by Commission regulation in 1987, was replaced by a limited entry permit system (Section 120.7, Title 14, CCR) which became effective on March 8, 1989, and the Commission has just adopted a regulatory package which became effective on June 7 which:

- "- restricts sea urchin fishing to four days per week from May to October, statewide;
- "- closes the northern California sea urchin fishery for the entire month of July;

- "- increases the minimum size limit for red sea urchins in northern California;
- "- reduces the maximum possible number of sea urchin apprentice permits from 171 to 103 (one new apprentice permit for each five divers that leave the fishery, instead of one for each three).

"These actions were taken to reduce fishing effort and lower the annual harvest. The Department, in consultation with a sea urchin industry advisory group, has set the target number of sea urchin permits at 400 divers and 103 apprentices. At the time of the moratorium (July 1987) there were 915 permits, and today there are 598 sea urchin diving and 64 sea urchin apprentice permits. The reduction in the total number of permits can only take place by attrition."

The Department has provided one recommendation for agenda items 12a through 12d as follows:

"Each of these four requests, as well as that of Mr. Clinton Perry (next agenda item), may appear to have a compelling individual reason for reinstatement of sea urchin diving privileges. Taken together, however, they point out the cumulative impact of increasing the level of fishing effort on this valuable resource. These requests, if approved, would increase effort by nearly one percent, or over 400,000 pounds of sea urchins, at a time when the sea urchin fishing industry and the Department have worked out a consensus plan to reduce harvest by approximately 25 percent this year.

"At this time, we feel that the plan to reduce the level of harvest by limiting the amount of fishing effort is beginning to work, and we believe it would be counterproductive to issue additional permits at this time.

"Therefore, we recommend denial of subject requests."

(a) Steve Estes, Springfield, Illinois

The following is a copy of Mr. Estes' letter:

"I have been a sea urchin diver for four years. I sent my forms and payment in this year and have not heard or received my permit. I have been in Springfield, Illinois, for the summer and am planning to begin diving in September. My dive boat in Santa Barbara will be ready in September also. Please advise me of what I should do."

Department Recommendation

The Department provides the following background

information:

"Mr. Steve Estes indicates in his letter to the Commission that he mailed his renewal forms and a check to the Department prior to the deadline for renewals. Two Department employees have spoken with Mr. Estes indicating to him that, if he could provide us with a copy of his check book register and bank statement, or any other appropriate evidence of timely submission of payment, we could issue his permit. He has not provided us with any such evidence."

Action

This agenda item was put over until Friday's meeting. Mr. Estes did not appear.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF STEVE ESTES, SPRINGFIELD, ILLINOIS, FOR REINSTATEMENT OF HIS SEA URCHIN DIVING PERMIT UNTIL HE APPEARS BEFORE THE COMMISSION.

PASSED UNANIMOUSLY.

(b) Dave Hastie, Goleta

The following is a copy of Mr. Hastie's letter:

"I, Dave Hastie, request to go before the board. I have been a sea urchin diver since 1981. I own the boat 'Amber Marie'. I was in a car accident two years ago and crushed my spine. Diving was out of my life according to doctors, but since then I have been sport diving. I feel I am quite capable of resuming my profession. I have been in the lottery the last two years. I have been in the diving business since I was 21; I am now 31. In short, I have a great respect and concern for the future of the fishery."

Department Recommendation

The Department provides the following background information:

"Mr. Dave Hastie (License No. L35118) indicates in his letter to the Commission that he was a sea urchin diver from 1981 through 1988. Department records indicate otherwise. Both Mr. Robert C. Hastie (License No. L35119) and Mr. Mark Hastie (License No. L48252) have held sea urchin permits since the 1986-87 permit year, while Mr. Hastie does not appear in our records. While we certainly sympathize with his medical difficulties, it appears he is not eligible to obtain a sea urchin diving permit."

Action

Executive Secretary Treanor summarized the item.

Mr. Hastie presented his medical records and a letter from a doctor.

MRD Chief Petrovich stated the Department had no record of Mr. Hastie being a commercial sea urchin diver before the moratorium or the limited entry fishery; and therefore, the medical case would be moot because it would be necessary to have been a prior permittee.

Mr. Hastie was unable to provide a sea urchin permit from 1980. He left the fishery before the moratorium and limited entry requirements went into effect; therefore, he is not a prior permittee.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF
DAVE HASTIE, GOLETA, FOR A COMMERCIAL SEA URCHIN DIVING
PERMIT.

PASSED UNANIMOUSLY.

(c) Steve Pratt, Goleta

The following are copies of Steve Pratt's letters:

May 29, 1990

"I am extremely interested in getting a sea urchin permit. I was a licensed urchin diver in Santa Barbara during 1984-1985 and enjoyed it very much; however, I wanted to pursue my college education and did so at Arizona State University from 1986 to 1989. I intended to resume urchin diving after I completed college but regret to say that I did not hear about the 1986 urchin permit closure until it was too late. I applied for last year's apprentice urchin permit and was not chosen in the lottery. I am willing to pay for the past urchin permit fees which I have missed if given a permit. I have currently been working on an urchin boat as a tender for the past year and am knowledgeable of the urchin fishery.

"Please consider my request for an urchin permit. I enjoy the occupation and it is what I do best."

July 20, 1990

"I would like, once again, to express my interest in the sea urchin diving industry. I have been working

for the following boats in the past year: Amdramada, Amber Marie, Navanax, Twin Pak and Indian Sumer.

"I am appearing August 2, 1990, in Monterey to appeal the denial of my sea urchin diving permit renewal. However, I still am very interested in the 1990 urchin lottery. How many apprentice permits do you expect will be given out? Can you please send me any information on the current lottery?"

Department Recommendation

The Department provides the following background information:

"Mr. Steve Pratt was scheduled to appear at the Commission's August 2, 1990, meeting. Our July 12, 1990, response to that request indicates that Mr. Pratt voluntarily left the sea urchin fishery in 1985 to pursue other interests."

Action

Mr. Pratt was not present.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF STEVE PRATT, GOLETA, FOR REINSTATEMENT OF HIS SEA URCHIN DIVING PERMIT UNTIL HE APPEARS BEFORE THE COMMISSION.

PASSED UNANIMOUSLY.

(d) Clifford Johnson, Wilmington

The following is a copy of Clifford Johnson's letter:

"Please find enclosed hospital records to confirm I sustained head, jaw and neck injuries that made necessary my being hospitalized February 7, 8 and 9 and, though unreflected, I did not leave until February 10 (record error).

"Records will also reflect four more visits to the emergency room of that hospital as physical therapy and medications did not contain my pain, nausea and vertigo. Those emergency room visits continued through April 10. There are more records of my regular appointments. E. R. only gives after care instructions.

"Though my physical therapy continues, my pain has recently been somewhat contained. My financial situation prompts my decision to return to diving. This month as I proceeded to relicense, I discovered

your new June 30 limit regulation.

"While convalescing, I resided with my daughter in Pasadena. She is a nurse and has been conducting extensively the physical therapy recommended by my doctors. I receive mail at the post office in Wilmington. If you sent mail notifying me that licenses would be unavailable after June 30, I did not receive it. However, even if I did, I would have been physically unable to act upon it.

"I present these true facts to your attention respectfully requesting your consideration in granting me a license of my desperate need that I may continue harvesting since 1972.

"I close foregoing correspondence presenting my appreciation for your reading and taking time to consider my plea herein."

Department Recommendation

The Department provides the following background information:

"Mr. Clifford Johnson indicates in his letter to the Commission that he was unaware of the deadline of June 30 for renewal of his sea urchin diving permit, and further that he receives his mail at a Wilmington, California, post office box. This deadline has been in effect for two years and records indicate that Mr. Johnson has been a licensed sea urchin permittee since at least the 1986-87 season, and has given his address each year as 1081 Cherry, Apt. C, Long Beach, California. It was to this address that we mailed the March 27, 1989, letter detailing the renewal time requirement. We received approximately 25 of the nearly 650 letters we mailed, returned by the postal service. Mr. Johnson's was not among those returned."

Action

Mr. Johnson was not present.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF CLIFFORD JOHNSON, WILMINGTON, FOR REINSTATEMENT OF HIS SEA URCHIN DIVING PERMIT UNTIL HE APPEARS BEFORE THE COMMISSION.

PASSED UNANIMOUSLY.

13. REQUEST OF CLINTON PERRY, SANTA BARBARA, TO APPEAL
DEPARTMENT DENIAL OF HIS RENEWAL APPLICATIONS FOR
COMMERCIAL ABALONE AND SEA URCHIN DIVING PERMITS.

Summary of Issue

Clinton Perry, Santa Barbara, requests an opportunity to appeal the Department's denial of his renewal applications for commercial abalone and sea urchin diving permits. The Commissioners received a copy of Mr. Perry's letter dated August 27, 1990.

In scheduling Mr. Perry's request, the Commission also requested that he provide the Department and the Commission copies of his medical records, doctor's reports indicating the time period of his treatment and a letter from his doctor indicating that he could resume commercial diving for sea urchins and abalone. This information was requested to be received in the Commission office by September 25, 1990. No response has been received as of September 27, 1990.

Department Recommendation

"Mr. Perry's applications were denied because he is attempting to enter/reenter limited entry fisheries after an absence of seven years.

"According to Mr. Perry's letter of August 27, he has not held an abalone diving permit since 1982-83. At that time, only a commercial fishing license was required to dive for sea urchins; the special sea urchin permit was instituted in 1987. Department records indicate he does not have a commercial fisherman's identification number, indicating he has not applied for a commercial fishing license since at least 1985.

"Mr. Perry did not provide information regarding the nature of his medical reasons for being unable to dive for so many years. We left messages at both of the phone numbers he provided to obtain further information about his situation but he did not return our calls. Regardless of the reason for such a prolonged absence, we do not feel that denying him reentry into these fisheries will be depriving him of the ability to earn a livelihood.

"Both the abalone fishery and the sea urchin fishery operate under stringent restrictions to prevent over exploitation of the resource. These restrictions include issuing a limited number of specific landing requirements. There are approximately 125 commercial abalone divers, with a proposed requirement to reduce that number by attrition to no more than 70. In the sea urchin fishery, there are approximately 600 divers with a current requirement to reduce that number by attrition to no more than 400. We believe it would counterproductive for protection of the resource, and unfair

to other fishermen who have been denied reentry into either of these fisheries, to issue additional permits at this time.

