

MAY
14-15

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of May 14-15, 1992

<u>ITEM</u>	<u>PAGE</u>
1. DISCUSSION OF COMMISSION OPTIONS FOR PROTECTION OF CALIFORNIA'S SALMON POPULATIONS	2
2. DISCUSSION OF DEPARTMENT'S 1992-93 AND 1993-94 BUDGET PROPOSALS	4
3. REVIEW OF COMMISSION POLICIES	5
4. READING AND APPROVAL OF MINUTES OF JANUARY 9-10, 1992 MEETING	6
5. REQUEST OF DON PEDRO RECREATION AGENCY, LA GRANGE, FOR A WAIVER OF THE FEE SCHEDULE SET BY COMMISSION POLICY REGARDING "STOCKING FISH IN RESERVOIRS WHERE ANGLERS PAY ACCESS FEES"	6
6. CONSIDERATION OF REAUTHORIZATION OF EXISTING EXPERIMENTAL GEAR PERMITS TO USE DRIFT LONGLINES TO HARVEST SHORTFIN MAKO SHARKS AND BLUE SHARKS FOR COMMERCIAL PURPOSES	8
7. REQUEST OF FRANK CRONIN, SAN PEDRO; GORDON W. GRANT, MARINA DEL REY; AND ANDY AND MICHAEL VOLASKI, OXNARD, FOR EXPERIMENTAL GEAR PERMITS TO USE DRIFT LONGLINES TO HARVEST SHORTFIN MAKO SHARKS AND BLUE SHARKS FOR COMMERCIAL PURPOSES	11
8. REQUEST OF CARO LYNN ANDERSON, JOSHUA TREE, FOR AUTHORIZATION TO MAINTAIN POSSESSION OF TWO DIAMONDBACK RATTLESNAKES AND ONE PRAIRIE RATTLESNAKE FOR EDUCATIONAL AND EXHIBITION PURPOSES	14
9. REQUEST OF ROBERT WANG, UNIFIED SEAFOOD COMPANY, LOS ANGELES, FOR AUTHORIZATION TO IMPORT AND POSSESS LIVE EELS FOR SALE FOR HUMAN CONSUMPTION . .	15
10. REQUEST OF GILBERT ASPEITIA, MESA GATEWAY, SAN YSIDRO, FOR A WAIVER OF REQUIREMENT TO INDIVIDUALLY TAG BARRED SAND BASS IMPORTED FROM MEXICO PURSUANT TO SECTION 105, TITLE 14, CCR	16
11. REQUEST OF CURT ROCCA, WOODLAND, FOR AUTHORIZATION TO IMPORT AND POSSESS EIGHT INDIAN BLACK BUCK ANTELOPE FROM TEXAS	16

12.	REQUEST OF DOROTHY HUGHEN, RIVERSIDE, FOR AUTHORIZATION TO POSSESS AND TRANSPORT THREE FERRETS FOR EDUCATIONAL AND EXHIBITION PURPOSES . . .	19
13.	REQUEST OF STEVEN M. KARLIN, WILDLIFE ASSOCIATES, PACIFICA, FOR AUTHORIZATION TO IMPORT AND POSSESS A BABY NORTH AMERICAN PORCUPINE (<i>Erethizon dorsatum</i>) FOR EDUCATIONAL AND EXHIBITION PURPOSES	20
14.	REQUEST OF DR. AND MRS. GEORGE O. BERTRAM, SOLVANG, FOR AUTHORIZATION TO MAINTAIN POSSESSION OF A BOBCAT	21
15.	REQUEST OF DR. PETER STACEY, UNIVERSITY OF NEVADA, RENO, NV, FOR WAIVER OF NON-RESIDENT FEES FOR A SCIENTIFIC COLLECTING PERMIT	22
16.	REQUEST OF DAVID HARTZELL, SQUID MACHINE CORPORATION, WATSONVILLE, TO AMEND SECTION 149, TITLE 14, CCR, REGARDING TAKING OF SQUID NORTH OF POINT CONCEPTION	22
17.	PUBLIC FORUM	24
18.	REQUEST OF ENRIQUE CARRILLO, WILMINGTON, FOR A WAIVER OF 1991-92 COMMERCIAL SEA URCHIN APPRENTICE LANDING REQUIREMENTS	25
19.	REQUEST OF GEORGE BEASON, AVALON, FOR A WAIVER OF 1991 COMMERCIAL ABALONE LANDING REQUIREMENTS	27
20.	REQUEST OF DOUGLAS DAYKIN, SANTA CRUZ, FOR A WAIVER OF THE LANDING REQUIREMENTS FOR HIS EXPERIMENTAL DRIFT GILL NET SHARK AND SWORDFISH PERMIT	29
21.	REQUEST OF DAVID FOSTER, SANTA BARBARA; ANTHONY LUBOFF, SANTA PAULA; AND THOMAS J. POST, OXNARD, FOR REINSTATEMENT OF THEIR EXPIRED COMMERCIAL SEA URCHIN DIVING PERMITS	30
22.	REQUEST OF ROBERT E. MALONE, HEALDSBURG, AND DEL F. ROBINSON, MONTEREY, FOR A WAIVER OF THE 18-MONTH REQUIREMENT TO TRANSFER THEIR COMMERCIAL SALMON VESSEL PERMITS FROM ONE VESSEL TO ANOTHER	34
23.	REQUEST OF SCOTT SORENSON, SANTA MARIA, FOR A WAIVER OF THE REQUIREMENT TO POSSESS AT LEAST 50 PERCENT OWNERSHIP IN A REPLACEMENT VESSEL IN ORDER TO TRANSFER A COMMERCIAL SALMON VESSEL PERMIT	36
24.	REQUEST OF RICHARD VAN DYKE, CORONA DEL MAR, FOR REINSTATEMENT OF EXPIRED DRIFT GILL NET SHARK AND SWORDFISH PERMIT	38

25.	REQUEST OF DARIUSZ TED ANTOSZCZUK, FORT BRAGG, FOR REINSTATEMENT OF HIS COMMERCIAL SEA URCHIN DIVING PERMIT	38
26.	REQUEST OF MICHAEL E. WALKER, HESPERIA, FOR REINSTATEMENT OF HIS TRAPPING PRIVILEGES	40
27.	REQUEST OF HOANG VAN HA, WILMINGTON; MARK ROSATI, SANTA BARBARA; ANDREW KUGLIS AND VITO TERZOLI, SAN PEDRO, TO APPEAL DEPARTMENT DENIAL OF RENEWAL APPLICATIONS FOR THEIR GENERAL GILL AND TRAMMEL NET PERMITS	41
28.	REVOCATION OF GENERAL GILL AND TRAMMEL NET PERMIT OF DA VAN NGUYEN, LONG BEACH	45
29.	REVOCATION OF COMMERCIAL LOBSTER PERMITS OF MARIO ARMANDO GHIO AND CAO VAN LAM, SAN DIEGO	47
30.	CONSIDERATION OF ACCEPTANCE OF A STIPULATED COMPROMISE SETTLEMENT AGREEMENT OR THE REVOCATION/SUSPENSION OF THE COMMERCIAL SALMON FISHING PRIVILEGES OF STEPHEN M. GILMORE, PETALUMA	51
31.	DEPARTMENT STATUS REPORT REGARDING LEGISLATION	53
32.	RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS	54
33.	RECEIPT OF COMMISSION INFORMATIONAL ITEMS	57
34.	RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS	59
35.	RECEIPT OF PUBLIC COMMENTS REGARDING ADDING SECTIONS 629, 630(a)(22), 665, 666 AND 667, TITLE 14, CCR, REGARDING ECOLOGICAL RESERVES AND ESTABLISHMENT OF HABITAT PRESERVATION ZONES	62
36.	RECEIPT OF ANNUAL REPORT FROM BIGHORN INSTITUTE, PALM DESERT, REGARDING 1991 MEMORANDUM OF UNDERSTANDING (MOU) AND REQUEST TO RENEW THE MOU FOR 1992	65
37.	DISCUSSION OF POLICY POSITION REGARDING DEPARTMENT ACTIONS TO ACTIVELY PROTECT THE VALUES OF DEPARTMENT-OWNED LANDS FROM ADJACENT DEVELOPMENT	67
38.	ADOPTION OF COMMISSION POLICY REGARDING: TROPHY BLACK BASS PROGRAM	68
39.	DISCUSSION OF DEPARTMENT'S 1991 ANNUAL REPORT ON THE STATUS OF CALIFORNIA'S THREATENED AND ENDANGERED SPECIES	72

40.	RECEIPT OF PUBLIC COMMENTS REGARDING CHANGES IN THE SPORT SALMON FISHING REGULATIONS FOR INLAND WATERS	73
41.	REQUEST OF SHEL MEYER, PRESIDENT, NORCAL GUIDES ASSOCIATION, TO AMEND SECTION 2.04, TITLE 14, CCR, REGARDING FISHING METHODS - SPECIAL PROVISIONS	76
42.	DEPARTMENT REPORT REGARDING USE OF AQUACULTURE- GROWN PADDLEFISH IN CALIFORNIA	77
43.	REQUEST OF EDWARD MURRISON, E & S FISHERIES, INC., SNELLING, FOR AUTHORIZATION TO IMPORT, POSSESS AND TRANSPORT PADDLEFISH FOR AQUARIUM TRADE PURPOSES	77
44.	APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1992-95) AND 1992-93 MANAGEMENT PLAN FOR BARDIN RANCH, MONTEREY COUNTY	79
45.	RECEIPT OF ANNUAL REPORT AND APPROVAL OF 1992-93 PRIVATE LANDS WILDLIFE MANAGEMENT AREA PLANS	80
	(a) CHIMNEY ROCK RANCH, SAN LUIS OBISPO COUNTY (b) MILLER-ERIKSEN RANCH, MENDOCINO COUNTY	
46.	REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER PROPOSED CHANGES IN THE 1992-93 RESIDENT AND MIGRATORY UPLAND GAME BIRD AND MIGRATORY NONGAME BIRD (AMERICAN CROWS ONLY) REGULATIONS	84
47.	REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER PROPOSED CHANGES IN THE 1992-93 WATERFOWL HUNTING REGULATIONS	85
48.	REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER AMENDING SECTION 550-553, TITLE 14, CCR, REGARDING ADDING TO THE LIST OF STATE WILDLIFE AREAS AND MODIFYING REGULATIONS PERTAINING TO THE USE OF SUCH AREAS AND STATE-OPERATED PUBLIC HUNTING AREAS	86
49.	REQUEST OF KEVIN YATES, SAN MARCOS, FOR AUTHORIZATION TO IMPORT AND POSSESS ONE PAIR OF BINTURONGS (<i>Binturong artictus</i>) FROM THE CALGARY ZOO AND TWO PAIRS OF BINTURONGS FROM THE BATON ROUGE ZOOLOGICAL GARDENS FOR BREEDING PURPOSES	86
50.	DESIGNATION OF DEPARTMENT LANDS AS STATE WILDLIFE AREAS	86
	(a) SILVER CREEK WILD. AREA, LASSEN CO.-2,010± ACRES (b) YOLO BYPASS WILD. AREA, YOLO CO.-2,989.56± ACRES	

51.	REQUEST OF PACIFIC GAS AND ELECTRIC COMPANY TO AMEND SPECIAL USE PERMIT TO CUT AND MANAGE KELP AT DIABLO CANYON NUCLEAR POWERPLANT, SAN LUIS OBISPO COUNTY	87
52.	REQUEST OF BRIAN WALTON, SANTA CRUZ PREDATORY BIRD RESEARCH GROUP, TO AMEND THEIR SCIENTIFIC RAPTOR BREEDING PERMIT TO INCLUDE TWO PAIR OF TAITA FALCONS AND TWO HYBRIDS	87
53.	REQUEST OF WILLIAM D. WAGNER, BIOLOGICAL RESEARCH AND CONSULTING, WRIGHTWOOD, FOR AUTHORIZATION TO CAPTURE, BAND AND STUDY CALIFORNIA GNATCATCHERS WITHIN THE LAKE MATHEWS ECOLOGICAL RESERVE	88
54.	CONFIRMATION OF COMMISSION'S APRIL 2, 1992 ACTION REGARDING ISSUANCE OF AN EXPERIMENTAL GEAR PERMIT TO TOM JERKOVICH, SAN PEDRO, TO USE A HALF-RING NET TO HARVEST LIVE BAIT IN DISTRICTS 19, 19A AND 19B	88
55.	CONFIRMATION OF COMMISSION'S APRIL 3, 1992 ACTION REGARDING RENEWAL OF PERMIT TO MARC FIEBER, LA GRANGE, TO IMPORT, POSSESS AND TRANSPORT PADDLEFISH FOR AQUARIUM TRADE PURPOSES	89
56.	RECEIPT OF DEPARTMENT REPORT AND RECOMMENDATION ON PETITIONS TO LIST SAN MATEO WOOLLY SUNFLOWER (<i>Eriophyllum latilobum</i>) AND WHITE-RAYED PENTACHAETA (<i>Pentachaeta bellidiflora</i>) AS ENDANGERED SPECIES AND MARIN DWARF FLAX (<i>Hesperolinon congestum</i>) AS A THREATENED SPECIES. (ACTION HEARING SCHEDULED FOR JUNE 18, 1992 MEETING IN BISHOP)	89
57.	ANNOUNCEMENT OF FUTURE MEETINGS	90

State of California
FISH AND GAME COMMISSION
(916) 653-4899

Minutes, Meeting of May 14, 1992

Pursuant to the call of the President, the Commission met in the Board Chambers, County Administration Building, 1115 Truxton Avenue, Bakersfield, California on May 14, 1992. The meeting was called to order at 9:30 a.m. by President Biaggini.

Persons present:

FISH AND GAME COMMISSION

Benjamin F. Biaggini	President
Frank D. Boren	Member
Gus A. Owen	Member

COMMISSION STAFF

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

RESOURCES AGENCY

Carol Whiteside	Assistant Secretary, Intergovernmental Relations
-----------------	---

OFFICE OF THE ATTORNEY GENERAL

William Cunningham	Deputy Attorney General
--------------------	-------------------------

DEPARTMENT OF FISH AND GAME

Boyd Gibbons	Director
Howard Sarasohn	Deputy Director
Karyn Meyreles	Deputy Director, Administration
Al Petrovich	Chief, Marine Resources Division
Gene Flemming	Marine Resources Division
Ken Berg	Natural Heritage Division
DeWayne Johnston	Chief, Wildlife Protection Division
Tim Farley	Acting Chief, Inland Fisheries Div.
Terry Mansfield	Acting Chief, Wildlife Mgmt. Div.
Ann Malcolm	Legal Advisor's Office

The following persons were also present and heard:

Hugh Hewitt	Building Industry Assoc. S. Calif.
Jack Findleton	Charter Boat Fisherman
Mike McCorkle	S. California Trawlers Association
Shel Meyer	Central Valley Fisheries Coalition
Bill Shedd	United Anglers of Southern Calif.
Greg Stotesbury	United Anglers of Southern Calif.

Dennis Gardner	Commercial Swordfish Fisherman
Tony West	California Gillnetters Association
Andy Rasmussen	California Gillnetters Association
Curt Rocca	Individual
Dorothy Hughen	Individual
Chris Jones	Individual
Thomas Post	Individual
Scott Sorenson	Commercial Fisherman
Richard Van Dyke	Commercial Fisherman
Dariusz Ted Antoszcuk	Sea Urchin Diver
Michael E. Walker	Trapper
Hoang Van Ha	Commercial Fisherman
Vito Terzoli	Commercial Fisherman
Da Van Nguyen	Commercial Fisherman
Willie Lee	Interpreter for Da Van Nguyen
Mario Armando Ghio	Commercial Fisherman
Cao Van Lam	Commercial Fisherman
Stephen M. Gilmore	Commercial Fisherman
Bill Geyer	Bill Geyer Associates

Acting President Biaggini introduced members of the Commission, its staff, Director Boyd Gibbons, Deputy Director Howard Sarasohn, and William Cunningham of the Attorney General's Office.

1. DISCUSSION OF COMMISSION OPTIONS FOR PROTECTION OF CALIFORNIA'S SALMON POPULATIONS.

Summary of Issue

The Commission, at its special hearing on April 16, 1992 in Sacramento concerning the statewide salmon population decline, requested that an agenda item be scheduled for its May meeting in Bakersfield to discuss the many recommendations presented to the Commission both orally and in writing. The Commission was provided with a summary of those recommendations.

Action

Shel Meyer, Central Valley Fisheries Coalition, gave a brief discussion of the plans he had obtained for a deflector wall to be installed in Georgiana Slough. He suggested that funds from the Four Pumps Agreement be used to build the deflector wall. Tim Farley, Inland Fisheries Division, stated that the Department was interested in reviewing Mr. Meyer's plan.

Mr. Meyer then presented the Commission with a list of organizations that had enrolled in the Coalition and complimented the Commission on sending a letter to the U. S. Congress regarding the reauthorization of the Central Valley Project. Mr. Meyer also presented a letter from the State of Oregon, voicing the same opinions as the letter written by the Commission

regarding the Central Valley Project. He also discussed a method for deterring fish from pump intakes using sound waves, which was being used successfully in New York. Mr. Meyer requested the Department seek legislation to obtain funding to screen at least the ten largest pump intakes in the Delta estuary.

Deputy Director Sarasohn responded that the Department would need some legislation in place to assist in financing these projects because they were so expensive. Commissioners Boren and Biaggini indicated that the cost of screening of pumps should be borne by the people who were pumping the water. Deputy Director Sarasohn stated that in many cases, according to existing law, the State would be responsible for paying for the screening, but he would have Mr. Cunningham clarify the issue.

Tim Farley indicated the Department's willingness to work with any group necessary to negotiate funding for protection of the salmon. Director Gibbons summarized the Department's recent actions to protect and manage the salmon species. Deputy Director Sarasohn also indicated that the Director had scheduled a meeting with all of the appropriate state and federal water agencies during the negotiation of an incidental "take" permit for the winter-run salmon. He explained that one of the subjects of the negotiations was the request of a limit of 2,100 cfs to August 1st from the GCID pumps.

Director Gibbons stated that the Department was required to present an action program by the end of the year, and prior to that time, concrete proposals taken by the Department were not available for review, but indicated that after the end of the year there would be numerous actions. He stated that the Department would provide testimony at the SWRCB's Bay-Delta hearings on interim water quality standards. He noted that he had also requested NMFS to reconvene its Biological Opinion Consultation Group, which was composed of state and federal agencies. Director Gibbons also stated that the Department was evaluating the minimum flows which had been established and were collecting additional data and would develop recommendations for new minimum flow standards for various streams and rivers in the State.

Tim Farley, Inland Fisheries Division, summarized how the Department was utilizing the information it received at the April 16th hearing. He stated that Inland Fisheries Division's staff was currently responding to all of the written and oral recommendations made at the April 16th meeting and the Division now had a permanent biologist who would be working exclusively on the fish screen issue. He explained that this biologist would determine which diversions needed screening the most, based on the number of fish that were killed, not on the diversion capabilities. He noted that based on preliminary reports from Department staff and sport anglers, there was an increase in the

number of winter-run salmon present in the Sacramento River. Commissioners Biaggini and Boren stated that the fish screens should be installed as soon as possible. Commissioner Boren recommended that the Commission establish a policy aimed at restoring the salmon runs to baseline 1980 levels or earlier. Commissioners Owen and Biaggini concurred. They felt it was an issue that should be studied further.

Tim Farley described what was currently being done to alleviate the problem of warmwater releases from Lake Shasta during the late summer and fall. Commissioner Boren suggested closing one or more streams and monitoring the natural salmon runs to determine what effect it had on the ocean fishery. Commissioner Boren and Director Gibbons discussed what type of information could be gathered from such a study. Tim Farley stated that the Department could provide Mr. Boren with its assessment of the situation in writing and provide him with some information regarding what types of studies the Department had already undertaken. Commissioner Boren recommended that the Commission and the Department meet annually with the appropriate boards and commissions to look at the problems affecting inland fisheries. Commissioner Biaggini stated that he thought it was the responsibility of the Secretary for Resources to pull together the various departments to make sure they were not fighting each other. Director Gibbons stated that had been the goal of the Water Policy Task Force and would continue with the Water Policy Council. He stated that the staff from these various agencies were continually meeting to discuss these issues.

Commissioner Boren asked Bill Cunningham if he had finished gathering the requested information regarding the Commission's authorities and responsibilities to handle the salmon issue. Mr. Cunningham stated that he had provided some information to the Commission; however, he was still working on the issue.

2. DISCUSSION OF DEPARTMENT'S 1992-93 AND 1993-94 BUDGET PROPOSALS.

Summary of Issue

Historically, the Commission had scheduled a review and discussion of the Department's currently proposed budget for its May meeting; therefore, this item was scheduled to afford the Commission an opportunity to discuss the Department's 1992-93 and 1993-94 budget proposals.

In discussions with the Department, Commission staff was informed that the Department might suggest that the budget review be held at a different Commission meeting, possibly at one of the August meetings, to allow the Commission an opportunity to provide input prior to the Governor's budget being formulated.

