

FISH & GAME COMMISSION

MINUTES 1993

JANUARY 4-5 - JUNE 17-18

State of California
FISH AND GAME COMMISSION

JUN
17-18

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State of California
FISH AND GAME COMMISSION

Minutes, Meeting of June 17, 1993

Pursuant to the call of the President, the Commission met in Memorial Hall, corner of Bryant and School Streets, Bridgeport, California, on June 17, 1993. The meeting was called to order at 10:10 a.m. by President Biaggini.

Persons present:

FISH AND GAME COMMISSION

Benjamin F. Biaggini	President
Albert C. Taucher	Vice President
Frank D. Boren	Member
Gus A. Owen	Member
Douglas B. McGeoghegan	Member

COMMISSION STAFF

Robert R. Treanor	Executive Director
Ronald J. Pelzman	Assistant Executive Director
Connie Zakaria	Executive Secretary

DEPARTMENT OF FISH AND GAME

Boyd Gibbons	Director
John Sullivan	Chief Deputy Director
Al Petrovich	Deputy Director
Banky Curtis	Deputy Director
DeWayne Johnston	Chief, Wildlife Protection Division
Terry Mansfield	Chief, Wildlife Management Division
Ann Malcolm	Deputy General Counsel
Fred Worthley	Regional Manager, Region 5
Dale Sweetnam	Bay Delta-Division
Pete Haaker	Marine Resources Division

The following persons were also present and heard:

Ted James	Kern County Planning Department
Ken Schmidt	Abalone Fisherman
Jim Marshall	Abalone Fisherman
Steve Rebuck	CA Abalone Association
John Colgate	CA Abalone Association
Scott Slater	Santa Ynez River Conservation Dist.
Ed McGrath	Southern Pacific Transportation Co.

President Biaggini introduced members of the Commission, its staff, Director Boyd Gibbons, Chief Deputy Director Sullivan, Deputy Directors Petrovich and Curtis and Ann Malcolm, Deputy General Counsel.

1. READING AND APPROVAL OF MINUTES.

Summary of Issue

Copies of the minutes of the November 5-6, 1992, February 4-5, 1993 and April 22, 1993 meetings have been distributed to members of the Commission. Your staff knows of no errors or omissions therein and suggests that they be approved in their present form.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. OWEN, THAT INASMUCH AS THE MINUTES OF THE NOVEMBER 5-6, 1992, FEBRUARY 4-5, 1993 AND APRIL 22, 1993 MEETINGS HAVE BEEN DISTRIBUTED TO THE MEMBERS OF THE COMMISSION, AND THERE ARE NO KNOWN ERRORS OR OMISSIONS THEREIN, READING BE DISPENSED WITH AND THEY BE APPROVED AS DISTRIBUTED.

PASSED UNANIMOUSLY.

2. ADOPTION/RATIFICATION OF COMMISSION FINDINGS RE: PETITION TO DELIST THE MOHAVE GROUND SQUIRREL (Spermophilus mohavensis) AS A THREATENED SPECIES.

Summary of Issue

This item is scheduled to ratify the Commission's findings made at its May 14, 1993 meeting in Bakersfield to delist the Mohave ground squirrel (Spermophilus mohavensis) as a threatened species. The Commission has been provided a draft copy of the findings for its consideration.

Action

Executive Director Treanor provided a summary of the issue and reminded the audience that this item was for Commission action only and there would be no public testimony. He brought the Commission's attention to a letter from the City of Ridgecrest supporting the Commission's action to delist the Mohave ground squirrel and a letter on Mountain Lion Foundation letterhead, signed by the Mountain Lion Foundation, Sierra Club of California, Sierra Club Legal Defense Fund, Natural Resources Defense Council, Defenders of Wildlife and the Desert Protective Council opposing the Commission's decision to delist the Mohave ground squirrel. Mr. Treanor requested Commission direction on how to respond to the letter from the Mountain Lion Foundation. Mr. Treanor also informed the audience that under normal listing procedures, the Commission reserved its action regarding the California Environmental Quality Act determination until the actual regulatory process. He explained that on advice of Legal

Counsel, the Commission would be taking the same action in the delisting of the Mohave ground squirrel at its August 26-27 meeting in Sacramento.

Commissioner Taucher expressed his support for the proposed findings.

Commissioner McGeoghegan asked Mr. Treanor if the proposed findings contained the comments he had made on the West Mojave Plan. Mr. Treanor acknowledged that they did.

Commissioner Owen expressed support for the proposed findings. He voiced his dissatisfaction with the letter submitted to the Commission on Mountain Lion Foundation letterhead which tried to threaten and intimidate the Commission. Commissioner Biaggini concurred with Commissioner Owen's statements on the Mountain Lion Foundation's letter.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MCGEOGHEGAN, THAT THE FISH AND GAME COMMISSION HEREBY RATIFIES ITS MAY 14, 1993 FINDINGS MADE, PURSUANT TO THE PROVISIONS OF SECTION 2075.5 OF THE FISH AND GAME CODE, THAT THE PETITION TO DELIST THE MOHAVE GROUND SQUIRREL (Spermophilus mohavensis) AS A THREATENED SPECIES IS WARRANTED AS FOLLOWS:

I.

PROCEDURAL BACKGROUND

Kern County (County) filed a petition for delisting the Mohave Ground Squirrel (Spermophilus mohavensis) from the Threatened Species List (Petition) on November 20, 1991. On April 2, 1992, in San Pedro, the Fish and Game Commission (Commission) held a hearing regarding the Petition pursuant to Section 2074 of the Fish and Game Code. At that hearing, the Commission determined that based on the County's petition, the Department's report and public comments, sufficient information was presented to indicate that delisting the Mohave Ground Squirrel may be warranted. Pursuant to Fish and Game Code Section 2074.2, the Commission made a finding to accept the County's petition for further consideration.

In accordance with Fish and Game Code Section 2074.6, the Department of Fish and Game prepared a review of the status of the species entitled, A Status Review of the Mohave Ground Squirrel (Spermophilus mohavensis) March 1993 (Department's Report).

Prior to and at the hearing regarding the requested delisting, which took place on May 13, 1993 in Bakersfield, the County presented and the Commission allowed the previously accepted Petition to be supplemented with the following documents: (1) Status Evaluation of the Mohave Ground Squirrel (SWCA Report) prepared by SWCA, Inc. - Environmental Consultants; and (2) Supplement to Kern County Petition to Delist the Mohave Ground Squirrel (Supplement) dated May 12, 1993.

On May 13, 1993, the Commission, pursuant to Fish and Game Code, Section 2075, held a hearing regarding the County's petition. At this hearing, testimony was taken regarding the scientific information relating to the status of the species and threats to the species, including the six (6) potential threats set forth in Section 670.1, Title 14, California Code of Regulations. These potential threats are: (1) present or threatened modification or destruction of its habitat; (2) over exploitation; (3) predation; (4) competition; (5) disease; or (6) other natural occurrences or human-related activities. After this hearing, the Commissioners viewed certain portions of the Mohave Ground Squirrel's habitat and received comments. On May 14, 1993, after further consideration of the Petition, the Department's report and recommendation, and the comments received, both in favor of and in opposition to the Petition, and based upon its evaluation of the entire record, the Commission voted 4-0 with one abstention, to delist the Mohave Ground Squirrel from the list of threatened species.

II.

STATUTORY REQUIREMENTS

A threatened species under the California Endangered Species Act (the Act) is one "that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter." Fish and Game Code §2067.

In deciding its final response to a petition asserting that a species or subspecies should either be listed or delisted, the Commission must make one of two findings: either that the petitioned action "is warranted" (in which case the species is delisted), or that there is insufficient information to accept the petitioned action (in which case the Petition is denied and the species remains on the threatened species list).

The statutory test of "is warranted" necessarily involves a determination by the Commission whether there is substantial evidence in the form of reasonable, sufficiently credible, and reliable scientific evidence, based upon both an examination of the information in the Petition and the entire record as it bears on that information, to conclude that delisting is warranted.

In other words, in determining whether delisting "is warranted", the Commission must not only consider all of the evidence introduced in the proceedings, but also must weigh and evaluate it -- that is, it must determine whether evidence received is scientifically credible, reasonable and reliable.

The Act expressly requires each petition for listing or delisting to demonstrate the reasonable likelihood that the Commission would eventually conclude that listing or delisting is warranted, by presenting substantial, reasonable, and sufficient credible scientific information addressing a number of factors:

"the population trend, range, distribution, abundance ... the factors affecting the ability of the population to survive and reproduce [and] the degree and immediacy of the threat." (Fish and Game Code §2072.3)

Thus, the statutorily mandated content of a petition is directly linked with the functional criteria required for a determination that the species or subspecies is threatened. Fish and Game Code §2072.3 and 2067.

III.

STATUTORILY REQUIRED FINDING

Fish and Game Code Section 2075.5 requires the Commission to make one of two findings supporting its decision with regard to a petition for delisting, and to provide reasons for the finding. Consistent with that requirement, the Commission has considered the Petition, the documentary evidence submitted by interested parties, the testimony given at its hearings, and the report and recommendations of the Department of Fish and Game. Based on its consideration of this administrative record, the Commission finds that the Petition, considered in light of the entire evidentiary record, provides sufficient information to indicate that the continued existence of the Mohave Ground Squirrel is no longer threatened, nor is it likely to become an endangered species in the foreseeable future in the absence of special protection and management efforts.

For several distinct reasons discussed below, the Commission concludes that the Petition satisfies the explicit evidentiary and informational requirements of the Act. Further, the Commission also concludes that there is sufficient credible evidence for it to conclude that the Mohave Ground Squirrel is not in serious or immediate danger of becoming endangered. In statutory terms, the Commission therefore finds that there is sufficient credible evidence to conclude that delisting as threatened is warranted.

The Commission concludes that each of the reasons discussed below, is separately and individually sufficient for its conclusion that Petition and record provides sufficient, credible and reasonable information to indicate that delisting is warranted.

IV.

REASONS FOR STATUTORY FINDING

Pursuant to Fish and Game Code §2070 and 2075.5, the Commission finds that the petitioned action is warranted for the following reasons:

A.

THE RECORD ADEQUATELY DEMONSTRATES THAT THE DEGREE OF IMMEDIACY OF THREAT TO THE SPECIES IS INSUFFICIENT TO WARRANT CONTINUED DESIGNATION AS A THREATENED SPECIES

(i)

Distribution

The Mohave Ground Squirrel has patchy distribution, and is found at elevations up to about five thousand six hundred (5,600) feet in the western Mohave Desert, generally west of the Mohave River. Based on the review of all the studies presented, the Mohave Ground Squirrel occurs in all described plant communities within its range.

(ii)

Population Estimates

There are no dependable estimates of the historic or current population of Mohave Ground Squirrels nor were any such estimates used in the original listing of the species in 1971. (SWCA Report pp. 2-3 and 17.) The Department's Report states that it is not practical to estimate the population of Mohave Ground Squirrels throughout its range at any point in time. (Department's Report p. 62.) Population numbers over time fluctuate widely in small mammals, probably including the Mohave Ground Squirrel, due to environmental conditions, such as drought in the case of the Mohave Ground Squirrel. This natural cycling is to be expected; and therefore, the number of Mohave Ground Squirrels existing at any one time is not indicative of the degree of endangerment of the species. (Department's Report pp. 62-63.) The Department's Report states that the true indicators of the status of the species are the quantity of habitat, the pattern of distribution of habitat and the quality of habitat. (Department's Report p. 63.) However, if the

population of the species was to be estimated based on existing data, the Department's Report contains two density averages from which significant populations could be estimated. (Department's Report p. 63 and Supplement p. 5.)

(iii)

Range and Extent of Current Habitat

Given that the Mohave Ground Squirrel occurs in all described plant communities within its known range, the quantity of Mohave Ground Squirrel habitat is large. The Mohave Ground Squirrel range encompasses nearly five million (5,000,000) acres, and at the present time, over four million (4,000,000) of those acres are undeveloped. (March 1993 Status Review, p. 60, SWCA Report p. 49.) The impact of urban and rural development on Mohave Ground Squirrel habitat affects less than nine percent (9%) of the total range of the Mohave Ground Squirrel. (SWCA Report p. 50.) It is likely that only a small percentage of the total Mohave Ground Squirrel range, perhaps less than ten percent (10%), is unsuitable habitat for the species. (SWCA Report p. 50.) Accordingly, over four million (4,000,000) acres of habitat remain in the known range of the species.

This large area of habitat is distributed over the known range of the species in a largely contiguous manner. Urban development within the range of the Mohave Ground Squirrel is limited to the southern and eastern fringes of the range. (Supplement, Exhibit C, "Urbanized Areas Within the Range of the Mohave Ground Squirrel".) As testified to by Ted James, Director of Planning for the County, the potential for further urbanization within the known range of the Mohave Ground Squirrel is constrained. As shown by historic land urbanization patterns within the known range of the species, urban development occurs within or expands from existing urban centers. Urbanization within the known range of the Mohave Ground Squirrel is constrained by many factors including: (1) the existence of over three million (3,000,000) acres of publicly managed lands within the known range of the Mohave Ground Squirrel; (2) lack of available water; and (3) the cost of extending infrastructures such as roads, sewers and utilities.

Potential threats to the quality of the over four million (4,000,000) acres of Mohave Ground Squirrel habitat and the species itself are minimized by the land management practices of federal, military and state agencies. Approximately sixty-four percent (64%) of the range is in public ownership and is managed by federal, military and state agencies, including mitigation lands obtained during the period that the Mohave Ground Squirrel has been a listed species. This network of largely contiguous public lands (see Supplement, Exhibit "F", "Federal and State Managed Lands Within the Range of the Mohave Ground Squirrel")

provides a vast habitat that is managed consistent with land stewardship principles that include restrictive use, fencing and the maintenance of large natural areas of the Mohave Desert. For instance, the Bureau of Land Management (BLM) manages its land consistent with the California Desert Conservation Area Plan, 1980. In addition, BLM, in cooperation with the U.S. Fish and Wildlife Service and the Department of Fish and Game, is leading a multi-agency coordinated management planning effort (West Mojave Coordinated Management Planning Effort) focused on the desert tortoise and the Mohave Ground Squirrel in the western Mojave Desert of southern California. The Plan is focussing on an area of approximately 8.6 million acres of habitat which was derived from the known range of the two target species. Local, State and federal agencies having land management responsibility and/or regulatory jurisdiction affecting the target species within the planning area are participating in this planning effort. One of the stated purposes of this coordinated planning effort is to define land management and land use strategies that will ensure the survival of the target species within the planning area. The wild populations of the target species are to be managed in their natural habitat in a manner that will maintain long-term population viability and genetic diversity.