"We therefore recommend denial of Mr. Perry's appeal and recommend that he obtain an abalone crewmember permit and apply for a sea urchin apprentice permit to enable him to be eligible for any permits which may become available through the lottery system."

Action

Executive Secretary Treanor summarized the item.

Mr. Perry stated he had sent the Department his medical records.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY TENTATIVELY APPROVES THE REQUEST OF CLINTON PERRY, SANTA BARBARA, FOR REINSTATEMENT OF HIS COMMERCIAL ABALONE DIVING PERMIT, SUBJECT TO VERIFICATION OF HIS MEDICAL RECORDS BY THE DEPARTMENT.

PASSED UNANIMOUSLY.

It was determined that Mr. Perry's disability began in 1983, and the sea urchin limited entry program began in 1989.

Deputy Attorney General Van der Naillen stated Mr. Perry's request would be postponed to clarify the legal issues, probably to the November meeting. He indicated it was necessary to clarify the Commission's legal authority to issue a sea urchin permit for a medical reason.

14. REQUEST OF QUANG VAN NGUYEN, SALINAS, TO APPEAL DEPARTMENT DENIAL OF HIS RENEWAL APPLICATION FOR GENERAL GILL/TRAMMEL NET PERMIT.
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Summary of Issue

Quang Van Nguyen, Salinas, requests an opportunity to appear before the Commission to appeal the Department's denial of his renewal application for his general gill/trammel net permit. The Commissioners received a copy of Mr. Nguyen's letter dated July 31, 1990, as well as a copy of the Department's letter dated September 12, 1990, to Mr. Nguyen.

Department Recommendation

"Mr. Nguyen(#L-01518) stated in his letter of appeal that he did not renew his permit because he did not have a boat to work on. According to our records, Mr. Nguyen's most recent general gill/trammel net permit expired March 31, 1988.

"Fish and Game Code Section 8681 (c)(2) requires all applicants for renewal to have possessed a valid gill net or trammel net permit during the previous permit year. A moratorium on issuance of new permits was established in 1985 to reduce the pressure on the resource through attrition. This year the law was changed to establish an objective of having no more than 325 permits in effect annually; approximately 540 have been issued for 1990-91 to fishermen who have maintained their permits as required by law. The only requirement for renewal in effect at this time is to have purchased the permit the prior year; until this year, the permit renewal fee was only \$50.00.

"Based on the legislative effort to protect the resource through permit restrictions, and Mr. Nguyen's extended absence from the fishery, we recommend denial of Mr. Nguyen's appeal."

Action

Executive Secretary Treanor explained that Mr. Nguyen appeared at the meeting without an interpreter and the matter would be rescheduled to a future meeting.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF QUANG VAN NGUYEN, SALINAS, FOR REINSTATEMENT OF HIS GENERAL GILL/TRAMMEL NET PERMIT UNTIL SUCH TIME AS HE APPEARS BEFORE THE COMMISSION.

PASSED UNANIMOUSLY.

15. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

Summary of Issue

This item is set aside to afford the Director an opportunity to present the Commission with informational items. The Director or his representative will be prepared to make a presentation to the Commission.

Action

Director Bontadelli presented status reports on the Engineering Drawings for the Healdsburg Dam Fish Ladder, and the American River Rescue Plan for the Lower American River.

16. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

Summary of Issue

This item is 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 Commissioners received a draft chart regarding the minimal number of environmental documents to be prepared for 1991 regulatory actions. It would be appropriate for the Commission to discuss this matter with the Department to determine its schedule for preparation of these documents in order that they may be distributed for public comment in a timely manner to allow the Commission ample opportunity to review the public's comments and determine whether or not revised drafts need to be recirculated as well as provide sufficient time for the Commission to certify the environmental documents and adopt the regulations. The Commissioners received a copy of the 1990 subcommittee assignments. Commissioners may wish to start thinking about which committee assignments they would prefer for 1991 as this will be addressed at the February 1991 meeting.

Action

Executive Secretary Treanor summarized the item. The Commissioners indicated they would contact Mr. Treanor with their subcommittee assignments requests.

17. RECEIPT OF DEPARTMENT STATUS REPORT RE: LEGISLATION.

Summary of Issue

This item is scheduled for the Commission to receive a status report from the Department regarding legislation that is of interest to the Commission. The Director or his representative will be prepared to make a presentation to the Commission regarding which bills the Governor signed or vetoed.

Action

Director Bontadelli presented the Department's Legislative Report.

Mr. Goehring distributed a list of legislative bills which were either signed or vetoed by the Governor.

ADDED ITEMS:

17a. REQUEST BY THE DEPARTMENT FOR EMERGENCY ACTION BY THE COMMISSION TO EXTEND THE APPLICATION DEADLINE FOR WATERFOWL HUNTING AREA RESERVATIONS FOR NORTHEASTERN CALIFORNIA.

Action

Executive Secretary Treanor explained that because of the

later than normal adoption of waterfowl regulations, the application deadline was to end today; and therefore, the Department is requesting that the deadline be extended for submission of waterfowl application reservation forms for the state-federal hunting areas.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY EXTENDS THE DEADLINE FOR WATERFOWL HUNTING RESERVATIONS AS REQUESTED BY THE DEPARTMENT.

PASSED UNANIMOUSLY.

- 17b. REQUEST FROM THE DEPARTMENT FOR APPROVAL OF MARIN AUDUBON HABITAT ENHANCEMENT PROJECT AT CORTE MADERA ECOLOGICAL RESERVE IN MARIN COUNTY.
-

Department Recommendation

"The Department of Fish and Game requests the Fish and Game Commission's consideration of the Marine Audubon Habitat Enhancement Project at Corte Madera Ecological Reserve at its October 4th meeting. The project involves construction of a tidal channel through uplands on the reserve to create an isolated high tide refugia island for the endangered California clapper rail and threatened California black rail.

"Currently, rails retreat into the uplands during high tides. Since the uplands are adjacent to a heavily urbanized area and opened to unrestricted public access, the rails are subject to disturbance and increased predation. By creating the channel, an isolated refugia would be created with greatly reduced human disturbance.

"The project is being administered by the Marin Audubon Society using fine monies assessed by the San Francisco Bay Regional Water Quality Control Board for sewage spills by the City of Larkspur and the Central Main Sanitary District. The project has been permitted by the Bay Conservation and Development Commission (BCDC). Water quality certification by the Regional Water Quality Control Board (RWQCB) and permitting by the U.S. Army Corps of Engineers is pending.

"Commission consideration and approval of the project at its meeting on the 4th is necessary to permit construction this fall to avoid winter high tides and the clapper rail breeding season in the spring.

"BCDC has determined that the project is categorically exempt. Since the project is designed to enhance habitat for the clapper rail and black rail, the project will not

jeopardize their continued existence.

"Concern has been expressed over the excavation since it will occur through a former landfill. The fill material has been determined to be primarily construction debris (concrete and lumber). Measures have been incorporated into the project to ensure containment of the debris zone until excavation is complete and all debris has been removed and the channel banks are properly contoured. The Department's Region 3 staff has reviewed the handling plans and the requirements of the RWQCB and determined that they will adequately deal with the discovery of contaminated materials within the area to be excavated.

"The Department recommends that the Commission authorize construction of the enhancement project at the Corte Madera Ecological Reserve."

Action

Executive Secretary Treanor distributed the Department's report and described the project.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE MARIN
AUDUBON HABITAT ENHANCEMENT PROJECT AT CORTE MADERA
ECOLOGICAL RESERVE IN MARIN COUNTY.

PASSED UNANIMOUSLY.

There being no further business, the meeting was recessed at 2:00 p.m. to reconvene in Executive Session.

Fish and Game Commission

Executive Session
October 4, 1990

The Commission met in closed Executive Session, pursuant to the authority of Government Code Section 11126(q) to consider the following items:

PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY:

- A. Fund for Animals, et al., vs. Fish and Game Commission, et al., Re: Bear Hunting, Sacramento Superior Court.
- B. California Fish and Game Commission vs. County of Nevada, Re: Unauthorized County Trapping Ordinance.

Persons present:

FISH AND GAME COMMISSION

Robert A. Bryant	President
Albert C. Taucher	Member
Benjamin F. Biaggini	Member

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

ATTORNEY GENERAL'S OFFICE

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Spike Naylor	Deputy Director

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of October 4-5, 1990

Pursuant to the call of the President, the Commission met in the Board Hearing Room, County Administration Building, 105 East Anapamu Street, Santa Barbara, California, on October 5, 1990. The meeting was called to order at 8:50 a.m. by President Bryant.

Persons present:

FISH AND GAME COMMISSION

Robert A. Bryant	President
Albert C. Taucher	Member
Benjamin F. Biaggini	Member

COMMISSION STAFF

Robert R. Treanor	Executive Secretary
Ronald J. Pelzman	Assistant Executive Secretary

ATTORNEY GENERAL'S OFFICE

Peter Van der Naillen	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Spike Naylor	Deputy Director
Vern Goehring	Legislative Coordinator
Al Petrovich	Chief, Marine Resources Div. (MRD)
Eldridge Hunt	Chief, Wildlife Management Div. (WMD)
Fred Worthley	Regional Manager, Region 5
Duncan Snell	Wildlife Protection Division (WPD)
Terry Mansfield	Wildlife Management Division (WMD)
Bob Hulbrock	Inland Fisheries Division (IFD)

The following persons were also present and heard:

Ken Kukuda	Concerned Citizen
Ilson New	Attorney
Ron Mange	Commercial Herring Fisherman
Virginia Handley	Fund for Animals
Teri Barnato	The Animal Protection Institute
Beverlee McGrath	Doris Day Animal League
Joyce Pieper	Mercy Crusade
Gail Christensen	L.A. Society for the Prevention of Cruelty to Animals
William Little	Alligator Aquaculturist
Mike Conroy	Pheasants Forever
Leslie Wyman	Citizen

President Bryant introduced members of the Commission, its staff, Director Bontadelli, Deputy Director Naylor and Peter Van der Naillen of the Attorney General's office.

18. AMENDMENT OF SECTION 163, TITLE 14 CCR, RE: COMMERCIAL
HERRING FISHERY FOR 1990-91.

Summary of Issue

The Commission, at its May 18, 1990, meeting in San Luis Obispo authorized its staff to publish notice of its intent to amend Section 163, Title 14, CCR, to provide for the commercial herring fishery for 1990-91. That legal notice has been published.