Action

Karyn Meyreles, Deputy Director of Administration, provided the Commissioners with a status report on the implementation of the Governor's budget. She discussed the reduction in the budget for the Natural Community Conservation Planning Program and the taking of excess funds from the Oil Spill Prevention Administration Fund to be placed in the General Fund. She concluded by discussing the issue that some of the positions within the Commission staff being shifted back to the Department. She noted that, overall, the Department was being slated for a \$13 million reduction in General Fund monies. She clarified that \$12 million of that money would come from the one-year drought program funds being eliminated from the budget. She explained that the reduction appeared to be a dramatic cut; however, it really was not. Ms. Meyreles then discussed the overall Department budget which had increased by \$15 million. She also discussed the method of projections that the Department was currently using, and the decrease in license sales.

Commissioner Owen asked Ms. Meyreles what funding alternatives the Department was evaluating in light of the declining license sales. She discussed the license sale projection studies which the Department was working on. Director Gibbons stated it was his goal to look for a stable funding base for the Department. He noted that, historically, the Department relied upon license sales and a few special funds; however, there were millions of Californians who enjoyed the areas and wildlife which the Department managed and those people should be contributing to the upkeep of those areas. Commissioner Biaggini suggested that the Commission's Budget Subcommittee meet with the Department to discuss in more detail the budget issues facing the Department within the next couple of months.

Terry Mansfield explained the proposed legislation to establish an Upland Game Stamp which was also tied with an increase in the fees of the California Duck Stamp. He indicated that bill was being carried by Senator McCorquodale.

3. REVIEW OF COMMISSION POLICIES.

Summary of Issue

This agenda item has been scheduled to receive a report from the Department concerning its implementation of Commission policies. This is the annual review of Commission policies.

Action

Deputy Director Sarasohn stated the Department had made no recommendations for changes in the policies and all deadlines had been met. Commissioners Owen and Biaggini recommended that the policies which were no longer pertinent, be repealed. Bill Cunningham agreed that it would be appropriate to repeal any unneeded policies. The Commission suggested that this issue be rescheduled for its June meeting.

Commissioner Boren suggested that a sunset clause be written into some of the policies so that they would automatically be repealed when they were outdated. Bill Cunningham stated that the policies could be rewritten or provisions added that would apply to all of them so that when the policy was no longer needed, it would be repealed. He suggested that perhaps within the next year, the Commission could review all of the policies and repeal those that were no longer appropriate. Commissioner Biaggini asked Mr. Cunningham to work with the Executive Director and Commission staff to review the existing policies and make recommendations to the Commission.

4. READING AND APPROVAL OF MINUTES OF JANUARY 9-10, 1992 MEETING.

Summary of Issue

Copies of the minutes of the January 9-10, 1992 meeting were distributed to the Commission. Staff recommended their approval.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
INASMUCH AS THE MINUTES OF JANUARY 9-10, 1992 MEETING
HAVE BEEN DISTRIBUTED TO THE COMMISSION AND THERE ARE
NO KNOWN ERRORS OR OMISSIONS THEREIN, READING BE
DISPENSED WITH AND THEY BE APPROVED AS DISTRIBUTED.

PASSED UNANIMOUSLY.

5. REQUEST OF DON PEDRO RECREATION AGENCY, LA GRANGE, FOR A WAIVER OF THE FEE SCHEDULE SET BY COMMISSION POLICY REGARDING "STOCKING FISH IN RESERVOIRS WHERE ANGLERS PAY ACCESS FEES".

Summary of Issue

Ms. Carol Russell, Division Manager, Don Pedro Recreation Agency, La Grange, requests a waiver of the fee schedule set by Commission policy regarding "Stocking Fish in Reservoirs Where Anglers Pay Access Fees." Don Pedro Recreation Agency requests authorization to charge a \$5.00 per day, per car, entrance fee rather than the approved \$4.50 fee. Section V(B) of the Commission's policy regarding "Stocking Fish in Reservoirs Where

"Anglers Pay Access Fees" allows operators to request authorization from the Commission to charge higher access fees than those permitted currently under Commission policy. As noted in the policy, this exception approval would last for only one year.

Ms. Russell provided the following information in a letter dated April 16, 1992:

"Enclosed is our 1992 Financial Disclosure Statement for Lake or Reservoir Access Fee Increase, and a supplemental sheet for further explanation. As discussed on the phone, please include this item on the May 14, 1992, Commission meeting agenda in Bakersfield. Please contact us for confirmation/attendance information, and if you need any more information from us prior to the meeting."

Department Recommendation

"The Don Pedro Recreation Agency (DPRA) is requesting a waiver from the Fish and Game Commission policy on the maximum allowable access fee that can be charged at Don Pedro Lake in Tuolumne County. The maximum day use fee was set at \$4.50 per day per car by the Commission at its December 6, 1991 meeting. A Commission waiver would allow DPRA to increase the access fee to \$5.00 per day per car. The Department concurs with the granting of a waiver.

"The so-called 'access fee waters' should not be confused with 'cooperative stocking waters.' At the former, it is generally only the Department that stocks fish, and the fees cannot exceed policy or the Department will cease stocking. At the latter, the Department's fish plants must be matched or exceeded, and access fees higher than the maximum may be charged as long as the overage is used to purchase fish or improve fish habitat. Don Pedro Lake operates under the 'access fee water' program.

"Commission policy allows reservoir operators to request authorization to charge higher access fees, if they can provide evidence to the Commission that the costs for essential services and habitat improvement are not unusual and would exceed income using the established maximum fee level. The Department devised a Financial Disclosure Statement form to substitute for a formal audit of the operator's financial records. On April 16, DPRA submitted the completed Statement plus supplementary notes as justification for the proposed waiver.

"Total 1991 calendar year expenditure was \$1,055,384.58 and revenue received was \$1,047,118.00, which left a shortfall of \$8,266.58. This is a relatively minor amount. However,

DPRA operates solely off gate receipts and revenue generated by the operation which requires adjusting current year expenses by trends in the revenue generated. The continuing drought has severely impacted DPRA's revenue. Thus, DPRA has had to defer costly capital projects which now threaten aging facilities with decay beyond repair. For example, \$350,000.00 worth of roadwork can no longer be deferred without significantly increasing the costs of repair. Also, new costs related to safety and sanitation are going to be incurred this year.

"DPRA has a long history of cooperation with the Department and sport fishermen. The reservoir is productive and has great potential in meeting the needs of the angling public. In 1991, \$7,089.21 was spent on fish habitat improvement projects and \$7,560.00 for supplemental fish stocking. Granting a waiver of the maximum allowable access fee will allow DPRA to provide anglers with more sport fishing opportunities plus improved recreational facilities for these anglers."

Action

The Executive Director stated that the manager of the Don Pedro Recreation Agency had contacted the Commission office and indicated that a representative from DPRA would not be able to attend the meeting and asked that the matter be put over. Commissioner Biaggini inquired if there was any reason, based upon the Department's recommendation, that this item be put over. Deputy Director Sarasohn stated there was no reason it needed to be put over; however, a letter had been received from the California Sport Fishing Association regarding the issue. The Commission requested that the Department respond to the letter.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST
OF CAROL RUSSELL, DIVISION MANAGER, DON PEDRO RECREATION
AGENCY, FOR AN INCREASE IN THE ALLOWABLE ACCESS FEE AT
DON PEDRO RESERVOIR, TUOLUMNE COUNTY, TO \$5.00 PER DAY
PER CAR, FOR THE YEAR OF 1992.

PASSED UNANIMOUSLY.

6. CONSIDERATION OF REAUTHORIZATION OF EXISTING EXPERIMENTAL GEAR PERMITS TO USE DRIFT LONGLINES TO HARVEST SHORTFIN MAKO SHARKS AND BLUE SHARKS FOR COMMERCIAL PURPOSES.

Summary of Issue

The Commission first authorized the issuance of ten experimental gear permits to use drift longlines to take shortfin mako sharks and blue sharks in 1988. The Commission reauthorized the issuance of the ten permits in 1989, but imposed a condition

limiting the take of shortfin mako sharks to 240,000 pounds. For 1990, the Commission authorized the issuance of six experimental gear permits, further reduced the quota for shortfin mako sharks to 175,000 pounds, and also required the permittees to land at least 40,000 pounds of blue sharks for human consumption and to tag at least 600 shortfin mako sharks. Other permit conditions included a restricted open season (May 1 to September 20), time/area closures, and restrictions on the length and construction of the gear. For 1991, the Commission authorized the issuance of eight permits and kept the quota for shortfin mako sharks at 175,000 pounds. The Commission also extended the season to December 31 or until the quota was reached, whichever came first. Other permit conditions remained the same, except the Commission did not require the landing of 40,000 pounds of blue shark for human consumption.

The Commission received a copy of the Department's report entitled, "1991 Experimental Drift Longline Shark Fishery," as well as a copy of the 1991 experimental gear permit. In March the Commission was also provided copies of background information on this matter from Messrs. Bill Shedd and Greg Stotesbury, United Anglers.

Action

The Executive Director provided an overview of the issue. He stated that some of the current permit holders requested that this item be postponed. He also discussed some of the letters that had been received regarding this issue. He indicated that United Anglers had written a letter stating that, even if this matter was pulled off the agenda, they wished to speak on the issue of whether these permits should be reissued for another year. The Executive Director also noted that legislation had been introduced to establish a longline fishery for shortfin mako sharks. He also pointed out that because this issue had been noticed, the Commission could receive testimony. He recommended that the Commission hear a status report on the fishery and then open it up for discussion, after which the Commission could decide whether or not to take action.

Bill Cunningham stated that he had been contacted by Ilson New, an attorney representing some of the commercial fishermen, who had expressed concern that the individuals affected by this permit would not be present at this meeting and that the matter would be discussed.

Al Petrovich, Marine Resources Division, briefly explained the status of the experimental drift longline fishery for shortfin mako sharks. He also provided a discussion of how AB 2429 could affect the Experimental Gear Permit Program. He emphasized that southern California appeared to be a nursery area for the mako sharks. He noted that the majority of the catch at

this time were two and three-year-olds. He indicated that males attained maturity at three years old and females at approximately eight years of age.

Bill Shedd, United Anglers, expressed concern regarding the decline of the shortfin mako shark fishery. He stated that the 25 individuals with him agreed with his opinion. He stated that if this issue was postponed, it could show the Legislature that the Commission actually supported this fishery. He stated that many sport fishermen did not support the longline fishery. He presented information regarding catch per unit of effort for sport fishermen and a decrease in the length of the sharks being caught.

Greg Stotesbury, United Anglers, also spoke regarding the decline in the mako shark sport fishery and opposed the issuance of the permits.

Bill Shedd discussed the effects of commercial fishing for sharks on the biology of the sharks. He emphasized there had never been a long-term, successful, commercial shark fishery.

Dennis Gardner, commercial swordfish fisherman, spoke regarding the dramatic decrease in numbers of sharks and swordfish that he had observed while fishing. He believed that the reduction was because the commercial fishermen used gillnets and longlines for taking sharks and swordfish.

Greg Stotesbury then discussed some of the conditions that had been placed upon the permittees when the experimental gear permits were initially authorized and how the permittees had not adhered to all of those conditions.

Bill Shedd summed up United Anglers' presentation by stating that the Commission should send a message to the Legislature regarding its concern over the fishery and that some of the restrictions on the fishery should be strengthened to lower the current level of harvest.

Tony West, California Gillnetters Association, supported the renewal of the experimental gear permits and stated that the opponents to the permits were basing their arguments on false assumptions. He pointed out that the data being presented was based upon landings, but that was an erroneous way to conduct a study. He stated that when the market declined, the effort to harvest the fish also declined, which did not necessarily mean that the fishery was declining. He explained that the California Gillnetters had reduced its effort in the shark fishery in response to Marine Resources Division's request and due to a shortened season. He stated that the fishermen had reduced their landings because of the voluntary reduction in effort.

Andy Rasmussen, California Gillnetters Association, also supported issuing the experimental gear permits.

Al Petrovich presented the Department's recommendation that the experimental gear permits for the shortfin mako shark drift longline fishery be terminated. He indicated that the Department based its recommendation upon the life history of the mako shark and the fact that the Southern California fishery was apparently a fishery in a nursery area. He also stated that the Department had an approved position from the Governor's office opposing AB 2924. He noted that SB 452 by Senator McCorquodale had failed in the Assembly, which would mean a \$1.2 million decrease in the Marine Resources Division budget for the commercial ocean fishery. Mr. Petrovich indicated that the budget decrease would seriously compromise the Department's ability to monitor commercial fisheries; and, therefore, dictated a conservative and cautious approach by the Department.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE
REAUTHORIZATION OF THE EIGHT EXPERIMENTAL GEAR PERMITS
REGARDING USE OF DRIFT LONGLINES TO HARVEST SHORTFIN
MAKO SHARKS AND BLUE SHARKS OFF SOUTHERN CALIFORNIA.

PASSED UNANIMOUSLY.

7. REQUEST OF FRANK CRONIN, SAN PEDRO; GORDON W. GRANT, MARINA DEL REY; AND ANDY AND MICHAEL VOLASKI, OXNARD, FOR EXPERIMENTAL GEAR PERMITS TO USE DRIFT LONGLINES TO HARVEST SHORTFIN MAKO SHARKS AND BLUE SHARKS FOR COMMERCIAL PURPOSES.
-

Summary of Issue

Messrs. Frank Cronin, Gordon Grant, and Andy and Michael Volaski have requested experimental gear permits to use drift longlines to harvest shortfin mako sharks and blue sharks for commercial purposes. These individuals desired to participate in the fishery previously discussed in Item No. 6.

a. Frank Cronin, San Pedro

Mr. Cronin was one of the original ten fishermen permitted in 1988 for the drift longline shortfin mako shark and blue shark fishery; however, he failed to renew after the 1989 season and was not issued a permit in 1990 nor in 1991. His request for a permit in 1991 was denied by the Commission at its April 4, 1991 meeting in Sacramento. Mr. Frank Cronin provides the following information in a letter dated November 20, 1991:

"My name is Frank Cronin and on April 4, 1991 I applied for renewal of my mako shark driftline permit at the same time that Steven Volaski and Donald Wood did. All three of us were turned down by the Commission at that meeting.

"I have just heard that on May 16, 1991 you issued a permit to Volaski and to Wood, both. I did not know that there was a law that you could reapply for a permit after we were turned down.

"I was one of the first fishermen in this new fishery when it started, just like Volaski and Wood. Also like Volaski and Wood I had a permit for the year 1988 and 1989. I paid for my permit in 1989 but was stopped from fishing because when we received the permits they were typed to prohibit polypropylene fishing line and I did not have the money to convert over to all stainless steel which was required, because stainless steel is so expensive.

"I also was worried about the observer program because my boat did not have a toilet and did not meet your law about observers, so I decided to build a new boat and borrowed some money and did so, and I put \$56,000 down on the boat in August of 1989. In 1990 I put another \$53,000 and my labor into that boat to finish it; however, I missed the 1990 season because the boat builder was four months late.

"I would respectfully request the Commission to reconsider my request of April 4, 1991 for renewal of my mako shark driftline permit and grant me a favorable issuance as you did with Mr. Volaski and Mr. Wood."

b. Gordon W. Grant, Marina Del Rey

Mr. Grant indicated that he fished for shortfin mako sharks prior to the Commission issuing experimental gear permits in 1988. Mr. Grant also applied to the Commission in 1991 for an experimental gear permit, but that request was denied. In a letter dated March 31, 1992, Mr. Gordon Grant provides the following information:

"Currently I am a commercial fisherman, fishing for lobsters this past season. I would like to participate in the experimental longline shortfin mako and blue shark fishery. This letter is to petition the Commission at the upcoming meeting on May 14, 1992 in Bakersfield for a permit to longline for the above mentioned species in the 1992 season.

"Because of the marginal lobster season at Catalina, the shortfin mako and blue shark experimental program would be useful to recover some of my losses.

"Before the current experimental programs began, I was fishing two miles of gear averaging about 2,000 pounds per week from May through August.

"If it will improve my chances of receiving a permit, I will drive up to Bakersfield for the meeting on May 14, 1992."

c. Andy and Michael Volaski, Oxnard

Andy and Michael Volaski provide the following information in a letter dated May 1, 1992:

"I am writing this letter in regards to the mako shark drift longline fishery 1992. My brother Andy and I are very interested in this fishery. We attended previous meetings on the issuing of experimental permits, only to have these permits renewed to past permittees.

"We will take whatever steps necessary to be involved in this fishery. Presently, we have the boat and all the required fishing gear. With years of commercial fishing experience, I believe this would be beneficial to the monitoring of the fishery and in the best interest of the governing parties to consider us for a possible additional experimental permit.

"Your attention to this matter is appreciated. Please contact me at your convenience."

Action

The Executive Director stated that both Frank Cronin and Gordon Grant had contacted the Commission requesting that this item be postponed until the June meeting. Commissioner Boren stated that, because the decision had been made on Item No. 6 to terminate the experimental gear fishery for drift longlines for shortfin mako sharks and blue sharks, that it would be appropriate to deny these requests. Commissioner Owen agreed.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUESTS OF FRANK CRONIN, SAN PEDRO; GORDON W. GRANT, MARINA DEL REY; AND ANDY AND MICHAEL VOLASKI, OXNARD, FOR EXPERIMENTAL GEAR PERMITS TO USE DRIFT LONGLINES TO HARVEST SHORTFIN MAKO SHARKS AND BLUE SHARKS FOR COMMERCIAL PURPOSES.

PASSED UNANIMOUSLY.

8. REQUEST OF CARO LYNN ANDERSON, JOSHUA TREE, FOR
AUTHORIZATION TO MAINTAIN POSSESSION OF TWO DIAMONDBACK
RATTLESNAKES AND ONE PRAIRIE RATTLESNAKE FOR EDUCATIONAL AND
EXHIBITION PURPOSES.

Summary of Issue

Ms. Caro Lynn Anderson, Joshua Tree, requests authorization to maintain possession of two diamondback rattlesnakes and one prairie rattlesnake for educational and exhibition purposes. In a letter dated April 8, 1992, Ms. Anderson provides the following information:

"I have requested a special animal care permit for the purpose of maintaining three out-of-state rattlesnakes, two eastern diamondbacks (*Crotalus admanteus*), and one prairie rattlesnake (*Crotalus viridus*); and I respectfully request that this matter be placed on the agenda for the next Fish and Game Commission meeting, scheduled for May 14-15, in Bakersfield. I have been in contact with Phil Nelms, Captain, Wildlife Protection Division, and he has my formal request/resume on this matter."

The Commission was provided with background information supplied by Ms. Anderson regarding her request.

Action

The Executive Director discussed the issue briefly and stated that the Department recommended approval with the following conditions: (1) Ms. Anderson not be allowed to exhibit or breed the rattlesnakes; (2) she not be allowed to transport them from her residence except to obtain necessary veterinary care; and (3) she not be allowed to replace the animals when they die. Mr. Treanor indicated that the Department had been in contact with Ms. Anderson and she had agreed to the terms; therefore, she was told that she need not attend the meeting.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF CARO LYNN ANDERSON, JOSHUA TREE, FOR
AUTHORIZATION TO MAINTAIN POSSESSION OF TWO EASTERN
DIAMONDBACK RATTLESNAKES AND ONE PRAIRIE RATTLESNAKE
FOR EDUCATIONAL PURPOSES, SUBJECT TO THE TERMS AND
CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED
BY THE COMMISSION.

PASSED UNANIMOUSLY.

9. REQUEST OF ROBERT WANG, UNIFIED SEAFOOD COMPANY, LOS ANGELES, FOR AUTHORIZATION TO IMPORT AND POSSESS LIVE EELS FOR SALE FOR HUMAN CONSUMPTION.

Summary of Issue

Mr. Robert Wang, General Manager, Unified Seafood Company, Los Angeles, requests authorization to import and possess live eels for sale for human consumption. In a letter dated March 18, Mr. Wang provides the following information:

"As per my telephone conversation with Mr. Gregory at the Long Beach office, we would like to apply for a special permit to import live eel for human consumption either domestic or overseas. Sales would be limited to restaurants and wholesalers."

In response to the Commission office's request for further information on this matter, Mr. Wang provides the following information in a letter dated April 13, 1992:

"We are willing to attend your meeting at Bakersfield, on May 14, 1992. The following information we will provide at the meeting:

- "1. Species: Anguilla Australis and Dieffennbachiiis
- "2. Location: New Zealand and U.S. Domestic East Coast of the United States
- "3. Maintain: Unified Seafood Co.
559 Stanford Ave.
Los Angeles, CA
Downtown L.A.
- "4. How: In seafood fish tanks
- "5. Sales: To Chinese, Japanese supermarkets, restaurants

"If you need more information, please let us know."

Action

The Executive Director briefly summarized the issue for the Commission.

Deputy Director Sarasohn stated that the Department recommended denial of the request because these species had been prohibited since 1988 and should continue to be prohibited because they could present a problem if they ever escaped to the wild.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF ROBERT WANG, GENERAL MANAGER, UNIFIED SEAFOOD COMPANY, LOS ANGELES, FOR AUTHORIZATION TO IMPORT AND POSSESS LIVE EELS FOR SALE FOR HUMAN CONSUMPTION.

PASSED UNANIMOUSLY.

10. REQUEST OF GILBERT ASPEITIA, MESA GATEWAY, SAN YSIDRO, FOR A WAIVER OF REQUIREMENT TO INDIVIDUALLY TAG BARRED SAND BASS IMPORTED FROM MEXICO PURSUANT TO SECTION 105, TITLE 14, CCR.

Summary of Issue

Mr. Gilbert Aspeitia, Mesa Gateway, San Ysidro, requests a waiver of Section 105, Title 14, CCR, regarding individually tagging barred sand bass imported from Mexico. In a letter dated April 2, 1992, Mr. Aspeitia provides the following information:

"Reference is made to imports by Gilbert Aspeitia of the above and to the requirement that the fish be individually tagged with FDA metal tags.