BLM is responsible to manage public lands utilizing concepts that balance multiple use with the maintenance of environmental quality. Management under these plans provides protection of Mohave Ground Squirrel habitat as well as other species. Specific management programs such as the creation and expansion of the Desert Tortoise Natural Area will also benefit the Mohave Ground Squirrel. Other public agencies such as China Lake Naval Weapons Center and Port Irwin, have developed specific conservation programs that provide benefit to multiple species including the Mohave Ground Squirrel. Much of the public lands in the known range of the Mohave Ground Squirrel are actively managed for the preservation of Mohave Desert Tortoise. Management programs protecting the habitat of the Mohave Desert Tortoise also provide for the protection of the many species within that habitat, such as the Mohave Ground Squirrel.

(iv)

Threat of Future Habitat Loss

The foregoing evidence regarding the quantity, pattern of distribution, and quality of habitat provides sufficient scientific information to show that there is no present or anticipated modification or destruction of Mohave Ground Squirrel habitat, resulting from any natural occurrences or human-related activity, which threatens the continued existence of the Mohave Ground Squirrel.

B.

THE RECORD DOES NOT INDICATE THAT THE MOHAVE GROUND SQUIRREL IS THREATENED BY OVEREXPLOITATION

Our consideration of the scientific information we received in the petition, the SWCA Report, the Supplement, the Department's Report, and public comments (hereinafter this scientific information shall be referred to as the Record), shows no evidence that the Mohave Ground Squirrel is being exploited and, accordingly, overexploitation does not affect the Mohave Ground Squirrel population in a manner which threatens the continued existence of the species.

C.

THE RECORD CONTAINS NO EVIDENCE THAT THE CONTINUED EXISTENCE OF THE MOHAVE GROUND SQUIRREL IS THREATENED BY PREDATION

Domestic cat predation was discussed as a possible threat to the Mohave Ground Squirrel. However, domestic cats are not capable of surviving in the desert with no readily available water or shelter. (SWCA Report p. 52.) Accordingly, any domestic cat predation would have only a localized impact as it would be limited to the proximity of houses. (SWCA Report p. 52.) Since development is likely to be minimal in the majority of the Mohave Ground Squirrel range, any possible impact of domestic cats on Mohave Ground Squirrels would also be minimal. Although native predators exist, there is no evidence that these native predators take a sufficient toll to be considered a threat to the species. (SWCA Report p. 52.) Accordingly, the Record shows no evidence that predation affects the Mohave Ground Squirrel population in a manner which threatens the continued existence of the species.

D.

THE RECORD CONTAINS NO EVIDENCE THAT THE CONTINUED EXISTENCE OF THE MOHAVE GROUND SQUIRREL IS THREATENED BY COMPETITION

There is no evidence to suggest that competition is, has been, or will be an important limiting factor or threat to the Mohave Ground Squirrel. (SWCA Report p. 53.) Although the Mohave Ground Squirrel has some competitors, it has successfully competed through its history, including some intense periods of drought. (SWCA Report p. 53.) The Mohave Ground Squirrel is antagonistic towards other species of ground squirrels and this behavior helps the species compete successfully. (SWCA Report p. 23.) For instance, the Mohave Ground Squirrel is antagonistic towards one of its main competitors, the Antelope

Ground Squirrel, and has been observed to be the superior competitor in confrontations with the Antelope Ground Squirrel. (SWCA Report p. 53; Department's Report pp. 83-84.) Accordingly, our consideration of the Record shows no evidence that competition affects the Mohave Ground Squirrel population in a manner which threatens the continued existence of the species.

E.

THE RECORD CONTAINS NO EVIDENCE THAT THE MOHAVE GROUND SQUIRREL POPULATION SURVIVAL IS THREATENED BY DISEASE

Our consideration of the Record, including the Department's Report, does not list "disease" as a potential threat in its "Threats" section, shows no evidence that disease threatens the continued existence of the Mohave Ground Squirrel. (SWCA Report, pp. vii and 56.)

F.

THE RECORD CONTAINS NO EVIDENCE THAT THE MOHAVE GROUND SQUIRREL POPULATION IS THREATENED BY NATURAL OCCURRENCES OR HUMAN-RELATED ACTIVITIES

Drought, vehicles, shooting, and pesticides were mentioned as three (3) potential threats to the Mohave Ground Squirrel caused by natural occurrences or human-related activities. Although drought affects the Mohave Ground Squirrel population, this is a natural event and the Mohave Ground Squirrel is well adapted to survive drought as it has been subjected to prolonged droughts many times within its history. (SWCA Report p. 53-54.) Although shooting and vehicles may affect individual Mohave Ground Squirrel, the Department's Report states at page 31, "There is no evidence or reason to believe that shooting or vehicles are significantly reducing the populations of the Mohave Ground Squirrel". The Department's Report suggests that pesticides may negatively affect the Mohave Ground Squirrel, but, there is no evidence in the Record, to support this suggestion, that shows that pesticides negatively affect the Mohave Ground Squirrel. (Department's Report p. 31; SWCA Report p. 54.) Our consideration of the Record shows that there is no evidence that demonstrates that other natural occurrences or human-related activities, including the effects of drought, pesticides, shooting and vehicles, affect the Mohave Ground Squirrel population in a manner which threatens the continued existence of the species.

G.

SUMMARY

Our consideration of the Record regarding the effects of present or threatened modification or destruction of Mohave Ground Squirrel habitat, overexploitation, predation, competition, disease or other natural occurrences or human-related activities, including the effects of drought, pesticides, shooting, and vehicles on the Mohave Ground Squirrel population, does not indicate that the effect of these factors threaten the continued existence of the Mohave Ground Squirrel, whether taken alone, cumulatively or in combination.

AYES: COMMISSIONERS BIAGGINI, TAUCHER, OWEN AND MCGEOGHEGAN.

ABSTAINED: COMMISSIONER BOREN.

MOTION CARRIED.

Commissioner Boren stated his concern that the future would bring a lawsuit against the Commission because of the action it had taken in May. He also expressed concern that the U. S. Fish and Wildlife Service would probably list the Mohave ground squirrel as a threatened or endangered species; thereby, depriving the State of its ability to manage the species. He also expressed his disappointment that no progress had been made on the management of this species during the past 21 years. He proposed the formation of a committee to work with the Department and the Commission to formulate a habitat restoration plan in anticipation of a federal listing.

Commissioner Owen expressed general concurrence with Mr. Boren's comments; however, he stated that the Department had this species under its protection for 21 years but had done nothing to develop a management plan.

Commissioner Taucher stated his opinion that a Federal Government listing would not impede the State's management of the species. He mentioned the Natural Community Conservation Planning Program as an example of a program that could be developed.

Commissioner Biaggini expressed the Commission's general desire to manage species on an ecosystem basis, rather than on an individual species basis.

3. ADOPTION OF COMMISSION FINDING REGARDING PETITION TO LIST THE DELTA SMELT (Hypomesus transpacificus) AS A THREATENED SPECIES.

Summary of Issue

Pursuant to Section 2074.2 of the Fish and Game Code, the Commission, on August 29, 1989, designated the delta smelt (Hypomesus transpacificus) as a candidate species for listing as an endangered species. At the completion of the 12-month review period, during which all available scientific information was reviewed, the Department recommended that the Commission list the delta smelt as a threatened species. The Commission then determined at its August 30, 1990 meeting that listing was not warranted at that time, but directed the Department to enter into studies with the Department of Water Resources and other appropriate agencies to determine the status of the delta smelt. The Commission also directed the Department to annually report to the Commission on the results of its studies and the status of the delta smelt population. Further, the Commission indicated that if the status of the delta smelt changed, it would reconsider the petition.

Based on its current information, the Department of Fish and Game has submitted a petition to list the delta smelt as a threatened species. The Department has identified several factors which it thinks inhibit recovery of the population. These include:

1. Entrainment of larval, juvenile and adult smelt in water diversions such as the Central Valley Project (CVP) and State Water Project (SWP).
2. Competition for food by accidentally-introduced exotic species, such as the Asiatic clam and chameleon goby.
3. Genetic dilution by immigration of a closely related smelt, the wakasagi, from Central Valley reservoirs.

The Commission, at its April 2, 1993 meeting in Sacramento, again designated the delta smelt as a candidate species for listing as a threatened species. In addition, the U. S. Fish and Wildlife Service has recently added the delta smelt to the federal list of threatened species.

Since studies have recently been completed, the Commission and the Department have agreed that the 12-month time period for the Department to review the status of the delta smelt is unnecessary. Therefore, the item before the Commission at this time is to receive public comments on the Department's petition and recommendation and then, pursuant to Section 2075.5 of the Fish and Game Code, make a finding of whether or not the petitioned action is warranted.

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

Department Recommendation

"The Department finds that the delta smelt should be listed as a threatened species, based on Section 670.1(b) of Title 14 of the California Code of Regulations and Section 2072.3 of the Fish and Game Code. The Department's findings are based on the following:

- "1. While the relationship between delta smelt abundance and water diversions is not clear, all life stages of delta smelt are vulnerable to entrainment in these diversions. Large losses of pre-spawning adult smelt entrained when the major water projects escalate pumping in winters following major droughts (e.g. 1977-1978) may be particularly harmful. It is relevant that delta smelt are ecologically similar to young striped bass which have been severely impacted by water diversions. Whether or not water diversions are directly responsible for the delta smelt population decline, their drain on the population may be a significant factor inhibiting recovery.
- "2. Delta smelt are threatened by habitat modifications which include changes in the character and position of the salinity gradient. An increase in salinity in Suisun Bay caused by increased water diversions, upstream storage, and the extended drought has constricted the delta smelt to only a portion of its former range. Other habitat alterations include changes in food items and the introduction of exotic species.
- "3. The recent decline in the copepod, Eurytemora affins, a major diet component of the delta smelt, must be considered as a potential threat to the smelt's recovery unless other food resources such as Pseudodiaptomus forbesi compensate or Eurytemora recovers to its former abundance.

- "4. A number of exotic fish and invertebrate species have been introduced into the Sacramento-San Joaquin Estuary. Although none of these species can be directly linked to the decline in delta smelt, their presence has led to distinct changes in the biota of the Estuary and may inhibit the smelt's recovery.
- "5. Low spawning stock levels may inhibit potential for population recovery. The relatively low fecundity of this species and its planktonic larvae, which undoubtedly incur high rates of mortality, indicate that year class success of the delta smelt must depend on reproduction by fairly large numbers of fish.
- "6. The years of the delta smelt decline are characterized either by outflows that were too low to transport young fish to their optimum habitat in Suisun Bay, or by exceptionally high outflows that may have transported larvae beyond Suisun Bay into the western Estuary.
- "7. The wakasagi, a closely related species introduced into several reservoirs in the Delta drainage has now been found in the American River below Nimbus Dam. The wakasagi potentially could compete with the delta smelt and/or hybridize with it and dilute its gene pool.
- "8. Although there is no direct evidence of delta smelt suffering direct mortality or stress from toxic substances, such substances cannot be eliminated as having adverse effects on the population.
- "9. Diseases and parasites of delta smelt have never been studied; thus, there is no evidence concerning their role in the population decline. After several years of intense study on all aspects of the life history of delta smelt there has been no evidence that disease or parasites have played a role in the decline of this species. However, should they be found to be important, they could prevent the recovery of delta smelt from current low population levels.
- "10. Although competition and predation cannot be ruled out as threats to delta smelt, the available evidence suggests that they are not a major threat. In fact, several potential competitors or predators also show signs of population erosion approximately coinciding with or preceding the decline of delta smelt.
- "11. The delta smelt population trend, certain life history attributes, and environmental threats tend to support listing. However, the Department of Fish and Game believes that the population is not in imminent danger

of extinction, thus does not warrant listing as endangered. Based on the best scientific information available (Section 2074.6 CESA), the Department believes that the most prudent action is to list the delta smelt as a threatened species."

The Department's report to the Commission titled *A Status Review of the Delta Smelt (Hypomesus transpacificus) in California*, has been provided to the Commissioners under separate cover.

Action

Executive Director Treanor provided the Commission with a brief summary of the issue. He informed the Commission that a letter had been received from Kern County Water Agency, requesting that the Commission postpone action on this issue. Mr. Treanor asked if anyone in the audience wished to speak to the issue at this time, and there was no response.

Deputy Director Petrovich presented the Department's recommendation that the Commission list the delta smelt as a threatened species.

Commissioner Owen asked if the Governor's Office or the Resources Agency had taken a position regarding the listing of the delta smelt. Mr. Petrovich responded that he had not received any official position from either office.

Commissioner Owen asked Mr. Petrovich to explain what, if any, impact the additional runoff was having on the delta smelt population. Mr. Petrovich responded that, based upon the salvage operations of the State Water Project and Central Valley Project, a considerable number of delta smelt were entrained by the pumps. He stated that the additional runoff had provided some excellent spawning habitat, but, unfortunately, that spawning habitat was in the central Delta, which made them vulnerable to entrainment at the Central Valley Project pumps.

Commissioner Taucher expressed his concern that of the 11 items in the Department recommendation, none of the items were conclusive.

Director Gibbons reemphasized that the Department's recommendation was for listing the delta smelt as a threatened species.

Commissioner Boren reminded the Commission that the Federal Government had already listed the delta smelt as a threatened species, and indicated that in his opinion, if the State wanted to have input on the management of the delta smelt, the Commission should list the species.

Commissioner Owen asked whether or not the Federal Government was required to consult with the State in managing a species it had listed. Deputy Director Petrovich explained that at the scientific level, the State was involved on an equal basis; however, at the policy level, the State was not involved in the management of a federally listed species. Commissioner Owen expressed concern about this apparent conflict in the interpretation of the laws regarding endangered species. He requested a legal interpretation determination as to what the Department's and Commission's authority was when a species was federally listed.

Director Gibbons and Deputy Director Petrovich explained that the State's perspective receives a little more weight if the species was State listed when it was under consideration for a federal listing or if it was federally listed. Mr. Petrovich continued that the Department had been working on this species since 1989, even though it was not a listed species, and the species had not responded in a positive manner. Director Gibbons explained that, under the biological opinion issued by the Federal Government, the Federal Government could consult with the Department as to its recommendations; however, it was under no obligation to consider the State's recommendations as to the management of the species. He clarified that this would include the management of the water diversions and supply for this species.

Commissioner Taucher expressed his opinion that the State would be criticized for not providing water to diverters if it listed the species; however, if the Federal Government was the implementing agency, they would be held responsible.

Ted James, Kern County Planning Director, expressed his opinion that the Commission should not follow up on an action that the Federal Government took unless it had scientific data supporting that listing. He commented on the lack of peer review of the data of the federal listing. He recommended that the Commission delay action on this issue and return the status report to the Department for further study.