The Commission was originally set to adopt these proposed changes at its August 3, 1990, meeting in Monterey. However, at the request of the Department, this item was postponed until the Commission's August 31, 1990, meeting in Sacramento, as the Department and several attorneys were working to resolve certain environmental concerns of the proposed regulations. The Commission then adopted tentative approvals at the August 31 meeting, in order to provide some indication to the fishermen which proposals would be considered for adoption at its October 5 meeting.

Commissioners received a copy of the Department's Pre-publication of Notice and the amended Pre-adoption statements as well as regulations in strikeout/underline format, of the tentative approvals. Commissioners also received correspondence from the office of William Yeates, Attorney at Law, as well as Mr. Ken Kukuda.

Action

Executive Secretary Treanor summarized the item. He noted that information from Mr. Ilson New had been provided to the Commissioners. He also indicated that the Commission had just received a letter faxed from Mr. Paul Wood.

Ken Kukuda, Ilson New, and Ron Mange discussed their concerns with the proposed regulation changes.

Deputy Attorney General Van der Naillen stated that it was not necessary for the Commission to review the herring regulations on an annual basis and that the current regulations would continue in effect unless the Commission took action to revise them.

The Commission declined to take any action.

19. AMENDMENT OF SECTIONS 165 AND 165.5, TITLE 14, CCR, RE:
KELP HARVESTING.

Summary of Issue

The Commission, at its August 3, 1990, meeting in Monterey, received the Department's report regarding status of coastal kelp resources and recommendations for management. At that time the Commission authorized its staff to publish notice indicating the Commission's intent to amend sections 165 and 165.5, Title 14, CCR, regarding kelp harvesting as well as its policy regarding kelp. The Department has been working with the interested and affected parties in developing its proposed management plan and the recommendations for changes in the existing regulations. The Commissioners received a copy of the Department's Pre-publication of Notice and Pre-adoption statements, as well as correspondence from Dr. Susan H. Shane, Friends of the Sea Otter, and Ron H. McPeak, Kelco, concerning this matter.

Action

Executive Secretary Treanor summarized the item. He asked if anyone in the audience opposed the changes. There was no response.

MRD Chief Petrovich answered questions from Commissioners.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTION 6653, 6653.5 AND 6700 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SECTIONS 6650-6680 AND 6700-6707 OF SAID CODE, HEREBY AMENDS SECTIONS 165 AND 165.5, TITLE 14, CCR, REGARDING KELP HARVESTING. (NOTE: THE REGULATORY LANGUAGE WILL BE INCLUDED AS AN APPENDIX IN THE COMMISSION OFFICE MASTER MINUTES.)

PASSED UNANIMOUSLY.

20. CONSIDERATION TO AMEND COMMISSION POLICY RE: KELP.

Summary of Issue

As you will recall, the Department reviewed the status of the kelp resources along the California coast and submitted a report to the Commission which was discussed on August 3, 1990, in Monterey. At that time, the Department recommended that the Commission's policy regarding kelp be amended. The suggested wording is as follows:

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

- "I. Endeavor to maintain a maximum sustained harvest and utilization of the state's kelp resources and derive a maximum return therefrom, whenever the same are in the best interest of fish and wildlife resources.
- "II. Ensure a supply of kelp for all interested harvesters. Approximately At least one-fourth of the total area of the State's kelp beds, as designated by the Department, shall remain unleased and thus available to any licensed harvester."

This item is scheduled to afford the public opportunity to comment on the proposed changes.

Action

Executive Secretary Treanor summarized the issue.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE PROPOSED
CHANGES TO THE KELP POLICY.

PASSED UNANIMOUSLY.

- 21. REQUEST OF WILDLIFE CONSERVATION BOARD FOR COMMISSION TO
ESTABLISH A NEW LAND DESIGNATION ENTITLED "LAND
CONSERVATION AREAS."
-

Summary of Issue

The Wildlife Conservation Board at its August 9, 1990, meeting adopted a recommendation requesting that the Fish and Game Commission establish a new land designation for Department of Fish and Game owned lands entitled a "land conservation area" (LCA). The Commissioners received a copy of a letter from Wildlife Conservation Board dated September 7, 1990, regarding its recommendation to the Commission to establishing a new land designation entitled a land conservation area. WCB's feelings were that this proposed designation to the existing land designations (wildlife areas and ecological reserves) available for Department lands might make landowners more receptive to donating or selling conservation easements on its lands which could lead to a reduction in capital outlay costs to the State in its program of protecting key wildlife habitat. If the Commission decides to establish this new land designation, it would be appropriate for the Commission to authorize its staff to publish notice of the Commission's intent to add a section to Title 14, CCR, regarding land conservation areas and to direct the Department to prepare the necessary prepublication of notice statement and proposed regulatory language for such action.

Department Recommendation

"The Department of Fish and Game recommends that the Wildlife Conservation Board's (WCB) proposal to add a new land designation to Title 14, CCR, be accepted, with the condition that the term 'private' be added to the title so as to read: 'Private Land Conservation Area.'

"The proposal was reviewed by the Department's Land Acquisition and Enhancement Committee at its meeting of September 12, 1990. The committee is composed of the Wildlife Management Supervisors from each of the Department's regions and representatives from Inland Fisheries Division, Natural Heritage Division, Wildlife Management Division and WCB. The committee concluded that without the word 'private' in the title, the general public would easily be confused into thinking that lands posted by private landowners as "Land Conservation Areas" were public lands instead.

"Since the Department would not own or manage such lands, we are concerned that serious public relations problems will result in trying to deal with hunters and others that expect access to lands over which we can not control access. Since this designation is intended for lands that will be retained in private ownership, including the term 'private' in the title would prevent confusion and misunderstandings from arising. Not only would such a designation be appropriate and practical, but it also would still meet the needs of those landowners seeking recognition for their donation (or sale) of a conservation easement."

Action

Executive Secretary Treanor summarized the item.

Director Bontadelli answered questions from the Commissioners regarding the proposal.

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF COMMISSION INTENT TO ADD A NEW SECTION TO TITLE 14, CCR, REGARDING ADDING A LAND DESIGNATION ENTITLED "LAND CONSERVATION AREAS."

PASSED UNANIMOUSLY.

22. REVIEW OF COMMISSION'S PREVIOUS DECISION TO AUTHORIZE
THE POSSESSION OF AMERICAN ALLIGATORS (*Alligator
mississippiensis*) FOR AQUACULTURE PURPOSES.

Summary of Issue

The Commission, at its December 1989, meeting in Long Beach, authorized the possession of American alligators (*Alligator mississippiensis*) for aquaculture purposes by Mr. William Little. The authorization was pursuant to the terms and conditions recommended by the Department and approved by the Commission. Subsequent to that approval, the Commission office has received numerous letters from individuals requesting the Commission to reconsider that December 1989 action.

In addition, the Commission office had received a letter from Senator McCorquodale signed by 24 other legislators requesting that the Commission rescind its previous approval. The letter indicated that the legislators had four basic concerns regarding the issuance of this permit. The Commissioners received a copy of Senator McCorquodale's letter dated May 25, 1990, Commission response to Senator McCorquodale dated July 12, 1990, and a copy of the Department's November 15, 1989, memo transmitting its comments and recommendations on Mr. Little's proposal.

Action

Executive Secretary Treanor summarized the item.

The following individuals spoke in favor of the Commission rescinding its previous authorization of the permit: Virginia Handley, Teri Barnato, Beverlee McGrath, Joyce Pieper, and Gail Christensen.

Mr. Little presented a prepared statement in defense of his enterprise.

Mr. Hulbrock stated that no new issues had been raised since the Department recommended approval of the permit, with specific terms and conditions as yet to be determined.

Deputy Attorney General Van der Naillen stated that the public's concerns would be addressed prior to the issue coming back to the Commission for its final decision.

The Commission took no additional action on this item at this time.

23. DISCUSSION RE: THE CONCEPT OF AN UPLAND GAME STAMP.

Summary of Issue

This item is scheduled at the request of Commissioner Taucher to discuss the concept of the issuance of an upland game stamp. Mr. Taucher will be prepared to discuss his ideas regarding this concept, and there will be representatives from Pheasants Forever and Waterfowl Habitat Owners Alliance present to also discuss this matter. The Department will also be prepared to answer any questions that may arise from this discussion.

Action

Executive Secretary Treanor introduced the item.

Mike Conway expressed support for an Upland Game Stamp with the money going to the Department's Upland Game Management Program.

WMD Chief Hunt stated that an Upland Game Stamp would require legislation, which was being prepared by the Department. He stated the Department would provide a progress report to the Commission in January 1991.

CONSENT CALENDAR

Items 24 through 32 have been placed on the Commission's consent calendar. Your staff knows of no opposition to these proposals at this time other than as specified in the analysis. The Department has provided a recommendation on each of these items which either calls for approval or modified approval by the Commission. Any item may be removed from the consent calendar by the Commission or upon request by the Department or someone in the audience who would like to speak to that item. Your staff has prepared a summary of consent items which will be made available to the audience. One overall motion is appropriate for approval of these items.

Action

It was then:

MOVED BY MR. BIAGGINI, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS OCTOBER 5,
1990, CONSENT CALENDAR ITEMS 24 THROUGH 32.

PASSED UNANIMOUSLY.

24. CONFIRMATION OF COMMISSION EMERGENCY ACTION TO AMEND SECTION 7.50(b)(91)(K)7, TITLE 14, CCR, RE: PROTECTION OF SPRING-RUN CHINOOK SALMON AND ADULT SUMMER STEELHEAD IN THE SOUTH FORK TRINITY RIVER.

Summary of Issue

The Commission had recommended that the Department review the spring-run chinook salmon and summer steelhead populations in the south fork Trinity River and report to the Commission if regulatory changes were necessary to protect those species. The Department has requested that the Commission amend Section 7.50(b)(91)(K)7, Title 14, CCR, regarding protection of spring-run chinook salmon and adult summer steelhead in the south fork Trinity River. The runs of adult spring-run chinook salmon and summer steelhead in the south fork Trinity River have declined to record low levels. Only seven chinook salmon and 37 steelhead in the limited area surveyed were observed during late summer 1989. The 1990 figures are expected to remain at this same level. Degraded habitat conditions and a prolonged drought are responsible for the depressed state of these two populations. Habitat restoration efforts are underway but, to speed recovery, a regulation change is needed to protect remnant fish from harvest. The proposed regulation change would include the entire area identified as summer holding area for spring-run chinook salmon and summer steelhead. The protected area will increase from 18 stream miles to 44 miles. This agenda item is to confirm the Commission's emergency action it took on September 14, 1990. The Commissioners received a copy of the Department's Pre-publication of Notice statement as well as the regulations in strikeout/underline format.