"Request is respectfully made for an exemption to this requirement for reason that the fish will be delivered to locations where they will be filleted and any tags will be lost in the process."

Action

The Executive Director summarized the request and stated that the Department recommended denial.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF GILBERT ASPEITIA, MESA GATEWAY, SAN YSIDRO, FOR A WAIVER OF THE REQUIREMENT TO INDIVIDUALLY TAG BARRED SAND BASS FROM MEXICO.

PASSED UNANIMOUSLY.

11. REQUEST OF CURT ROCCA, WOODLAND, FOR AUTHORIZATION TO IMPORT AND POSSESS EIGHT INDIAN BLACK BUCK ANTELOPE FROM TEXAS.

Summary of Issue

Mr. Curt Rocca, Pacific Grain Products, Woodland, requests authorization to import eight Indian black buck antelope from Texas to be put on a large island that he owns in Clear Lake. In a letter dated March 31, 1992, Mr. Rocca provides the following information:

"Captain Phil Nelms of the Wildlife Protection Division has directed my request to you.

"I would like to bring eight Indian black buck antelopes from Texas to California and put them on a large island that I own in Clear Lake, California. I understand that my request has to come before the Commission. I would like to request that I be scheduled for your May 14th meeting in Bakersfield, California.

"For more than ten years, I have had Barbados sheep and goats on the island. We have never had an instance where our animals have tried to run away. The island is heavily wooded in part with giant oaks, cottonwood, willows and grape vines, giving an African setting. The rest of the island is more open, with underground sprinkling in the meadows in permanent pasture, with cross fencing for pasture management. We have corrals for working the animals. There are no ticks, fleas or diseases in our sheep. In the winter, we supplement with alfalfa hay and enriched salt. There is a fulltime caretaker tending to the animals. The sheep expert from the University of California extension service, Mr. Marion Stanley, inspects and advises us on care and breeding and culls the herd.

"I recently saw the black bucks at the San Diego Wild Animal Park and felt that they would be beautiful on our island. An exotic game breeder in Texas has agreed to sell us the black bucks.

"I am retired and am the Chairman of the Board for Pacific Grain Products in Woodland, California. The island is my hobby. I feel that the black bucks would add a great touch, along with our peacocks, wild herons, grebes, egrets, cormorants, ospreys and eagles.

"All new animals would be kept in a holding pen for a quarantine period to make sure that we do not have any health problems that could affect our sheep."

Action

Curt Rocca provided a detailed description of his island and the reason that he wanted to import the black bucks.

Deputy Director Sarasohn indicated that the Department recommended denial of the request. He explained that the two reasons were: (1) the chance for transmittal of a viral disease to sheep in the area and; (2) the Department was concerned with

the number of antelope on the island. He stated that if the antelope reproduced, Mr. Rocca would need some method of population control to keep the animals healthy.

Terry Mansfield, Wildlife Management Division, explained in detail the Department's concerns regarding the disease problem. He also requested that the Commission place a moratorium on the importation of hoof stock into California. He concluded that if Mr. Rocca was able to obtain the black buck antelope from a certified zoo facility in California, it would diminish their reluctance to approve this request; however, until Mr. Rocca could do that, the Department recommended denial of his request.

Commissioner Owen asked Mr. Rocca about the antelope he hoped to purchase in Texas. He also questioned Mr. Rocca about whether Dr. Marion Stanley had contacted the Department on this issue. Commissioner Owen concluded that as much as he would like to allow Mr. Rocca to have the animals, he would not want to be responsible for the introduction of diseases into California. Commissioner Owen suggested Dr. Stanley discuss the matter with the Department's veterinarian; if they could reach an agreement, he would be more in favor of this proposal.

Deputy Director Sarasohn stated that, if the antelope came from California and were all of the same sex, the Department would not object to this proposal. Mr. Mansfield stated when purchasing these animals, zoos were very selective and go through a lengthy screening process; and, therefore, purchasing the antelope from a zoo would reduce the Department's opposition. He also expressed concern with what would happen with the surplus animals on the island.

DeWayne Johnston, Wildlife Protection Division, discussed the permit issuance process and clarified the reason that zoos could possess these species was that the Legislature exempted zoos from the process applicable to private individuals. He indicated that Mr. Rocca would still have to go through the permit process required for all individuals trying to obtain prohibited animals.

Commissioner Boren recommended that Mr. Rocca work with the zoos; however, at this point, he was going to move that the request be denied because this was apparently contrary to the intent of the legislation introduced to protect native wildlife and agriculture in California.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF CURT ROCCA, PACIFIC GRAIN PRODUCTS, WOODLAND, FOR AUTHORIZATION TO IMPORT EIGHT INDIAN BLACK BUCK ANTELOPE FROM TEXAS. IN ADDITION, THE COMMISSION HEREBY PLACES A MORATORIUM ON THE IMPORTATION OF HOOF STOCK INTO THE STATE UNTIL IT IS DETERMINED BY THE DEPARTMENT THAT THERE IS NO LONGER A THREAT TO THE STATE'S LIVESTOCK INDUSTRY FROM INTRODUCING INFECTIOUS DISEASES.

PASSED UNANIMOUSLY.

12. REQUEST OF DOROTHY HUGHEN, RIVERSIDE, FOR AUTHORIZATION TO POSSESS AND TRANSPORT THREE FERRETS FOR EDUCATIONAL AND EXHIBITION PURPOSES.

Summary of Issue

Ms. Dorothy Hughen, Riverside, requests authorization to possess three ferrets for educational purposes. She indicates that she has worked at the Riverside Wild Animal Training Center for eight years, but that the Center may be closing its doors, and she would like to have the three ferrets transferred from the training center's permit to herself. In a letter dated March 24, 1992, Ms. Hughen provides the following information:

"I am writing to request placement on your agenda for the May 14 meeting in Bakersfield. Enclosed is a resume stating my experience with handling and working exotic animals. Also enclosed are letters from some of the parties I have worked for.

"As my resume states, I have worked at the Riverside Wild Animal Training Center for the past eight years. They have permits for three ferrets. I have worked these ferrets at most of the presentations I have given. The training center is housed on County Park and Recreation property and their lease is up the first of May. If the County does not renew their lease, the Center will be closing in May. If they do close, I would like to obtain the ferrets that the Center now has permits for.

"I am at present starting my own organization to give educational presentations using animals. I would be using the ferrets for educational purposes and explaining to the public why they are not legal in California."

Action

Dorothy Hughen presented her qualifications and briefly discussed her request.

DeWayne Johnston, Wildlife Protection Division, stated that the Department strongly opposed this request and gave a number of reasons.

Ms. Hughen stated she believed her presentation using ferrets strongly discouraged people from wanting ferrets as pets and they would be a good educational tool.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF DOROTHY HUGHEN, RIVERSIDE, FOR AUTHORIZATION TO
POSSESS THREE FERRETS FOR EDUCATIONAL PURPOSES.

PASSED UNANIMOUSLY.

13. REQUEST OF STEVEN M. KARLIN, WILDLIFE ASSOCIATES, PACIFICA, FOR AUTHORIZATION TO IMPORT AND POSSESS A BABY NORTH AMERICAN PORCUPINE (*Erethizon dorsatum*) FOR EDUCATIONAL AND EXHIBITION PURPOSES.

Summary of Issue

Mr. Steven N. Karlin, Wildlife Associates, Pacifica, requests authorization to import a baby North American porcupine for educational and exhibition purposes. Mr. Karlin provides the following information in a letter dated March 31, 1992:

"Captain James Zobel suggested that I send you this letter requesting approval to import a baby North American porcupine (*Erethizon dorsatum*) from Earhart Willie's Game Farm in Brandon, Wisconsin.

"Wildlife Associates is a non-profit educational group that uses wild animals in educational programs. As you will see from the enclosed brochure, we are nationally recognized as a premiere educational organization.

"We have been in operation for over 12 years and now reach over 500,000 students each year in Northern California. This makes us the largest live animal educational outreach program in North America. We are staffed by full-time college-trained professionals. We write study guides that are now being used in the State school system, develop

educational programming for television, and have acted as spokespeople for the Department's Endangered Species Campaign.

"As with all of our animals, the porcupine will become part of our educational programs."

Action

Executive Director Treanor indicated that the Department recommended approval of Mr. Karlin's request.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF STEVEN M. KARLIN, WILDLIFE ASSOCIATES, PACIFICA, FOR AUTHORIZATION TO IMPORT A BABY NORTH AMERICAN PORCUPINE (*Erethizon dorsatum*) FOR EDUCATIONAL AND EXHIBITION PURPOSES, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

14. REQUEST OF DR. AND MRS. GEORGE O. BERTRAM, SOLVANG, FOR AUTHORIZATION TO MAINTAIN POSSESSION OF A BOBCAT.

Summary of Issue

Dr. and Mrs. George Bertram, Solvang, request authorization to maintain possession of a bobcat. This baby bobcat was brought to Dr. Bertram by the Department for the Bertrams to care for and rehabilitate so it could be released back into the wild. The Bertrams indicate that the bobcat cannot be released back into the wild and would like to maintain possession of the bobcat for pet purposes. In a letter dated April 22, 1992, the Bertrams provide the following information:

"I am requesting to be at the meeting May 14, 1992 at 10:00 a.m. to apply for a State permit for the baby bobcat kitten that has been in our care since March 17, 1992. I am also requesting that the baby bobcat remain in our care until that meeting has taken place."

Action

At the request of the Department and the Bertrams, this item was withdrawn from the agenda and will be rescheduled for a future meeting.

15. REQUEST OF DR. PETER STACEY, UNIVERSITY OF NEVADA, RENO, NEVADA, FOR WAIVER OF NON-RESIDENT FEES FOR A SCIENTIFIC COLLECTING PERMIT.

Summary of Issue

Dr. Peter Stacey, University of Nevada, requests a waiver of non-resident fees for a scientific collecting permit. The Commission was provided with a copy of Dr. Stacey's letter dated March 25, 1992, the Department's form letter dated March 23, 1992 to Dr. Stacey requesting the non-resident fee, and a Department memorandum dated March 25, 1992 from Wildlife Management Division to Wildlife Protection Division explaining the criteria for issuance of a scientific collecting permit.

Action

Deputy Director Sarasohn presented the Department's recommendation that the Commission deny Dr. Stacey's request because the blood samples that he wants to collect are scientific collecting and fees should be charged.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF DR. PETER STACEY, UNIVERSITY OF NEVADA, RENO, NEVADA, FOR A WAIVER OF NON-RESIDENT FEES FOR A SCIENTIFIC COLLECTING PERMIT.

PASSED UNANIMOUSLY.

16. REQUEST OF DAVID HARTZELL, SQUID MACHINE CORPORATION, WATSONVILLE, TO AMEND SECTION 149, TITLE 14, CCR, REGARDING TAKING OF SQUID NORTH OF POINT CONCEPTION.

Summary of Issue

Mr. David Hartzell, Watsonville, requests the Commission consider amending Section 149, Title 14, CCR, regarding taking of squid north of Point Conception. Mr. Hartzell originally contacted the Commission in late January 1992 requesting that the Commission step in and change the regulations to allow the early setting of nets prior to midnight on Sundays, because several citations had been issued in September of 1991 for fishing squid before midnight on September 8 in the northern areas of District 17.

On January 27, 1992, Commission staff sent a copy of Mr. Hartzell's letter and background material to each Commissioner for their review and evaluation and asked that the Commission indicate by the Commission's February 6, 1992 meeting

if the Commission desired to take action on this matter. The Commission continued its policy of not becoming involved in any issue which is currently in litigation. Mr. Hartzell then contacted Assemblyman Sam Farr for assistance in this matter.

The Commission was provided with a copy of Assemblyman Farr's letter dated March 11, 1992 as well as a copy of the Commission's April 6, 1992 letter in response to Mr. Farr's request. Based on the inquiry of Assemblyman Farr's office, Commission staff scheduled Mr. Hartzell's request for this meeting.

Department Recommendation

"Section 149, Title 14, CCR, establishes the days of the week and times of the day when squid may be taken for commercial purposes in the Monterey Bay area. Currently, Monterey Bay area squid fishermen may not fish for squid between noon on Friday and midnight on Sunday, and in those portions of Monterey Bay south of Moss Landing before midnight on weekday nights (Monday - Thursday). In September of 1991, 27 vessel operators and crew members were cited by Department wardens for fishing before midnight on Sunday night. These cases are still pending.

"Mr. Hartzell is proposing a change in the regulations to allow squid fishing in the Monterey Bay area (at least north of Moss Landing) after dusk on Sunday night.

"The Department does not believe that it would be appropriate to begin the process of amending this section until the pending court cases are settled. In addition, squid fishing usually occurs in the Monterey area from May through November. Thus, even if the Commission were to authorize the publication of notice of its intent to amend Section 149, Title 14, CCR, the regulatory change would take approximately 120 days and would not be in effect until the end of the upcoming squid fishing season.

"Therefore, at this time, the Department recommends that the Commission delay any requests to amend Section 149, Title 14, CCR, until the pending court cases are settled."

Action

The Executive Director summarized the issue and clarified the request.

Al Petrovich, Marine Resources Division, presented the Department's recommendation to delay any proposed regulation change until after the court cases were resolved.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF DAVID HARTZELL, SQUID MACHINE CORP., WATSONVILLE TO
AMEND SECTION 149, TITLE 14, CCR, REGARDING TAKING OF
SQUID NORTH OF POINT CONCEPTION.

PASSED UNANIMOUSLY.

17. PUBLIC FORUM.

Summary of Issue

This item has been scheduled to afford any member of the public the opportunity to address and/or ask questions of the Commission relating to the implementation of its policy or to any matter within the jurisdiction of the Commission. That issue need not be related to any item on the current agenda. Not more than 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 address the issue at a future meeting.

Action

Hugh Hewitt, Building Industry Association of Southern California, provided an update on the status of the California gnatcatcher. He wanted to be sure the Commission had received the material submitted to the U. S. Fish and Wildlife Service. He stated there was no subspecies of the gnatcatcher existing on the coast of California and that the California gnatcatcher was the same species as 3 million birds in Mexico. He also refuted the estimates of how much coastal sage scrub habitat had been lost, based upon the map drawn up in the 1930's. He provided the Commission with comments in opposition to the habitat preservation zone regulations that were going to be discussed on May 15, 1992. Mr. Hewitt questioned the Department's authority to propose regulations concerning habitat protection areas and contended the rulemaking process was being cut short and there needed to be more circulation of the regulations prior to adoption.

Jack Findleton, Charter Boat Fishermen, spoke regarding the fees that were leveled on the vessel owners of small passenger boats. He stated that the License and Revenue Branch had charged the higher proposed fee, and when the fee increase was not approved, fishermen did not receive a quick refund. He also questioned why the planting of striped bass was being held up this year.

Tim Farley, Inland Fisheries Division, explained that an individual had requested that the Department evaluate the issue of the predation of striped bass upon the endangered winter-run salmon. He indicated that the Department was obligated to review the issue and would be developing a biological opinion on the matter. He stated that in the meantime, the Department felt it should not plant striped bass. He estimated the Department would take action on the issue within a week.

Deputy Director Sarasohn spoke regarding the fee refunds. He stated that notices had been mailed to all the individuals who had paid the additional fee, and that the Department was sending refunds to the individuals that had responded to the notices.

Mr. Findleton questioned how the Department could collect those additional fees when it did not have legislation in place. Commissioner Biaggini recommended that Mr. Findleton discuss the matter with Deputy Director Sarasohn.

Mike McCorkle, Southern California Trawlers Association, expressed concern regarding the pollution of the beaches and the ocean with discarded plastic materials. He recommended that public awareness be heightened regarding this issue. He also recommended that all harbors should be required to have waste receptacles. Commissioner Boren suggested that this issue be monitored and that the Department look for creative methods to deal with the trash problem. The Commission requested that the Department provide it with an overview of what regulations were currently in place to deal with this kind of a problem.

Chris Jones opposed the establishment of a commercial abalone fishery on the North Coast.

LICENSE AND PERMIT CONSIDERATIONS

18. REQUEST OF ENRIQUE CARRILLO, WILMINGTON, FOR A WAIVER OF 1991-92 COMMERCIAL SEA URCHIN APPRENTICE LANDING REQUIREMENTS.

Summary of Issue

Mr. Enrique Carrillo, Wilmington, requests a waiver of the 1991-92 commercial sea urchin apprentice landing requirements. The commercial sea urchin fishery regulations include a minimum landing requirement for permit renewal. Beginning with the license year 1991-92, the permittee must make 20 landings of at least 300 pounds each of sea urchins in either one of the two previous permit years. In a letter dated March 16, 1992, Mr. Carrillo provides the following information:

"Mi nombre Enrique Carrillo, mi numero de identificacion AY04833 de California. El motivo de mi carta es para notificarles que no he podido hacer los 20 tickets - Fish and Game y hasta la fecha solo he conseguido 13 y eso a causa de dos cosas que sucedieron:

- "1. Sufir un accidente que me tuvieron que operar y como consecuencia estuve incapacitado para trabajar aqui les envio las pruebas del hospital.
- "2. Saque mi licencia el 17 de Julio y tuve que ir a la escuela de duceo agosto y parte de Septiembre de cualquier manera lo unico que les pido es una extencion por que eso es lo que me recomendaron que hiciera aqui en las oficinas de Long Beach. Por favor les agradeceria muchisimo que tomaran en cuenta mis letras y que me dieran otra oportunidad por muy corta que sea la extencion. De antemano muchas gracias por el tiempo que les tome revisar mis papeles."

The Commission was provided with a copy of Dr. Jensen's letter regarding Mr. Carrillo's abdominal surgery, a copy of the hospital bill, as well as Mr. Carrillo's sea urchin apprentice permit.

Department Recommendation

"Mr. Carrillo wrote to the Commission on March 16, 1992, saying, in part, that he purchased his sea urchin apprentice permit on July 17, 1991, attended diving school in August and part of September of that year, and then suffered an accident requiring surgery which left him unable to work. Also, Mr. Carrillo provided a letter from Dr. Ulf K. Jensen stating that Mr. Carrillo was disabled from October to December 1991 as a result of abdominal surgery. Finally, Mr. Carrillo stated that he made 13 of the required 20 landings of sea urchins.

"Department records indicate that Mr. Carrillo was selected in the July 17, 1991 sea urchin apprentice drawing and purchased his permit on August 14, 1992. Given that Mr. Carrillo was not able to obtain his permit until August and then missed two months due to illness and still made a good faith effort to meet the minimum landing requirements by making 13 landings, we recommend approval of subject request, conditional upon landing verification."

Action

The Executive Director asked if Mr. Carrillo was present. There was no response. The Executive Director stated that the Department recommendation was for approval of the request.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF ENRIQUE CARRILLO, WILMINGTON, FOR A WAIVER OF THE 1991-92 COMMERCIAL SEA URCHIN APPRENTICE LANDING REQUIREMENTS.

PASSED UNANIMOUSLY.

19. REQUEST OF GEORGE BEASON, AVALON, FOR A WAIVER OF 1991 COMMERCIAL ABALONE LANDING REQUIREMENTS.

Summary of Issue

Mr. George Beason, Avalon, requests a waiver of the 1991 commercial abalone landing requirements. Beginning January 1, 1991 the commercial abalone landing requirements were modified to include landings of 1,200 pounds or 320 abalones for each calendar year. Mr. Beason, in a letter dated April 18, 1992 provides the following information:

"This letter is in reference to my 1992-93 commercial abalone application. I have had the abalone license since 1969 with no tickets, no citations, nor any offenses. I am not a 'run-of-the-mill' cowboy abalone hunter. I am active in the field of marine botany. Since 1972, I am actively involved with the planting and growing of kelp. These kelp projects are by direction of the California State Dept. of Fish and Game. I am also a maritime consultant since 1972. This year I have been involved with California Department of Fish and Game kelp restoration project contract number 0322 from May 1991 to November 1991. I personally worked with Kenny Wilson in the Biology Department of Fish and Game. This project was very personally important to me because I feel that more people should put back into the environment instead of take. This kelp restoration project is a great success and I will be doing more ocean restoration projects in the near future. As regards to my abalone permit, if I had been aware of Section 8306.2 in these months, I certainly could have harvested 320 abalones necessary to retain my abalone license.

"On April 8th, 1992 I personally brought my abalone landings into the Fish and Game Department in San Diego just as I have been doing for years. Then to my surprise, I receive a certified notice in the mail that my license is not valid because of a Section 8306.2. I was not aware that Section 8306.2 even existed.

"In 1991-92 for permits for sardines, I have received no less than four certified letters by registered mail advising me of tonnage changes and areas of take. This was for a permit that my cost was zero.

"For my 1991-92 abalone permit, I would think that because of the tremendous expense of this restrictive license that a certified advisory would have been sent long before the 'cut off' date of December 31, 1991. Again, looking at my 1992-93 abalone permit, I find the expiration date to be March 31 as it was last year and the years before. I find no mention of Section 8306.2 on my license, nor do I find any indication on my license which states that abalone landings should be acquired from January to December. If this is so, then the license dates should read 'expires December 31, 1992.' Again, this license is expensive. I should have been notified prior to December 31, 1991 by means of certified mail that abalone landings needed to be complete by December 31.