Dale Sweetnam, Bay-Delta Division, provided a summary of the research that had been completed on the delta smelt over the past three years. Mr. Sweetnam explained that as part of the federal listing of the delta smelt, a scientific working group had researched and evaluated the all available data. He indicated that this working group had been assigned to evaluate various management options for the delta smelt which might prevent it from being listed. He explained that in 1992 the Resources Agency requested that a Delta and related systems management program be initiated to protect the delta smelt, the winter-run salmon, and other species in the Delta. He noted that the management program had been superseded by the Bay-Delta Oversight Council.

Commissioner McGeoghegan asked for a description of the management plan which had been developed. Mr. Sweetnam indicated that it was an ecosystem-wide plan to protect the Bay-Delta as a

whole, and not just individual species. He gave a slide presentation outlining the range of the delta smelt and its population trends. He discussed the major reasons for the declines in population. He pointed out that about a month ago the scientists had determined that the wakasagi smelt was distinctly unrelated to the delta smelt, and there was very little chance that they could be diluting the genetic pool of the delta smelt. He noted that the life cycle of a delta smelt was one year; therefore, the effects of low flows and insufficient spawning area would be reflected in the following year's population counts, and the swings in population numbers would be quite dramatic.

Commissioner Boren moved to list the delta smelt as a threatened species and to adopt the Department's proposed findings. Commissioner Biaggini seconded the motion.

Commissioner Owen expressed his concern over the micromanagement being conducted with all the individual species listings. He also expressed concern about peer review of the Department's report and recommended that when someone was sent a copy of a document to review that they be cited in an appendix or something similar. He proposed a sunset clause be added to a listing action.

Commissioner Taucher asked Deputy Director Petrovich whether the heavy winter rains and increased snowfall would assist in the recovery of the delta smelt. Mr. Petrovich responded that the increased water flows would be a help to the species; however, it was the timing of the pumping which caused the entrainment of the eggs and larvae. He stated that the Federal Government had already issued a biological opinion for this year as to how the water exports would be handled. He explained that this biological opinion would probably piggyback the water management for the winter-run king salmon.

Director Gibbons stated that the consequences of the Central Valley Water Project had been discussed in a report in 1946; that report had anticipated dire adverse impact to the Bay-Delta if the project was not managed appropriately. He concluded that most of the problems relating to the Delta were man-caused.

Ted James indicated that a recovery plan should have been developed and ready for implementation put prior to any listing of a species as threatened or endangered. He stated that before a species was listed, everyone should know what the commitments were for all the agencies in response to that listing. He recommended that the Commission work with the Legislature to develop language for a revision to the Endangered Species Act to make it mandatory that a recovery plan be included when a species was listed.

Ann Malcolm explained that Section 2075.5 of the Fish and Game Code only allowed the Commission to do one of two things; the first was to determine that the petitioned action was warranted, or the

other was to determine that the petitioned action was not warranted. She pointed out that the Commission could not establish a sunset clause on a species listing, as suggested by Commissioner Owen.

Executive Director Treanor reaffirmed that there was no provision for the Commission to adopt a sunset clause on a species listing; however, the Commission could require the Department to submit a status report every 12-24 months. He indicated that the law also provided for a five-year status report.

Commissioner McGeoghegan asked Mr. Sweetnam whether the above-average rainfall for the current year would result in an increase in the delta smelt population and, if so, could the Department estimate what that population would be. Mr. Sweetnam explained that the spike seen in 1978 could have resulted from an unusual pumping schedule following the drought in 1977, which left a smaller than normal number of fish entrained. He indicated that the delta smelt did not respond directly to the outflow to the Delta. He explained that heavy rainfall did not guarantee that the population would increase and that the main effect on the delta smelt was when pumping occurred from within the Delta and where in the life cycle the fish were at that time. He stated that if a population was found in Suisun Bay, there was generally an overall increase in the population, and if they were found only in the Delta, the population numbers were generally lower. He explained that the long-fin smelt had a population relationship directly related to outflow; however, the delta smelt did not exhibit that same relationship.

Commissioner Biaggini then asked for the vote on the motion to list the delta smelt as a threatened species.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE PROVISIONS OF SECTION 2075.5 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SAID SECTION OF SAID CODE, HEREBY FINDS THAT THE INFORMATION CONTAINED IN THE PETITION TO LIST THE DELTA SMELT (Hypomesus transpacificus) WARRANTS LISTING THAT SPECIES AS THREATENED. FURTHER, THE FISH AND GAME COMMISSION, HEREBY AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF ITS INTENT TO AMEND SECTION 670.5, TITLE 14, CCR, TO LIST THE DELTA SMELT AS A THREATENED SPECIES. THE COMMISSION ALSO HEREBY REQUESTS THAT THE DEPARTMENT PROVIDE THE COMMISSION WITH A STATUS REPORT IN ONE YEAR.

AYES: COMMISSIONERS BIAGGINI, BOREN AND OWEN.

NOES: COMMISSIONER TAUCHER.

ABSTAINED: COMMISSIONER MCGEOGHEGAN.

MOTION CARRIED.

Commissioner McGeoghegan stated he abstained because he felt he had not had sufficient time to completely study the issue, due to his recent appointment to the Commission.

4. EMERGENCY ACTION TO AMEND SECTION 27.80, TITLE 14, CCR,
RE: CONFORMING OCEAN SALMON SPORT FISHING REGULATIONS WITH
FEDERAL REGULATIONS.

Summary of Issue

This item is scheduled to provide an opportunity for the Commission to amend Section 27.80, Title 14, CCR, regarding Ocean Salmon Sport Fishing Regulations. The U.S. Secretary of Commerce has modified the federal regulations from those proposed by the Pacific Fisheries Management Council. Therefore, the Commission must take emergency action to conform State regulations with the new federal regulations.

Department Recommendation

"On May 10, 1993, the Pacific Fishery Management Council (PFMC), using telephone conferencing, established the Federal ocean sport salmon fishing regulations to be recommended to the Secretary of Commerce. This regulatory structure maintained the same season structure as approved by the Fish and Game Commission on April 22, 1993, but modified the quotas for king salmon in the ocean waters from Horse Mountain (near Shelter Cove in southern Humboldt County) to Humbug Mountain in southern Oregon. These quotas were reduced from 12,000 to 8,000 king salmon for the first open period, from May 5 through June 19, and from 6,400 to 4,500 king salmon (and any remainder from the earlier quota) for the second open period of July 14 through August 28. In addition, the PFMC postponed the date from August 9 to September 1 when the daily bag limit on salmon caught south of Point Arena will change from two salmon with a minimum size of 20 inches total length to two salmon 20 inches or longer except no more than one may be 26 inches total length or longer.

"The Department recommends that the Commission adopt these regulations by emergency procedure so that ocean sport salmon regulations in State waters (0-3 miles offshore) conform with Federal ocean salmon sport regulations signed into law by the Secretary of Commerce on May 28, 1993 for the fishery management zone outside of State waters (3- 200 miles offshore). Otherwise, ocean sport fishing regulatory authority in State waters could be preempted by the Secretary of Commerce if State regulations are in conflict with Federal regulations.

"Economic Impact

"The reduction of quotas for the ocean sport fishery in the waters north of Horse Mountain from 12,000 to 8,000 king salmon for the first open period, from May 5 through June 19, and from 6,400 to 4,500 king salmon (and any remainder from the earlier quota) for the second open period of July 14 through August 28 may result in reduction of the number of available fishing days should either quota be attained prior to the end of its respective fishing period.

"Any significant reduction of available fishing days can be expected to result in some economic impact on those businesses that cater to ocean salmon anglers, but the extent of the loss is unknown.

"The postponement of change in the daily bag limit from August 9 to September 1 for the waters south of Point Arena, could have an economic benefit for those businesses involved in the ocean salmon sport fishing in that area.

"Except for the above considerations, the Commission has determined that the proposed changes: (1) will have no effect on housing costs; (2) do not mandate any programs upon local agencies or school districts; (3) involve no increased costs or savings to any local agency or school district, State agency or Federal funding to the State; (4) will have no economic impact on small businesses; (5) involve no significant cost to private persons or entities; (6) involve no significant nondiscretionary costs or savings to local agencies; and (7) that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

"The Commission has determined that the adoption of this regulation is necessary for the protection of the salmon resources and for the preservation of the public peace, health and safety and general welfare.

"Information Digest

"The major king salmon populations in California have their origins in the Klamath and Central Valley river systems. Six years of drought and poor ocean survival have caused alarming downward trends in these stocks as exhibited by spawning escapements that were significantly below goal level in the last few years. Although spawning runs are significantly depressed, 1993 stock projections have indicated that both Klamath and Central Valley salmon

stocks are more abundant than last year. Therefore, the Pacific Fishery Management Council (PFMC) took action on April 9, 1993 to recommend a recreational ocean salmon regulatory structure to the Secretary of Commerce that provided substantially more fishing opportunity than last year. Because of the recommendation of the Secretary of Interior to permit Klamath River Indian Tribes to harvest a greater share of the allowable Klamath catch, the Secretary of Commerce disapproved the Council's recommendations and remanded the PFMC to, among other things, restructure a recreational fishing season that includes a reduction in the overall king salmon quota in the Klamath Management Zone (KMZ) from 18,400 to 12,500 (the KMZ extends from Horse Mountain in southern Humboldt County to Humbug Mountain in southern Oregon). The PFMC met on May 10, 1993 via telephone conferencing, and decided on a recreational salmon season that conformed to the guidelines set by Secretary of Commerce; the regulatory structure was approved by the Secretary on May 28, 1993.

"Once the Council's management recommendations are approved by the Secretary of Commerce, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon within State waters (0 to 3 miles offshore) to those agreed upon by the PFMC and implemented by the Secretary of Commerce; otherwise, preemption of State regulatory authority by the Secretary of Commerce could occur.

"Section 27.80, Title 14, CCR, has been amended to characterize the recreational ocean salmon fishing season structure as crafted by the PFMC on May 10, 1993. The season structure for 1993 is essentially the same as that approved by the Fish and Game Commission on April 22, 1993 excepting reduced quotas in the KMZ and the postponement from August 9 to September 1 when the daily bag limit on salmon caught south of Point Arena changes from two salmon with a minimum size of 20 inches total length to two salmon 20 inches or longer, except no more than one of which may be 26 inches total length or longer. This latter regulation, in conjunction with the closure of the commercial salmon fishery in this area on August 31, will reduce impacts on maturing Central Valley spawners."

Action

Executive Director Treanor explained that the Commission was taking emergency action to bring State regulations into conformance with the Federal regulations that were approved by the Secretary of Commerce. Mr. Treanor then asked if there was anyone in the audience who wished to address this issue, and there was no response.

Commissioner Taucher asked what percentage of the fish available for take had been allocated to the Native American subsistence fishery. Deputy Director Petrovich responded that the intent was for 50% of the total number of fish available from the Klamath River to be allocated to the Native Americans. Mr. Petrovich explained that the proposed regulations were drafted to conform to the new federal regulations; and thereby, avoid preemption of State regulations by the federal government.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. MCGEOGHEGAN, THAT THE FISH AND GAME COMMISSION PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 200, 202, 205, 220, 240 AND 7891 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SECTIONS 200, 202, AND 205 OF SAID CODE, HEREBY TAKES EMERGENCY ACTION TO AMEND SECTION 27.80, TITLE 14, CCR, RE: OCEAN SALMON SPORT FISHING REGULATIONS TO BRING STATE REGULATIONS INTO CONFORMITY WITH FEDERAL REGULATIONS AS FOLLOWS:

27.80. Salmon.

(a) Methods of take:

(1) Only by angling as defined in section 1.05. No sinkers or weights exceeding four pounds may be used, except that a fishing line may be attached to a sinker or weight of any size if such sinker or weight is suspended by a separate line and the fishing line is released automatically by a mechanical device from the sinker or weight when any fish is hooked. See sections 1.74, 28.65 and 28.70.

(2) Only single barbless hooks may be used to take salmon in the ocean north of Point Conception.

~~(3) Salmon may be taken by angling with no more than one rod and line or one hand line in the ocean north of Point Conception.~~

(b) Season:

~~(1) Tomales Bay: Open to salmon fishing all year.~~

~~(2) All other waters of the ocean south of Point San Pedro (37° N. lat.) are open to salmon fishing from the Saturday nearest March 1 through the Sunday nearest November 1.~~

~~(1)(3) All waters of the ocean and San Francisco Bay District south of between Point San Pedro and Point Arena (39° N. lat.) are open to salmon fishing from the Saturday nearest March 1 through May 31 and June 30 through August 31, or until the quota of 39,400 king salmon has been caught in these waters. These waters are open to salmon fishing from September 1 through the Sunday nearest November 1.~~

EXCEPTION: The waters of the ocean inshore of bounded by a straight line drawn from Bolinas Point (Marin County) south to Duxbury Buoy, then to Channel Buoy #1, then to Channel Buoy #2, then to Point San Pedro (San Mateo County), and including all of San Francisco and San Pablo bays between Golden Gate Bridge and Carquinez Bridge including the entrance area from Golden Gate

Bridge to Seal Rocks to Point Bonita are closed to salmon fishing ~~open from the opening day of salmon season south of Point Arena April 4 through March 31 August 31, or until the~~ aforementioned area quota of 39,400 king salmon has been caught. ~~These waters are open to salmon fishing from September 1 through the Sunday nearest November 1.~~

~~(2)(4)~~ All waters of the ocean between Point Arena and Horse Mountain (40°05' N. lat.) are open to salmon fishing from the Saturday nearest February 15 through ~~May 31 and June 30 through August 31, until the quota of 3,400 king salmon has been caught in these waters.~~ These waters are open to salmon fishing from September 1 through the Sunday nearest November 15.

~~(3)(5)~~ All waters of the ocean north of Horse Mountain and Humboldt Bay are open to salmon fishing ~~Wednesday~~ Monday through Saturday ~~Wednesday~~ of each week from ~~May 5~~ July 6 through ~~June 19, until the quota of 12,000 king salmon is caught between Horse Mountain and Humbug Mountain (Southern Oregon); and July 14 through August 28~~ 31, or until the quota of 6,400 ~~3,500~~ king salmon (plus any remainder from earlier quota in this area) is ~~has been caught between Horse Mountain and Humbug Mountain (Southern Oregon).~~ These waters are open every day to salmon fishing from September 1 through Labor Day.

EXCEPTION: The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48"N latitude (approximately 6 nautical miles north of the Klamath River mouth), south by 41°26'48" (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing from August 1 through August 31.

(c) Limit:

(1) North of Horse Mountain, one salmon per day, eight in possession. No more than ~~four~~ three salmon may be taken during any consecutive seven calendar day period.

(2) South of Horse Mountain, two salmon per day.

(d) Minimum size: ~~Twenty inches total length, except there is no size limit for salmon in Tomales Bay south of Hog Island.~~

EXCEPTION: In the area south of Point Arena beginning August 9 through the Sunday nearest November 1, only one salmon may be twenty-six inches total length or longer.

(f) Marking Requirements: See section 5.87, Title 14, CCR.

PASSED UNANIMOUSLY.