Department Recommendation

"We recommend that subject action be confirmed. The emergency regulation change will assist in the protection and ultimately the restoration of spring-run chinook salmon and steelhead."

25. AMENDMENT OF SECTION 251, TITLE 14, CCR, RE: APPLICATION FOR MOBILITY DISABLED PERSON'S MOTOR VEHICLE PERMIT.

Summary of Issue

The Department requests that the Commission amend Section 251, Title 14, CCR, regarding application for mobility disabled person's motor vehicle permit. The required legal notice has been published. Presently the mobility disabled hunters have to appear before the Commission to request a motor vehicle hunting permit. Current regulations allow the Commission to prescribe regulations whereby the Department will be able to issue these permits which would simplify the process and allow these hunters the option of hunting from a motor vehicle in California. To cover its cost, the Department is proposing an application fee of \$25 for this permit. The Commissioners

received a copy of the Department's Pre-publication of Notice and Pre-adoption statements as well as the text of the regulations in strikeout/underline format.

26. AMENDMENT OF SECTION 251.1, TITLE 14, CCR, RE: HARASSMENT OF ANIMALS.

Summary of Issue

The Commission adopted Section 251.1, Title 14, CCR, regarding harassment of animals with its mammal hunting regulations on April 26, 1990, in Sacramento. However, the Commission withdrew those regulations from the Office of Administrative Law because it was felt that not all of the public was fully aware of the proposed regulations; therefore, it was necessary for the Commission to separate Section 251.1 from the mammal hunting regulations and to recirculate the proposal for another 45-day period. The Commission was to consider adoption of these regulations at its August 31, 1990, meeting in Sacramento; however, because of concerns raised by the aquaculture and agricultural industries, the matter was put over until October 5. The proposed regulations were clarified and recirculated for a 15-day public review period. The item before the Commission at this time is for adoption of these proposed regulations. The Commissioners received a copy of the Pre-publication of Notice and amended Pre-adoption statements as well as the text of the proposed regulations in strikeout/underline format.

27. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 695, TITLE 14, CCR, RE: TAXIDERMIST RECORDS. (ACTION HEARING SCHEDULED FOR DECEMBER 7, 1990, IN EUREKA.)

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of its intent to amend Section 695, Title 14, CCR, regarding taxidermist records. Commissioners were provided with a copy of the Department's Pre-publication of Notice statement and the text of the regulations in strikeout/underline format. Those changes are summarized as follows:

"Existing regulations establish requirements for records which must be kept by taxidermists. They do not currently specify the time at which these records are open for inspection by the Department as required by Fish and Game Code Section 3087.

"The proposed regulation changes clarify existing record requirements and adds information regarding the source of the animals held by taxidermists. It also specifies the time at which these records are open for inspection by the Department."

The hearing on this matter will be scheduled for December 7, 1990, in Eureka.

28. RECEIPT OF DEPARTMENT REPORT RE: ANNUAL PROOF OF USE STATEMENTS FOR AQUACULTURE LEASES.

Summary of Issue

The Commissioners received a copy of the status of all Tamales Bay leases and a summary of California's marine aquaculture highlights and production for 1989. The Department has provided the Commission with its reports regarding annual proof of use statements for aquaculture leases dated September 24, 1990, as follows:

"During the period July 1, 1989, through June 30, 1990, two new leases were approved by the Commission, and one lease was declared abandoned, bringing the number of leaseholds to 33.

"All current leaseholders have registered their facilities. Proof-of-use statements required by sections 235 and 237(j), Title 14, CCR, have been received except from Marine Forests Corp. (lease M-738-02, Los Angeles County) and Seahorse Enterprises, Inc., lease M-877-01, San Diego County). Both these leases are research and development leases, and are not required to meet annual planting and harvesting requirements. The Department has notified both lessees, and expects to receive proof-of-use statements in the near future.

"All production lessees except three have met or exceeded their minimum planting and harvesting requirements.

"Tomaes Bay Shellfish Farms, Inc., Marin County, was sold during this period, and the previous owners had not made any attempt to meet planting requirements. The new corporation President, Mr. Bill Wilson, is making a conscientious effort to improve the lease and the Department recommends that the Commission take no action at this time.

"Pacific Seafood Industries, Inc., Santa Barbara County, has also failed to meet its planting requirements. This lease was heavily impacted by high coliform bacteria counts for several years, as well as an outbreak of shellfish disease. As a result, all growing stock was sold or ordered removed from the lease. The City of Santa Barbara was ordered by the Regional Water Pollution Control Board to begin chlorination of its ocean sewage discharge in the spring of 1989, and coliform bacteria levels have declined to acceptable levels. However, Pacific Seafood Industries suffered capital losses in attempting to resolve this pollution problem and has not been able to resume planting. Because of the above problems, the Department recommends

that the Commission allow Pacific Seafood Industries, Inc., additional time to resume full operation of this lease.

"Williams Shellfish Farms, San Luis Obispo County, remains considerably behind on both planting and harvesting requirements. The current lessee has not eliminated the 3,142 case planting deficit which he assumed as a condition of the lease transfer, and has not achieved minimum planting requirements in any year since assuming the lease in 1988.

"However, Williams Shellfish Farms has made significant progress during the last year, increasing planting from 160 cases in 1988-89, to 217 cases in 1989-90, and increasing the harvest from 335,000 oysters to 473,000. The lessee has also planted approximately 635,000 mussels and harvested 1,492 pounds of mussels.

"However, the 217 cases planted in 1989 is still 525 cases short of the 742 case per year planting requirement, and no progress has been made in reducing the 3,142 case planting deficit which Williams Shellfish Farms agreed to assume as a condition of the transfer of the lease from the previous lessee in 1988. Based on the above planting record, it does not appear that Williams Shellfish Farms will be able to achieve minimum planting requirements anytime in the near future, let alone erase the planting deficit incurred with the transfer of the lease from the previous lessee.

"Additionally, the Department, in cooperation with the lessee, has surveyed the lease and has determined that approximately 150 acres are presently unsuitable for aquaculture. All of this unsuitable acreage lies within an area of the bay which has been proposed to be incorporated into Morro Bay State Park. Abandonment of this unsuitable acreage would reduce the allotment to 592 acres from 742.5 acres, and result in a corresponding reduction in planting requirements. However, this reduction does not appear significant in light of the present planting deficit.

"It appears that reduction of this lease to a size more commensurate with Williams Shellfish Farm's resources, say to about 250 to 300 acres, would be in the best interest of both the lessee and the State. The remaining acreage could then be offered for competitive bidding.

"A second option is a complete restructuring of the size and location of lease sites in Morro Bay, similar to what was done at Tamales Bay in 1988. Large areas of the current lease are now only marginally suitable for modern methods of oyster culture because of sedimentation and eel grass encroachment, and there is an adjacent, unused public clamming area with suitable conditions which could be incorporated into aquaculture leases. The Williams Shellfish Farms lease could be adjusted in size at the

time of restructuring.

"Therefore, the Department recommends that the Commission consider declaring abandoned the eastern-most 150 acres of Parcel 2, Lease M-614-01 as being unsuitable for aquaculture purposes, and that it consider either a complete restructuring of leases in Morro Bay, or a reduction in size of the Williams Shellfish Farms lease to 300 acres or less.

"Tamales Bay: Potential lessees in Tamales Bay have experienced difficulties during the past year with access. Two access points, which were relied upon in the past by aquaculturists, are being offered up for sale, and long-term access agreements are not available. Some of the potential lessees are reluctant to commit to the development of the leases until assured access is available. Therefore, the leases for only three of the eight parcels awarded by the Commission in late 1987 and early 1988 have been signed by the lessees. Three bidders requested and received an extension of the effective date of their lease to July 1, 1990, however; these leases remain unconsummated as of this date.

"The Department expects that the access difficulties at Tamales Bay may take some time to resolve. The delay in signing the leases is resulting in a loss of revenue to the Department because lease payments are not being made. Also, there is substantial interest in developing these leases by others. Additionally, bidders were all advised that access to the water was difficult, and, therefore, potential lessees were advised to obtain access before bidding. The Department recommends that the Commission notify the successful bidders for the as yet unsigned leases that, if the leases are not consummated within 60 days, successful bidders may be required to appear before the Commission to show cause why the subject leases should not be declared abandoned."

29. RECEIPT OF DEPARTMENT REPORT RE: GUIDELINES FOR THE ESTABLISHMENT AND USE OF WETLAND MITIGATION BANKS. (DISCUSSION OF REPORT WILL TAKE PLACE AT THE COMMISSION'S NOVEMBER 8, 1990, MEETING IN NEWPORT BEACH.)
-

Summary of Issue

The Department requests that the Commission accept for review, the Department's proposed guidelines for establishment and use of wetland mitigation banks. This agenda item is scheduled only to receive the Department's report at this time as this matter will be discussed at the Commission's November 8, 1990, meeting in Newport Beach. The Commissioners received a copy of the Department's report guidelines for establishment and use of wetland mitigation banks.

30. DEPARTMENT REQUEST FOR THE COMMISSION TO WAIVE THE PROVISIONS OF SECTION 551(r)(2), TITLE 14, CCR, TO ALLOW FOR JUNIOR PHEASANT HUNTS ON THE ASH CREEK AND BUTTE VALLEY WILDLIFE AREAS.
-

Summary of Issue

The Department requests that the Commission waive the provisions of Section 551(r)(2), Title 14, CCR, to allow for junior pheasant hunts on the Ash Creek and Butte Valley Wildlife Areas. That request dated September 6, 1990, is as follows:

"The purpose of this memo is to request that the Commission waive the provisions of Section 551(r)(2) which prohibits pheasant hunting on the Ash Creek and Butte Valley Wildlife Areas for Saturday, November 17, 1990. In an effort to expand junior pheasant hunting opportunities, the Department has planned junior pheasant hunts on the subject areas on this date. Since the existing regulation prohibits pheasant hunting on these areas, a waiver of the regulation is necessary. The Commission has granted similar waivers on other wildlife areas in the past without problems.