"On April 8, 1992, I provided my abalone landings to the Department of Fish and Game and was granted my abalone license. Then a week later I am told that this permit is invalid. Why? I feel this is unjust. I feel that having a different date as a 'cut off' date other than what shows on the license itself is unfair, dubious and obscure. I have been asked by Ginny Boas to return my license back to her department for a refund. I do not find any consistencies in these regulations.

"My request is to have my abalone landings waived for the year of 1991-92, so that I can continue to retain my commercial abalone harvesting permit."

Action

The Executive Director provided a brief summary of the issue.

Deputy Director Sarasohn stated that the Department recommended approval of the request.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF GEORGE BEASON, AVALON, FOR A WAIVER OF THE
1991 COMMERCIAL ABALONE LANDING REQUIREMENTS.

PASSED UNANIMOUSLY.

20. REQUEST OF DOUGLAS DAYKIN, SANTA CRUZ, FOR A WAIVER OF THE LANDING REQUIREMENTS FOR HIS EXPERIMENTAL DRIFT GILL NET SHARK AND SWORDFISH PERMIT.

Summary of Issue

Mr. Douglas Daykin, Santa Cruz, requests a waiver of the landing requirements for his experimental drift gill net shark and swordfish permit. In a letter dated April 3, 1992 Mr. Daykin provides the following information:

"I am requesting an extension authorization for the 1992 central Cal drift swordfish permit.

"My medical problems are going to prohibit me from fishing this season, last years authorization was issued on 4/4/91.

"This is a letter from my doctor that explains my condition; if you have any questions please feel free to contact me or my doctor."

Action

Deputy Director Sarasohn stated that the Department recommended approval of the waiver provided that if Mr. Daykin's disability became permanent he would no longer be able to renew his permit.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF DOUGLAS DAYKIN, SANTA CRUZ, FOR A WAIVER OF THE LANDING REQUIREMENTS FOR HIS EXPERIMENTAL DRIFT GILL NET SHARK AND SWORDFISH PERMIT, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

Commissioner Boren requested that a subcommittee be allowed to review all of the license and permit items and present its recommendation to the other Commissioners for a decision prior to the regularly scheduled meeting.

Bill Cunningham stated that it appeared the license revocation and permit considerations would have to be discussed in front of the entire Commission. He indicated he would review each of the various reasons individuals had to bring appeals to the Commission to determine which ones of those appeals needed to be heard by the full Commission. Commissioner Biaggini suggested

that perhaps some of these permit consideration items could be delegated to the Department, and he acknowledged that it might take some legislative changes to do so.

21. REQUEST OF DAVID FOSTER, SANTA BARBARA; ANTHONY LUBOFF, SANTA PAULA; AND THOMAS J. POST, OXNARD, FOR REINSTATEMENT OF THEIR EXPIRED COMMERCIAL SEA URCHIN DIVING PERMITS.

Summary of Issue

Messrs. David Foster, Anthony Luboff and Thomas Post request reinstatement of their expired commercial sea urchin diving permits.

a. David Foster, Santa Barbara

In a letter dated March 14, 1992, Mr. Foster provides the following information:

"I have been a commercial sea urchin diver since 1972, out of Santa Barbara.

"I am writing to you to request a hearing on regaining my sea urchin's license. Unfortunately I became involved with drugs, and I was removed from the urchin industry in 1985 because of a drug conviction.

"Because of my age and my lack of training in other trades, now I cannot find any work except the most menial and lowest paid. Several boats have offered me work as a diver, but I am unable to take the positions offered.

"I was a successful diver and I felt myself fulfilled with this job, that is why I am asking for your consideration in granting me a hearing to request a sea urchin diver's license issued on my name."

Department Recommendation

"Mr. Foster wrote to the Commission on March 14, 1992, saying in part that he left the sea urchin industry in 1985 because of a drug conviction, and that he was not released from prison until June 1991.

"Department records indicate that Mr. Foster held a 1986-87 sea urchin permit which he did not renew for the 1987-88 license year.

"The Commission has just adopted an amended set of sea urchin fishing regulations which were designed to reduce fishing effort through a combination of closed fishing days and an increased minimum size limit for red sea urchins in southern California.

"While the Department sympathizes with Mr. Foster's legal difficulties, we believe he must accept responsibility for his actions. Therefore, we recommend denial of subject request."

Action

The Executive Director asked if Mr. Foster was present. There was no response. Deputy Director Sarasohn presented the Department's recommendation for denial of the request.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF DAVID FOSTER, SANTA BARBARA, FOR REINSTATEMENT OF AN
EXPIRED COMMERCIAL SEA URCHIN DIVING PERMIT.

PASSED UNANIMOUSLY.

b. Anthony Luboff, Santa Paula

The Commission, at its October 31, 1991 meeting in San Diego, originally heard Mr. Anthony Luboff's request for reinstatement of an expired commercial sea urchin diving permit. At that time, the Commission denied his request, but indicated to Mr. Luboff that, if he could provide medical documentation regarding his absence from the sea urchin fishery, the Commission would reconsider his request at a future Commission meeting. Mr. Luboff has been working with the Department to document his reasons for leaving the sea urchin fishery which was based on his dependence on drugs and alcohol.

The Commission was provided with Mr. Luboff's September 24, 1991 letter as well as Jeff A. Luboff's September 26, 1991 letter.

Department Recommendation

"Mr. Luboff wrote to the Commission on September 24, 1991 saying in part that he left the sea urchin industry following the 1986-87 license year because of drug and alcohol problems.

"Department records indicate that Mr. Luboff held a 1986-87 sea urchin permit which he did not renew for the 1987-88 license year.

"Mr. Luboff first appeared before the Commission at its October 31, 1991 meeting in San Diego at which time the Commission denied his request. Mr. Luboff asked if he could reappear before the Commission if he could provide medical documentation of his drug related disability. In this regard, Dr. David G. Jones provided a letter dated

November 19, 1991, which substantiates that Mr. Luboff was medically treated for chemical dependency in 1986, at which time he had a sea urchin permit. However, Dr. Jones also states that he only saw Mr. Luboff '... off and on between 1986 and 1989 in a nonprofessional sense ...' and '... he appeared to me to be clean and sober.' Dr. Jones further related that he left California for Texas in 1989 and that he agrees that Mr. Luboff was wise not to expose himself to temptation and possible relapse during the period from 1987 to 1991.

"The Department has consistently applied the standard that proof of medical disability must be documented by continual medical supervision. Upon review of Dr. Jones' letter the Department determined that Mr. Luboff was not under medical supervision or care during the period from 1987 through the present. The Department does not question Dr. Jones' professional qualifications or his statements; however, it is clear that he was not treating Mr. Luboff professionally during this time period.

"Also, Mr. Luboff testified at the October 31, 1991 Commission meeting that he felt sufficiently recovered in 1989 to participate in the sea urchin apprentice lottery in 1989 and in 1990, and it was only after failing to obtain an apprentice permit that he appealed to the Commission to reinstate his 1986-87 permit.

"Also, the Commission has just adopted an amended set of sea urchin fishing regulations which were designed to reduce fishing effort through a combination of closed fishing days and an increased minimum size limit for red sea urchins in southern California.

"While the department sympathizes with Mr. Luboff's substance abuse difficulties, we believe he must accept responsibility for his actions. Also, we would note that his failure to be selected for sea urchin apprentice permit is not a basis for the reissuance of his previously expired sea urchin permit. Because of our commitment to reduce the total fishing effort in the sea urchin fishery, we recommend denial of subject request."

Action

Al Petrovich, Marine Resources Division, stated he had talked with Mr. Luboff and Mr. Luboff had presented the Department with some additional required medical information. Mr. Petrovich presented the Department's new recommendation for approval, provided the Department was satisfied with the additional medical information.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY TENTATIVELY APPROVES THE REQUEST OF ANTHONY LUBOFF, SANTA PAULA, FOR REINSTATEMENT OF AN EXPIRED COMMERCIAL SEA URCHIN DIVING PERMIT PROVIDED THE DEPARTMENT VERIFIES THE ADDITIONAL MEDICAL INFORMATION.

PASSED UNANIMOUSLY.

c. Thomas J. Post, Oxnard

In a letter dated April 16, 1992, Mr. Post provides the following information:

"I am writing to you, to see if I can obtain my sea urchin diving permit. Enclosed you will find medical and jail records proving I was unable to participate in the sea urchin fisheries.

"In 1985 and 1986 I was under medical attention and in jail for five months. My hand was severely broken, and it took two years squeezing a hand ball before I again had full use of it.

"After getting out of jail, I was on probation and had to attend Alcohol School for a year. I moved to San Diego and bought my sea urchin permit. I worked in that field for about three months, until my probation and Alcohol School records were transferred to San Diego. I was unable to work with my sea urchin permit, diving, because I had to attend Alcohol School one day a week, plus a one-on-one meeting with my counselor every two weeks and probation reporting one day a month. Needless to say, I could not get a job on a boat with all of this going on.

"While in San Diego, I was in a car accident and had to receive treatments one day a week for several months, because of neck and spinal injuries. The doctor no longer had my records, but wrote a note which is included in Section "B".

"From October 15, 1986 to October 5, 1987, I was in Alcohol School and on probation. Included in Section 'A' are copies of all medical and jail records and also a copy of my sea urchin permit. Section 'B' includes copies of Alcohol School records.

"On March 22, 1988, I was in a subsequent car accident. On May 26, 1988, I went to jail for one hundred twenty days, plus sixty days for violation of probation. On October 5,

1988, I was released from jail, but had to do another year of Alcohol School which was from October 17, 1988 to October 10, 1989, plus five years probation, so I was unable to participate in the sea urchin fishing in 1988 and 1989.

"During this bad time in my life, I was never notified by Fish and Game that the rules and regulations were changing regarding sea urchin diving.

"I entered the lottery in 1990 and 1991, but I would like to appeal for the return of my permit. If the Commission requires payment of fees for back years to renew my sea urchin diving permit, I will pay them.

"I would also like to state that I started working sea urchins back in 1978 and in 1980 I was certified by P.A.D.I. as an open water diver. I was fourteen years old when I started working with sea urchins--long before half of the current divers knew what a sea urchin looked like.

"Thank you for your prompt attention and cooperation in this matter."

Action

Thomas Post summarized the reasons he had been unable to participate in the fishery.

Al Petrovich, Marine Resources Division, briefly summarized the Department's recommendation for denial.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF THOMAS J. POST, OXNARD, FOR REINSTATEMENT OF AN
EXPIRED COMMERCIAL SEA URCHIN DIVING PERMIT.

PASSED UNANIMOUSLY.

22. REQUEST OF ROBERT E. MALONE, HEALDSBURG, AND DEL F. ROBINSON, MONTEREY, FOR A WAIVER OF THE 18-MONTH REQUIREMENT TO TRANSFER THEIR COMMERCIAL SALMON VESSEL PERMITS FROM ONE VESSEL TO ANOTHER.

Summary of Issue

Messrs. Robert E. Malone and Del F. Robinson request a waiver of the 18-month requirement to transfer their commercial salmon vessel permit from one vessel to another. This item was originally scheduled for the Commission's April 2, 1992 meeting in San Pedro. The Commission, however, had received conflicting

recommendations from the Commercial Salmon Review Board; and therefore, the Commission requested that the Department again discuss these requests with the Salmon Review Board to receive one recommendation from the Review Board for both of these requests since they are similar in nature.

a. Robert E. Malone, Healdsburg

Mr. Malone requests the opportunity to appeal the Department's denial of his application to transfer his commercial salmon vessel permit from one vessel to another without waiting the 18-month time period.

Action

Tim Farley, Inland Fisheries Division, stated that Department personnel had again requested the Commercial Salmon Review Board review these requests and the Board recommended denial of the requests. He stated that the Department was also recommending denial of the requests. He then cited Fish and Game Code Section 8239 regarding permit transfer requirements. He also mentioned the exceptions contained in Fish and Game Code Sections 8946.7.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF ROBERT E. MALONE, HEALDSBURG, FOR A WAIVER OF THE
18-MONTH REQUIREMENT AND TO TRANSFER HIS COMMERCIAL
SALMON VESSEL PERMIT FROM ONE VESSEL TO ANOTHER.

PASSED UNANIMOUSLY.

b. Del F. Robinson, Monterey

In a letter dated March 10, 1992, Mr. Robinson provides the following information:

"I request to be put on the April agenda. I request the Fish and Game Commission to wave the 18 month requirement of ownership for transfer of salmon license.

"I bought the Costa Nova Fish and Game Number 00466 a 26 foot 6 inch 1915 wooden hull double ender. The boat is not sea worthy. I feel it is unsafe to fish due to the condition of the vessel.

"I want to transfer the license to my 24 foot wellcraft which is very sea worthy and is in top condition and ready to fish."

Action

Executive Director Treanor asked if Mr. Robinson was present. There was no response.

Tim Farley, Inland Fisheries Division, indicated that the Salmon Review Board had recommended denial of the request. The Department also recommended denial because there was no provision under the law to waive this requirement.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
DEL F. ROBINSON, MONTEREY, FOR A WAIVER OF THE 18-MONTH
REQUIREMENT AND TO TRANSFER HIS COMMERCIAL SALMON
VESSEL PERMIT FROM ONE VESSEL TO ANOTHER.

PASSED UNANIMOUSLY.

23. REQUEST OF SCOTT SORENSON, SANTA MARIA, FOR A WAIVER OF THE
REQUIREMENT TO POSSESS AT LEAST 50 PERCENT OWNERSHIP IN A
REPLACEMENT VESSEL IN ORDER TO TRANSFER A COMMERCIAL SALMON
VESSEL PERMIT.

Summary of Issue

Scott Sorenson, Santa Maria, requests a waiver of the requirement to possess at least 50 percent ownership in a replacement vessel in order to transfer a commercial salmon vessel permit. In a letter dated March 20, 1992 Mr. Sorenson submits the following information:

"I am currently involved in the process of transferring a commercial salmon permit from the fishing vessel Sue Boy to the fishing vessel Triple Star.

"The Commercial Salmon Review Board has already evaluated all factors and have approved the salmon permit transfer. However, as you know, the owner of the permitted vessel must have a 50 percent or greater ownership interest in the replacement vessel.

"The current depressed state of the economy makes this requirement of having ownership in two vessels at once financially impossible and the transfer impossible.

"Therefore, we are asking the Fish and Game Commission to wave the 50 percent ownership interest rule so that we can proceed with this transfer.

"Your help in this matter would be greatly appreciated. If possible we would like the Commission to include this request on your April agenda as permit renewal is approaching."

Department Recommendation

"The Department consulted with the Commercial Salmon Review Board and considered the request of Mr. Sorenson to waive the 50 percent ownership requirement to transfer the commercial salmon vessel permit to a replacement vessel.

"According to Fish and Game Code Section 8239, one of the transfer requirements is that 'the permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel.' There are no exceptions to be found in the salmon limited entry legislation regarding this requirement to simultaneously own two vessels.

"The Department has no authority to waive the 50 percent ownership requirement and recommends that, unless the Commission determines there are any exceptions that apply, Mr. Sorenson should not be allowed to complete his transfer."

Action

Scott Sorenson explained his request and asked for approval of his waiver request.

Tim Farley, Inland Fisheries Division, indicated that there appeared to be some confusion regarding this issue, but stated that the Department's recommendation remained unchanged because there was no provision under the law for a waiver of the 50 percent ownership requirement. Commissioner Boren advised Mr. Sorenson that the only way he could transfer the permit was to get some written agreement with the boat owner for 50 percent ownership and that he should also probably retain a lawyer.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF SCOTT SORENSON, SANTA MARIA, FOR A WAIVER OF THE
REQUIREMENT TO POSSESS AT LEAST 50 PERCENT OWNERSHIP
IN A REPLACEMENT VESSEL IN ORDER TO TRANSFER A
COMMERCIAL SALMON VESSEL PERMIT FROM ONE VESSEL TO
ANOTHER.

PASSED UNANIMOUSLY.

24. REQUEST OF RICHARD VAN DYKE, CORONA DEL MAR, FOR REINSTATEMENT OF EXPIRED DRIFT GILL NET SHARK AND SWORDFISH PERMIT.

Summary of Issue

Mr. Richard Van Dyke, Corona Del Mar, requests reinstatement of an expired drift gill net shark and swordfish permit. In a letter dated April 23, 1992 Mr. Van Dyke provides the following information:

"I would like to request that I be allowed to renew my California shark/swordfish drift net permit 01710. I did not renew the permit for the 91-92 season because of the loss of the boat Chaser and my friend and fishing partner Thomas Corona. I don't know whether you recall or not, but Thomas' boat was returning from a fishing trip and was overturned by a speeding yacht in San Diego Bay. The yacht did not stop and render assistance and Thom was trapped below by the net spool which had become dislodged. I had been fishing with Thom for quite sometime and his death hit me pretty hard. Since then, I have recovered and would very much like to go fishing again. I would appreciate it if you would give this matter your utmost consideration."

Action

Deputy Director Sarasohn presented the Department's recommendation to approve Mr. Van Dyke's request on the condition that he pay all of the permit fees for the 1991-92 season as well as the 92-93 permit fees. Mr. Van Dyke stated he agreed with the Department's recommendation.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF RICHARD VAN DYKE, CORONA DEL MAR, FOR REINSTATEMENT OF AN EXPIRED DRIFT GILL NET SHARK AND SWORDFISH PERMIT, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

25. REQUEST OF DARIUSZ TED ANTOSZCZUK, FORT BRAGG, FOR REINSTATEMENT OF HIS COMMERCIAL SEA URCHIN DIVING PERMIT.

Summary of Issue

Mr. Dariusz Ted Antoszczuk, Fort Bragg, requests reinstatement of his commercial sea urchin diving permit. The Commission, at its April 4, 1991 meeting in Sacramento, suspended

Mr. Antoszczuk's commercial sea urchin diving permit until he appeared before the Commission to show cause why his commercial sea urchin diving permit should be reinstated. The Commission also scheduled a hearing at Mr. Antoszczuk's request for the Commission's April 25, 1991 meeting in Sacramento to consider reinstatement of his permit; however, Mr. Antoszczuk again failed to appear at that meeting.

Commissioners were provided with a copy of the Commission's letter to Mr. Antoszczuk informing him of possible Commission action, the Department's request, a copy of the citation, the warden's arrest report, as well as a copy of the court record. As noted in the Department's request, the original request was for a two-month suspension. However, since Mr. Antoszczuk failed to appear at the Commission's April 4 meeting, the Commission suspended his permit until appearance.

Commissioners were also provided with a copy of the Commission's May 15, 1991 letter to Mr. Antoszczuk informing him of the Commission's no action at its April 25 meeting because he failed to appear at that meeting, and again emphasized that his permit was suspended until he appeared before the Commission to show cause why his permit should be reinstated.

At its April 2, 1992 meeting in San Pedro, the Commission adopted a policy position against those individuals who did not appear at the requested Commission meeting concerning the revocation or suspension of their license or permit. That policy position was that the Commission would accept the Department's recommendation for suspension in those cases where the permittee failed to appear.

Action

Dariusz Ted Antoszczuk explained his medical situation and why he could not appear at the prior meetings. He requested reinstatement of his diving permit.

DeWayne Johnston, Wildlife Protection Division, stated that because Mr. Antoszczuk did not fish during the first 60 days of his license suspension, the Department was recommending approval based on the fact that Mr. Antoszczuk was off the water a sufficient amount of time. Commissioner Boren asked Mr. Antoszczuk a number of questions regarding his automobile accident and his ability to work or to report to the Commission meeting.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF DARIUSZ TED ANTOSZCZUK, FORT BRAGG, FOR
REINSTATEMENT OF HIS COMMERCIAL SEA URCHIN DIVING
PERMIT AS OF MAY 14, 1992.

PASSED UNANIMOUSLY.

26. REQUEST OF MICHAEL E. WALKER, HESPERIA, FOR REINSTATEMENT OF
HIS TRAPPING PRIVILEGES.

Summary of Issue

Michael E. Walker, Hesperia, requests reinstatement of his trapping privileges. In a letter dated March 25, 1992 Mr. Walker provides the following information:

"My name is Michael E. Walker. I lost my trapping license because of a trapping violation. I made a mistake. I was not aware that using feathers as an attraction is illegal.

"I really would like to have my license back and would appreciate a hearing on May 14 or 15 in Bakersfield. Would you please hear my case?"

The Commission wrote a letter to Mr. Walker indicating his trapping privileges had been revoked for three years or until April 4, 1994 because of his conviction regarding Section 4004(g) of the Fish and Game Code concerning the unlawful use of sight bait within 30 feet of a steel leghold trap.

Action

The Executive Director summarized Mr. Walker's request.

Deputy Director Sarasohn stated that the Department recommended approval of the request to be effective immediately.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF MICHAEL E. WALKER, HESPERIA, FOR
REINSTATEMENT OF HIS TRAPPING PRIVILEGES AS OF
MAY 14, 1992.

PASSED UNANIMOUSLY.

27. REQUEST OF HOANG VAN HA, WILMINGTON; MARK ROSATI, SANTA BARBARA; ANDREW KUGLIS AND VITO TERZOLI, SAN PEDRO, TO APPEAL DEPARTMENT DENIAL OF RENEWAL APPLICATIONS FOR THEIR GENERAL GILL AND TRAMMEL NET PERMITS.

Summary of Issue

Messrs. Hoang Van Ha, Mark Rosati, Andrew Kuglis and Vito Terzoli request an opportunity to appeal the Department's denial of their renewal applications of their general gill and trammel net permits.

a. Hoang Van Ha, Wilmington

Mr. Hoang Van Ha provides the following information in a letter dated April 15, 1992:

"I hereby apply for a California Fish and Game gill net permit.