5. AMENDMENT OF SECTIONS 29.15 AND 100, TITLE 14, CCR, RE: BLACK ABALONE FISHERY CLOSURES.

Summary of Issue

The Commission, at its February 5, 1993 meeting in Long Beach, authorized its staff to publish notice of the Commission's intent to amend Sections 29.15 and 100, Title 14, CCR, regarding black abalone fishery closures. That legal notice has been published.

The Commission, at its April 2, 1993 meeting in Sacramento, received public testimony on the Draft Environmental Impact Document (DEID) for the proposed regulatory changes. Commissioners have been provided with a copy of the Draft Environmental Impact Document at its April 2 meeting. If any Commissioner needs an additional copy, please contact the Commission office.

The Commission was provided copies of the Department's Pre-publication of Notice and Pre-adoption Statements, as well as the text of the regulations in strikeout/underline format.

In summary, the Department proposes regulation changes as follows:

"Existing regulation provides for the commercial and recreational harvest of black abalone under specified conditions, including but not limited to closed areas and seasons. The proposed action would, until March 1, 1995, prohibit the take or possession of any black abalone for sport or commercial purposes.

"Black abalone have been affected by an unknown agent which produces a weakened, shrunken appearance, withering syndrome (WS) leading to death. Some populations of black abalone have suffered 99 percent mortality from the effects of WS.

"The prohibition on black abalone harvest will protect the few sexually mature individuals which are, for reasons unknown, unaffected by WS. These unaffected abalone will provide the breeding stock for rehabilitation of the black abalone resource, whether by natural or induced processes. The Commission's authority to halt the harvest of black abalone is limited by statute to a maximum two-year time period. The Department is pursuing legislation to address the long term protection and restoration of black abalone stocks."

Action

Ken Schmidt, California abalone diver, expressed his opposition to the closure of the black abalone fishery. He stated that the closure would not benefit the black abalone. He indicated that the minutes and a report from a workshop sponsored by the California Abalone Association should have been included in the DEID when the regulations were proposed.

Deputy Director Petrovich responded that the workshop had been taken into consideration.

Commissioner Owen asked how many black abalone were needed in order for a diver to make a living. Ken Schmidt responded that 30 or 40 dozen abalone per year were necessary for a diver to make any money. He stated that he was fishing for red abalone, as red abalone had flourished enough to temporarily support the industry. He also expressed his opinion that pollution had negatively impacted the abalone industry.

Jim Marshall, abalone diver, recommended that only those areas currently affected by the withering foot syndrome be closed to black abalone fishing and that unaffected areas be kept open as well as opening currently restricted areas. He recommended that it be operated as an experimental fishery, and that more research be done to isolate the cause of the withering foot syndrome.

Commissioner Owen asked which areas Mr. Marshall recommended be opened. Jim Marshall responded that there were some optional sites in central California near Santa Cruz. He also recommended having observers on the fishing vessels to study the fishery.

Deputy Director Petrovich stated that several organizations and committees had been consulted in developing the Department's recommendation. He explained that the Department's recommendation for a closure was a last resort. He indicated that no cause had been found for the withering foot syndrome and researchers did not know why some abalone were resistant to the disease and some were not. Mr. Petrovich explained that the resistant abalone needed to be protected in order to rejuvenate the black abalone population. He reminded the Commission some of the existing closures were to reserve areas for recreational divers and that the proposed closure was only for two years.

Pete Haaker, Marine Resources Division, stated that 98% of black abalone had been lost to the disease at some island locations and that, because no known cause had been found for the withering foot syndrome, the only hope for recovery was to protect the remaining disease resistant black abalone.

Commissioner Owen asked if the black abalone were edible if only slightly affected by the withering foot syndrome. Pete Haaker responded that the abalones deteriorated soon after contracting the disease and would be considered inedible.

Steve Rebuck, California Abalone Association, stated that his organization felt the final EID was incomplete and that he had not been given enough time to review the document. He opposed any action to close the black abalone fishery because black abalone could still be found in San Luis Obispo County. He indicated that he was disappointed that his organization's report had not been included in the EID. He stated that he did not feel there was sufficient data to support the closure. He also explained that he

felt there was a vendetta against the commercial divers by the National Parks Service. He recommended that the fishery be kept open even if only to a very limited level.

Deputy Director Petrovich explained that the Draft EID was available for full public review for 45 days and the three people that commented on the document had been responded to in the final EID.

Ann Malcolm, Deputy General Counsel, stated that the process the Department followed was entirely consistent with established CEQA requirements.

Mr. Rebuck stated he had not been informed that the documents were available.

John Colgate, California Abalone Association, commended the Commission for taking action and recognizing the severity of the withering foot syndrome. He supported closing the affected areas. He requested that the Commission and the Department set some guidelines and policies for the Department to follow on this issue. He expressed his Association's support for the closure of Santa Rosa Island. He explained that there was still some harvest at the San Nicolas and San Miguel Islands, but that he expected those to be closed within the year as well. He then recommended that areas not affected by the disease be kept open.

Commissioner McGeoghegan asked if some similarities had been found that would link the black abalone with the withering foot syndrome and if the number of affected abalone had reached an emergency level. Pete Haaker responded that nothing yet had been found to link the syndrome to affected abalone. He acknowledged the number of affected black abalone had reached a very high level and constituted an emergency.

Commissioner Boren asked if pollution had been a contributor to the disease. Pete Haaker explained that pollution was one of several factors that had been eliminated as an exact cause, though it could have contributed to the condition.

Deputy Director Petrovich asked Mr. Haaker who was involved in the research project. Pete Haaker explained that the National Parks Service, the Environmental Protection Agency and the California Fish and Game Disease Lab were all looking for the cause of the withering foot syndrome and their data had been used for the EID. He indicated that they would continue the research, even if the fishery was closed.

Commissioner Boren asked if abalone had been found affected by the withering foot syndrome in other parts of the world. Pete Haaker stated that to their knowledge other species had not been affected by this disease.

Commissioner Owen asked for the current number of California black abalone. Pete Haaker stated that he did not have an exact number, but that numbers had declined significantly over the past few years.

Commissioner McGeoghegan asked Deputy Director Petrovich what needed to be accomplished before the fishery could be reopened. Deputy Director Petrovich stated that the fishery could only be closed for a maximum of two years, but they would develop guidelines as soon as possible. Pete Haaker added that abalone were slow growing and that it took eight years for an abalone to grow to legal size so the fishery may not be able to recover for a number of years, because the fishermen could only harvest legal sized abalone.

It was then:

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

PASSED UNANIMOUSLY.

Commissioner McGeoghegan asked Ann Malcolm if the Commission could reopen a closed area if fishing opportunities became available. Ann Malcolm stated that the Commission could reopen the fishery, but that it would require recirculation of the EID.

Commissioner Owen asked why the fishermen were not consulted and recommended a thirty-day delay. He also questioned the take of abalone by sea otters. Deputy Director Petrovich stated that the Department had worked closely with the abalone fishermen in developing this recommendation; however, the fishermen did not agree with this proposal.

Commissioner Biaggini asked if the Commission could request an amendment to Assemblyman Morrow's bill. Deputy Director Petrovich clarified that neither the Commission nor the Department could open closed areas without a legislative change. Commissioner Biaggini asked if the Commission could reopen some areas in six or eight months and whether the Commission would

have to go through the entire EID process again. Ann Malcolm stated that some CEQA compliance would be necessary, but the EID may not need to be rewritten.

Commissioner Owen asked about the 4% enhancement fee. Deputy Director Petrovich stated that it would go into effect January 1, 1994, and it would extend the closure until 1997.

Commissioner Taucher concurred that the black abalone was endangered and priority should be given to the protection of the resource. Commissioner Biaggini agreed with Commissioner Taucher and requested that the issue be discussed in six months. He also requested that the research on this species continue.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 21080.5 OF THE PUBLIC RESOURCES CODE, HEREBY ADOPTS THE PROPOSED PROJECT FOR THE PROPOSED REGULATORY ACTIONS RELATING TO SECTION 29.15 AND SECTION 100, TITLE 14, CCR, RE: BLACK ABALONE FISHERY CLOSURES.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. BIAGGINI, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE PROVISIONS OF SECTIONS 200, 202, 205, 210, 220 AN 8305.9 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SECTIONS 200, 202, 205, 220, 8305..9 AND 8305.10 OF SAID CODE, HEREBY AMENDS SECTIONS 29.15 AND 100, TITLE 14, CCR, REGARDING BLACK ABALONE FISHERY CLOSURES AS FOLLOWS:

Subsection 29.15(a), Title 14, CCR is amended to read:

- (a) Limit: See subsection (a)(1) below for black abalone limit. North of Yankee Point (Monterey County) four in the combination of all species. South of Yankee Point two in combination of all species. Minimum size measured in greatest shell diameter: Red abalone seven inches; green abalone, pink abalone and white abalone six inches; black abalone five inches; and all other species four inches. All legal size abalones detached must be retained, and a person shall stop detaching abalones when the bag limit is reached.

(1) Black abalone: Notwithstanding subsection (a) above, black abalone may not be taken or possessed at any time. This subsection shall remain in effect until March 1, 1995 and as of that date is repealed.

Subsection 100(g), Title 14, is added to read:

(g) Black abalone.

Black abalone may not be taken or possessed at any time for commercial purposes. This subsection shall remain in effect until March 1, 1995 and as of that date is repealed.

PASSED UNANIMOUSLY.

6. REQUEST OF SANTA YNEZ RIVER WATER CONSERVATION DISTRICT, IMPROVEMENT DISTRICT NO. 1 AND THE CACHUMA CONSERVATION RELEASE BOARD FOR COMMISSION EMERGENCY ACTION TO AMEND SECTION 7.50(b), TITLE 14, CCR, RE: ANGLING CLOSURES FOR SANTA YNEZ RIVER AND ITS TRIBUTARIES BELOW BRADBURY DAM, SANTA BARBARA COUNTY.

Summary of Issue

Gregory Wilkinson, attorney for Santa Ynez River Water Conservation District, Improvement District No. 1, has submitted a petition on behalf of his client and the Cachuma Conservation Release Board requesting that the Commission take emergency action to close angling in the Santa Ynez River and its tributaries below Bradbury Dam in Santa Barbara County.

Department Recommendation

"Mr. Gregory K. Wilkinson has submitted a petition on behalf of the agencies listed in subject which specifically requests a fishing closure of the Santa Ynez River system below Bradbury Dam, including, but not limited to, the stilling basin at the foot of the dam, the tributary creeks of the Santa Ynez River, the lagoon near the mouth of the river and the mainstem of the river.

"In the same transmittal of Mr. Wilkinson included a Declaration of Charles H. Hanson in Support of Closure of the Fishery on the Santa Ynez River. In addition to supporting the petition, Dr. Hanson's declaration expresses opposition to catch-and-release fishing as an alternative to complete closure.

"Dr. Hanson also advocates a program to rescue steelhead from the lower river to prevent the mortality which would otherwise occur as the habitat in the lower river becomes too warm in the summer for salmonids.

"Current regulations for the Santa Ynez River allow year-round fishing with a five-fish daily bag limit. The Department of Fish and Game concurs that more restrictive measures are needed to facilitate restoration of the

anadromous steelhead run. The Department does not concur, however, that a closure to all fishing during the summer is justified, nor that emergency Commission action is required.

"As an alternative, the Department recommends a closure to all fishing from November 15 through the Friday preceding Memorial Day in the Santa Ynez River mainstem below Bradbury Dam, and all tributaries flowing into the mainstem below Bradbury Dam. For the remainder of the year (same waters), the Department proposes allowing catch-and-release fishing (zero bag limit) with only artificial lures and barbless hooks.

"The Department's proposed alternative is preferable because full protection of adult anadromous salmonids is provided by the fall-winter closure. Adult steelhead do not typically survive the summer months in the lower reaches of southern and central California coastal streams. They normally return to the marine environment following the spawning period, which does not extend beyond May.

"Most steelhead smolts successfully emigrating from the system do so prior to the end of May. Juveniles remaining over the summer would be protected by the summer zero bag limit and special fishing methods restrictions.

"The Department is not opposed to a fish rescue program, providing it can be shown to be effective, within regional budget constraints, and the program is not used as an alternative to proper mitigation programs otherwise stipulated by the Department."

Action

Executive Director Treanor provided the Commission with a brief summary of the issue. He indicated that the Department's recommendation was that there was no need for any emergency action, but that this issue would be brought up for consideration during the normal time frame for changes in the sport fishing regulations.

Scott Slater, Santa Ynez River Water Conservation District, stated that the Water District withdrew its request for emergency regulations so that this item could be considered with the normal changes in the sport fishing regulations. He also requested that these regulations be could effective in December.

Executive Director Treanor explained that a letter had been received from Bob Baiocchi on behalf of the California Sport Fishing Protection Alliance, which opposed an emergency closure, but supported this proposal being taken up during the normal sport fishing regulation process. Mr. Treanor indicated that if the Commission concurred with the Department's recommendation, this item would be carried over to the August 27, 1993 meeting.

Deputy Director Petrovich expressed the Department's agreement to putting these regulations into effect as soon as possible after the adoption of the sport fishing regulations.

Executive Director Treanor clarified that the Commission staff could proceed with this item with the regular sport fishing regulatory process and then, at the end of the process, pull these sections out and submit them separately to the Office of Administrative Law and ask for an expedited review.

Commissioner Taucher asked for clarification as to which stretch of the river the proposed closure covered. Mr. Slater responded that his Association would like to see the stretch from Bradbury Dam downstream to the ocean closed to all fishing.

The Commission expressed its concurrence with the consideration of adoption of these regulations during the normal sport fishing process and requesting an expedited review.

7. DEPARTMENT REPORT REGARDING IMPACT OF COMMERCIAL ROCK CRAB FISHERMEN TO SAN MIGUEL ISLAND ECOLOGICAL RESERVE.

Summary of Issue

In 1991 the Commission limited the number of commercial fishermen who could fish at San Miguel Island Ecological Reserve to commercially harvest rock crabs to three (3) fishermen. At the same time, the Commission requested that the Department report back to the Commission regarding any impacts these commercial fishermen had on the San Miguel Island Ecological Reserve. This item is scheduled to receive that report.

Department Recommendation

"Subsection 630(b)(28)(A), Title 14, CCR, provides for the commercial take of abalone, lobster, or sea urchin, or the use of hook-and-line gear, to fish within the San Miguel Island Ecological Reserve in areas open to boating. Also, provision is made for commercial fishers to apply to the Commission for the use of other gear types or the harvest of other species.

"The Commission has issued three permits to take rock crab with traps within the San Miguel Island Ecological Reserve since January 1990. At the Commission's August 29-30, 1991 meeting, the Department recommended that the number of permits to fish rock crab traps within the San Miguel Island Ecological Reserve be limited to three until the effect of such fishing operations on marine mammals present at San Miguel Island could be reviewed by the Department. The Department made this request due to a rapid increase in the number of requests for crab trap permits to fish within the

reserve. Since then, two of the three permits have expired and have not been renewed. Only one permit was valid during the 1992-93 fishing season.