"The Department recommends that the Commission grant the subject waiver to allow junior pheasant hunts to be conducted on the Ash Creek and Butte Valley Wildlife areas on Saturday, November 17, 1990."

31. DEPARTMENT REQUEST FOR THE COMMISSION TO WAIVE THE PROVISIONS OF SECTION 550(b)(6)(C), TITLE 14, CCR, TO ALLOW FOR A JUNIOR PHEASANT HUNT AT THE LAKE EARL WILDLIFE AREA.
-

Summary of Issue

The Department requests that the Commission waive the provisions of Section 550(b)(6)(C), Title 14, CCR, to allow for a junior pheasant hunt at the Lake Earl Wildlife Area. That request dated September 5, 1990, is as follows:

"The purpose of this memo is to request that the Commission waive provisions of Section 550(b)(6)(C) to allow the Department to conduct a junior pheasant hunt at the Lake Earl Wildlife Area on November 24 and 25, 1990. The existing regulation prohibits the possession and use of firearms on upland areas. This waiver request would allow the Department to provide pheasant hunting for 50 junior hunters over the two-day period. The Department recommends the Commission grant the subject waiver."

32. REQUEST OF JAMES AND MARGARET GRIFFIN, ANTIOCH, FOR RENEWAL OF THEIR EXPERIMENTAL GEAR PERMIT (NO. X-1760) TO USE CIRCULAR TRAPS TO TAKE MUDSUCKERS, STAGHORN SCULPINS, SHINERPERCH, AND YELLOWFIN GOBIES FOR BAIT PURPOSES IN FISH AND GAME DISTRICTS 2, 2-1/2, 3, 7, 10, 12 AND 13.

Summary of Issue

James and Margaret Griffin requests renewal of their experimental gear permit to use circular traps to take mudsuckers, staghorn sculpins, shinerperch and yellowfin gobies for bait purposes in Fish and Game Districts 2, 2-1/2, 3, 7, 10, 12 and 13.

Department Recommendation

"It is the Department's understanding that Mr. and Mrs. Griffin did not have an opportunity to utilize their permit during the past year. However, the Department has determined that subject bait fishing activities, as conducted by previous permittees, have not been detrimental to the State's resources or environment. Therefore, the Department recommends that the Commission approve their request for another year, subject to the same terms and conditions which have been previously established and authorized."

The Commissioners received a copy of James and Margaret Griffin's 1989, experimental gear permit No. X-1760.

33. ANNOUNCEMENT OF FUTURE MEETINGS.

<u>Meeting Date</u>	<u>Location</u>
11/8/90 (10:00 a.m.)	Marriott Hotel 900 Newport Boulevard Newport Beach
11/9/90 (8:30 a.m.)	City Council Chambers 3300 Newport Boulevard Newport Beach
12/6/90 (10:00 a.m.) 12/7/90 (8:30 a.m.)	Supervisors Chambers Humboldt County Courthouse 825 Fifth Street Eureka
1/7/91 (10:00 a.m.) 1/8/91 (8:30 a.m.)	Palm Springs
1/31/91 (10:00 a.m.) 2/1/91 (8:30 a.m.)	Long Beach
2/28/91 (10:00 a.m.) 3/1/91 (8:30 a.m.)	Redding
4/4/91 (10:00 a.m.) 4/5/91 (8:30 a.m.)	Auditorium, Resources Building 1416 Ninth Street Sacramento

4/25/91 (1:00 p.m.)	Auditorium, Resources Building
(Adoption of Mammal	1416 Ninth Street
Regulations Only --	Sacramento
No public testimony)	
5/16/91 (10:00 a.m.)	Fresno
5/17/91 (8:30 a.m.)	
6/27/91 (10:00 a.m.)	Alturas
6/28/91 (8:30 a.m.)	
8/1/91 (10:00 a.m.)	Newport Beach
8/2/91 (8:30 a.m.)	
8/29/91 (10:00 a.m.)	Long Beach
8/30/91 (8:30 a.m.)	
10/3/91 (10:00 a.m.)	Redding
10/4/91 (8:30 a.m.)	
10/31/91 (10:00 a.m.)	San Diego
11/1/91 (8:30 a.m.)	
12/5/91 (10:00 a.m.)	Auditorium, Resources Building
12/6/91 (8:30 a.m.)	1416 Ninth Street
	Sacramento
12/26/91 (1:00 p.m.)	Auditorium, Resources Building
(Adoption of Sport	1416 Ninth Street Sacramento
Fishing Regulations	Sacramento
only -- No public testimony)	

There being no further business, the Fish and Game Commission meeting was adjourned at 11:00 a.m.

Section 502, Title 14, CCR, is amended to read:

502. Waterfowl, Migratory; Common Snipe; American Coot and Common Moorhen (Common Gallinule).

(a) Statewide Regulations.

(1) Seasons: See area regulations.

(2) Bag and Possession Limits.

(A) Ducks (including Mergansers): Limit: 4 per day; 8 in possession. The daily bag shall contain no more than 3 mallard and no more than one hen mallard. The daily bag shall contain no more than 1 pintail of either sex. Possession limits of mallard and pintail shall be double the daily bag. Except in the Colorado River Zone, no more than two redheads and canvasbacks, singly or in the aggregate, may be taken daily and only 4 may be possessed. In the Colorado River Zone, no more than 2 redheads and canvasbacks in the aggregate, no more than 1 of which may be a canvasback, may be taken daily and only 4, no more than 2 of which may be canvasbacks may be possessed.

(B) Geese: Statewide closure on the take of cackling Canada geese "cacklers" (*Branta canadensis minima*) and Aleutian Canada geese "Aleutians" (*Branta canadensis leucopareia*). For the purpose of these regulations, Canada geese refers to all subspecies of white-cheeked geese except "Aleutians" and "cacklers". For the purpose of these regulations, white-fronted geese refers to greater white-fronted geese. For additional information on other species see area regulations.

(C) American Coot and Common Moorhen: 25 per day, 25 in possession singly or in the aggregate of these species.

(D) Black Brant:

1. Bag and Possession Limits: 2 per day, 4 in possession.

2. Season: Open October-18 ~~November 1~~ through November 30.

(E) Common Snipe: 8 per day, 16 in possession.

1. Bag and Possession Limits: 8 per day, 16 in possession.

2. Season: Open first Saturday in October and extending for 107 consecutive days.

(F) Falconry Ducks (including Mergansers), Geese, American Coots, Common Moorhens and Common Snipe: 3 per day, 6 in possession singly or in the aggregate of all permitted migratory game birds, whenever birds are taken by means of falconry.

(b) Area Regulations.

(1) Northeastern California: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with old Highway 99 at the town of Grenada; south along old Highway 99 to its junction with Interstate 5 just north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to the junction with Highway 49; east and north on Highway 49 to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada state line.

(A) Seasons:

1. Ducks (including Mergansers), American Coot and Common Moorhen: Open on second Saturday of October and extending for a period of 59 consecutive days.

2. Geese: Open on second Saturday of October and extending for a period of 93 consecutive days. The white-fronted goose season shall run from the second Saturday of October for a period of 23 consecutive days.

3. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days. Falconry snipe season shall end with the general snipe season.

(B) Bag and Possession Limits: Geese, 3 per day, 6 in possession, of which not more than 1 white-fronted goose nor 2 Canada geese may be in the daily bag, nor more than 2 white-fronted geese or 4 Canada geese may be in possession.

(2) Colorado River: In those portions of San Bernardino, Riverside, and Imperial counties lying east of the following lines: Beginning at the intersection of Highway 95 with the California-Nevada state line; south along Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside county line on a road known as "Aqueduct Road" in San Bernardino County; south from the San Bernardino-Riverside county line on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to its intersection with the Ogilby and Tumco Mine Road; south on this road to Highway 80; east seven miles on Highway 80 to its intersection with the Andrade-Algodones Road; south on this paved road to the intersection of the Mexican boundary line at Algodones, Mexico.

(A) Season:

1. Ducks (including Mergansers), American Coot and Common Moorhen: A split season from the Friday after the first Saturday in October extending for 3836 days and from the third MendaySaturday in December extending for 2123 days.

2. Geese: From October 2625 through the Sunday closest to January 20.

3. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days. Falconry snipe season shall end with the general snipe season.

(B) Bag and Possession Limits: Geese, 5 per day, 5 in possession. Limits may not include more than 3 white and not more than 2 Canada geese. There is a closed season on white-fronted geese.

(3) Southern California: In that portion of southern California (but excluding the Colorado River zone) lying south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 166 near the City of Santa Maria; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada state line.

District 22 Defined: All of Imperial County, and those portions of Riverside and San Bernardino counties lying south and east of the following line: Starting at the intersection of Highway 86 and the north boundary of Imperial County; north along Highway 86 to Highway 111; north along Highway 111 to its junction with Interstate 10 in the town of Indio; east on Interstate 10 to its junction with the Cottonwood Springs Road in Sec. 9, T6S, R11E; north along that road and the Mecca Dale Road to Amboy; east along Highway 66 to its intersection with Highway 95; north along Highway 95 to the California-Nevada boundary.

(A) Season:

1. Ducks (including Mergansers); -American-Geets-and-Common-Moorhen: A split season from the ~~second~~^{fourth} Saturday in October extending for ~~26~~²³ days and from the ~~Wednesday-after-the-first-Saturday-in-the~~ Saturday closest to December 1 for ~~33~~³⁶ days.

2. Geese: Open on the second Saturday of October and extending for a period of 93 consecutive days except as follows:

a. Canada geese: Open on the third Saturday in October and extending for a period of 86 consecutive days.

b. Canada geese in California Fish and Game District 22: Open on the third Saturday of October and extending for a period of 86 consecutive days.

3. American Coots and Common Moorhens: Open concurrently with ducks and extending continuously to the last day of duck season.

34. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days. Falconry goose season shall end with the general goose season. Falconry snipe season shall end with the general snipe season.

(B) Bag and Possession Limits: Geese, 6 per day, 6 in possession. Limits may not include more than 3 white and not more than 3 of the dark species of which only 2 may be Canada geese, except that in District 22 the daily bag limit may not include more than one Canada goose and 2 may be possessed.

(4) Balance of State: That portion of the state not included in northeastern California, southern California or the Colorado River.