"I acknowledge I am late in requesting this permit but the reason for my delay is because of the following reasons.

"My wife and I have separated and she forbid me to enter our house so that I could get the legal papers for my boat Saint Ann. I did not know until today that she would let me retain the boat on my name. But now since she turned the legal papers to me I am officially requesting a gill net permit. Refer to Section #8681.

"Please realize how important my livelihood depends on this permit. Thank you for your kind cooperation."

The Commission was provided with a copy of a memo written by the Department concerning Mr. Hoang Van Ha's application for renewal.

Action

Willie Lee acted as interpreter for Hoang Van Ha and explained the circumstances of Mr. Ha's request.

Deputy Director Sarasohn presented the Department's recommendation for approval and stated that the Department requested four conditions. DeWayne Johnston stated the conditions were as follows: (1) a copy of the documentation of the dissolution of his marriage as proof that he was in fact going through a divorce; (2) a property settlement agreement; (3) payment of the 91-92 fees within 30 days after the documentation was approved; and (4) that Mr. Ha purchase the 1992-93 permit before he could again begin fishing.

Mr. Lee translated the conditions for Mr. Ha, and stated that Mr. Ha understood the conditions and would agree with them.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF HOANG VAN HA, WILMINGTON, FOR RENEWAL OF HIS GENERAL GILL AND TRAMMEL NET PERMIT, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

b. Mark Rosati, Santa Barbara

Mr. Mark Rosati provides the following information in a letter submitted to the Commission office:

"I Mark Rosati planned to renew my general gill 91-92 and 92-93 at the same time prior to March 31, 1992. When I called and talked to License Dept., they said that licenses could not be renewed due to pending legislation and the expiration dates had been extended to the end of April. On April 14 and 20th I tried to renew my license and was told I could not renew my general gill permit as it was past the March 31, deadline.

"I feel that due to the confusion of renewal dates on the part of the Fish and Game Department, I should be allowed to renew my general gill net license for 91-92 and 92-93."

The Commission was provided with a copy of the Department memo regarding Mr. Rosati's application for renewal.

Action

The Executive Director stated that the Department recommended approval of this request.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF MARK ROSATI, SANTA BARBARA, FOR RENEWAL OF HIS GENERAL GILL AND TRAMMEL NET PERMIT.

PASSED UNANIMOUSLY.

c. Vito Terzoli, San Pedro

In a letter dated April 16, 1992, Mr. Terzoli provides the following information:

"I had a gill netters permit until two years ago. I sold my boat. The person I sold it to never paid me. It took me a year to locate the person. I had to take the boat back. I would like to start gill netting with my boat since I am unemployed. I am requesting to get my license back. When I sold my boat there was no written agreement or a bill of sale. It was just a verbal agreement. The person who was to buy my boat did not use the boat for gill netting.

"Your prompt response to this matter is appreciated. I am prepared to appear before the Fish and Game board on 5/14/92 in Bakersfield."

Action

Vito Terzoli briefly explained his request. The Executive Director stated that the Department recommended approval, provided he met the conditions recommended by the Department.

DeWayne Johnston, Wildlife Protection Division, presented the Department's conditions as follows: (1) Mr. Terzoli must provide documentation showing that he had actually sold the boat, and that he now owns it; (2) Mr. Terzoli must purchase the permits for the 91-92 season; and (3) he must also buy a permit for the 92-93 season. He stated that, contingent upon those conditions, the Department recommended approval.

Mr. Terzoli agreed to those conditions.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF VITO TERZOLI, SAN PEDRO, FOR RENEWAL OF HIS
GENERAL GILL AND TRAMMEL NET PERMIT, SUBJECT TO THE
TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND
APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

d. Andrew Kuglis, San Pedro

In a letter dated April 25, 1992, Mr. Kuglis provides the following information:

"On April 25, 1992, I applied for the renewal of my general gill/trammel net license and was denied because the expiration date was March 31, 1992.

"I am very distraught because of this oversight on my part. I am 80 years old and have fished all of my life and this is the first time I've neglected to renew a license before the expiration date.

"I would appreciate being put on the Fish and Game Commission committee agenda to appeal this denial.

"For medical reasons, I started negotiations for the transfer of this license in the early part of January that should have been completed by April 1, 1992.

"Time and distance between me and Mr. Arnold Jardstrom, including communications with Mrs. Barbara Bania, the negotiation process moved more slowly than I have anticipated resulting in an oversight on my part to renew the license before sending Mr. Jardstrom all the required information. I mailed all the necessary documents to Arnold by April 1, and he in turn mailed everything off to Barbara Bania that same week.

"I would greatly appreciate your consideration of this general gill/trammel net license denial and approve the transfer of this license to Mr. Jardstrom as a legal and valid document."

Action

The Executive Director stated that the Department recommended approval of this request and that Mr. Kuglis had been informed that he did not have to appear because of the Department's recommendation for approval.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF ANDREW KUGLIS, SAN PEDRO, FOR RENEWAL OF
HIS GENERAL GILL AND TRAMMEL NET PERMIT, SUBJECT TO
THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT
AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

28. REVOCATION OF GENERAL GILL AND TRAMMEL NET PERMIT OF DA VAN NGUYEN, LONG BEACH.

Summary of Issue

The Department requests that the Commission revoke the general gill and trammel net permit of Da Van Nguyen, Long Beach, for a period of one year from May 15, 1992 through May 14, 1993. A certified letter has been sent to Mr. Nguyen notifying him of the possible action to be taken by the Commission. Mr. Nguyen indicated that he would provide two interpreters, Willie D. Lee and Kimngoc Hong, at the May 14 meeting.

The Department's request is predicated on the fact that, on October 31, 1991 in the Los Angeles Municipal Court, Mr. Da Van Nguyen pled nolo contendere to a violation of Section 8693.5 of the Fish and Game Code, using a gill net in a closed area. Mr. Da Van Nguyen was found by a Department warden to be using a gill net within an area closed to gill net fishing (Pacific gray whale migration route). Mr. Nguyen was sentenced to 180 days in jail for a probation violation of an earlier conviction and was placed on 24 months probation. His catch was forfeited to the Department of Fish and Game.

Mr. Da Van Nguyen has two prior convictions - one on May 28, 1989 for a violation of sections 8372 and 8380(a), of the Fish and Game Code, possession of bass on a commercial fishing vessel and possessing an overlimit of black sea bass. He was fined \$500 and placed on 24 months summary probation. Mr. Nguyen was also convicted on August 28, 1989 for a violation of Fish and Game Code, Section 8603, use of gill nets inside District 19A. His permit was revoked by the Court from August 10, 1990 to February 10, 1991. He was placed on 36 months summary probation and was not to enter District 19A with any gill net, and his gill net was ordered confiscated by the Department. The Commission's authority to take this action was pursuant to Section 8681(a) of the Fish and Game Code.

Commissioners were provided a copy of the Commission's letter dated March 18, 1992 to Mr. Da Van Nguyen, the Department's request, a copy of the citation, a copy of the Department's arrest report, the court record, as well as background on his two prior violations.

Action

An interpreter spoke on behalf of Mr. Nguyen and presented his extenuating circumstances. Mr. Nguyen promised not to make those mistakes again.

DeWayne Johnston, Wildlife Protection Division, stated that this was a very serious resource issue and that Commission adoption of closures were for very important reasons. He stated that, based on Mr. Nguyen's history, the Department recommended that the Commission take a strong stand and suspend Mr. Nguyen's general gill and trammel net permit for one year.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THAT THE FISH AND GAME COMMISSION HEREBY SUSPENDS THE GENERAL GILL AND TRAMMEL NET PERMIT OF DA VAN NGUYEN, LONG BEACH, FOR A PERIOD OF ONE YEAR OR UNTIL MAY 14, 1993.

PASSED UNANIMOUSLY.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE COMMISSION'S FINDINGS AS RECOMMENDED BY THE DEPARTMENT AS THE COMMISSION'S FINDINGS IN THIS MATTER.

- (1) Da Van Nguyen pled nolo contendere to a violation of Section 8693.5 of the Fish and Game Code in the Los Angeles Municipal Court on October 31, 1991 regarding using a gill net in a closed area.
- (2) Section 12158.5 of the Fish and Game Code states, "for the purpose of invoking any provision of this code or any rule, regulation, or order made or adopted under this code relating to the suspension, revocation, or forfeiture of any license or permit, a plea of 'nolo contendere' or 'no contest' to, or forfeiture of bail from, a charge of a violation of any provision of this code, or any rule, regulation, or order made or adopted under this code is a conviction of a violation thereof." Therefore, it is the Commission's view that Mr. Nguyen's nolo contendere plea to a violation of Section 8693.5 of the Fish and Game Code is a conviction of the violation as charged.
- (3) The Department of Fish and Game believes and the Commission adopts the view that the establishment of a closed area to gill netting in the Pacific Gray Whale migration route is of utmost importance in the proper management of our State's marine resources.

- (4) Section 8681(a) of the Fish and Game Code allows the Commission to suspend the general gill and trammel net permit of a permittee for a violation of any Fish and Game law or regulation pertaining to the use of gill and trammel nets.
- (5) The Commission was informed that Mr. Nguyen had two prior violations: one on May 28, 1989 for a violation of Sections 8372 and 8380(a) of the Fish and Game Code, regarding possession of bass on a commercial fishing vessel and possession of an overlimit of black sea bass. He was fined \$500 and placed on 24 months summary probation. He was also convicted on August 28, 1989 for a violation of Section 8603 of the Fish and Game Code, use of gill nets in District 19(A). Mr. Nguyen's permit was revoked by the court from August 1990 to February 10, 1991. He was also placed on 36 months' summary probation and was not to enter in District 19(A) with any gill net.
- (6) Mr. Nguyen's actions in using a gill net in a closed area to protect the gray whale migration warrant the suspension of his permit for the maximum period of one year.
- (7) The mitigating evidence he provided to the Commission was insufficient to dissuade the Commission from suspending his permit for one year. He must take responsibility for his actions in light of maintaining a productive marine resource for future generations.

PASSED UNANIMOUSLY.

29. REVOCATION OF COMMERCIAL LOBSTER PERMITS OF MARIO ARMANDO GHIO AND CAO VAN LAM, SAN DIEGO.

Summary of Issue

The Department requests that the Commission suspend the commercial lobster permits of Mario Armando Ghio and Cao Van Lam, San Diego, for the first month of the 1992 lobster season from October 7, 1992 through November 6, 1992. Certified letters were sent to Messrs. Ghio and Lam notifying them of the possible action to be taken by the Commission.

a. Mario Armando Ghio, San Diego

The Department's request is predicated upon the fact that on January 6, 1992, in the San Diego Municipal Court, Mr. Mario Armando Ghio pled guilty to a violation of Section 8252 of the Fish and Game Code, taking and possessing seven undersized spiny lobsters. On October 16, 1991, Mr. Ghio's vessel was boarded at

Sportsmen's Landing in Mission Bay, the inspection by the Department's warden revealed seven undersized lobsters in a total catch of 25 which represented 28 percent of the catch. Mr. Mario Ghio was fined \$450 and placed on three years probation. The seven undersized lobsters were forfeited to the Department of Fish and Game. Mr. Ghio has no known prior violations. The Commission's authority to take this action was pursuant to Section 8256 of the Fish and Game Code.

Commissioners were provided copies of the Commission's letter dated April 6, 1992 to Mr. Mario Armando Ghio, the Department's request dated March 6, 1992, a copy of the citation, the Department's arrest report, as well as the court record.

Action

Mr. Ghio explained the extenuating circumstances in his case for the Commission's consideration.

DeWayne Johnston, Wildlife Protection Division, stated that the reason size limits were established was to protect the resource. He explained that the actions of Mr. Ghio did not warrant the suspension of his permit for the maximum period of time, which was one year, therefore, the Department recommended that his permit be suspended for the first 30 days of the season, from October 7, 1992 to November 6, 1992.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY SUSPENDS THE COMMERCIAL LOBSTER PERMIT OF MARIO ARMANDO GHIO, SAN DIEGO, FOR A PERIOD OF ONE MONTH FROM OCTOBER 7, 1992 THROUGH NOVEMBER 6, 1992.

PASSED UNANIMOUSLY.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE COMMISSION'S FINDINGS AS RECOMMENDED BY THE DEPARTMENT AS THE COMMISSION'S FINDINGS IN THIS MATTER.

- (1) Mario Armando Ghio pled guilty to a violation of Section 8252 of the Fish and Game Code in San Diego Municipal Court on January 6, 1992 regarding taking and possessing undersized spiny lobsters.

- (2) The Department of Fish and Game believes and the Commission adopts the view that the requirement of the maintenance of a minimum size limit is of utmost importance in the proper management of the lobster resource.
- (3) Section 8256 of the Fish and Game Code allows the Commission to suspend the commercial lobster permit of a permittee for a violation of any Fish and Game regulation pertaining to the take of lobsters.
- (4) Mr. Ghio's actions in taking undersized lobsters warrant the suspension of his permit for the first month of the 1992 commercial lobster season.
- (5) The mitigating evidence Mario Ghio provided on May 14, 1992 was insufficient to dissuade the Commission from suspending his permit for the first month of the 1992 commercial lobster season because he must take responsibility for his actions in light of maintaining a productive lobster resource for future generations.

PASSED UNANIMOUSLY.

b. Cao Van Lam, San Diego.

The Department's request is predicated upon the fact that on December 19, 1991, in the San Diego Municipal Court, Mr. Cao Van Lam pled guilty to a violation of Section 8252 of the Fish and Game Code, taking and possessing undersized spiny lobsters. As way of background, on October 22, 1991, three undersized California spiny lobsters were found on Mr. Lam's vessel. The boat had just returned from a commercial fishing trip; and the undersized lobsters were found hidden under the seats in the galley in a cooked condition. Mr. Lam was fined \$150 with an additional \$30 to the Crime Victims' Fund. He was placed on three years probation, and the three undersized cooked spiny lobsters were forfeited to the Department.

Mr. Lam has one prior violation on October 2, 1991 for a violation of Section 8257 of the Fish and Game code and Section 122(h), Title 14, California Code of Regulations, regarding failure to display his permit number on the vessel when taking lobster and failing to mark the lobster trap buoys with his commercial lobster permit number, respectively. He was fined \$125 and placed on three years probation. The Commission's authority to take this action was pursuant to Section 8256 of the Fish and Game Code.

Commissioners were provided copies of the Commission's letter dated April 6, 1992 to Mr. Cao Van Lam, the Department's request dated March 9, 1992, a copy of the citation, the Department's arrest report, the court record, as well as the background on the prior violation.

Action

An interpreter for Mr. Van Lam requested that the penalty of 30 days suspension be for the last 30 days of the season, not the first 30 days of the season.

DeWayne Johnston, Wildlife Protection Division, stated that the Department believed this was such an important resource issue, it would maintain its recommendation of a suspension for the first 30 days of the season, from October 7, 1992 through November 6, 1992.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY SUSPENDS THE COMMERCIAL LOBSTER PERMIT OF CAO VAN LAM, SAN DIEGO, FOR A PERIOD OF 30 DAYS FROM OCTOBER 7, 1992 THROUGH NOVEMBER 6, 1992, PURSUANT TO THE FOLLOWING FINDINGS:

- (1) Cao Van Lam pled guilty to a violation of Section 8252 of the Fish and Game Code in the San Diego Municipal Court on December 19, 1991, regarding taking and possessing undersized spiny lobsters.
- (2) The Department of Fish and Game believes and the Commission adopts the view that maintenance of a minimum size limit is of utmost importance in the proper management of the lobster resource.
- (3) Section 8256 of the Fish and Game Code allows the Commission to suspend the commercial lobster permit of a permittee for a violation of any Fish and Game law or regulation pertaining to the take of lobsters.
- (4) The Commission was informed that Mr. Lam had a prior violation (Section 8257 of the Fish and Game Code and Section 122(h), Title 14, CCR), regarding failure to display his permit number on the vessel when taking lobster and failing to mark the lobster trap buoys with his commercial lobster permit number. He was found guilty, paid a fine, and was placed on probation.
- (5) Mr. Lam's actions in taking three undersized lobsters warranted suspension of his permit for the first month of the 1992 commercial lobster season.

- (6) The mitigating evidence Mr. Lam provided on May 14, 1992 was insufficient to dissuade the Commission from suspending his permit for the first month of the 1992 commercial lobster season because he must take responsibility for his actions in light of maintaining a productive lobster resource for future generations.

PASSED UNANIMOUSLY.

30. CONSIDERATION OF ACCEPTANCE OF A STIPULATED COMPROMISE SETTLEMENT AGREEMENT OR THE REVOCATION/SUSPENSION OF THE COMMERCIAL SALMON FISHING PRIVILEGES OF STEPHEN M. GILMORE, PETALUMA.

Summary of Issue

The Department requests that the Commission revoke the commercial salmon fishing privileges of Stephen M. Gilmore, Petaluma. The Department predicated its request upon the fact that, on December 19, 1991 in the San Mateo Municipal Court, Mr. Stephen M. Gilmore pled nolo contendere to a violation of Section 182(b), Title 14, CCR, regarding taking salmon for commercial purposes with barbed hooks. A certified letter was sent to Mr. Stephen M. Gilmore notifying him of the possible action which could be taken by the Commission. In addition, Mr. Gilmore was provided the opportunity to enter into a Stipulated Compromise Settlement Agreement pursuant to Section 167, Title 14, CCR.

Commissioners were provided a copy of the Commission's March 18, 1992 letter to Mr. Stephen M. Gilmore, a copy of the Stipulated Compromise Settlement Agreement requesting that \$600 be paid as a monetary penalty in lieu of a possible revocation or suspension of his commercial salmon fishing privileges, a copy of the Department's request dated February 13, 1992, a copy of the citation, the Department's arrest report, and the court record.

When the agenda analysis was prepared, Mr. Gilmore had not submitted a check for \$600 nor signed the Stipulated Compromise Settlement Agreement.

Action

Mr. Stephen Gilmore stated that he thought it was too much of a financial burden to pay the compromise payment of \$600 and so he would have to accept whatever suspension the Commission felt appropriate.

DeWayne Johnston stated that the stipulated agreement was offered due to the variability of the salmon season. He indicated that, since Mr. Gilmore was in violation of an

important resource regulation, the Department recommended a suspension of three weeks, that would be from May 15, 1992 to June 4, 1992.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY SUSPENDS THE COMMERCIAL SALMON FISHING PRIVILEGES OF STEPHEN M. GILMORE, PETALUMA, FOR A PERIOD OF THREE WEEKS, FROM MAY 15, 1992 THROUGH JUNE 4, 1992, PURSUANT TO THE FOLLOWING FINDINGS:

- (1) Stephen M. Gilmore pled nolo contendere to a violation of Section 182(b), Title 14, CCR, in the San Mateo Municipal Court on December 19, 1991, regarding taking salmon for commercial purposes with barbed hooks.
- (2) Section 12158.5 of the Fish and Game Code states "for the purpose of invoking any provision of this code, or any rule, regulation to the suspension, revocation, or forfeiture of any license or permit, a plea of 'nolo contendere' or 'no contest' to, or forfeiture of bail from, a charge of violation of any provision of this code, or any rule, regulation, or order made or adopted under this code, is a conviction of violation thereof." Therefore, it is the Commission's view that Mr. Gilmore's nolo contendere plea to a violation of Section 182(b), Title 14, CCR, is a conviction of the violation as charged.
- (3) The Department of Fish and Game believes and the Commission adopts the view that the use of barbless hooks is of utmost importance in the proper management of the salmon resource.
- (4) Section 8246(a)2 of the Fish and Game Code, allows the Commission to suspend the commercial salmon fishing privileges of a permittee for a violation of any Fish and Game law or regulation pertaining to the take of salmon.
- (5) The Commission was informed that Mr. Gilmore was provided the opportunity to enter into a Stipulated Compromise Settlement Agreement pursuant to Section 167, Title 14, CCR, to pay a monetary penalty, rather than receiving a suspension or revocation of his salmon fishing privileges, but he failed to enter into that agreement prior to the Commission hearing on May 14, 1992.
- (6) Stephen M. Gilmore's actions in using 30 barbed hooks warrant the suspension of his permit for a period of three weeks.

- (7) The mitigating evidence Mr. Gilmore provided to the Commission on May 14, 1992 was insufficient to dissuade the Commission from suspending his permit for three weeks, because he must take responsibility for his actions in light of maintaining a productive salmon resource for future generations.

PASSED UNANIMOUSLY.

31. DEPARTMENT STATUS REPORT REGARDING LEGISLATION.

Summary of Issue

This item has been scheduled to afford the Commission an opportunity to receive an update from the Department regarding its proposed legislation for 1992, as well as other legislation affecting the Commission or the Department.

Action

Director Gibbons provided a brief discussion of Assembly Bill 51 which would establish a Marine Fisheries Council. Al Petrovich, Marine Resources Division, stated the Department's main problem with this legislation was that it required the development of management plans for many fisheries; however, the legislation did not provide the Department with any additional funds. He stated that the Department, though it is supportive of the theory, could not support this legislation without some funding attached.

The Executive Director stated that he had been contacted by United Anglers who also expressed opposition to this legislation. He indicated that United Anglers had requested that the Commission oppose the legislation as well. He explained that it was United Anglers' opinion that the Marine Fisheries Council should be made a subcommittee of the Fish and Game Commission. The Executive Director stated that he had sent a letter to the Commission with all of the information from United Anglers and copies of the legislation for its review.