"At the Commission's October 2, 1992 meeting, during consideration of a request by Mr. Willis M. Baldwin to renew his permit to fish rock crab traps within the San Miguel Island Ecological Reserve, the Department reported that it had received no reports of harm to marine mammal populations due to the operation of rock crab traps at San Miguel Island. We also reported that we had been unable to determine the amount or extent of rock crab fishing by the two permittees authorized to use rock crab traps at San Miguel Island during the 1991-92 fishing season due to the use by the permittees of general catch location codes on their fish receipts. The Department recommended that renewal of Mr. Baldwin's permit be approved, with the additional conditions that Mr. Baldwin be required to record the specific Fish and Game Block Number of all rock crab catches made within the reserve on his landing receipts and complete and submit a Daily Trap Log (Form DFG 180A) monthly, documenting his fishing operations within the reserve. Also, the Department recommended that the Commission continue to limit to three the number of permits issued to fish rock crab within the reserve until the Department could complete a review of the fishing and report to the Commission in October 1993.

"Since October 1992, the Department has not been able to document any rock crab trap fishing within the San Miguel Island Ecological Reserve, nor has it received any information which indicates that the use of rock crab traps has had any adverse effect on marine mammal populations found at San Miguel Island. Therefore, the Department recommends that the Commission continue to limit the number of permits issued to fish rock crab with traps within the reserve to three, and that the Department continue to monitor the effect of such fishing activity on marine mammal populations in the reserve."

Action

Executive Director Treanor provided a summary of the issue.

Deputy Director Petrovich presented the Department's recommendation that the Commission limit the number of rock crab fishermen off San Miguel Island Ecological Reserve to three. He pointed out that the Department had not observed any crab fishermen off of San Miguel Island Ecological Reserve.

Commissioner Taucher asked if there was much recreational fishing taking place off of San Miguel Island. Mr. Petrovich responded that there was some recreational fishing; however, the recreational fishing was limited in that it had to adhere with the Ecological Reserve regulations.

8. REQUEST OF DAVID MOSELEY AND PAUL TEALL, SANTA BARBARA, FOR AUTHORIZATION TO HARVEST ROCK CRAB AT SAN MIGUEL ISLAND ECOLOGICAL RESERVE FOR COMMERCIAL PURPOSES.

Summary of Issue

Messrs. David Moseley and Paul Teall, Santa Barbara, request authorization to harvest rock crab at San Miguel Island Ecological Reserve for commercial purposes.

A. David Moseley, Santa Barbara

In a letter dated April 11, 1993, Mr. Moseley provides the following information:

"As you have suggested, I am following up our telephone conversation today with this letter. My name is David Moseley, and I am a commercial crab fisherman in Santa Barbara. The intent of this letter is to formally request that my proposal to fish for crab off of San Miguel Island be included on the agenda of your next Commission meeting scheduled in Bakersfield.

"It is my understanding from reading Title 14 of the Fish and Game regulatory law, that the purpose of an Ecological Reserve is to protect rare and endangered species. Rock crab is not a rare or endangered species. And, judging from what some of the abalone and urchin divers from this area say, there is an overabundance of rock crab off of San Miguel Island. It is my belief that permitting me to fish for rock crab will not pose a threat to any of the rare or endangered species in the ecological reserve at San Miguel Island. I feel that the committee meeting will be an appropriate place to continue this topic.

"Please consider my request and notify me when the date and time has been set. As a native of Santa Barbara, I am aware of environmental issues and have always been an ecologically sensitive fisherman. The ocean is my livelihood, and I want to fish in such a way that the resources will always be there."

B. Paul Teall, Santa Barbara

In a letter dated received May 18, 1993, Mr. Teall provides the following information:

"The matter of concern is the rule in Fish and Game Commission's Title 14, Section 630(28)(A), stating the need to apply and obtain a permit to fish San Miguel Island.

"I would like a permit to fish rock crabs at San Miguel Island. If possible, please issue my permit by mail. If not, place me on the agenda.

"I've been fishing my fishing vessel "Vintage" for five years for rock crabs and lobster. I would very much like to fish rock crabs at San Miguel Island. I intend to fish no more than fifty traps, trap dimensions 3'x3'x14" high."

Department Recommendation

"Subsection 630(b)(28)(A), Title 14, CCR, provides for the commercial take of abalone, lobster, or sea urchin, or the use of hook-and-line gear, to fish within the San Miguel Island Ecological Reserve in areas open to boating. Also, provision is made for commercial fishers to apply to the Commission for the use of other gear types or the harvest of other species.

"The Department has recommended that the Commission continue to limit the number of permits issued to fish rock crab within the San Miguel Island Ecological Reserve to three. Issuance of permits to these two applicants will bring the total number of permits issued to fish rock crab with traps in the San Miguel Island Ecological Reserve to three. Therefore, the Department recommends that Mr. Moseley's and Mr. Teall's requests be approved with the condition that Mr. Moseley and Mr. Teall be required to record the specific Fish and Game Block Number of all rock crab catches made within the reserve on their landing receipts and complete and submit a Daily Trap Log (Form DFG 180A) monthly, documenting their fishing operations within the ecological reserve. Such permits should be valid for one year, expiring June 1, 1994."

Action

Commissioner Boren asked if there were places along the coastline where baseline data was collected by the Department. He expressed his opinion that San Miguel Island was an area that should be closed to all fishing.

Director Gibbons explained that, as required under Proposition 132, four ecological reserves were being selected which would be totally protected from all fishing activities. Deputy Director Petrovich explained that Point Lobos and Surf Park Ecological Reserves were also closed to all fishing activities. He indicated that the Department itself had not done any research in those areas and that they had been closed

pursuant to the request of other agencies that were currently doing research. Mr. Petrovich stated that the Department would return to the Commission with information on these areas.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUESTS OF DAVID MOSELEY AND PAUL TEALL, SANTA BARBARA, FOR AUTHORIZATION TO HARVEST ROCK CRAB AT SAN MIGUEL ISLAND ECOLOGICAL RESERVE FOR COMMERCIAL PURPOSES, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

Deputy Director Petrovich explained for Commissioner Taucher the Department's position was neutral on a bill by Assemblywoman Doris Allen regarding ecological reserves and the activities that could take place on those reserves.

9. REQUEST OF MR. AND MRS. LARRY TOFANELLI, STOCKTON, FOR COMMISSION AMENDMENT OF SECTION 200.29(a)(2), TITLE 14, CCR, TO ADD GOLDEN SHINERS AS FISH AUTHORIZED TO BE TAKEN UNDER THE AUTHORITY OF A COMMERCIAL FISHING LICENSE AND SOLD AS LIVE BAIT FISH.

Summary of Issue

Mr. and Mrs. Larry Tofanelli of Stockton request that the Commission amend Section 200.29(a)(2), Title 14, CCR, to add golden shiners as fish authorized to be taken under the authority of a commercial fishing license and sold as live bait fish. In a letter dated May 24, 1993, the Tofanelli's provide the following information:

"We would like to present our case before your committee concerning the GOLDEN SHINER MINNOWS. My husband has been a commercial fisherman for approximately 2 years. He was told by a game warden that GOLDEN SHINER MINNOWS were legal for him to supply to bait shops. Now it has been brought to our attention that it is illegal. WHY?

"The GOLDEN SHINER MINNOW is the exact same minnow that the Aqua Culturists raise only they are larger. We do understand that the reason GOLDEN SHINER MINNOWS are illegal is because they may contaminate the fish in different waters. What about Mudsuckers, Oriental Gobies, Clams, Crayfish, and Bullheads? These baits are also caught in certain waters and transported into different area waters.

"I have done some research on this subject and I will be able to answer any questions to the best of my ability.

"Many lakes and reservoirs have restrictions and limits as per bait use. If the GOLDEN SHINER MINNOWS are a threat to other waters, can't we put a limit on them also?

"As a commercial fisherman and Bait Shop owners, we would like to have an amendment drawn up in regulation codes to allow the GOLDEN SHINER MINNOW to be taken under commercial license to be sold to bait shops for resale as 'LIVE FRESH WATER BAIT.'"

The Commission was provided with the Department's recommendation dated June 4, 1993.

Action

Executive Director Treanor explained that the Department recommended that the Commission authorize an experimental gear permit for one year, which would allow Mr. and Mrs. Larry Tofanelli, to collect golden shiners to be sold as live bait. Mr. Treanor stated that the Department made this recommendation because this activity needed to be studied prior to an amendment of Section 200.29, and the one-year time period would allow the Department to undertake those studies while still allowing the Tofanellis to operate their business. Mr. Treanor explained that the Tofanellis had been informed that they did not need to attend the Commission meeting because of the Department's recommendation.

Deputy Director Petrovich explained that the Department did not believe that allowing this experimental gear permit for one year would harm the resource in any way, and the Department wanted to study the matter before any amendment to Section 200.29 was proposed.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY AUTHORIZES
THE DEPARTMENT TO ISSUE AN EXPERIMENTAL GEAR PERMIT
TO MR. AND MRS. LARRY TOFANELLI, STOCKTON, TO COLLECT
GOLDEN SHINERS BY HOOK AND LINE TO BE COMMERCIALY
SOLD AS LIVE BAIT.

PASSED UNANIMOUSLY.

10. CONSIDERATION OF SOUTHERN PACIFIC TRANSPORTATION COMPANY PETITION REGARDING NONCOMPLIANCE OF THE DEPARTMENT OF FISH AND GAME'S 1993 UPPER SACRAMENTO RIVER MANAGEMENT PLAN WITH THE COMMISSION'S POLICIES ON TROUT AND WILD TROUT WATERS.

Summary of Issue

This item is scheduled for Commission consideration of Southern Pacific Transportation Company's petition regarding noncompliance of the Department of Fish and Game's 1993 Upper Sacramento River Management Plan with the Commission's policies on Trout and Wild Trout Waters. As the Commission may recall, it agreed with one of Southern Pacific Transportation Company's attorneys, Mr. Daniel Dunn, at its May 14, 1993 meeting in Bakersfield to schedule the petition for Commission consideration. At that time, the Commission indicated that the only issue for discussion at this meeting is Southern Pacific Transportation Company's petition regarding noncompliance of the Department's Management Plan with Commission policies on Trout and Wild Trout Waters and would not discuss regulation changes.

Commissioners have been provided with a copy of Southern Pacific Transportation Company's petition.

Action

Ed McGrath, Southern Pacific Transportation Company, discussed the petition they had submitted to the Commission. He stated that Southern Pacific believed that the Department was violating the Commission's policy regarding planting catchable trout in a section of the Upper Sacramento River. He contended that the Department did not have any data supporting its continued closure of the area and its continued resistance to planting fish in that stretch of the River. He requested that the Commission ask the Department to begin planting trout in a five-mile stretch of the Upper Sacramento River and that the River be opened to limited fishing.

Ann Malcolm, presented the Department response to the petition submitted by Southern Pacific. She stated the Department had completely complied with the policies of the Commission during the development of its management plan for the Upper Sacramento River. She discussed in detail the Department's response to each item of the petition. She concluded her discussion by recommending that the Commission maintain its earlier decision to delay opening the Upper Sacramento River to fishing and that the Commission reject the Southern Pacific petition.

Ed McGrath stated that Ms. Malcolm had a conflict of interest in advising the Commission on this issue, because she actually worked for the Department, which was involved in

litigation with Southern Pacific. A discussion ensued between Commissioners Biaggini and McGeoghegan as to what the basic issue was at this time. It was determined that there were two issues at hand: (1) should the Commission direct the Department to revise its management plan to advocate the stocking of trout in a 7-mile stretch of the Upper Sacramento River; and (2) was the Department in violation of Commission policy in respect to its recommendation to not plant the Upper Sacramento River and to keep the Upper Sacramento River closed to fishing. Commissioner Biaggini stated that these issues could not be decided until the pending litigation had been settled. Mr. Biaggini expressed concern for the citizens of Dunsmuir and their economic situation because of the Cantara spill. He requested that the Department work with the citizens to provide them with a concrete estimate of when this area would be reopened to fishing.

Director Gibbons stated that the Department did not advocate making the Upper Sacramento River a wild trout stream and would resume stocking the river when it had sufficiently recovered to protect the wild trout population. He explained that the Department would be conducting numerous studies during the summer and would have further data to present to the Commission supporting a recommendation as to whether or not the Commission should reopen the Upper Sacramento River to fishing.

Commissioner Owen stated he felt the petition was economically driven and that he continued to support the Commission's prior action to maintain a closure on the Upper Sacramento River until it was demonstrated that the River was sufficiently recovered to allow its reopening to fishing. He then moved that the Commission deny the petition submitted by Southern Pacific Transportation Company. Commissioner McGeoghegan seconded Mr. Owen's motion.

Mr. McGrath stated that Southern Pacific's petition had not been economically motivated and that the citizens of Dunsmuir had been compensated for their loss of income resulting from the Cantara spill. He maintained that Southern Pacific's actions in this issue were primarily directed towards moving the Sacramento River toward recovery to its prior state, not to a state of a wild trout stream or some other state which it had not been originally prior to the spill at the Cantara loop.

A lengthy discussion ensued between the Commissioners, Ms. Malcolm, and Mr. McGrath regarding the exchange of biological data and the fact that litigation was restricting the exchange of data between the State and Southern Pacific.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. MCGEOGHEGAN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE PETITION SUBMITTED BY SOUTHERN PACIFIC TRANSPORTATION COMPANY WHICH MAINTAINED THAT THE DEPARTMENT OF FISH AND GAME WAS VIOLATING THE COMMISSION'S POLICIES REGARDING TROUT AND WILD TROUT WATERS AND REQUESTING THAT A SEVEN-MILE STRETCH OF THE UPPER SACRAMENTO NEAR THE CITY OF DUNSMUIR BE PLANTED WITH CATCHABLE TROUT AND OPENED TO SPORT FISHING.

AYES: COMMISSIONERS OWEN, BOREN AND MCGEOGHEGAN.

NOES: COMMISSIONERS BIAGGINI AND TAUCHER.

MOTION CARRIED.

Commissioner Biaggini requested that the Department submit a status report on the progress of the Upper Sacramento River to the Commission at its October 1993 meeting.