(A) Season:

1. Ducks (including Mergansers); -American-Geet-and-Common-Meerhen: A split season from the fourth Saturday of October extending for a period of 23 consecutive days and from the Saturday closest to December 1 extending for a period of 36 consecutive days.

2. Geese: Open on fourth Saturday of October and extending for a period of 79 consecutive days. The white-fronted goose season shall run from the fourth Saturday of October and extend for a period of 65 days.

3. American Coots and Common Moorhen: Open concurrently with duck season and extending continuously until the end of duck season.

34. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days. Falconry snipe season shall end with the general snipe season.

(B) Bag and Possession Limits: Geese, 3 per day, 3 in possession, of which not more than 1 dark may be in the daily bag and possession. The daily bag and possession limit on dark geese may be expanded to 2, provided both are Canada geese.

(c) Special Closures and Seasons:

(1) Canada Geese, or its subspecies and white-fronted geese:

(A) In the counties of Del Norte and Humboldt, there will be no open season on Canada geese or its subspecies.

(B) In the Sacramento Valley: In the area described as follows: Beginning at the town of Willows; south on Interstate 5 to the junction with Hahn Road; east on Hahn Road and the Grimes-Arbuckle Road to the town of Grimes; south on the Sacramento River to the Tisdale Bypass; east on the Tisdale Bypass to O'Banion Road; east on O'Banion Road to Highway 99; north on Highway 99 to the junction of the Gridley-Colusa Highway in the town of Gridley; west on the Gridley-Colusa Highway to its junction with the River Road; north on the River Road to the Princeton Ferry; west across the Sacramento River to Highway 45;

north on Highway 45 to its junction with Highway 162; north on Highway 45-162 to the town of Glenn; west on Highway 162 to the point of beginning. ~~There shall be no open season on Canada geese, "cacklers" or "Aleutians".-T and the season for white-fronted geese shall run from the fourth Saturday in October through~~ end on November 30; except that in that portion of the above described area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to Highway 20; and westerly along Highway 20 to the Sacramento River. the take of Canada geese other than Cackling and Aleutian Canada geese is allowed.

(C) In the San Joaquin Valley: In the area described as follows: Beginning at the City of Modesto; west on Highway 132 to the junction of Interstate 5; south on Interstate 5 to the junction of Highway 152; east on Highway 152 to the junction of Highway 59165; north on Highway 59165 to the junction of Highway 99; north and west on Highway 99 to the point of beginning. The open season for the taking of Canada geese shall be from the fourth Saturday in October through November 22.

(D) Notwithstanding the provisions of subsections (c)(1)(B) and (C) above, there shall be no open season for the take of Canada geese, in either of the areas described in these subsections if the department determines that opening the season would have a deleterious impact on the Aleutian goose population. The department shall inform the commission, and the public via the news media, of any implementation of the provisions of this subsection.

(2) Closed to All Hunting:

(A) Morro Bay Closure: That portion of Morro Bay lying south and east of the following line: Beginning 200 yards offshore from the mean high tide line at the end of Inyo Street in Cuesta-by-the-Sea; north and east along a line to a point 200 yards offshore from the mean high tide line at the end of Santa Ysabel Avenue in Baywood Park; and then easterly along a line 200 yards offshore from the mean high tide line to a point north of 12th Street in Baywood Park.

(B) South Humboldt Bay Closure: Beginning at the intersection of the north boundary of Table Bluff County Park and the South Jetty Road; north along the South Jetty Road to the South Jetty; west along the South Jetty to the mean low water line of the Pacific Ocean to its intersection with the north boundary of the Table Bluff County Park; east along the north boundary of the Table Bluff County Park to the point of origin. Closure to be in effect for the regular brant season (see Section 502(a)(2)(D)2.).

(C) Martis Creek Lake Closure: The waters and shoreline of Martis Creek Lake, Placer and Nevada counties, shall not open to waterfowl hunting until November 16.

Authority: Section 355, Fish and Game Code

Reference: Sections 355 and 356, Fish and Game Code.

Section 507.1, Title 14, CCR, is amended to read:

507.1. Zones Wherein Steel Shot is Required for Waterfowl, American Coot and Common Moorhen Hunting.

In the following areas, only steel shot may be used or possessed for waterfowl, American coot and common moorhen hunting:

(a) The entire counties of Alameda, Amador, Butte, Colusa, Contra Costa, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Marin, Merced, Modoc, Napa, Riverside, Sacramento, San Joaquin, San Mateo, Santa Clara, Siskiyou, Solano, Stanislaus, Sutter, Ventura, Yolo and Yuba;

(b) Those portions of Lassen, Plumas, Shasta, Sierra, and Tehama counties lying north and east of the following line: Beginning at I-5 State Highway 89 at the Siskiyou-Shasta county border, seuth-en-I-5-te-State-Highway 89, -southeast on State Highway 89 to State Highway 70, east on State Highway 70 to U.S. 395, south on U.S. 395 to the Nevada border; and

(c) That portion of San Pablo Bay National Wildlife Refuge lying within Sonoma County.

Authority: Section 355, Fish and Game Code.

Reference: Sections 355 and 356, Fish and Game Code.

Section 509, Title 14, CCR, is amended to read:

509. Concurrence With Federal Regulations.

The regulations adopted by the United States through its Secretary of Interior under the Migratory Bird Treaty Act, as amended in 1989~~1990~~ in Part 10, subparts A and B, and Part 20, Title 50, Code of Federal Regulations, are hereby adopted and made a part of this Title 14 except where said federal regulations are less restrictive than the provisions of Chapter 7 of this Title 14 (Sections 500-509), the provisions of Chapter 7 prevail.

Authority: Section 355, Fish and Game Code.

Reference: Part 10, subparts A and B, and Part 20, Title 50, CFR, and Sections 355 and 356, Fish and Game Code.

353. Methods Authorized for Taking Big Game.

(a) Except for the provisions of subsections 353(b) through (f) and (h), Title 14, CCR, big game (as defined by Section 350, Title 14, CCR) may only be taken by rifles using centerfire cartridges with softnose or expanding bullets; bow and arrow (see Section 354, Title 14, CCR, for archery equipment regulations); or wheellock, matchlock, flintlock or percussion type muzzle-loading rifles using black or pyrodex powder with single ball or bullet loaded from the muzzle and with the barrel or barrels measuring 26 inches or more in length, at least .40 caliber in designation and equipped with iron sights only.

(b) Shotguns capable of holding not more than three shells firing single slugs may be used for the taking of deer, bear and wild pigs. In areas where the discharge of rifles is prohibited by county ordinance, shotguns capable of holding not more than three shells firing size 0 or 00 buckshot may be used for the taking of deer only.

(c) Pistols and revolvers using centerfire cartridges with softnose or expanding bullets may be used to take deer, bear, mountain lions and wild pigs.

(d) Crossbows may be used to take deer, bear and wild pigs only during the regular seasons.

(e) Elk may only be taken pursuant to provisions of sections 364 and 364.5, Title 14, CCR.

(f) Nelson bighorn sheep may only be taken pursuant to Section 362, Title 14, CCR.

(g) Muzzle-loading rifle hunters may not possess other weapons authorized for taking big game, pursuant to subsections 353(a) through (c), while hunting under the provisions of a muzzle-loading rifle only tag.

(h) Bear may not be taken by use of archery equipment.

Authority: Sections 200, 202, 203 and 240, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207 and 3950, Fish and Game Code.

354. Archery Equipment and Crossbow Regulations.

(a) Bow, as used in these regulations, means any device consisting of a flexible material having a string connecting its two ends and used to propel an arrow held in a firing position by hand only. Bow, includes long bow, recurve or compound bow.

(b) Crossbow, as used in these regulations means any device consisting of a bow or cured latex band or other flexible material (commonly referred to as a linear bow) affixed to a stock, or any bow that utilizes any device attached directly or indirectly to the bow for the purpose of keeping a crossbow bolt, an arrow or the string in a firing position. A crossbow is not archery equipment.

(c) For the taking of big game, except bear, hunting arrows and crossbow bolts with a broad head type blade which will not pass through a hole seven-eighths inch in diameter shall be used. Bear may not be taken by use of archery equipment and crossbows. For the taking of migratory game birds, resident small game, furbearers and nongame mammals and birds any arrow or crossbow bolt may be used except as prohibited by subsection (d) below.

(d) No arrows or crossbow bolt with an explosive head or with any substance which would tranquilize or poison any animal may be used. No arrow or crossbow bolt without flu-flu fletching may be used for the take of pheasants and migratory game birds, except for provisions of Section 507(b).

(e) No arrow or crossbow bolt may be released from a bow or crossbow upon or across any highway, road or other way open to vehicular traffic.

(f) No bow may be used which will not cast a legal hunting arrow, except flu-flu arrows, a horizontal distance of 130 yards.

(g) Crossbows may not be used to take game birds and mammals during archery seasons.

(h) Archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag.

Authority: Sections 200, 202, 203 and 240, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, Fish and Game Code.

Section 366, Title 14, CCR, is repealed as follows:

366.--Archery-Bear-Hunting:

Bear may be taken with bow and arrow during the bear season as specified in Section 365 and as follows:

(a) Areas:--Those portions of the state as described in subsection (a) of Section 365.

(b) Season:--The archery bear season shall open on the third Saturday in August and extend for 23 consecutive days. There is no open season for taking bear with bow and arrow in the balance of the state.

(c) Bag and Possession Limit:--One adult bear per season. Cubs and females accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) The use of dogs is prohibited during the archery season for bear.

(e) Bait:--No feed, bait or other materials capable of attracting a bear to a feeding area shall be placed or used for the purpose of taking or pursuing a bear. No bear shall be taken over such bait. No person may take a bear within a 400-yard radius of a garbage dump or bait.

(f) No more than 15,000 bear tags shall be issued pursuant to Section 367 (See subsection 365(b)).

Authority:--Sections 200, 202 and 203, Fish and Game Code.

Reference:--Sections 200, 202, 203, 203.1 and 207, Fish and Game Code.

Subsection (a), Section 165, Title 14, CCR, is amended to read:

(a) **General License Provisions.** Pursuant to the provisions of Section 6651 of the Fish and Game Code, no kelp or other aquatic plants may be harvested for commercial purposes except under a revocable license issued by the department.