Commissioner Boren asked the Executive Director whether it was appropriate for the Commission to take positions on legislation. The Executive Director stated that the Commission had historically taken positions on legislation which would affect the Commission directly. He pointed out that this bill would impact the Commission's authority concerning marine resources and possibly anadromous fisheries.

Deputy Director Sarasohn briefly discussed the status of SB 844, which would increase the cost of the Duck Stamp to \$10 and create an Upland Game Stamp.

32. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

Summary of Issue

This item is set aside to afford the Department the opportunity to present the Commission with informational items.

Action

A. PROGRESS REPORT REGARDING: NCCP

Deputy Director Sarasohn provided the Commissioners with a brief update on the status of the Natural Community Conservation Planning Program. He clarified that sometimes the loss of habitat area estimates were not exact; however, the Department believed that the loss of habitat over the past few months had been minor. He also stated that the Department had entered into an agreement with the U. S. Fish and Wildlife Service to do monthly aerial monitoring of the habitat. He explained that the Department had received some enrollments in the NCCP Program. He noted that approximately 700,000 acres had been enrolled, and 80,000 acres of it was coastal sage scrub habitat. He explained that the NCCP guidelines had been distributed and were awaiting comments, and that the scientific advisory committee was meeting as scheduled.

Carol Whiteside, Assistant Secretary for Resources, updated the Commissioners on the NCCP Program. She stated that 90 percent of the habitat in Orange County had been enrolled. Ms. Whiteside discussed two types of enrollment; the private landowner enrollment and the county/city enrollment. She clarified that the enrollment period lasted 18 months or until a permanent protection plan was in place. She then explained that though the enrollments in Orange County and San Diego County were significant, only one landowner had enrolled in Riverside County. She then discussed her meetings with individuals in Riverside County. She likened the NCCP Program to a recovery plan without an endangered species listing. She stated that the next step was to centralize the study areas into the core habitat areas and to focus on the negotiation of a permanent plan for those areas, though they were still concerned about interim protection.

B. STATUS REPORT REGARDING: VAIL LAKE CEANOETHUS AGREEMENT

Deputy Director Sarasohn stated that the Department had reached an impasse on any agreement with the landowner regarding the Vail Lake ceanothus. He indicated that the disagreement appeared to be with the size of the buffer zone that had been recommended by the Department and that which the landowner was willing to provide for protection of the species.

Bill Cunningham, Attorney General's Office, briefed the Commission on the status of the litigation concerning the Vail Lake ceanothus petition denial.

Ken Berg, Natural Heritage Division, discussed the Department's negotiations with the landowner and with Bill Geyer, Geyer and Associates, who was representing the landowner. He noted that the Department's two main concerns were for the prevention of grass fires through the use of a buffer zone around the area and for the internal security of the Vail Lake site. Mr. Berg stated that on a recent field trip, the Department had encountered some off-road vehicles, which had refused to leave the site upon request, as well as some damage to other threatened and endangered plants caused by off-road vehicles. He concluded by saying that the landowner had not presented any specific proposals on how to address the access problems.

Deputy Director Sarasohn stated that it was not necessary for the Department to receive full title to the buffer area, and that the Department was willing to work with the landowner to help him develop all possibilities for utilizing the land in a way that would not increase the fire danger to the plants.

Bill Geyer, representing the landowner, stated that the landowner had spent over \$20,000 on an environmental assessment for this property. He stated that he believed the landowner needed another week before he could make a decision regarding fire danger to this species. He noted that Bedford Properties had appointed a new project manager who would like to evaluate all aspects of the situation again. He stated that the landowners would have a definitive answer, and possibly an agreement, by the Commission's August meeting. He requested that if the Commission was going to reconsider the petition, perhaps it could postpone it until August.

Commissioner Biaggini stated that it was an understanding with the landowner that if a management plan could be worked out, the Commission would not need to reconsider this petition; however, it appeared that they had come to a deadlock. He noted that if this deadlock could not be broken, the Commission would take action.

Ken Berg stated that the abundant spring rains created an abundance of dry grasses and the Department was concerned with the possibility of a devastating fire. He explained that the Department was also concerned that a fire could result if people with off-highway vehicles were in the area without spark arresters on their vehicles. He also requested that the Commission authorize the Department to collect and store seeds, with the help of the landowner, as an insurance policy. Bill Geyer stated that he did not believe the landowner would object to that request.

Commissioner Biaggini stated, based on the above discussion, it would be appropriate to reconsider the petition at the June meeting. Commissioner Owen asked the Department why it had requested that specific amount of land. Ken Berg explained that the Department had based its request upon input from the U. S. Forest Service, which manages chaparral areas using fires. He indicated that the Department's request was based upon the best available scientific information.

Deputy Director Sarasohn stated that the Department was concerned by allowing building too close to the area, the fire management for this species could accidentally result in an out-of-control fire which could then jeopardize the houses. Mr. Sarasohn requested from Bill Geyer a copy of the environmental consultant's report when it was completed. Mr. Geyer agreed to provide the Department with a copy once the landowner was satisfied with the report.

The Commission then requested that Commission staff renote the petition for the Vail Lake ceanothus for the June 19, 1992 meeting. Bill Geyer inquired what actions the Commission could take at that time if significant progress occurred before the June meeting. Bill Cunningham stated that because of the unusual circumstances, there were three actions that could be taken: (1) the petition could be accepted; (2) the petition could be rejected as insufficient; or (3) the decision could be delayed for further consideration. However, he reminded the Commission that the court had given the Commission a stay on the briefing schedule because it was aware of the possibility that this petition could be reconsidered at any time. He indicated that the stay extended to 10 days after the June meeting.

Deputy Director Sarasohn inquired whether the Department needed to conduct another 90-day review. Mr. Cunningham stated that the petition would not have to go back to the Department for a 90-day review. He explained that the Commission could reconsider the original record and all subsequent information and would not have to start fresh with a new petition.

C. HEALDSBURG DAM FISH LADDER

Deputy Director Sarasohn spoke briefly regarding the letter that the Department had sent to Sonoma County regarding the Healdsburg Dam fish ladder. He indicated that the Department expected to receive a reply by May 22. He agreed to report on this issue at the Commission's June meeting.

D. LEGISLATION ON PIG TAGS

Deputy Director Sarasohn noted that the legislation on the pig tags was approved.

E. TRICOLOR BLACKBIRD

Deputy Director Sarasohn updated the Commission on the Tricolor Blackbird Working Group.

F. UPPER SACRAMENTO RIVER RECOVERY UPDATE

Deputy Director Sarasohn discussed the memo provided to the Commission updating it on the recovery of the Upper Sacramento River.

G. CARTER FARMS VS. NATIONAL AUDUBON SOCIETY

Deputy Director Sarasohn briefly discussed a court case in Yuba County, re: Carter Farms vs. National Audubon Society.

H. CULVERT AT ELKHORN SLOUGH

Commissioner Boren asked for the report on the culvert at Elkhorn Slough, and discussed his concerns on this item. Deputy Director Sarasohn stated that he believed the Corps of Engineers was going to conduct a study; however, it must first obtain authorization for funding.

I. DEFINITION OF TAKE

Bill Cunningham indicated that he would be providing the Commission with information on the various legal definitions of "take" at the June meeting.

33. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

Summary of Issue

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

Action

The Executive Director stated he had received notice that the Mountain Lion Foundation had circulated a news release calling for the Governor to restructure the Fish and Game Commission.

The Executive Director also requested any items that the Commission would like to have discussed at the Western Association meeting in Arizona. He indicated that the items should be submitted to staff who would transmit them to Arizona as soon as possible. He reminded the Commission that anyone wishing to attend the meeting should arrive on July 5 as the Commissioners' retreat was on July 6 and 7, and General Session

started on the July 8 and ran through July 12. The Executive Director reminded the Commission that California would be hosting the Western in 1993 and that the Commissioners would be chairing the conference so there should be at least one commissioner attending the Arizona meeting to allow for a good transition from Arizona to California.

Executive Director Treanor stated that because the Department was waiting to see if Senator McCorquodale's legislation to increase the fees of commercial fishermen would pass, the Department had postponed the collection of the fees for salmon vessel permits. He indicated that when that legislation failed to pass, the Department sent letters to the fishermen telling them their permits needed to be renewed by April 30. He explained that because some individuals failed to receive these letters, a few had contacted the Commission asking for an expeditious renewal of their permits since there was a possibility of a very limited commercial fishery this year. He suggested that the Commission authorize the Department to issue the above salmon vessel permits and to issue additional permits when appropriate. He stated that if the Commission did not wish to provide general authorization, then individual fishermen could appeal separately to the Commission.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES THE REISSUANCE OF COMMERCIAL SALMON VESSEL PERMITS TO JAMES NOWAK AND JOHN MOTTA. FURTHER, THE COMMISSION AUTHORIZES THE DEPARTMENT TO ISSUE COMMERCIAL SALMON VESSEL PERMITS TO OTHERS AS IT DEEMS APPROPRIATE.

PASSED UNANIMOUSLY.

The Executive Director stated there was a similar issue with a boat owner who was going to renew his shark and swordfish permit; however, he was at sea a few days before the deadline, and his boat sank. He noted that the Department recommended that he appear before the Commission, and that the Department was recommending approval of his request.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES THE REISSUANCE OF THE DRIFT GILL NET SHARK/SWORDFISH PERMIT TO JOHN W. WILKES, TEMECULA.

PASSED UNANIMOUSLY.

The Executive Director stated he had received a letter from the California Hawking Club (CHC) requesting the opportunity to appear at the June meeting in Bakersfield to discuss the reopening of Inyo-Mono counties to the take of goshawks. Commissioner Owen stated that this issue had been fully discussed at the April meeting, and the Commission had decided that if there was no progress made on the studies being conducted by the U. S. Fish and Wildlife Service within a year, the Commission would rehear the matter then. The Executive Director stated that the motion adopted at the April meeting did not specifically state that requirement and that was why CHC was coming to the Commission with this issue.

DeWayne Johnston, Wildlife Protection Division, stated that the CHC had been requesting that the Department completely revamp the falconry regulations. He recommended that this proposal be made part of the other regulatory proposals so that the Commission would not have to keep rehearing this issue. He explained that the Department would be coming to the Commission with a comprehensive package in the near future. Deputy Director Sarasohn stated the Department would draft a letter to the CHC for the Commission.

34. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.

Summary of Issue

This item is scheduled for the Commission's legal advisor to discuss any informational items, certain legal issues, and/or procedures with the Commission.

Action

Bill Cunningham requested further details on the Commission's request regarding the consideration of the various permit and license actions. Commissioner Owen asked if it would be acceptable for these issues to be heard every other month or for one Commissioner to sit as a subcommittee on these issues with two staff people and then brief the other Commissioners at the regular meeting. A discussion occurred between the Commission and Bill Cunningham as to the possibilities he should pursue.

Bill Cunningham then requested clarification regarding his review of the existing Fish and Game policies. A brief discussion took place as to what his review should encompass and what sort of data they desired.

The Commission then recessed to reconvene in Executive Session.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of May 14, 1992

Pursuant to the authority of Government Code Section 1126(q), the Commission met in closed Executive Session. The purpose of this Executive Session was to consider the following:

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

- (A) Altamira Venture vs. Fish and Game Commission
Regarding: Bighorn Institute Memorandum of Understanding.
- (B) California Native Plant Society vs. Fish and Game Commission regarding: Vail Lake Ceanothus.
- (C) Natural Resources Defense Council, et al. vs. Fish and Game Commission regarding: California Gnatcatcher.
- (D) Sierra Club vs. Fish and Game Commission, et al.
regarding: Tule Elk Translocation.

2. POSSIBLE LITIGATION TO WHICH THE COMMISSION MAY BE A PARTY:

- (A) Unauthorized county and city firearm ordinances.
- (B) Unauthorized county trapping ordinances.

Persons present:

FISH AND GAME COMMISSION

Benjamin F. Biaggini	Chairman
Frank D. Boren	Member
Gus A. Owen	Member

COMMISSION STAFF

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

OFFICE OF THE ATTORNEY GENERAL

Bill Cunningham	Deputy Attorney General
-----------------	-------------------------

DEPARTMENT OF FISH AND GAME

Boyd Gibbons	Director
Howard Sarasohn	Deputy Director
Ann Malcolm	Legal Counsel
Terry Mansfield	Acting Chief, Wildlife Mgmt. Div.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of May 15, 1992

Pursuant to the call of the President, the Commission met in the Board Chambers, County Administration Building, 1115 Truxton Avenue, Bakersfield, California on May 15, 1992. The meeting was called to order at 8:30 a.m. by President Biaggini.

Persons present:

FISH AND GAME COMMISSION

Benjamin F. Biaggini	President
Frank D. Boren	Member
Gus A. Owen	Member

COMMISSION STAFF

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

RESOURCES AGENCY

Carol Whiteside	Assistant Secretary for Resources
-----------------	-----------------------------------

OFFICE OF THE ATTORNEY GENERAL

William Cunningham	Deputy Attorney General
--------------------	-------------------------

DEPARTMENT OF FISH AND GAME

Boyd Gibbons	Director
Howard Sarasohn	Deputy Director
DeWayne Johnston	Chief, Wildlife Protection Div.
Tim Farley	Acting, Chief, Inland Fisheries Div.
Terry Mansfield	Acting Chief, Wildlife Mgmt. Div.
Ann Malcolm	Legal Counsel

The following persons were also present and heard:

Trice Harvey	Assemblyman
Shel Meyer	Norcal Guides Association
Richard Sheldon	California Cattlemen's Assoc.
Jack Hunt	Tejon Ranch Co.
Patricia Black	Castle & Cooke Development Corp.
Diane Fredricks	Martin-McIntosh
Terry Arnold	Burger King
Randall Abbott	R.C. Abbott
James Worth	McMurtrey & Hartsock
Andrew Hartzell	Building Industry Association

David Price III	Kern County Water Resource Mgmt.
Tim Thompson	Kern County Farm Bureau
Mike Emanuel	Western States Petroleum Assoc.
Karen Wass	Bakersfield Assoc. of Realtors
James Sandoval	S. Calif. Raw Products Assoc.
Scott Kuney	Kern, Tulare, Kings Co. Water Agencies
Ben Laverty	Kern County Farm Bureau
John Stovall	Kern County Water Agency
Daniel O'Hanlon	Kern County Water Agency/Koll Co.
Barbara Don Carlos	Building Industry Assoc. of Kern Co.
John Cornwall	Chevron USA
Robert Weintraub	Centrex Homes
Les Clark	Independent Oil Producers Agency
Rick Wegis	Concerned Citizen
Bill Tracy	Concerned Citizen
Martin Milobar	Buena Vista Water Storage District
Matti Jacob	Concerned Citizen
Kent Roberts	Bighorn Institute
Jim DeForge	Bighorn Institute

35. RECEIPT OF PUBLIC COMMENTS REGARDING ADDING SECTIONS 629, 630(a)(22), 665, 666 AND 667, TITLE 14, CCR, REGARDING ECOLOGICAL RESERVES AND ESTABLISHMENT OF HABITAT PRESERVATION ZONES.

Summary of Issue

Existing law provides that it is the policy of the state to protect certain fish, plant and wildlife species and their habitat for the future use of humankind (Fish and Game Code Section 1580). To assist in the implementation of the Natural Communities Conservation Planning Program, the Resources Agency has requested that the Commission adopt regulations which would establish conservation measures to protect the species. The intent of the proposed regulations would be, at this time, limited to creating a habitat protection zone that has been identified as the study area by the Scientific Advisory Committee to the Resources Agency on the NCCP for the coastal sage scrub.

The Commission received a copy of the Department's pre-publication of notice statement as well as the proposed regulations in strikeout-underline format.

The agenda item is scheduled to receive public comments on the proposed regulations. The intent is to adopt the proposed regulations at the Commission's June 19, 1992 meeting in Bishop.

Action

Assemblyman Trice Harvey stated that he was speaking on behalf of agriculture and oil interests in his district. He opposed the proposed regulations, particularly because they did not appear to offer any compensation to landowners for mitigation of their property.

Executive Director Treanor gave an introductory discussion of the issue and the proposed regulations. He explained that, at this meeting, the Commission would receive public comments on these regulations and then consider adoption of the proposed regulations at the June 19, 1992 meeting in Bishop. He noted that this timeframe could change, depending upon public input and/or modification of the proposed regulations.

Carol Whiteside, Assistant Secretary for Resources, provided an overview of the regulations and their relationship to the Natural Community Conservation Planning Program (NCCP). She also explained how the NCCP related to the coastal sage scrub ecological community study area.

Commissioner Biaggini asked whether the limitations on the program were written into the regulations. Ms. Whiteside explained they were not contained in the draft regulations; however, she believed because there was such concern, the Agency could see the need to put specific limitations in the language. Ms. Whiteside stated that the Agency would help redraft the regulations based upon input it received today and would bring them back for further consideration at the June meeting. Ms. Whiteside addressed some concerns of Commissioners Owen and Biaggini regarding compensation of landowners and if these regulations modified the processes followed under the California Environmental Quality Act (CEQA), respectively.

Director Gibbons discussed the proposed regulations and stated that they were not statewide; they were for specific areas that are not currently enrolled in the NCCP Program study area.

Richard Sheldon, California Cattlemen's Association, read a letter from the Association's President, Les Guthrie. He also requested additional review after the new regulations were drafted as well as additional time before these regulations were adopted.

Jack Hunt, Tejon Ranch Company, opposed the proposed regulations and recommended that before they were adopted, the economic impacts be thoroughly evaluated.

Patricia Black, Castle & Cooke Development Corporation, opposed the broad nature of the regulations.

Diane Fredericks, Martin-McIntosh, expressed concern that the public hearing on this item was not held in Southern California, the area that would be impacted. She also presented specific recommendations for changes in the language and opposed the regulations as a whole.

Terry Arnold, Burger King, opposed the regulations and expressed concern that the regulations would tie-up property for up to five years.

Randall Abbott, R. C. Abbott Company, speaking on behalf of several Kern County landowners, questioned the need for these regulations, and spoke in opposition to the proposed regulations.

James Worth, McMurtrey & Hartsock, an attorney representing numerous water agencies in Kern County, and Tim Thompson, Kern County Farm Bureau, were opposed to the proposed regulations and stated they objected to the inadequate notice provided by the Department of Fish and Game.

Andrew Hartzell, attorney for Building Industry Association, opposed the regulations. He maintained that Section 1580 of the Fish and Game Code did not provide authority for them. He also questioned the insufficient notice of the regulations. He concluded by reading an anonymous letter from an individual he was representing who opposed the regulations.

David Price, Kern County Water Resource Management Agency, opposed the proposed regulations and questioned the intent of the regulations and their broad powers.

Mike Emanuel, Western States Petroleum Association, opposed the regulations and made specific recommendations as to what sections should be changed. He also spoke regarding the poor notification.

Karen Wass, Bakersfield Association of Realtors, opposed the proposed regulations.

James Sandoval, Southern California Raw Products Association, read a written statement opposing the proposed regulations.

Scott Kuney, representing various Kern, Tulare, and Kings County Water Agencies, and Ben Laverty, Kern County Farm Bureau, were opposed to the regulations as presented and expressed concern with the short notification process.

John Stovall, General Counsel for Kern County Water Agency, recommended that the Commission withdraw these regulations and start from scratch because he did not support them as written.

Daniel O'Hanlon, Kern County Water Agency, opposed the proposed regulations and questioned the authority of Section 1580 to allow the regulations. He also commented that Section 2800 of the Fish and Game Code, which deals with the NCCP Program, was not cited in these regulations.

Barbara Don Carlos, Building Industry Association of Kern County; John Cornwall, Chevron USA; Robert Weintraub, Centrex Homes; Les Clark, Independent Oil Producers Agency; Bill Tracy; Martin Milobar, Buena Vista Water Storage District; and Matti Jacob expressed opposition to the proposed regulations.

Commissioner Boren stated that it was evident that more public notice would be needed to address these types of regulations. He pointed out, however, that besides receiving testimony on what was wrong with these regulations, constructive testimony should also be included. He recommended that the Commission conduct further public hearings.

Commissioner Biaggini stated that there was no question that the scope of the regulations needed to be narrowed.

Ms. Carol Whiteside, Resources Agency, agreed that these proposed regulations need to be redefined and reheard.

Commissioner Biaggini explained that staff would redraft the regulations and send them out for review. He noted that the revisions would hopefully be available for receipt of public testimony on June 19th, and that the Commission could then adopt them either at a special meeting in July or at the regularly scheduled meeting in early August.

Bill Cunningham stated that a minimum of a 45-day public review period would be completed before the regulations would be considered for adoption.

36. RECEIPT OF ANNUAL REPORT FROM BIGHORN INSTITUTE, PALM DESERT, REGARDING 1991 MEMORANDUM OF UNDERSTANDING (MOU) AND REQUEST TO RENEW THE MOU FOR 1992.

Summary of Issue

Historically, the Commission has received the annual report from Bighorn Institute and its request for renewal of its Memorandum of Understanding (MOU) for the coming year at the Commission's January meeting. After the Commission approved the categorical exemption and the MOU for 1991 at its April 4, 1991 meeting in Sacramento, the Commission and Bighorn Institute were sued by Altamira Venture because it felt that the Department and the Commission must prepare an environmental document for issuance of the MOU to the Bighorn Institute. The legal advice provided to the Commission, at that time, was that a categorical

exemption was appropriate because the Bighorn Institute was conducting research on bighorn sheep. There appears to be a settlement agreement which has been reached by both parties (Bighorn Institute and Altamira Venture).