11. APPROVAL OF PRIVATE LANDS HABITAT ENHANCEMENT AND WILDLIFE MANAGEMENT AREA LICENSES (1993-98) AND 1993-94 MANAGEMENT PLANS FOR:

- (A) BLACK RANCH, SHASTA COUNTY
- (B) CHIMNEY ROCK RANCH, SAN LUIS OBISPO COUNTY
- (C) FARREL STERNES RANCH, MODOC COUNTY
- (D) GABILAN RANCH, MONTEREY COUNTY
- (E) MILLER-ERIKSEN RANCH, MENDOCINO COUNTY
- (F) PBM FARMS, SISKIYOU COUNTY
- (G) RATLIFF RANCH, LASSEN COUNTY
- (H) SPANISH SPRINGS RANCH, LASSEN COUNTY
- (I) TEJON RANCH, KERN AND LOS ANGELES COUNTIES
- (J) WORK RANCH, MONTEREY AND SAN LUIS OBISPO COUNTIES

Summary of Issue

The following applicants have requested Private Lands Habitat Enhancement and Wildlife Management Area (PLM) licenses. The required applications and management plans have been submitted to the Department. The license period would be for five years and run from 1993 through 1998. The Department has determined that these plans conform to the regulations provided in Section 601, Title 14, CCR, and to the Commission's policy relating to Private Lands Wildlife Management Areas. Summaries of each of the proposals were provided to the Commission.

These applications have been analyzed by Department staff and a determination made that they are within the scope of the hunting program environmental documents prepared for the affected species, pursuant to the California Environmental Quality Act.

(A) BLACK RANCH, SHASTA COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 1,000-acre Black Ranch near Burney in Shasta County. The ranch was previously licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources on and around the Black Ranch. The goals and objectives outlined in the management plan are compatible with those of the Cow Creek Deer Herd Management Plan and state-wide elk management objectives.

"In 1992, completed habitat enhancement projects included excluding livestock on the ranch to benefit wildlife; planting 50 acres of wild rice; constructing additional nest boxes, and removing interior cross fencing.

"In 1993, habitat enhancement projects proposed include maintaining all past improvements; planting 34 acres of dryland alfalfa, revegetating riparian habitat through willow planting; and creating of openings in perimeter fencing for ease of wildlife movement.

"Fall 1992 deer herd composition counts for this area revealed ratios of 22 bucks per 100 does and 26 spring fawns per 100 does. These ratios are within the objectives stated in the approved deer herd management plan. In 1992, one bull elk and two antlerless elk tags were issued, and one bull elk was harvested; two buck deer and antlerless deer tags were issued, and no deer were taken.

"The Department recommends that the Commission approve the Black Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue one bull elk tag for the period of August 14 through November 21, 1993
- "2. Issue two buck deer tags to take forked horn or better buck deer for the period of October 30 through November 21, 1993.

"3. Issue two antlerless deer tags for the period of October 30 through November 21, 1993."

(B) CHIMNEY ROCK RANCH, SAN LUIS OBISPO COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 6,500-acre Chimney Rock Ranch in San Luis Obispo County. The ranch has been previously licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The plan is in compliance with Commission policy requirements for private lands management. The applicant has identified the location where records will be kept and made available for inspection. The habitat improvements performed under this plan will help 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.

"Habitat enhancement projects completed in 1992 included maintaining all existing water developments, establishing new wood duck nest boxes around lakes and on the islands, creating new brush shelters for upland game, developing three new water sources, maintaining and rehabilitating two wildfire areas, planting seed at demonstration site, limiting livestock grazing intensity, and working with the Department to deter poaching in the area.

"Habitat enhancement projects proposed for 1993 include installing additional brush piles for quail, monitoring of the 1992 burns for any necessary actions, continuing with University of California and Cal Poly demonstration and regeneration sites and seed and fertilize disturbed areas, and maintaining past habitat enhancement projects.

"In 1992, the ranch issued 23 of its 40 tags authorizing the take of no more than 14 buck deer and 16 antlerless deer. The actual take was eight buck and five antlerless deer. Herd composition counts made on the ranch after the season showed 63 bucks and 44 fawns per 100 does. Department composition counts for the Santa Lucia Mountains herd (independently conducted partially on the ranch) revealed a ratio of 27 bucks and 42 fawns per 100 does.

"The Department recommends that the Commission approve the Chimney Rock Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 28 either-sex deer tags to take no more than 14 buck deer, forked horn or better, and 14 antlerless deer, during the period July 10, 1993 through November 30, 1993.
- "2. Upon request of the licensee in writing on or before October 15, 1993, the licensee may request up to 12 additional tags to accomplish the authorized harvest."

(C) FARREL STERNES RANCH, MODOC COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 533-acre Farrel Sternes Ranch near Goose Lake, Modoc County. The Ranch was previously licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags issued in 1992, and all habitat work has been completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvement accomplished under this plan will enhance and maintain wildlife resources on and around the Farrel Sternes Ranch. The goals and objectives outlined in the plan are compatible with the California Pronghorn Antelope Management Plan.

"In 1992, habitat enhancement activities completed included maintenance of 434 acres of alfalfa; 900 feet of fencing improvements; a 5,300-foot hedgerow cover strips of grass/alfalfa; riparian habitat and water sources, and establishment of 21 acres of dryland alfalfa and 55 acres of grains.

"Habitat enhancement activities proposed for 1993 include maintaining 327 acres of irrigated and dryland alfalfa, and 72 acres of meadow and riparian habitat; planting 40 acres of grain; maintaining 54 acres of alfalfa pasture, and 5,300 feet of hedgerow cover strips; modifying one-half mile of fence for ease of wildlife movement; and maintaining all water developments previously completed.

"Pronghorn antelope that use the ranch number from 40 to 80 and are part of the Likely Tables antelope herd. This subherd has created a substantial negative impact upon the licensee's alfalfa production. Three buck and one doe pronghorn antelope were taken on the ranch in 1992. Because of the apparent winter die-off, antelope will be reduced on the ranch.

"The Department recommends that the Commission approve the Farrel Sternes Ranch Wildlife Management Plan and the 1993 harvest program under the following condition:

- "1. Issue up to one buck pronghorn antelope tag for the period of August 7 through August 29, 1993, pending the results of herd composition counts conducted in July 1993 by Department personnel."

(D) GABILAN RANCH, MONTEREY COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan and renewal application for the 10,000-acre Gabilan Ranch in Monterey County. The ranch was previously licensed under Commission regulations pursuant to Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The plan is in full compliance with Commission policy requirements for private lands management. The applicant 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 Monterey County on and around the ranch. The goals and objectives mentioned in the management plan are compatible with the Fremont Peak Tule Elk Unit Management Plan.

"Historically, the licensee has employed controlled burning as a means of range improvement with an average of 950 acres of chaparral burned annually.

"In 1992, habitat enhancement projects included continuation of the controlled burning program; no increase in the livestock grazing levels; and continuation of the coordinated tule elk data collection effort with the local Department wildlife biologist and the Department's Wildlife Investigations Laboratory.

"In 1993, proposed habitat enhancement projects include burning of 1,000 acres on the north end of the ranch; deterring cattle; and developing a spring at Rocky Mountain.

"In 1992, the ranch issued all five of its tule elk bull tags. The harvest was five bull elk. There continues to be a very high bull:cow ratio in this unit of the Fremont Peak tule elk herd. In 1992 the bull:cow:calf ratio was 108:100:48.

"The Fremont Peak Tule Elk Unit Management Plan recommends a herd size of 30-45 animals on the Gabilan Ranch. Coupling this harvest with the authorized take on the adjacent Bardin Ranch would result in a take of about 30-40% of the combined bull population frequenting these two ranches. This level of harvest is within the desired parameters for the Department's Elk Management Plan.

"The Department recommends that the Commission approve the Gabilan Ranch Wildlife Management Plan and the 1993 harvest program under the following condition:

- "1. Issue four bull elk tags to permit the take of no more than four bull elk during the period August 1 through October 31, 1993."

(E) MILLER-ERIKSEN RANCH, MENDOCINO COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 1,000-acre Miller-Eriksen Ranch in Mendocino County. The ranch was previously 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 1992. 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 licensee 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 Mendocino Deer Herd Management Plan. Habitat enhancement projects completed in 1992-93 included maintenance activities on all previously developed springs. In addition, willows were planted in 11 locations to improve cover away from chaparral areas; willow plantings have 65-70 percent survival to date. Mineral supplements were put out for wildlife.

"Proposed habitat enhancement projects for 1993-94 include continued controlled burns, pretreatment (cut) of several areas of old growth chaparral, annual maintenance of developed springs, willows will be planted in all previous test locations (approximately 500 shoots) per year, and livestock reduction will be maintained. The applicant will continue the fall and spring deer herd composition counts and will collect teeth from all harvested deer for aging.

"The Mendocino Deer Herd Management Plan specifies a 1992 herd 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 is being revised to reflect a more realistic target of 40-50 spring fawns per 100 does. The spring 1992 ratio for the Covelo subunit was 75 fawns per 100 does, and the composition on the Miller-Eriksen Ranch was 79 fawns per 100 does. The Miller-Eriksen goal of maintaining a ratio of 50 fawns per 100 does is consistent with the goals of this unit. The 1992 fall buck ratio exceeded 50 bucks per 100 does. The deer population trend on the ranch appears to be up, and the spring fawn objective may be difficult to maintain without increased harvest.

"In 1992, the ranch was authorized 30 buck and three antlerless deer tags to take no more than 15 buck and three antlerless deer. The actual harvest was 12 buck and two antlerless deer.

"The Department recommends that the Commission approve the new Miller-Eriksen Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 30 buck deer tags to take no more than 17 buck deer, forked horn or better, for the period July 17, 1993 through November 30, 1993. No more than seven bucks shall be taken after the close of the general Zone B-1 season (October 24, 1993).
- "2. Issue five antlerless deer tags for the period September 9, 1993 to November 30, 1993.
- "3. Method of take shall be restricted to archery only."

(F) PBM FARMS, SISKIYOU COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 2,996-acre PBM Farms in Siskiyou County. The ranch was previously licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. The management plan is in compliance with Commission policy requirements for private lands management. Full payment was made for all tags in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The goals and objectives outlined in the management plan are compatible with the McCloud Flats Deer Herd Management Plan and the California Pronghorn Antelope Management Plan.

"Habitat enhancement projects completed in 1992 included maintaining 2,480 acres of forage crops for exclusive wildlife use, establishing 175 acres of foodplots (8 - 10 acres each) of dryland alfalfa and rye exclusively for wildlife use, leaving a third cutting on 200 acres of irrigated alfalfa for deer and antelope, removing approximately five miles of fencing to allow unrestricted deer and antelope movement, planting 6,000 feet of cover, developing two water sources, and totally excluding livestock.

"Habitat enhancement projects proposed for 1993 include maintaining about 2,480 acres of forage crops for exclusive wildlife use, leaving a third cutting on 200 acres of irrigated alfalfa for deer and antelope, developing one water source, protecting 200 acres of pasture to retain deer and antelope fawning areas, totally excluding livestock, constructing thermal covers (two) for deer and antelope bedding areas, and improving two dikes creating additional wetland area.

"In 1992, the ranch was authorized 12 buck deer tags, three antlerless deer tags, seven buck antelope tags, and three doe antelope tags. A total of six buck deer, three antlerless deer, seven buck antelope, and three doe antelope were harvested. Antelope herd composition counts have been routinely made by the Department on the Mount Dome herd and are currently well within the 20 bucks per 100 does specified as minimum in the California Pronghorn Antelope Management Plan.

"Deer herd composition surveys for the entire McCloud Flats deer herd averaged 13 bucks and 37 fawns per 100 does which is slightly below herd goals. The western subherds (including PBM Farms area) are significantly higher with ratios showing 21 bucks per 100 does which are within herd goals. Public hunt Zone X-1 will have a reduced season due to the decreased buck ratios and deer numbers in the eastern portions of the McCloud Flats herd. PBM is requesting a slight reduction in tags in response to lower fawn ratios, possibly caused by harsh winter conditions.

"The Department recommends that the Commission approve the PBM Farms Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 10 buck deer tags to take forked horn or better buck deer for the period of September 18 through November 30, 1993.

"2. Issue up to five buck antelope tags for the period of August 7 through August 29, 1993, pending the results of the herd composition counts conducted in July 1993 by Department personnel.

"3. No person shall take more than one buck deer and one antelope."

(G) RATLIFF RANCH, LASSEN COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 2,600-acre Ratliff Ranch near Madeline in Lassen County. The ranch was previously licensed under Fish and Game Commission regulation in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in full compliance with Commission policy requirements for private lands management. Habitat work accomplished under this plan will enhance and maintain wildlife resources on and around the ranch. The goals and objectives of this plan are compatible with those of the East Lassen, Adin, and Warner Mountains deer herd management plans. The ranch is situated partially within all three herd boundaries.

"Habitat enhancement projects completed in 1992 included deferring grazing on 40 acres to allow forage for antelope; rest rotation grazing on additional fields for forage production; clearing three to four acres of juniper for browse recruitment; establishing 100 acres of annual grains leaving 20 percent standing in strips exclusively for wildlife utilization; establishing five goose nesting islands; and maintaining all previous projects. In addition, all livestock use on 8,000 acres of adjacent public land in deer zones X-5b and X-3b was discontinued, per agreement with the Bureau of Land Management.

"Habitat enhancement projects proposed for 1993 include maintaining 40 acres of dryland alfalfa in Field 11 for deer and antelope; maintaining grazing as per Soil Conservation Service guidelines (rest-rotate cows on three-week intervals in fields 8, 10, 11, and 13); maintaining irrigated alfalfa near Highway 395 on the southwest portion of the ranch for antelope with no domestic livestock use; continuing predator control on coyotes prior to antelope fawning; maintaining the 148 acres of summer fallow for antelope and geese in Field 1; maintaining all water developments; and developing goose nesting habitat in existing gravel pit.

"Fall 1992 deer herd composition counts for this area show 26 bucks per 100 does in the East Lassen deer herd, 14 bucks per 100 does in the Adin deer herd and 18 bucks per 100 does in the Warner Mountains deer herd. These ratios are consistent with or slightly below the objectives stated in the approved deer herd management plans.

"The 1992 harvest for the ranch was zero buck deer, zero antlerless deer, four buck antelope, and six doe antelope. The applicant has asked to initiate deer hunting on the ranch after one year of non-hunting. Winter rains have improved conditions on the ranch for deer which have been previously affected by the prolonged drought in the region.

"The Department recommends that the Commission approve the Ratliff Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue three buck deer tags to take forked horn or better buck deer for the period of October 2 to October 17, 1993.
- "2. Issue up to four buck pronghorn antelope tags for the period of August 7 through August 29, 1993, pending the results of the herd composition counts conducted in July 1993 by Department personnel.
- "3. No person shall take more than one antelope and one buck deer."

(H) SPANISH SPRINGS RANCH, LASSEN COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 31,980-acre Spanish Springs Ranch in northern Lassen County. The ranch was previously licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. The plan is in full compliance with Commission policy requirements for private lands management, pending final monitoring of habitat improvements to be completed by June 30, 1993 after snow melt. Full payment was made for all tags used in 1992. The applicant has identified the location where records will be kept and made available for inspection. The habitat improvements implemented under this plan will enhance and maintain deer, pronghorn antelope, and waterfowl habitat on and around the ranch. The goals and objectives outlined in the management plan are compatible with the East Lassen Deer Herd Management Plan and the California Pronghorn Antelope Management Plan.