(1) **Who Shall be Licensed.** Each company or individual harvesting kelp and other aquatic plants for industrial, human consumption or aquaculture purposes shall apply each year for a license on forms provided by the department. Application forms and a list of laws and regulations governing the harvest of kelp and other aquatic plants are available on request from the department's Marine Resources ~~Branch~~ Division, 1416 Ninth Street, Sacramento, CA 95814, and from the department's ~~marine regional~~ field offices in Eureka, Menlo Park, Monterey, Long Beach and San Diego.

(2) **Cost of License.** The license fee shall be \$50 for each company or individual harvester.

(3) **Where to Submit Applications.** Application forms, together with the \$50 license fee, shall be submitted to the department's ~~Marine Resources Region~~ Long Beach office, 245 W. Broadway, 330 Golden Shore, Suite 50, Long Beach, California 90802.

(4) **License Limitation.** All provisions of Sections 6650-6680 of the Fish and Game Code, and Sections 165 and 165.5 of the commission regulations, shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.

Authority: Sections 6653 and 6653.5, Fish and Game Code
Reference: Sections 6650-6680, Fish and Game Code

Subsection (c) of Section 165, Title 14, CCR, is amended to read:

(c) Harvesting of Macrocystis and Nereocystis (giant and bull kelp).

(1) Such species taken must be harvested by cutting, except that drift or loose kelp may be picked up by the harvester. All kelp which is cut or removed from a bed must be taken from the water and removed to a plant for processing.

(2) No ~~kelp~~ Macrocystis (giant kelp) shall be harvested at a depth of more than four feet below the surface of the water at time of cutting.

(3) No kelp received aboard a harvesting vessel shall be allowed to escape from the vessel or be deposited into the waters of this state.

(4) In beds north of Point Arguello the take of Nereocystis (bull kelp) may be limited to insure that the resource is not harmed.

(5) Every person harvesting such kelp on nonleased beds shall, in addition to the license fee, pay a royalty of ~~\$1.51~~ \$1.90 per ton (2,000 lbs) of wet kelp harvested.

Authority: Sections 6653 and 6653.5, Fish and Game Code

Reference: Sections 6650-6680, Fish and Game Code

Section 165.5, Title 14, CCR, is amended to read:

(a) The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed or beds, or part thereof described in subsection (j).

(b) Any person desiring to lease the exclusive privilege of harvesting kelp shall make a written application to the Fish and Game Commission, 1416 Ninth Street, Sacramento, California 95814. The application for kelp bed lease shall include:

(1) The number of the designated bed or beds as shown in subsection (j) a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof applied for.

(2) A minimum deposit of ~~\$2,274~~ \$2,850 per square mile for kelp beds lying south of Point Arguello and ~~\$1,213~~ \$1,520 per square mile for kelp beds lying north of Point Arguello. (The deposit shall be returned to the applicant if a lease is not executed.)

(3) A development plan for the proposed kelp bed lease showing the intended use and the manner of harvesting and transporting the kelp.

(4) The financial capabilities of the lessee to carry out the proposed plan of development.

(c) Kelp leases may be awarded to applicants determined by the commission to possess the capabilities to harvest and utilize kelp in a manner beneficial to the state.

(1) In case more than one application is received for the lease of a specified kelp bed or beds, the lease shall be awarded to the highest qualified bidder.

(2) Bids tendered for the exclusive right to harvest kelp from designated kelp beds will be for the dollar amount of royalty to be paid on each wet ton of kelp harvested. The minimum acceptable bid will be for a royalty rate of no less than ~~\$1.51~~ \$1.90 per wet ton of kelp harvested.

(3) The commission may reject any or all applications for the lease of the exclusive privilege to harvest kelp, if it deems the rejection to be in the public interest.

(d) If the specified kelp harvesting area applied for is found to be available for lease, and that the lease would be in the public interest, the commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located. The department shall, in addition, notify by mail all current holders of kelp harvesting licenses that a kelp lease is being considered.

(e) Upon termination of a kelp bed lease for any reason, the commission shall notify all current holders of kelp licenses of the availability of such bed(s) for lease.

(f) Kelp bed leases shall be awarded for a maximum term of 20 years.

(g) The royalty rate for kelp harvested from leased kelp beds shall be no less than ~~\$1.51~~ \$1.90 per wet ton of kelp harvested from such beds. A nonrefundable advance payment computed on the basis of the harvest of 800 tons of kelp annually times the bid royalty rate ~~\$1,213~~ per square mile for kelp beds located north of Point Arguello and the harvest of 1,500 tons of kelp annually times the bid royalty rate ~~\$2,274~~ per square mile for beds lying south of that point, is due and payable to the department on January 1 each year. Kelp harvested from each bed during the calendar year will be credited against the advance payment at the specified royalty rate until the deposit has been depleted. Kelp harvested from each bed in excess of the amount covered by the advance deposit shall be assessed at the basic royalty rate established by Section 165(c)(5).

(h) Each kelp lease shall specify a period prior to expiration when renewal of the lease may be requested by lessee. If during the notification period the lessee successfully demonstrates to the commission that all conditions of the lease have been met, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms of a lease renewal are not agreed upon prior to termination of a lease agreement, the commission shall advertise for bids on the individual kelp beds comprising the lease. If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(i) Notwithstanding the provisions of subsections (f) and (h), at any time during the term of a lease, a lessee may notify the commission of its desire to enter into a new lease. If a lessee can successfully demonstrate to the commission that all conditions of its lease have been met and that a new lease would be in the best interest of the state, a new lease may be drawn on terms agreed upon between the two parties, provided a new lease is negotiated for an additional period not to exceed 20 years.

(j) There is established a "Revised Official Map and Description of Kelp Beds, Pt. Arguello to U.S.-Mexico Boundary" dated August 1, 1963 revised March 3, 1967, and a new "Official Map and Description of Kelp Beds, Pt. Arguello to Pt. Montara" dated March 3, 1967. These maps are based upon U.S. Coast and Geodetic Survey Charts No. 5020, dated April 1961, No. 5302, dated October 12, 1964, and No. 5402, dated September 6, 1965, as filed with the Fish and Game Commission. Beds are described as follows: (all bearings are true bearings)

(1) Mainland Beds (Pt. Arguello to Mexico)

- | | | |
|-----|-----|--|
| Bed | 1. | From a line drawn 264° from the U.S.A.-Mexico International Boundary to a line drawn 270° from the southern tip of San Diego Bay. ~~0-00~~ <u>0.20</u> square miles. |
| Bed | 2. | From a line drawn ~~270°~~ from the southern tip of San Diego Bay to a line drawn 259° from the southern tip of Point Loma. ~~0-00~~ <u>0.10</u> square miles. |
| Bed | 3. | From a line drawn 259° from the southern tip of Point Loma to a line drawn 272° from the south jetty of Mission Bay. ~~1-89~~ <u>2.58</u> square miles. |
| Bed | 4. | From a line drawn 272° from the south jetty of Mission Bay to a line drawn 283° from Scripps Pier. ~~2-59~~ <u>2.53</u> square miles. |
| Bed | 5. | From a line drawn 283° from Scripps Pier to a line drawn 269° from the mouth of the San Dieguito River. ~~0-14~~ <u>0.00</u> square miles. |
| Bed | 6. | From a line drawn 269° from the mouth of the San Dieguito River to a line drawn 236° from the middle of Loma Alta Lagoon (at South Oceanside). ~~1-10~~ <u>1.52</u> square miles. |
| Bed | 7. | From a line drawn 236° from the middle of Loma Alta Lagoon to a line drawn 215° from the middle of the city of San Onofre. ~~0-78~~ <u>0.66</u> square miles. |
| Bed | 8. | From a line drawn 215° from the middle of the city of San Onofre to a line drawn 219° from the middle of San Juan Creek. ~~1-75~~ <u>1.53</u> square miles. |
| Bed | 9. | From a line drawn 219° from the middle of San Juan Creek to a line drawn 220° from Abalone Pt. ~~0-94~~ <u>0.39</u> square miles. |
| Bed | 10. | From a line drawn 220° from Abalone Pt. to a line drawn 220° from the south jetty of Newport Bay. ~~0-39~~ <u>0.00</u> square miles. |
| Bed | 13. | From a line drawn 156° from the San Pedro Breakwater Lighthouse to a line drawn 232° from Pt. Vicente. ~~0-83~~ <u>0.54</u> square miles. |

- Bed 14. From a line drawn 232° from Pt. Vicente to a line drawn 256° from the southern tip of the Redondo Beach Breakwater. ~~0.41~~ 0.74 square miles.
- Bed 15. From a line drawn 223° from the Santa Monica Pier to a line drawn 156° from Malibu Pt. ~~0.01~~ 0.04 square miles.
- Bed 16. From a line drawn 156° from Malibu Pt. to a line drawn 185° from Pt. Dume. ~~0.98~~ 0.21 square miles.
- Bed 17. From a line drawn 185° from Pt. Dume to a line drawn 207° from Pt. Mugu. ~~1.60~~ 0.62 square miles.
- Bed 18. From a line drawn 217° from the middle of the mouth of Ventura River to a line drawn 214° from Pitas Pt. ~~0.19~~ 0.14 square miles.
- Bed 19. From a line drawn 214° from Pitas Pt. to a line drawn 218° from Rincon Pt. ~~0.84~~ 0.05 square miles.
- Bed 20. From a line drawn 218° from Rincon Pt. to a line drawn 198° from Loon Pt. ~~1.12~~ 0.24 square miles.
- Bed 21. From a line drawn 198° from Loon Pt. to a line drawn 184° from the eastern boundary of the Montecito Hotel (2.4 miles 072° from tip of S.B. Breakwater). ~~1.19~~ 0.19 square miles.
- Bed 22. From a line drawn 184° from the eastern boundary of the Montecito Hotel to a line drawn 166° from the tip of the Santa Barbara Breakwater. ~~0.87~~ 0.05 square miles.
- Bed 23. From a line drawn 166° from the tip of the Santa Barbara Breakwater line to a line drawn 195° from the Santa Barbara Lighthouse. ~~0.34~~ 0.10 square miles.
- Bed 24. From a line drawn 195° from the Santa Barbara Lighthouse to a line drawn 197° from the middle of Rogue Creek (Arroyo Burro). ~~0.12~~ 0.05 square miles.
- Bed 25. From a line drawn 197° from the middle of Rogue Creek to a line drawn 185° from the middle of Hope Ranch Creek. ~~0.50~~ 0.18 square miles.
- Bed 26. From a line drawn 185° from the middle of Hope Ranch Creek to a line drawn 176° from Goleta Pt. ~~1.40~~ 0.60 square miles.
- Bed 27. From a line drawn 176° from Goleta Pt. to a line drawn 210° from Coal Oil Pt. ~~0.67~~ 0.43 square miles.
- Bed 28. From a line drawn 210° from Coal Oil Pt. to a line drawn 200° from the Middle of Gato Canyon (about 1.5 miles west of Naples). ~~1.57~~ 0.60 square miles.
- Bed 29. From a line drawn 200° from the middle of Gato Canyon to a line drawn 183° from the middle of Refugio Creek. ~~1.20~~ 0.17 square miles.
- Bed 30. From a line drawn 183° from the middle of Refugio Creek to a line drawn 180° from the middle of Canada De Molino (about 5 miles west of Refugio Creek). ~~1.68~~ 0.39 square miles.
- Bed 31. From a line drawn 180° from the middle of Canada de Molino to a line drawn 180° from the middle of Alegria Canyon (about 3.4 miles west of Gaviota). ~~2.26~~ 0.16 square miles.
- Bed 32. From a line drawn 180° from the middle of Alegria Canyon to a line drawn 180° from Pt. Conception. ~~4.80~~ 2.76 square miles.
- Bed 33. From a line drawn 180° from Pt. Conception to a line drawn 231° from Espada Bluff. ~~0.46~~ 0.97 square miles.
- Bed 34. From a line drawn 231° from Espada Bluff to a line drawn 270° from Pt. Arguello. ~~0.00~~ 0.31 square miles.
- Total Area Mainland Beds (Pt. Arguello to Mexico~~32.62~~ 19.05 square miles