The matter before the Commission is to receive the annual report from Bighorn Institute regarding the activities conducted under the 1991 MOU and to consider its request to renew the MOU for 1992. The Department has prepared a categorical exemption for this matter.

The Commission was provided with a letter from Jeffrey S. Bleaman, Chairman, Coachella Valley Mountains Conservancy, supporting renewal of the Bighorn Institute's MOU for 1992.

Action

Kent Roberts, Attorney for the Bighorn Institute, stated that the Institute recommended one change in the Memorandum of Understanding to add captive breeding. He indicated that the Institute would prepare this proposed change and present it to the Department and the Commission at a future meeting.

Jim DeForge, Bighorn Institute, gave a brief history of the Institute's program.

Deputy Director Sarasohn stated that Wildlife Management Division staff had been working closely with the Bighorn Institute and that the Department believed it had developed a good Memorandum of Understanding for this program. He indicated that the Department recommended adoption of the proposed Memorandum of Understanding at this time.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
CATEGORICAL EXEMPTION PREPARED BY THE DEPARTMENT
REGARDING THE RENEWAL OF THE MEMORANDUM OF
UNDERSTANDING FOR 1992 FOR THE BIGHORN INSTITUTE,
PALM DESERT.

PASSED UNANIMOUSLY.

AND

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF BIGHORN INSTITUTE, PALM DESERT, FOR RENEWAL OF ITS MEMORANDUM OF UNDERSTANDING FOR 1992, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

Commissioner Owen explained that he had a prior commitment and had to leave the meeting at 11:00 a.m.; therefore, the Commission considered action Items Nos. 38, 39, 41, 43, 44, 45, and the Consent Calendar before Mr. Owen left the meeting.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY CONTINUES THIS MEETING AS A SUBCOMMITTEE OF TWO.

PASSED UNANIMOUSLY.

37. DISCUSSION OF POLICY POSITION REGARDING DEPARTMENT ACTIONS TO ACTIVELY PROTECT THE VALUES OF DEPARTMENT-OWNED LANDS FROM ADJACENT DEVELOPMENT.

Summary of Issue

During discussion of the Public Forum agenda item at the Commission's February 6, 1992 meeting in Sacramento, the issue arose of how actively the Commission and the Department would protect the values of Department-owned lands from adjacent development. This agenda item is a spin-off from that discussion regarding the proposed development adjacent to the San Jacinto Wildlife Area. The Commission requested that the Department provide a report on how it has been protecting the values for which Department-owned lands were purchased, and the Department's proposal to become proactive in aggressively protecting these values from adverse impacts caused by adjacent development and/or proposed development. In addition, at the Commission's March 5 meeting in San Diego, it requested the Department prepare a draft policy position for Commission consideration at the April 2 meeting in Long Beach, which would outline Department actions to actively protect the values of Department-owned lands from adjacent development.

During discussion of this item on April 2, the Commission requested that a redraft of the proposed policy include certain concerns expressed by the Commission. This policy would address lands adjacent to wildlife areas and ecological reserves and

would also discuss the issue of no net loss in hunting and fishing opportunities. That proposed redraft was sent to the Commission for its consideration and is as follows:

"The Department of Fish and Game shall work with private landowners and local land use planning and regulatory bodies to ensure that activities on lands adjacent to wildlife areas and ~~other State lands~~ [ecological reserves] managed by the Department are compatible with the proper operation and maintenance of such lands. Further, the Department shall use all means available to it to prevent the encroachment of development and other incompatible land uses, to the extent necessary to maintain the physical and biological integrity of the State land [wildlife areas and ecological reserves] and to maintain public use opportunities [for the purpose(s) for which they were purchased with no net loss in hunting and fishing opportunities]. This policy shall apply to land adjacent to State [wildlife areas and ecological reserves] ~~owned lands~~ as well as to nonadjoining lands where existing or potential incompatible activities or land use changes are affecting or may affect State lands."

The Commission was provided with a letter from Richard Spotts, Defenders of Wildlife, supporting the adoption of the proposed policy statement.

Action

Deputy Director Sarasohn stated that the Department recommended discussion of this issue be deferred until Commissioner Taucher could be in attendance. He noted that, in addition, an existing Commission policy relating to this issue should be explored further before this policy was adopted. The Executive Director stated that, based upon the discussion heard the day before, Commission staff also made the same recommendation.

Commissioner Biaggini stated it would be more appropriate to consider this issue in August when Commissioner Taucher would return. Commissioners Boren and Biaggini decided that it would be necessary to consider this item in relation to the definition of "take" which the Attorney General's Office was reviewing.

38. ADOPTION OF COMMISSION POLICY REGARDING: TROPHY BLACK BASS PROGRAM.

Summary of Issue

The Department requests that the Commission adopt a policy establishing a Trophy Black Bass Program. In a memo dated November 27, 1991, the Department provides the following information:

"Subject proposed policy is attached (proposed policy inserted after suggested motion). We would appreciate the opportunity to discuss this proposal with the Commission or its Fisheries Subcommittee at its earliest convenience.

"This program recommendation was developed by our Warmwater Fishery Board with minor modifications by Inland Fisheries Division staff. Regional input has also been included.

"There are two parts to the proposed program: 1) designation of waters to be managed to produce trophy-sized black bass and 2) provision for angler recognition from the Commission for catches of black bass meeting trophy black bass standards.

"The program has potential impacts on waters designated as Trophy Black Bass Waters: more restrictive angling regulations might be required. Thus, the recommendation should be widely circulated and public input should be encouraged. We have included five waters for initial inclusion in the program. However, the Commission might wish to consider starting the program with no designated waters."

"As indicated in the second paragraph, this recommendation was developed as suggested under Chapter 7.3 of the Fish and Game Code, "Black Bass Conservation and Management," and specifically Section 1743(a)(2), "Components".

"We are very much in support of the recommendation and the angler recognition element in particular. The program could provide much needed data on the status of black bass fisheries based on the incidence of catches of large fish. Generally, the presence of large bass indicates robust fishery.

"There is no urgency to act on this proposal. However, we would like to go forward with it in a reasonably timely manner in order that the current Warmwater Fishery Board can help us and the Commission explain it to angler groups. Mr. Tim Farley, Acting Chief, Inland Fisheries Division, is available to answer details about the proposed program. He may be contacted at Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814, telephone (916) 653-4280."

The Department requests that the Commission receive public input on this proposed policy at its March, April and May meetings with adoption scheduled for May 15, 1992 in Bakersfield. The Commission had scheduled agenda items for its March and April meetings, and one person testified at the April 2, meeting. This item is scheduled to again receive public input and to take action on the proposed policy.

Department Recommendation

"Subject proposed policy was a discussion item at the March 6 and April 2 Commission meetings. No comments were received from the public in opposition to the proposed policy, and we have no changes to recommend. Therefore, we recommend adoption of the policy as originally submitted to the Commission on November 27, 1991."

Action

Tim Farley, Inland Fisheries Division, stated that the Department had only received two comments on the proposed policy. He indicated that the Department had made a minor change requiring the Department to develop a management plan within 12 months after a body of water was added to the Trophy Bass Program, rather than the indefinite period previously specified. He explained that rather than grandfather in the five water bodies the Department had proposed, it now wanted to go through the process of starting with nominations by the Department or the public.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN THAT
THE FISH AND GAME COMMISSION HEREBY ADOPTS THE
FOLLOWING POLICY REGARDING TROPHY BLACK BASS PROGRAM AS
FOLLOWS:

TROPHY BLACK BASS PROGRAM

- I. Designate certain waters of the State to be managed by the Department, pursuant to Section 1743 (a)(2) of the Fish and Game Code, to produce trophy-sized black bass. Fishing in waters with a reasonable opportunity to catch a trophy-sized black bass is considered a quality experience; moreover, catching such a fish is a life-long goal of most ardent black bass anglers.

Trophy-sized black bass are defined based on their large but not unattainable size in the more productive warmwater reservoirs and lakes of the State. The Commission recognizes trophy-sized black bass based on the following minimum weight standards:

Largemouth bass	10 lbs.
Smallmouth bass	6 lbs.
Spotted bass	6 lbs.

- II. Only designate waters for inclusion in the Trophy Black Bass Program that meet the following criteria:

- A. Angler access:
 - 1. Open for public angling with unrestricted access, or
 - 2. Open for public angling with controlled access consistent with Commission policy.
- B. Historically or biologically demonstrated the capability of producing, with appropriate angling regulations or other fishery management actions, catches by anglers in most years of fish meeting the above trophy-sized black bass standards.

III. Manage Trophy Black Bass Waters in accordance with the following directions:

- A. At least one water in each of the Department's five management regions shall be designated and managed as a Trophy Black Bass Water.
- B. This policy does not necessarily indicate a prioritization of the fishery or management emphasis to be applied by the Department to any of these waters.
- C. A management plan for each designated Trophy Black Bass Water shall be prepared and updated by the Department as needed--but not less often than every five years. Each plan shall include, but not be limited to, a description and evaluation of the fishery; an assessment of environmental factors conducive to or limiting trophy black bass production; recommendations for management actions needed to increase abundance of trophy-sized bass; and an assessment of personnel and fiscal resources needed to carry out the intent of the Commission's Trophy Black Bass Program. Management actions for consideration in all Trophy Black Bass Management Plans shall include, but not be limited to, 1) evaluation of current angling regulations, 2) potential for genetic enhancement of the population, and 3) need for habitat restoration and enhancement projects.

IV. Establish a Trophy Black Bass Recognition Program through which anglers will have the opportunity to have their trophy catches recognized by the Commission.

- A. Anglers wishing to have their trophy bass catches recognized will be required to submit to the Department a completed application form, provided by the Department, including at least two witness verifications, within 30 days of catching the fish. Applications for recognition will be reviewed by the

Department and presented to the Commission at its February meeting. Letters of recognition to successful applicants will be awarded by the Commission following the February meeting.

- B. Release of trophy bass increases the opportunity for other anglers to share in the experience. Thus, the Commission and the Department shall encourage the release of trophy-sized black bass into the water from which they were caught. This will be accomplished by recognizing the catch and release of trophy black bass based on length and girth measurements. Length and girth measurements, provided by the Department, will be acceptable for determining the fish's weight.
- C. This program is not intended to be a verification procedure for State or world record-sized fish. Additional information and verification may be required for State or world record acceptance.
- D. The Department shall maintain records of information generated by this program and shall use this information for recommending waters for inclusion in the program. Such records will be compiled into a form that can be made quickly available for review and dissemination to the public and the Commission.
- V. Consider waters for designation as Trophy Black Bass Waters in its February meeting. Petition for inclusion in the program will be accepted by the Commission at any time. Public recommendations will be forwarded to the Department for its assessment as to whether the proposed waters actually or potentially meet Trophy Black Bass Water criteria. The Department will present recommendations for new waters for designation as Trophy Black Bass Waters at the Commission's December meeting immediately preceding the adoption meeting.
- VI. Remove from listing, based on unforeseeable conditions, any lake or reservoir that was designated as a Trophy Black Bass Water.

PASSED UNANIMOUSLY.

39. DISCUSSION OF DEPARTMENT'S 1991 ANNUAL REPORT ON THE STATUS OF CALIFORNIA'S THREATENED AND ENDANGERED SPECIES.

Summary of Issue

This item is scheduled to afford the Commission an opportunity to discuss the Department's 1991 Annual Report on the status of California's threatened and endangered species. Copies of that draft report were forwarded to the Commission.

Action

Commissioner Boren complimented staff on the quality of the report. He asked the Department to critically review the history of these threatened and endangered species and any existing management plans to evaluate whether their status was improving.

Deputy Director Sarasohn requested that the Commission evaluate if there was a better way to handle the reporting on species so that less staff time would be spent writing reports. The Commission indicated it would take the Department's request under advisement.

Director Gibbons agreed with the Commission's suggestion that perhaps some historical basis for the declines be included in the report to inform the public that these were long-term issues, and usually not caused by one specific event.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT
THE FISH AND GAME COMMISSION HEREBY ACCEPTS THE
DEPARTMENT'S 1991 ANNUAL REPORT ON THE STATUS OF
CALIFORNIA'S THREATENED AND ENDANGERED SPECIES.

PASSED UNANIMOUSLY.

40. RECEIPT OF PUBLIC COMMENTS REGARDING CHANGES IN THE SPORT SALMON FISHING REGULATIONS FOR INLAND WATERS.

Summary of Issue

This item is scheduled for the Commission to receive public comments regarding changes in the sport salmon fishing regulations for inland waters. The Department proposes the following changes:

"Fall-run chinook salmon spawning runs in the Klamath and San Joaquin River systems have exhibited alarming downward trends in recent years. Though the declines in spawning populations are due primarily to recent suboptimal streamflows, the runs in the fall/winter of 1991-1992 reached such critically low levels that severe fishery restrictions will be necessary to bring about their restoration, even if normal streamflow conditions are restored during the next several years.

"The Department is therefore recommending closures to salmon fishing and other fishery restrictions on inland waters to facilitate the restoration of Klamath and San Joaquin River chinook salmon spawning populations.

"This pre-publication of notice presents a number of proposed alternatives for changes being considered by the Fish and Game Commission.

"The substantive changes include:

"1. The San Joaquin River System (one proposal only--no alternatives):

"The Department is proposing a ban on all salmon fishing all year in the San Joaquin River and its tributaries upstream from the Highway 5 bridge at Mossdale.

"2. Klamath River System: (two alternatives):

"(A) Alternative A is a proposal to ban all recreational salmon fishing in the Klamath River system all year.

"This alternative includes a closure of the Klamath River main stem to all fishing within 500 ft. of the mouths of the Salmon, Scott and Shasta rivers from September 15 through November 15. This is proposed to prevent the incidental hooking of salmon by trout fishermen who might otherwise fish in these areas in the fall.

"To facilitate the live release of incidentally hooked salmon, this proposal also includes a restriction to barbless hooks in the Klamath River main stem from 3,500 ft. below Iron Gate Dam to the mouth, in the main stem Trinity River below the mouth of the South Fork, and in the South Fork of the Trinity River downstream from Hyampom.

"(B) Alternate B proposes:

- "1. A reduction of the salmon daily bag limit in the Klamath River system to 1, and reductions in the weekly bag limits and possession limit as follows: Existing regulations for the Klamath River main stem from 3,500 ft. below Iron Gate Dam to the mouth, in the Trinity River main stem below the mouth of the South Fork Trinity River and in the South Fork Trinity River below Hyampom, specify the following bag and possession limits: "3 trout or salmon in combination, no more than 2 trout, no more than 2 salmon over 22 inches total length. No more than 6 salmon over 22 inches total length in any 7 consecutive

days. No more than 8 salmon may be possessed, of which no more than 6 may be over 22 inches total length.

"To reduce the take of salmon, the Department is proposing the following reduced bag and possessing limits: '2 trout and one salmon. No more than 3 salmon in any 7 consecutive days. No more than 3 salmon may be possessed.'

- "2. To reduce the mortality of fish other than salmon which are hooked and released, the Department is proposing a restriction to only barbless hooks in the Klamath River main stem from 3,500 ft. below Iron Gate Dam to the Klamath River mouth; in the Trinity River main stem below the South Fork of the Trinity River; and in the South Fork Trinity River below Hyampom.
- "3. A closure to all fishing in the Klamath River within 500 ft. of the mouths of the Salmon, Scott and Shasta rivers during the period September 15 through November 15.
- "4. An additional provision that salmon fishing will be prohibited in the Klamath River and tributaries below Iron Gate Dam when the Department determines that the recreational catch in this area reaches a quota for 820 chinook salmon.

"The Department is also proposing to split Section 7.50(b) Subsection (91) into two Subsections: (91) and (91.1) for clarification purposes."

The Commission was provided with a copy of the Department's pre-publication of notice statement and proposed regulations in strikeout-underline format. The Commission is scheduled to adopt these regulations at its June 19, 1992 meeting in Bishop.

In addition, the Commission, at its February 6, 1992 meeting in Sacramento, indicated it would conduct a hearing in the Eureka area once the proposed regulations had been determined. It was suggested that a Commission subcommittee be formed to conduct that hearing or designate its Executive Director to act as the hearing officer and report back to the Commission the results of that hearing. A date will be selected for that hearing on May 15.

Action

This item was heard by a subcommittee of Mr. Biaggini and Mr. Boren. The Executive Director provided the Commission with a summary of the issue. It was decided that the Executive Director would conduct the hearing on this issue in Eureka.

The Executive Director asked if anyone in the audience wished to speak on this issue and no one responded.

41. REQUEST OF SHEL MEYER, PRESIDENT, NORCAL GUIDES ASSOCIATION, TO AMEND SECTION 2.04, TITLE 14, CCR, REGARDING FISHING METHODS - SPECIAL PROVISIONS.

Summary of Issue

Mr. Shel Meyer, President, Norcal Guides Association, requests that the Commission amend Section 2.04, Title 14, CCR, regarding fishing methods - special provisions. Mr. Meyer's request is based on the fact that the wording proposed by the Norcal Guides Association during the amendments to the Sport Fishing Regulations in the fall of 1991, had been recommended for approval by the Department of Fish and Game. Unfortunately, that proposed language did not find its way into the final statement and regulations approved by the Commission. The Department did not object to the proposed language submitted by Mr. Meyer; in addition, the Department proposes further revisions to Section 2.04 to simplify the regulations.

Action

Shel Meyer, Norcal Guides Association, requested that the Commission change this regulation to the wording that his Association initially suggested in December 1991. He requested that these changes be implemented before July 15, when salmon season opens.

DeWayne Johnston, Wildlife Protection Division, stated that Norcal Guides Association had requested changes to Section 2.04 during the regular sportfishing recommendation process. He explained that the Department had agreed with those recommendations; however, three different versions of the regulations had been prepared, with the wrong version submitted to OAL. He indicated that the Department recommended approval of these proposed regulations.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY DIRECTS ITS STAFF TO PUBLISH NOTICE OF THE COMMISSION'S INTENT TO AMEND SECTION 2.04, TITLE 14, CCR, REGARDING FISHING METHODS - SPECIAL PROVISIONS. THESE REGULATIONS WOULD BE ADOPTED AT THE COMMISSION'S AUGUST 7, 1992 MEETING IN SAN RAFAEL.

PASSED UNANIMOUSLY.

42. DEPARTMENT REPORT REGARDING USE OF AQUACULTURE-GROWN PADDLEFISH IN CALIFORNIA.

Summary of Issue

This item is scheduled to afford the Department an opportunity to report to the Commission regarding the use of aquaculture-grown paddlefish in California.

Action

Tim Farley, Inland Fisheries Division, stated that the Department had evaluated the issue and did not believe that importation of paddlefish for aquaculture purposes would create a problem. He noted that the Department supported this species' importation and culture.

43. REQUEST OF EDWARD MURRISON, E & S FISHERIES, INC., SNELLING, FOR AUTHORIZATION TO IMPORT, POSSESS AND TRANSPORT PADDLEFISH FOR AQUARIUM TRADE PURPOSES.

Summary of Issue

Mr. Edward Murrison, E & S Fisheries, Inc., requests a permit to import, possess and transport paddlefish for aquarium trade purposes. In a letter dated March 19, 1992, Mr. Murrison provides the following information:

"We would like to have paddlefish added to our license #578.

"We have a very similar situation to Mark Fieber license #558.

"They will be grown in a closed system under a roof. All of our water leaving the hatchery goes into the ground before it leaves our property and we are more than one mile from any running water."

Department Recommendation

"This item is related to an item before the Commission at the April 2, 1992 meeting. On that date, the Commission authorized the Department to permit importation of paddlefish by Mr. Mark Fieber, of La Grange, California, for the second consecutive year. Mr. Fieber is the first and only California aquaculturist authorized to raise paddlefish.

"Mr. Murrison is requesting approval to import and raise paddlefish under terms and conditions approved for Mr. Fieber. These terms include assurances that the facility is designed and operated to prevent the escape of paddlefish to the waters of the State.

"The Department inspected Mr. Murrison's proposed paddlefish rearing site April 28, 1992, and found that the site was in the Merced River drainage in an excellent location. The siting represented no significant risk of overflow in the event of flooding. The proposed rearing facility is a recirculating system with almost no discharge. The little amount of water which would be discharged would percolate through gravel on Mr. Murrison's facility and never find its way to any above-ground waters of the State.

"Mr. Murrison's proposed operations present no more risk to the fish and wildlife resources of the State than those of Mr. Fieber, already approved by the Commission. The Department, therefore, recommends approval of Mr. Murrison's request, subject to special terms and conditions imposed by the Department."

Action

Deputy Director Sarasohn stated that the Department did not object to Mr. Murrison's request.

Tim Farley, Inland Fisheries Division, briefly discussed the request and related it to Agenda Item No. 42. He stated there was a relatively low risk with the use of paddlefish at this facility.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF EDWARD MURRISON, E & S FISHERIES, INC., SNELLING, FOR AUTHORIZATION TO IMPORT, POSSESS AND TRANSPORT PADDLEFISH FOR AQUARIUM TRADE PURPOSES, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

44. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1992-95) AND 1992-93 MANAGEMENT PLAN FOR BARDIN RANCH, MONTEREY COUNTY.