"Habitat enhancement projects completed in 1992 include livestock deferments over 5,720 acres, livestock exclusion from over 2,100 acres, removal of four acres of invading junipers near spring sites, development of one spring, maintenance of 185 acres of dryland alfalfa for exclusive wildlife use, maintenance of over 600 acres of existing aspen and riparian livestock exclosures, establishment of one water supply reservoir, and maintenance of all other previous habitat projects.

"Habitat enhancement projects proposed for 1993 include deferring grazing from May 15 to October 15 on 5,720 acres, excluding livestock from over 2,100 acres, maintaining 185 acres of alfalfa for wildlife, excluding livestock from four aspen groves to enhance fawning cover, maintaining all existing water developments (three springs, two windmills, 15 ponds/reservoirs), enlarging and repairing reservoir on Evans unit, maintaining existing nesting islands in all wetlands, and continuing removal of junipers to stimulate understory brush recruitment (40 acres/year).

"Fall 1992 deer herd composition counts for the East Lassen deer herd show 26 bucks and 25 fawns per 100 does which is slightly below herd goals. Antelope herd composition counts are currently well within the 20 bucks per 100 does specified as minimum in the California Pronghorn Antelope Management Plan.

"Spanish Springs Ranch was authorized 15 buck deer tags, five buck pronghorn antelope tags, and six doe antelope tags in 1992. Ten buck deer, and five buck and one doe antelope were harvested.

"The Department recommends that the Commission approve the Spanish Springs Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 13 buck deer tags to take no more than 10 buck deer, forked horn or better, for the period of October 2 through October 17, 1993 (no more than five buck deer may be taken from the Spanish Springs Unit).
- "2. Issue up to four buck pronghorn antelope tags for the period of August 7 through August 29, 1993, pending the results of the herd composition counts conducted in July 1993 by Department personnel.
- "3. No one person may take more than one buck deer and one buck antelope."

(I) TEJON RANCH, KERN AND LOS ANGELES COUNTIES

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 270,000-acre Tejon Ranch in Kern and Los Angeles counties. The ranch was previously licensed (1981-1992) under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The plan is in compliance with Commission policy requirements for private lands management. The applicant has identified the location where records will be kept and made available for inspection. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources of Kern and Los Angeles counties on and around the ranch. The goals and objectives outlined in the management plan are compatible with the Tejon Deer Herd Management Plan.

"Habitat enhancement projects completed in 1992 included the construction of 150 new brush piles, the rebuilding of 50 old brush piles, and treatment of approximately 1,200 acres of decadent whitethorn within a 5,000-acre area. Subsequent precipitation helped encourage numerous crown sprouts that have attracted deer throughout the year.

"In addition to the control burn, the ranch also experienced a wildfire during the first week of September 1992 that has resulted in significant habitat improvement in that area. The fire covered Bronco Canyon, Stratton Canyon, and parts of Cordon Ridge, Kane Ridge, and Middle Ridge. These are all areas that were scheduled for control burns in the next two to five years. The total area of the fire was about 10,000 acres, with about 60 percent of that being actually burned. Of the 6,000 acres burned, approximately 3,000 to 4,000 acres was chaparral, with the balance being oak grasslands. Even though this was a wildfire, the wise use of backfiring techniques created a very desirable mosaic pattern of fingers and islands that will be beneficial to wildlife in the future. Like the Blue Ridge burn, the response by deer, elk, and other wildlife was almost immediate. No precipitation was received immediately after the fire, and crown sprouting was much less pronounced. Nevertheless, wildlife exhibited a definite preference for the burned areas.

"In 1993, proposed habitat enhancement work on Tejon Ranch includes brush cutting for dead fuel creation and prescription burn on Blue Ridge as part of an existing Chaparral Management Program contract. In conjunction with the ranch's oak harvesting operation, fifty (50) additional brush piles will be created and older deteriorated piles

will be consolidated and reconstructed to provide suitable escape/hiding cover for a variety of game and nongame wildlife species. Attempts will be made to establish shrubs with these brush pile areas to provide permanent cover. The ranch will identify twenty-five (25) water troughs in critical wildlife areas which have little surrounding cover and will provide escape/hiding cover around these troughs for the protection of both game and nongame wildlife species. Additionally, twenty-five (25) small animal escape ramps will be installed in water troughs lacking any escape fixtures. Two (2) separate riparian habitat areas will be identified and fenced to exclude livestock use during certain periods of the year. These fenced areas will be monitored to determine the effectiveness of livestock exclosures at protecting riparian habitats.

"Wildlife use of previously burned areas has been monitored on an ongoing basis for the past several years, and the increased use of the areas burned in 1992 was dramatic.

"During the 1992 hunting season, hunter use included 1,688 deer hunter days and 1,250 quail hunter days. One hundred fifty-seven bucks were harvested (47 percent of the bucks harvested were 3-point or better). Of the bucks taken under the program, 35 were harvested in the late season. Thirty-six antlerless deer were taken during the regular season. Hunter success during the late period was lower (14 percent) than the early period (48 percent). In addition, 1,606 quail were taken.

"The post season buck ratio on the ranch was similar to last year. The fawn ratio continued to decline for the third consecutive year (25 versus 34); however, it has remained high compared to the late 1980's. In view of this relatively high survival rate over the past three years, the ranch is requesting an antlerless harvest.

"In 1992, one bull elk was harvested. During the season, 10 other bull elk were observed. Herd composition surveys revealed 41 calves and 58 bulls per 100 cows, representing an increase in both calf and bull ratios from the previous year.

"Pronghorn movement has been monitored on two-month intervals throughout the year. Use of the area has stabilized to specific locations. Approximately 72 animals have been routinely observed on the ranch. Pronghorn composition counts revealed 47 bucks and 53 fawns per 100 does. No buck antelope were harvested in 1992.

"As stated in the management plan, quail hunting is not

included in the overall management objectives. Therefore, quail hunting on the majority of the ranch occurs during the general public season. Because of the extensive quail habitat improvement work performed on one specific management unit, the ranch requested in 1989 that the management plan be amended to recognize past and future habitat work to justify a special hunting program on the unit. The management plan was amended, and 250 quail seals were made available. In 1992, the quail population on the unit exceeded 600 birds.

"Section 601(d)(1), Title 14, California Code of Regulations, was amended to require the licensee to post area boundaries, at intervals not less than eight to the mile, those areas that are unfenced and bounded by land open to public hunting. In addition, signs are to be posted that clearly indicate both entering and leaving the area. Because of the large size of the ranch and because it is virtually surrounded by private land, with the exception of a few inaccessible sections of public land that border the ranch, the Department has determined that the ranch should be exempt from this provision in these areas. The Department believes that the program meets the intent of this requirement for their participation in the Private Lands Wildlife Habitat Enhancement and Management Area Program.

"The Department recommends that the Commission approve the Tejon Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 170 either-sex deer tags to take either-sex deer for the period of September 25 through October 31, 1993.
- "2. Issue 80 either-sex deer tags to take either-sex deer for the period of September 25 through December 5, 1993.
- "3. Issue 60 antlerless deer tags to take antlerless deer for the period of September 25 through December 5, 1993.
- "4. Issue two bull elk tags for the period of September 1 through December 5, 1993.
- "5. Issue four buck antelope tags for the period of August 14 through September 19, 1993.

"6. Issue 300 quail seals for the period of September 11, 1993 through January 30, 1994 for hunting on management unit 19 as specified in the management plan."

(J) WORK RANCH, MONTEREY AND SAN LUIS OBISPO COUNTIES

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, new management plan, and application for the 12,000-acre Work Ranch in San Luis Obispo and Monterey counties. The Work Ranch was previously 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 1992, and all habitat work was completed. The plan is in compliance with Commission policy requirements for private lands management. The applicant 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 and Monterey counties in and around the ranch. The goals and objectives mentioned in the management plan are compatible with the San Benito Deer Herd Management Plan.

"In 1992, the licensee maintained all existing water developments, constructed 16 new brush shelters for upland game, planted 40 valley oak acorns with weed and animal damage protection, planted 200 acres of vetch and barley for wildlife use and seed, planted blackberries around springs, installed a new pond for wild pig watering, planted three acres of perennial grass, and worked with the Department to deter poaching in the area.

"Proposed habitat enhancement projects for 1993 include installing a ground level drinker, planting vetch on 300 acres of barley stubble, planting 150 elderberry shrubs and quailbush in appropriate locations, leaving edges of safflower fields unharvested, timing chemical fallow to allow the turkey mullein to seed, planting three acres of perennial grass, continuing the "cement board" project, and maintaining existing water sources.

"In 1992, the ranch issued 18 of its 40 tags authorizing the take of no more than 15 buck deer and 15 antlerless deer. The actual take was 10 buck and six antlerless deer. Herd composition counts made on the ranch after the season showed 28 bucks and 87 fawns per 100 does. Fall composition counts for the San Benito herd (independently conducted and partially on the ranch) had a ratio of 15 bucks and 37 fawns per 100 does.

"The Department recommends that the Commission approve the Work Ranch Wildlife Management Area Plan and 1993 harvest program under the following conditions:

- "1. Issue 30 either-sex deer tags to take no more than 15 buck deer, forked horn or better, and 15 antlerless deer, during the period July 10, 1993 through November 30, 1993.
- "2. Upon request of the licensee, in writing on or before October 15, 1993, the licensee may request up to 20 additional tags to accomplish the authorized harvest."

Action

Executive Director Treanor provided a brief summary of the issue. He explained that Commission staff had not received any letters in opposition to any of these applications.

Terry Mansfield explained that all of the ranches under consideration had completed the work required under their enhancement programs and the Department recommended approval of all of the licenses and the management area plans.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATIONS FOR BLACK RANCH, SHASTA COUNTY; CHIMNEY ROCK RANCH, SAN LUIS OBISPO COUNTY; FARREL STERNES RANCH, MODOC COUNTY; GABILAN RANCH, MONTEREY COUNTY; MILLER-ERIKSEN RANCH, MENDOCINO COUNTY; PBM FARMS, SISKIYOU COUNTY; RATLIFF RANCH, LASSEN COUNTY; SPANISH SPRINGS RANCH, LASSEN COUNTY; TEJON RANCH, KERN AND LOS ANGELES COUNTIES; AND WORK RANCH, MONTEREY AND SAN LUIS OBISPO COUNTIES, FOR PRIVATE LAND HABITAT ENHANCEMENT AND WILDLIFE MANAGEMENT AREA LICENSES (1993-98) AND FURTHER APPROVES THE 1993-94 MANAGEMENT PLANS FOR THOSE AREAS, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

12. APPROVAL OF ANNUAL REPORT AND 1993-94 PRIVATE LANDS HABITAT ENHANCEMENT AND WILDLIFE MANAGEMENT AREA PLANS FOR:

- (A) BALD HILLS RANCH, MENDOCINO COUNTY
 - (B) BARDIN RANCH, MONTEREY COUNTY
 - (C) BIG BLUFF RANCH, TEHAMA COUNTY
 - (D) BURROWS RANCH, TEHAMA COUNTY
 - (E) CHRISTENSEN RANCH, MENDOCINO COUNTY
 - (F) CLARKS VALLEY-RED ROCK RANCH, LASSEN COUNTY
 - (G) CLOUD'S WILLOW CREEK RANCH, MODOC COUNTY
 - (H) CORNING LAND AND CATTLE CO., TEHAMA COUNTY
 - (I) DIAMOND h RANCH, MENDOCINO COUNTY
 - (J) FIVE DOT RANCH - WILLOW CREEK UNIT, LASSEN COUNTY
 - (K) GRASSHOPPER RANCH, LASSEN COUNTY
 - (L) LATOUR BUTTE RANCH, SHASTA COUNTY
 - (M) POTTER VALLEY WILDLIFE MANAGEMENT AREA, MENDOCINO COUNTY
 - (N) PRATHER RANCH, SISKIYOU COUNTY
 - (O) SKEDADDLE CREEK RANCH, LASSEN COUNTY
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Summary of Issue

The following applicants have requested renewal of their Private Lands Habitat Enhancement and Wildlife Management Area (PLM) licenses and approval of their 1993-94 management plans. The Department has reviewed the annual report for each of these ranches and recommends the Commission approve the management plans for the coming year. The Department has determined that the activities on the ranches, unless otherwise specified, have been completed as proposed in the 1992-93 objectives. Commissioners were provided background information on each of these ranches.

These applications have been analyzed by Department staff and a determination made that they are within the scope of the hunting program environmental documents prepared for the affected species, pursuant to the California Environmental Quality Act.

(A) BALD HILLS RANCH, MENDOCINO COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 4,500-acre Bald Hills Ranch in Mendocino County. The 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 1992, and all habitat work was completed. The plan is in compliance with Commission policy requirements for private lands management. The licensee has identified where records will be kept and made available for inspection. The habitat improvements proposed under this plan will enhance

and maintain wildlife resources of Mendocino County on and around the Bald Hills Ranch. The goals and objectives outlined in the management plan are compatible with the Mendocino Deer Herd Management Plan.

"Habitat enhancement projects completed in 1992-93 included eliminating all livestock grazing as proposed in the management plan. However, after consultation with Department staff, a minimum number of livestock were restocked on the Seven Springs portion of the ranch to qualify for the existing agricultural preserve status. Six springs were developed to provide improved access to water for deer and other wildlife. Maintenance was performed on these six springs. A small reservoir was constructed to provide more dispersed water and provide additional summer green forage. Controlled burns have not occurred due to the vacant Vegetation Management Plan Coordinator position in the California Department of Forestry and Fire Protection, Mendocino County.

"Proposed habitat enhancement projects planned for 1993-94 include continuing work with the California Department of Forestry and Fire Protection to develop a rotational controlled burning plan; maintaining developed springs; developing one additional spring; investigating the feasibility of building a small water catch basin to provide water and summer forage; and continuing reduction of livestock grazing.

"The buck ratio for the Navarro subunit of the Mendocino deer herd has averaged about 32 bucks per 100 does since 1980. The spring fawn ratio for the Navarro subunit has averaged 63 fawns per 100 does. The 1993 spring fawn ratio for the Bald Hills Ranch was 44 fawns per 100 does.

"In 1992, the Ranch issued 19 of its 33 tags authorizing the take of no more than 27 buck and six antlerless deer. The actual take was 13 bucks and zero antlerless deer.

"The Department recommends that the Commission approve the Bald Hills Ranch Wildlife Management Plan and the 1993 harvest program under the following condition:

- "1. Issue 33 either-sex deer tags to take no more than 27 buck deer, forked horn or better, and six antlerless deer for the period of August 7 through November 30, 1993. No more than nine buck deer may be taken after the close of the Zone A season (September 26, 1993)."