(2) Island Beds

- Bed 101. San Clemente Island. From a line drawn 120° from Pyramid Head to a line drawn 210° from China Pt. ~~0.51~~ 0.66 square miles.
- Bed 102. San Clemente Island. From a line drawn 210° from China Pt. to a line drawn 226° from Seal Cove. ~~1.22~~ 2.39 square miles.
- Bed 103. San Clemente Island. From a line drawn 226° from Seal Cove to a line drawn 0° from Northwest Harbor. ~~2.09~~ 2.89 square miles.
- Bed 104. San Clemente Island. From a line drawn 0° from Northwest Harbor to a line drawn 120° from Pyramid Head. ~~0.05~~ 0.22 square miles.
- Bed 105. Santa Catalina Island. Entire island. ~~0.47~~ 0.75 square miles.
- Bed 106. Santa Barbara Island. Entire island. ~~0.50~~ 0.23 square miles.
- Bed 107. San Nicolas Island. South of a line drawn 75° from the east end to a line drawn 283° from the west end. ~~3.28~~ 1.15 square miles.
- Bed 108. San Nicolas Island. North of a line drawn 283° from the west end to a line drawn 75° from the east end. ~~5.54~~ 2.85 square miles.
- Bed 109. Anacapa Islands. All islands. ~~0.57~~ 0.32 square miles.
- Bed 110. Santa Cruz Island. From a line drawn 86° from San Pedro Pt. to a line drawn 170° from Bowen Pt. ~~1.01~~ 0.64 square miles.
- Bed 111. Santa Cruz Island. From a line drawn 170° from Bowen Pt. to a line drawn 306° from West Pt. ~~0.78~~ 0.61 square miles.
- Bed 112. Santa Cruz Island. From a line drawn 306° from West Pt. to a line drawn 86° from San Pedro Pt. ~~0.00~~ 0.11 square miles.
- Bed 113. Santa Rosa Island. From a line drawn 61° from Skunk Pt. to a line drawn 180° from South Pt. ~~0.69~~ 0.59 square miles.
- Bed 114. Santa Rosa Island. From a line drawn 180° from South Pt. to a line drawn 285° from Sandy Pt. ~~0.63~~ 2.17 square miles.
- Bed 115. Santa Rosa Island. From a line drawn 285° from Sandy Pt. to a line drawn 45° from Carrington Pt. ~~1.25~~ 1.59 square miles.
- Bed 116. Santa Rosa Island. From a line drawn 45° from Carrington Pt. to a line drawn 61° from Skunk Pt. ~~0.37~~ 0.62 square miles.
- Bed 117. San Miguel Island. South of a line drawn 60° from Cardwell Pt. to a line drawn 231° from Pt. Bennett. ~~0.90~~ 1.35 square miles.
- Bed 118. San Miguel Island. North of a line drawn 231° from Pt. Bennett to a line drawn 60° from Cardwell Pt. ~~1.38~~ 1.51 square miles.

Total Island Beds ~~21.24~~ 20.65 square miles

(3) Mainland Beds (Pt. Arguello to Point Montara)

- Bed 202. From a line drawn 270° from Pt. Arguello to a line drawn 270° from Point Sal. ~~0.00~~ 0.10 square miles.
- Bed 203. From a line drawn 270° from Point Sal to a line drawn 270° from Pismo Beach Pier. 0.00 square miles.
- Bed 204. From a line drawn 270° from Pismo Beach Pier to a line drawn 180° from Point San Luis. ~~0.5~~ 0.72 square miles.
- Bed 205. From a line drawn 180° from Point San Luis to a line drawn 250° from Point Buchon. ~~0.00~~ 0.64 square miles.
- Bed 206. From a line drawn 250° from Point Buchon to a line drawn 270° from Morro Rock. ~~0.00~~ 0.04 square miles.
- Bed 207. From a line drawn 270° from Morro Rock to a line drawn 190° from Point Estero. ~~0.50~~ 1.46 square miles.

Bed 208. From a line drawn 190° from Point Estero to a line drawn 230° from Von Helm Rock. ~~1-1~~ 2.61 square miles.

Bed 209. From a line drawn 230° from Von Helm Rock to a line drawn 200° from San Simeon Point. ~~0-5~~ 2.20 square miles.

Bed 210. From a line drawn 200° from San Simeon Point to a line drawn 230° from Point Piedras Blancas. ~~0-6~~ 2.02 square miles.

Bed 211. From a line drawn 230° from Point Piedras Blancas to a line drawn 240° from Salmon Head. ~~0-9~~ 1.50 square miles.

Bed 212. From a line drawn 240° from Salmon Head to a line drawn 240° from Cape San Martin. ~~1-0~~ 1.26 square miles.

Bed 213. From a line drawn 240° from Cape San Martin to a line drawn 240° from Lopez Point. ~~1-0~~ 2.14 square miles.

Bed 214. From a line drawn 240° from Lopez Point to a line drawn 240° from Partington Point. ~~1-0~~ 2.03 square miles.

Bed 215. From a line drawn 240° from Partington Point to a line drawn 200° from Pfeiffer Point. ~~0-8~~ 0.80 square miles.

Bed 216. From a line drawn 200° from Pfeiffer Point to a line drawn 200° from Point Sur. ~~3-5~~ 3.08 square miles.

Bed 217. From a line drawn 200° from Point Sur to a line drawn 270° from Yankee Point. ~~1-4~~ 2.38 square miles.

Bed 218. From a line drawn 270° from Yankee Point to a line drawn 270° from Point Lobos. ~~0-1~~ 0.50 square miles.

Bed 219. From a line drawn 270° from Point Lobos to a line drawn 270° from Point Cypress. ~~1-1~~ 1.28 square miles.

Bed 220. From a line drawn 270° from Point Cypress to a line drawn 000° from Monterey Pier. ~~0-3~~ 1.88 square miles.

Bed 221. From a line drawn 000° from Monterey Pier to a line drawn 180° from Santa Cruz Pier. ~~0-4~~ 0.90 square miles.

Bed 222. From a line drawn 180° from Santa Cruz Pier to a line drawn 240° from Sand Hill Bluff. ~~1-2~~ 0.81 square miles.

Bed 223. From a line drawn 240° from Sand Hill Bluff to a line drawn 240° from Point Año Nuevo. ~~1-2~~ 0.19 square miles.

Bed 224. From a line drawn 240° from Point Año Nuevo to a line drawn 270° from Pescadero Point. ~~0-00~~ 0.06 square miles.

Bed 225. From a line drawn 270° from Pescadero Point to a line drawn 270° from Point Montara. 0.00 square miles.

Total area of Mainland Beds (Pt. Arguello to

Point Montara ~~17-1~~ 28.60 square miles

Grand Total ~~70-96~~ 68.30 square miles

(k) Those beds not subject to lease are as follows:

Mainland Beds (Pt. Arguello to Mexico)		Mainland Beds (Pt. Arguello to Pt. Montara)	
Bed No.	Square Miles	Bed No.	Square Miles
1	~~0-00~~ 0.20	205	~~0-0~~ 0.64
2	~~0-00~~ 0.10	206	~~0-0~~ 0.04
7	0.66	213	2.14
8	1.53	215	0.80
9	~~0-94~~ 0.39	217	2.38
10	~~0-39~~ 0.00	218	~~0-1~~ 0.49
13	~~0-83~~ 0.54	219	~~1-1~~ 1.28
14	~~0-41~~ 0.74	220	~~0-3~~ 1.88
15	~~0-01~~ 0.04	221	~~0-4~~ 0.90
18	~~0-19~~ 0.15	222	~~1-2~~ 0.81
22	~~0-87~~ 0.05	224	~~0-0~~ 0.06
23	~~0-34~~ 0.10	225	~~0-0~~ 0.00

24	~~0.12~~ 0.05
25	~~0.50~~ 0.18
28	~~1.57~~ 0.60
33	~~0.46~~ 0.97

Total

3.9 11.42

Total

~~6.63~~ 6.30

Island Beds

Bed No.	Square Miles
101	~~0.51~~ 0.66
104	~~0.05~~ 0.22
105	~~0.47~~ 0.75
109	~~0.57~~ 0.32
110	~~1.01~~ 0.64
112	~~0.00~~ 0.11
113	~~0.69~~ 0.59
114	~~0.63~~ 2.18
115	~~1.25~~ 1.59
116	~~0.37~~ 0.62
117	~~0.90~~ 1.35
118	~~1.38~~ 1.51
Total	~~7.83~~ <u>10.54</u>

Authority: Sections 6653 and 6700, Fish and Game Code

Reference: Sections 6653 and 6700-6707, Fish and Game Code