Summary of Issue

The Bardin Ranch, Monterey County, requests a Private Lands Wildlife Management Area (PLM) License. The required application and management plan were submitted to the Department. The license period would be from 1992 through 1995. The Department has determined that the plan conforms to the regulations provided in Section 601, Title 14, CCR, and to the Commission's policy relating to private lands management areas.

Department Recommendation

"The Department of Fish and Game has reviewed the initial 1992-93 application and management plan for the 7,820-acre Bardin Ranch in Monterey County. The plan is in compliance with requirements of Section 601, Title 14, California Code of Regulations, and Fish and Game Commission policy for private lands management. A public notice was published in Salinas, California on March 12, 1992. In addition, the plan is consistent with Fish and Game Code Section 3951 and the 1988 Fremont Peak Tule Elk Management Unit Management Plan. 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 Department's long-range tule elk management goals and objectives. Tule elk composition counts on the Bardin Ranch made in August 1991 indicate a bull:cow:calf ratio of 116:100:53. Herd sample size was 51 animals. This composition ratio is well above the 30 bull:100 cows which should be maintained. The recommended herd size for the Bardin Ranch and the adjacent Gabilan Ranch property, which quarter the Fremont Peak elk herd, is 30-45 animals. The habitat work proposed under this plan will help enhance and maintain the wildlife resources of Monterey County.

"The Bardin Ranch and the adjacent Gabilan Ranch has protected and supported this herd of tule elk for the past nine years. In order to improve the Ranch's habitat, the applicant has employed controlled burning as a means of range improvement. Such burns have been conducted since the 1970's before elk arrived in the Fremont Peak area. About 300 acres were burned in 1989 south of Rocky Ridge. An additional 400-500 acres of brush is scheduled for burning during the 1992 burn season. Springs have been

improved and water troughs installed. Improvements to be implemented include elk crossings along fence lines of identified elk trails, upland game cover in the form of brush piles near water sources, and further water development. The primary use of the ranch is cattle grazing; 200 cow-calf units are grazed throughout the year. The management plan recommends continuation of the controlled burning program, no increase in current livestock stocking levels and a coordinated biological necropsy sampling collection from harvested animals with the local Department Wildlife Biologist.

"The Department recommends that the Commission approve the Bardin Ranch Wildlife Management Plan and the 1992 harvest program under the following condition:

- "1. Issue two (2) bull elk tags to take of no more than two bull elk during the period of August 1 through October 31, 1992."

Action

Terry Mansfield, Wildlife Management Division, noted that this ranch was new to the program. He briefly described the proposed plan and hunting program.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF THE BARDIN RANCH, MONTEREY COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1992-1995) AND FURTHER APPROVES THE 1992-1993 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

45. RECEIPT OF ANNUAL REPORT AND APPROVAL OF 1992-93 PRIVATE LANDS WILDLIFE MANAGEMENT AREA PLANS FOR:
 - (a) CHIMNEY ROCK RANCH, SAN LUIS OBISPO COUNTY;
 - (b) MILLER-ERIKSEN RANCH, MENDOCINO COUNTY.

Summary of Issue

The following applicants request renewal of their Private Lands Wildlife Management Area (PLM) Licenses and approval of their 1992-93 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 also determined that the activities on the

ranches, unless otherwise specified, have been completed as proposed in the 1991-1992 objectives. The Commission has been provided with background information on each of these ranches.

a. Chimney Rock Ranch, San Luis Obispo County

"Department of Fish and Game personnel have reviewed the application, annual report and management plan for the 8,500-acre Chimney Rock Ranch in San Luis Obispo County. The Chimney Rock Ranch is currently licensed under Fish and Game Commission regulations pursuant to Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1991. 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. Habitat improvements accomplished under this plan will enhance and maintain wildlife resources of San Luis Obispo County on and around the Ranch. The goals and objectives mentioned in the management plan are compatible with the Adelaida Deer Herd Management Plan.

"In 1991, the licensee maintained fences around habitat improvements (burned areas) to exclude livestock, installed new brush piles for quail cover, seeded disturbed areas, seeded trial plots in experimental grazed versus ungrazed pastures, deferred livestock grazing on pastures important as turkey nesting habitat until after the breeding season, and actively participated in the joint University of California Extension/California Polytechnic State University/Department of Fish and Game projects on the Ranch. All springs and seeps were again maintained to extend water availability. Cattle numbers on the Ranch have been reduced by a minimum of 40 percent from historic levels. These activities have resulted in better management of the Ranch and its hardwood resources and have improved habitat quality for wildlife.

"In 1991, the Ranch issued 41 of its 65 tags authorizing the take of no more than 20 buck and 25 antlerless deer. The actual take was 16 buck and 11 antlerless deer. Herd composition counts made on the ranch after the season showed 51 bucks and 29 fawns per 100 does. Department composition counts for the Adelaida herd (independently conducted partially on the ranch) had a ratio of 30 bucks and 50 fawns per 100 does. This supports the Ranch's request to reduce antlerless harvest level in 1992.

"Proposed habitat improvements for 1992 include the installation of additional wood duck nest boxes, maintenance of springs, seeps and reservoirs, fertilization and seeding

of all disturbed lands, brush pile construction, and continuation of habitat management and hardwood regeneration studies with University of California Extension and California Polytechnic State University. The Ranch will continue the reduced livestock stocking rate and the deferred grazing in important turkey nesting habitat.

"The Ranch will also grant the Department access to trap 30 to 50 wild turkeys for stocking into other suitable lands in the Central Coast area.

"The Department recommends that the Commission approve the Chimney Rock Ranch Wildlife Management Plan for 1992 under the following conditions:

- "1. Issue 30 either-sex deer tags to take no more than 14 buck deer, forked horn or better, and 16 antlerless deer, during the period of July 4, 1992 through November 30, 1992.
- "2. Upon request of the licensee in writing on or before October 15, 1992, the licensee may request up to 10 additional tags to accomplish the authorized harvest."

b. Miller-Eriksen Ranch, Mendocino County

"The Department of Fish and Game has reviewed the renewal application and management plan for the 1,000-acre Miller-Eriksen Ranch in Mendocino County. The Ranch is currently licensed under the Fish and Game Commission regulations pursuant to Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1991. The plan is in full compliance with Commission policy requirements for private lands management. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources of Mendocino County on and around the Miller-Eriksen Ranch. The goals and objectives outlined in the management plan are compatible with the Mendocino Deer Herd Management Plan. The licensee has provided the Department with a list of persons authorized to validate deer tags and has identified the location where records will be kept and made available for inspection.

"The Mendocino Deer Herd Management Plan specifies a 1992 objective of 30 bucks and 60-65 spring fawns per 100 does. The Department has determined that this objective is unrealistic for the herd. Thus, the Deer Herd Management Plan will be revised to reflect a more realistic target of 40-50 spring fawns per 100 does. The spring 1991 ratio for the Covelo subunit was 44 fawns per 100 does and the composition on the Miller-Eriksen Ranch was 71 fawns

per 100 does (based on a sample size of 71 animals). The Miller-Eriksen goal of maintaining a ratio of 50 fawns per 100 does is consistent with the goals of this unit.

"Habitat work completed in 1991-92 included maintenance activities on all previously developed springs. Manzanita and willows were planted in six locations to improve cover away from chaparral areas; only willow plantings were successful. Two small areas of chaparral were control burned. Other areas of chaparral were pretreated for burning by lopping. Mineral supplements were put out for wildlife.

"Proposed habitat development planned for 1992-93 includes continuing controlled burns, pretreat (cut) several areas of chaparral with old growth brush, annual maintenance of developed springs, manzanita plantings will be temporarily discontinued due to dry conditions, and willows will be planted in 3 locations (approximately 200 shoots), and continue reduction of livestock by 30-40 head. The applicant will continue the fall and spring deer herd composition counts and is collecting teeth from all harvested deer for aging.

"In 1991, 27 buck and three antlerless deer tags were authorized to take no more than 15 buck and three antlerless deer. The actual harvest was eight buck and three antlerless deer.

"The Department recommends that the Commission approve the Miller-Eriksen Ranch Wildlife Management Plan and the 1992 harvest program under the following conditions:

- "1. Issue 30 buck tags to take no more than 15 buck deer, forked horn or better, for the period July 24, 1992 through December 1, 1992. No more than six bucks shall be taken after the close of the general season for Zone B-1 (October 25, 1992).
- "2. Issue three antlerless deer tags for the period September 11 to November 30, 1992.
- "3. Method of take shall be restricted to archery only."

Action

Terry Mansfield, Wildlife Management Division, stated that these were longstanding, straight-forward programs. He noted that in the case of the Miller-Eriksen Ranch, some late-season deer hunting was taking place, but there were strict limits on it. He indicated that the Department recommended approval of the two management plans.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE CHIMNEY ROCK RANCH, SAN LUIS OBISPO COUNTY, AND MILLER-ERIKSEN RANCH, MENDOCINO COUNTY, FOR APPROVAL OF THEIR 1992-93 MANAGEMENT PLANS FOR THESE AREAS, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

CONSENT CALENDAR

Items 46 through 56 have been placed on the Commission's Consent Calendar. Staff knows of no opposition to these proposals at this time other than as may be 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 the request of the Department or someone in the audience who would like to speak to that item. 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

Deputy Director Sarasohn requested that Item No. 49 be removed from the Consent Calendar as it would be handled administratively.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS ITS CONSENT CALENDAR, ITEMS 46 THROUGH 48 AND 50 THROUGH 56, OF ITS MAY 15, 1992 AGENDA.

PASSED UNANIMOUSLY.

46. REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER PROPOSED CHANGES IN THE 1992-93 RESIDENT AND MIGRATORY UPLAND GAME BIRD AND MIGRATORY NONGAME BIRD (AMERICAN CROWS ONLY) REGULATIONS.
-

Summary of Issue

The Department has requested that the Commission authorize its staff to publish notice of its intent to consider proposed changes in the 1992-93 Resident and Migratory Upland Game Bird and Migratory Nongame Bird (American Crows only) Regulations. The

Commission was provided with the Department's pre-publication of notice statement pertaining to its proposed changes in Section 303, Title 14, CCR. By statute, the Commission must receive recommendations from the public pertaining to these regulations at its June 19, 1992 meeting in Bishop. The matter will then be considered for final adoption by the Commission at its August 7, 1992 meeting in San Rafael. Concurrent with the regulatory adoption process will be the Commission's compliance with the provisions of the California Environmental Quality Act. Appropriate draft environmental documents relating to the proposed changes and the continuance of any regulations not amended, repealed or added by the Commission during this year will be provided to the Commission at the May 15, 1992 meeting in Bakersfield. Those documents will also be made available to the public for a 45-day public comment period.

47. REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER PROPOSED CHANGES IN THE 1992-93 WATERFOWL HUNTING REGULATIONS.

Summary of Issue

The Department is requesting that the Commission authorize its staff to publish notice of its intent to consider proposed changes in the 1992-93 Waterfowl Hunting Regulations. The pre-publication of notice statement as well as the proposed regulations in strikeout-underline format will be provided to the Commission in mid-June. At the Commission's June 19, 1992 meeting in Bishop, it will receive Department and public recommendations for changes in these regulations. This matter will then be considered for final action at the Commission's August 28, 1992 meeting in South Lake Tahoe.

The Commission must adopt its regulations within the framework provided by the Federal Government. This will be available in draft form shortly and in final form just prior to the Commission's August 27-28, 1992 meeting in South Lake Tahoe. The purpose of this public notice is to provide the public with the dates of the hearings regarding the adoption of the 1992-93 Waterfowl Hunting Regulations.

The Federal Government has provided an environmental document related to the hunting of waterfowl within the United States as well as annual supplements to that document. Commission compliance with the requirements of the California Environmental Quality Act will be through the certification of the findings of that federal document with respect to waterfowl hunting within California.

48. REQUEST TO PUBLISH NOTICE OF INTENT TO CONSIDER AMENDING SECTION 550-553, TITLE 14, CCR, REGARDING ADDING TO THE LIST OF STATE WILDLIFE AREAS AND MODIFYING REGULATIONS PERTAINING TO THE USE OF SUCH AREAS AND STATE-OPERATED PUBLIC HUNTING AREAS.
-

Summary of Issue

The Department is requesting that the Commission authorize its staff to publish notice of its intent to amend sections 550 through 553, Title 14, CCR, regarding adding to the list of state wildlife areas and modifying regulations pertaining to the use of such areas and state-operated public hunting areas. The Commission was provided with the Department's pre-publication of notice statements as well as proposed regulations in strikeout-underline format. This matter will be scheduled for initial discussions at the Commission's June 19, 1992 meeting in Bishop, with final adoption of the regulations to take place at the Commission's August 7, 1992 meeting in San Rafael.

49. REQUEST OF KEVIN YATES, SAN MARCOS, FOR AUTHORIZATION TO IMPORT AND POSSESS ONE PAIR OF BINTURONGS (*Binturong artictus*) FROM THE CALGARY ZOO AND TWO PAIRS OF BINTURONGS FROM THE BATON ROUGE ZOOLOGICAL GARDENS FOR BREEDING PURPOSES.
-

This item was withdrawn and handled administratively by the Department.

50. DESIGNATION OF DEPARTMENT LANDS AS STATE WILDLIFE AREAS:
(a) SILVER CREEK WILDLIFE AREA, LASSEN COUNTY-2,010± ACRES.
(b) YOLO BYPASS WILDLIFE AREA, YOLO COUNTY-2,989.56± ACRES.

Summary of Issue

The Department has recently taken title to the Silver Creek Wildlife Area, Lassen County - 2,010± acres and the Yolo Bypass Wildlife Area, Yolo County - 2,989.56± acres. The Department is requesting that the Commission designate these two areas as State Wildlife Areas to enable the Department to begin payment of in-lieu fees effective the date of the Commission meeting. The Commission was provided with copies of the Department's request for these two areas.

Department Recommendation

"The Department of Fish and Game has recently taken title to the following property, which we request to have designated by the Commission as a wildlife area:

- Silver Creek Wildlife Area, Lassen County, 2,010± acres.
- Yolo Bypass Wildlife Area, Yolo County, 2,989.56± acres.

"We are providing notice at this time pursuant to Commission policy enabling the Department to begin payment of in-lieu fees effective the date of the Commission meeting."

51. REQUEST OF PACIFIC GAS AND ELECTRIC COMPANY TO AMEND SPECIAL USE PERMIT TO CUT AND MANAGE KELP AT DIABLO CANYON NUCLEAR POWERPLANT, SAN LUIS OBISPO COUNTY.

Summary of Issue

Pacific Gas and Electric Company has requested an amendment to its Special Use Permit for the management and disposition of kelp in the intake cove at Diablo Canyon Nuclear Powerplant, San Luis Obispo County. The Commission was provided with a copy of PG&E's request dated April 17, 1992.

Department Recommendation

"Pacific Gas and Electric Company (PG&E) was granted a special use permit to harvest and dispose of kelp growing in the intake cove of the nuclear powerplant at Diablo Canyon in 1985. This special use permit allowed removal of kelp plants immediately adjacent to their intake structure and specified disposal of harvested kelp to either an abalone aquaculture operation, the Monterey Bay Aquarium, or at a landfill dump site. Two of these alternatives are no longer available to PG&E.

"PG&E would now like permission to explore alternative methods of disposal because of a State requirement to reduce the quantity of material disposed of in landfills. PG&E will comply with all regulations of other agencies, such as the Environmental Protection Agency and the U. S. Coast Guard. Also, PG&E has requested that it be allowed to selectively remove and crop additional kelp areas located on the west breakwater of the intake cove.

"The Department has reviewed the kelp management options submitted by PG&E and recommends approval of this request."

52. REQUEST OF BRIAN WALTON, SANTA CRUZ PREDATORY BIRD RESEARCH GROUP, TO AMEND THEIR SCIENTIFIC RAPTOR BREEDING PERMIT TO INCLUDE TWO PAIR OF TAITA FALCONS AND TWO HYBRIDS.

Summary of Issue

Brian Walton, Coordinator for the Santa Cruz Predatory Bird Research Group, has requested an amendment to their current scientific raptor breeding permit to include two pair of taita falcons and two hybrids. The proposal has been reviewed and approved by the Director's Raptor Advisory Committee and the Department of Fish and Game.

Department Recommendation

"Mr. Brian Walton, Coordinator for the Santa Cruz Predatory Bird Research Group, has requested an amendment to the current raptor breeding permit to allow propagation of Taita falcons (*F. fasciinucha*). Mr. Walton is requesting two pair (4 total) of Taita falcons and two (2) hybrids.

"This proposal has been reviewed and approved by the Director's Raptor Advisory Committee and the Department of Fish and Game. The Department recommends approval of Mr. Walton's request."

53. REQUEST OF WILLIAM D. WAGNER, BIOLOGICAL RESEARCH AND CONSULTING, WRIGHTWOOD, FOR AUTHORIZATION TO CAPTURE, BAND AND STUDY CALIFORNIA GNATCATCHERS WITHIN THE LAKE MATHEWS ECOLOGICAL RESERVE.

Summary of Issue

Mr. William D. Wagner, Biological Research and Consulting, Wrightwood, has requested a Memorandum of Understanding to allow him to capture, band and study California gnatcatchers within the Lake Mathews Ecological Reserve. This is being done under a study by the Metropolitan Water District to conduct life history studies of the California gnatcatcher. The Commission was provided with a copy of Mr. Wagner's March 31, 1992 letter.

54. CONFIRMATION OF COMMISSION'S APRIL 2, 1992 ACTION REGARDING ISSUANCE OF AN EXPERIMENTAL GEAR PERMIT TO TOM JERKOVICH, SAN PEDRO, TO USE A HALF-RING NET TO HARVEST LIVE BAIT IN DISTRICTS 19, 19A AND 19B.

Summary of Issue

This item is scheduled to confirm the Commission's April 2, 1992 action regarding issuance of an experimental gear permit to Tom Jerkovich, San Pedro, to use a half-ring net to harvest live bait in Districts 19, 19A and 19B. The record contains a copy of Mr. Jerkovich's letter.

Department Recommendation

"Confirmation of the Commission's April 2, 1992 Action Regarding Issuance of an Experimental Gear Permit to Tom Jerkovich, San Pedro, to Use a Half-Ring Net to Harvest Live Bait in Districts 19, 19A, and 19B.

"The Department recommends confirmation of subject action."

55. CONFIRMATION OF COMMISSION'S APRIL 3, 1992 ACTION REGARDING RENEWAL OF PERMIT TO MARC FIEBER, LA GRANGE, TO IMPORT, POSSESS AND TRANSPORT PADDLEFISH FOR AQUARIUM TRADE PURPOSES.
-

Summary of Issue

This item is scheduled for Commission confirmation of its April 3, 1992 action regarding renewal of permit to Marc Fieber, La Grange, to import, possess and transport paddlefish for aquarium trade purposes. The Commission was provided with a copy of the Department's recommendation dated March 31, 1992.

Department Recommendation

"Mr. Fieber has been issued an importation permit consistent with the Commission's April 3, 1992 approval. The paddlefish ova have been imported, they have hatched, and rearing has begun.

"The Department has completed their evaluation of the suitability of paddlefish for long-term aquaculture use in California.

"The Department has concluded that paddlefish are a low-risk species, and so long as they are reared only in facilities where security measures prevent their escape to the waters of the State, their long-term use for aquaculture presents no significant risk to the welfare of the fish and wildlife resources of the State (see response to agenda item number 42).

"The Department recommends that the Commission confirm the April 3, 1992 action."

56. RECEIPT OF DEPARTMENT REPORT AND RECOMMENDATION ON PETITIONS TO LIST SAN MATEO WOOLLY SUNFLOWER (*Eriophyllum latilobum*) AND WHITE-RAYED PENTACHAETA (*Pentachaeta bellidiflora*) AS ENDANGERED SPECIES AND MARIN DWARF FLAX (*Hesperolinon congestum*) AS A THREATENED SPECIES. (ACTION HEARING SCHEDULED FOR JUNE 18, 1992 MEETING IN BISHOP).
-

Summary of Issue

This item is scheduled to receive the Department's report and recommendations to list the San Mateo woolly sunflower (*Eriophyllum latilobum*) and White-Rayed pentachaeta (*Pentachaeta bellidiflora*) as endangered species, and Marin dwarf flax (*Hesperolinon congestum*) as a threatened species. The Commission was provided with the Department's report and recommendations. The action hearing on this matter will be scheduled for the Commission's June 18, 1992 meeting in Bishop.

57. ANNOUNCEMENT OF FUTURE MEETINGS.

June 18 (1:00 pm)
19 (8:30 am)

City Council Chambers
301 West Line Street
Bishop

August 6 (10:00 am)
7 (8:30 am)

Planning Commission
Chambers, Room 319
3501 Civic Center Drive
San Rafael

August 27 (10:00 am)
28 (8:30 am)

City Council Chambers
1900 Lake Tahoe Blvd.
South Lake Tahoe

October 1 (10:00 am)
2 (8:30 am)

City Council Chambers
5775 Carpinteria Ave.
Carpinteria

November 5 (10:00 am)
6 (8:30 am)

Auditorium, Room B-109
State Building
1350 Front Street
San Diego

December 3 (10:00 am)
4 (8:30 am)

Supervisors Chambers
Humboldt County Courthouse
825 Fifth Street
Eureka

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT
THERE BEING NO FURTHER BUSINESS, THIS MEETING OF THE
FISH AND GAME COMMISSION IS NOW ADJOURNED AT 11:30 A.M.

PASSED UNANIMOUSLY.