(B) BARDIN RANCH, MONTEREY COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 7,820-acre Bardin Ranch in Monterey County. The ranch is currently licensed under Commission regulations pursuant to Section 601, Title 14, California Code of Regulations. The plan is in compliance with Commission policy requirements for private lands management. Full payment was made for all tags issued in 1992, and all habitat work was completed. The applicant 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 Monterey County on and around the ranch. The goals and objectives mentioned in the management plan are compatible with the Fremont Peak Tule Elk Unit Management Plan.

"Habitat enhancement projects completed in 1992 included creation of brush piles near a pond to benefit birds and small game, development and maintenance of springs, and installation of elk crossings where elk have broken fences in the past. An attempt was made to conduct a controlled burn, however, the weather conditions were out of prescription.

"Proposed habitat projects for 1993 include attempting the controlled burn in addition to a new 250-acre controlled burn, installing additional elk crossings, and continuing the maintenance of springs and troughs.

"The operator proposed to harvest two tule elk bulls in 1992, one with five points or better, and one smaller bull. One six-point bull was taken. There continues to be a very high bull:cow ratio in this unit of the Fremont Peak herd. The 1993 proposal to take two bulls will help to manage this ratio in accordance with the herd plan management objectives.

"The Department recommends the Commission approve the Bardin Ranch 1993 harvest program under the following condition:

- "1. Issue two bull elk tags to take two bull elk during the period of July 10 through October 31, 1993."

(C) BIG BLUFF RANCH, TEHAMA COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 4,000-acre Big Bluff Ranch near Red Bluff in Tehama County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. The plan is in compliance with Commission policy for private lands management. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The habitat improvements performed under this plan will enhance and maintain wildlife habitat in Tehama County on and around the Big Bluff Ranch. Goals and objectives outlined in the management plan are compatible with the Yolla Bolly Deer Herd Management Plan. A routine field inspection revealed that the ranch is in full compliance with posting requirements.

"In 1992, the licensee continued the habitat enhancement projects established in the approved management plan, including maintaining and irrigating 55-acres of permanent pasture; continuing holistic management (including time controlled grazing in oak/grassland habitats); monitoring upland game populations and harvest records in oak/grassland habitats; monitoring range conditions at specific sites in oak/grassland habitats; continuing brush treatment; participating in Sunflower Coordinated Resource Management Plan; monitoring browsing of brush sprouts on treated chaparral; collecting deer herd composition data; and recording harvest data.

"Enhancement projects proposed for the 1993 license period include maintaining all previous habitat enhancement activities; continuing holistic management (including time controlled grazing in oak/grassland habitats); monitoring upland game populations and harvest records in oak/grassland habitats; monitoring range conditions at specific sites in oak/grassland habitats; continuing brush treatment in chaparral habitat; monitoring browsing of brush sprouts on treated chaparral; collecting deer herd composition data; and recording harvest data.

"During the 1992 season, the ranch was issued six buck, four antlerless, and 12 either-sex deer tags. A total of four buck and three antlerless deer were taken.

"Deer herd composition counts for the Yolla Bolly deer herd showed 17 bucks and 18 spring fawns per 100 does. Herd composition ratios are currently below the objectives stated in the approved deer herd management plan. Many of the deer on the ranch are resident, and herd composition ratios are significantly higher (65 bucks and 57 fall fawns per 100 does in 1992).

"The Department recommends that the Commission approve the Big Bluff Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue six buck deer tags to take forked horn or better bucks for the period of August 21 through November 30, 1993.
- "2. Issue four antlerless deer tags for the period of August 21 through November 14, 1993.
- "3. Issue 10 either-sex deer tags for the period of August 21 through October 24, 1993.
- "4. No more than 12 buck deer may be harvested."

(D) BURROWS RANCH, TEHAMA COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 3,500-acre Burrows Ranch near Red Bluff, Tehama County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements performed under this plan will help enhance and maintain wildlife habitat in Tehama County on and around the Burrows Ranch. The goals and objectives outlined in the management plan are compatible with the Yolla Bolly Deer Herd Management Plan.

"Habitat enhancement projects completed in 1992 included establishment of 38 acres of legumes and cereal grains for wildlife use; continued planting of perennial grasses and clovers on rangelands; establishment of one year-round reservoir, continued use of low impact electric cross fencing; and livestock rotation to better enhance forage production and to limit impacts on wildlife.

"Habitat enhancement projects proposed for 1993 include fencing of one-half mile riparian habitat to prevent livestock use; providing 13 acres of perla grass for fawning and turkey nesting cover; managing alfalfa, vetch, and cereals, as outlined in the management plan; continuing use of low wildlife impact electric cross fencing; and using holistic resource management practices for overall range management.

"Fall 1992 deer herd composition counts for the Yolla Bolly deer herd revealed 17 bucks and 43 fawns per 100 does. Spring 1993 ratios showed 18 fawns per 100 does. Most of the deer using the ranch are residents and have significantly better herd performance. The Burrows Ranch resident herd composition revealed 65 fawns per 100 does during fall 1992.

"The ranch harvested five buck deer and four antlerless deer in 1992. Detailed harvest data were recorded for all deer taken.

"The Department recommends that the Commission approve the Burrows Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 17 buck deer tags to take no more than 14 buck deer, forked horn or better, for the period of August 14 through November 14, 1993.
- "2. Issue six antlerless deer tags for the period of August 14 through November 14, 1993.
- "3. Issue 10 turkey tags to harvest either-sex turkeys for the period of August 14 through December 12, 1993, and bearded turkeys for the period of March 26 through May 1, 1994, pending final adoption of the 1993 California Resident Game Bird Hunting Regulations by the Fish and Game Commission."

(E) CHRISTENSEN RANCH, MENDOCINO COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 1,750-acre Christensen Ranch, which is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1992. The plan is in compliance with Commission policy requirements for private land management. The habitat improvements proposed under this plan will enhance and maintain wildlife resources of Mendocino County on and around the Christensen Ranch.

The licensee 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 Mendocino Deer Herd Plan.

"In 1992, the licensee reduced livestock grazing by one half over historic stocking levels. Five springs were developed to improve access and water yield for wildlife. The California Department of Forestry and Fire Protection has been contacted and is developing a burn plan at the present time. The California Department of Forestry did not burn last year as planned because of personnel changes.

"Proposed habitat enhancement activities for 1993 include maintaining previously developed springs, including fencing of spring sources to exclude livestock. In addition, the licensee will continue to work with the California Department of Forestry to start a controlled burning program; and continue to implement the livestock grazing reduction program.

"The post season buck ratio in the Covelo subunit of the Mendocino deer herd was 36 bucks per 100 does. The deer herd goal is 30 bucks per 100 does. In 1992, the ranch issued 18 tags, authorized to take no more than 12 bucks, forked horn or better. The actual harvest was 12 buck deer. Three antlerless deer tags were authorized in 1992. All antlerless tags were donated to junior hunters in 1992. The junior hunters took three antlerless deer.

"The Department recommends that the Commission approve the Christensen Ranch Wildlife Management Area Plan and the 1993 harvest program under the following conditions:

- "1. Issue 15 buck deer tags to take no more than 12 buck deer, forked horn or better, for the period of August 15, 1993 through November 30, 1993. No more than four buck deer shall be taken after October 24, 1993, the last day of the regular deer season for the area.
- "2. Issue four antlerless deer tags to take no more than four antlerless deer for the period of August 15, 1993 through November 30, 1993."

(F) CLARKS VALLEY-RED ROCK RANCH, LASSEN COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 7,360-acre Clarks Valley-Red Rock Ranch. The ranch is currently licensed under Fish and Game Commission

regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992. The applicant has identified the location where records will be kept and made available for inspection. The habitat improvements performed under this plan will help to enhance and maintain wildlife habitat in Lassen County on and around the Clarks Valley-Red Rock Ranch. The goals and objectives outlined in the management plan are compatible with the Warner Mountains Deer Herd Management Plan and the Pronghorn Antelope Management Plan due to snow conditions. A survey will be conducted prior to June 30 to ensure compliance with Commission policy requirements for private lands management.

"Low fawn recruitment has been identified as the greatest factor contributing to a population decline of the Warner Mountains deer herd from historic high levels in the mid-1960's. This plan provides benefits to summer range for this herd by increasing forage quality and fawning cover.

"In 1992, habitat enhancement projects included fencing one aspen fawning area; maintaining fences around 16 existing fawning areas; and providing predator control prior to fawning periods.

"Habitat enhancement projects proposed for 1993 include development of one, one-acre aspen fawning area; maintenance of all 17 existing livestock exclosures; and riparian revegetation using willow seedlings in two livestock exclosures.

"Fall 1992 deer herd composition counts showed 18 bucks and 44 fawns per 100 does. Spring 1993 fawn ratios revealed winter's effects with 18 fawns per 100 does. These counts were made off-site, as deer in this area are migratory and are not present during the time herd composition data are collected. These ratios are below the objectives stated in the approved deer herd management plan. Herd composition counts for antelope are currently within the 20 bucks per 100 does specified as minimum in the Pronghorn Antelope Management Plan.

"In 1992, 25 either sex deer tags, 10 antlerless deer tags, one buck antelope tag, and one doe antelope tag were authorized by the Commission. The harvest was 18 buck deer, 11 antlerless deer, one buck antelope, and one doe antelope.

"The proposed deer season would begin one week earlier and end three weeks later than the general X-3b deer season. The earlier season will help to ensure that some deer raised on site are taken on site before they migrate off the area. The proposed antelope season would open with the archery antelope season and close with the general antelope season.

"The Department recommends that the Commission approve the Clarks Valley-Red Rock Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 20 either-sex deer tags, for the period of September 25 through November 7, 1993.
- "2. Issue eight antlerless deer tags for the period of September 25 through November 7, 1993.
- "3. Issue one buck antelope tag for the period of August 7 through August 29, 1993, pending the results of the herd composition counts conducted in July 1993 by Department personnel."

(G) CLOUD'S WILLOW CREEK RANCH, MODOC COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 2,189-acre Cloud's Willow Creek Ranch in northeastern Modoc County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources in Modoc County on and around the ranch. The goals and objectives outlined in the management plan are compatible with the Warner Mountains Deer Herd Management Plan and the California Pronghorn Antelope Management Plan.

"Habitat enhancement projects completed in 1992 included constructing five goose nesting platforms; planting 14 acres of grain; and maintaining all previous habitat enhancement projects, including 323 acres of alfalfa and grass, riparian zones and willow thickets, spring and trough development, five water sources, 20 acres of fawning cover, 60 acres of livestock exclosures, and mountain mahogany areas.

"Habitat enhancement projects proposed for 1993 include maintenance of 60 acres of livestock exclosures; all springs and troughs; 343 acres of established alfalfa; five water sources; 20 acres of fawning cover; riparian zones/willow thickets. In addition, construction of five additional goose nesting platforms, and thinning of two acres of junipers to stimulate understory development.

"Deer herd composition surveys for the Warner Mountains deer herd showed a ratio of 18 bucks per 100 does. Fall and spring fawn ratios were 44 and 18 per 100 does, respectively. The current buck ratio is within the herd goal of 15-20 bucks per 100 does. The current spring fawn ratio is below the herd goal of 35-40 fawns per 100 does due to the harsh winter conditions. Herd composition counts for antelope are currently well within the 20 bucks per 100 does specified in the California Pronghorn Antelope Management Plan. However, because of the overall herd trends, antelope will not be hunted on the area in 1993.

"In 1992, the ranch was authorized seven buck and three antlerless deer tags, and one buck and one doe antelope tag. Six buck and three antlerless deer, and one buck and one doe antelope were harvested.

"The Department recommends that the Commission approve the Cloud's Willow Creek Ranch Wildlife Management Plan and 1993 harvest program under the following conditions:

- "1. Issue three buck deer tags to take forked horn or better buck deer for the period of September 18 through October 24, 1993.
- "2. Issue two buck deer tags to take forked horn or better buck deer for the period of September 18 through November 15, 1993.
- "3. Issue two antlerless deer tags to take antlerless deer for the period of September 18 through October 24, 1993.
- "4. No person may take more than one buck and one antlerless deer."

(H) CORNING LAND AND CATTLE CO., TEHAMA COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 6,000-acre Corning Land and Cattle Company in western Tehama County. The Corning Land and Cattle Company is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992 and habitat work was completed. The management plan is in compliance with Commission policy requirements for private lands management. The applicant has identified the location where records will be kept and made available for inspection. The habitat improvements accomplished under this plan will enhance and

maintain wildlife resources on and around the Corning Land and Cattle Company Ranch. The goals and objectives outlined in the management plan are compatible with the Yolla Bolly Deer Herd Management Plan.

"Habitat enhancement projects completed in 1992 included improving 15 acres into permanent irrigated pasture, building brush piles for quail, planting 10 acres into grain/vetch/forbs combination, and continuing livestock exclusion. A 100-acre controlled burn was postponed until 1993 due to drought and wildfire conditions.

"Habitat enhancement projects proposed for 1993 include continuing elimination of cattle from the entire ranch, establishing approximately 15 acres of forage plants (alfalfa, burnet, cereal grains), continuing work on establishing irrigated pastures (20 acres over three years), and control burning 100 acres of decadent brush.

"Fall 1992 herd composition surveys for the Yolla Bolly deer herd show 17 bucks and 43 fawns per 100 does. Spring 1993 ratios showed 18 fawns per 100 does. Spring fawn ratios on the ranch are slightly higher. Composition counts are currently slightly below herd goals. Spring fawn ratio declines are consistent with many northern California herds due to harsh winter conditions.

"The Corning Land and Cattle Company harvested six buck deer in 1992. Detailed harvest data were recorded for all deer taken. For 1993, the licensee is requesting a decrease in tags issued due to lower fawn recruitment.

"The Department recommends that the Commission approve the Corning Land and Cattle Company Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue seven buck deer tags to take forked horn or better buck deer for the period of August 14 through October 10, 1993.
- "2. Issue six buck deer tags to take forked horn or better buck deer for the period of November 1 through November 30, 1993.
- "3. Issue 300 quail seals for the period of September 1, 1993, through February 28, 1994."

(I) DIAMOND h RANCH, MENDOCINO COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 5,750-acre Diamond h Ranch in Mendocino County. The ranch is licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements accomplished under this plan will enhance and maintain wildlife resources of Mendocino County on and around the ranch. The goals and objectives outlined in the management plan are compatible with the Mendocino Tule Elk Herd Management Plan and the Mendocino Deer Herd Management Plan.

"Habitat enhancement projects completed in 1992 included spring development, improved cattle management, planting of subterranean clover, maintenance of pasture planting on which elk are allowed to graze. The controlled burning program on the ranch has been exceptional. Six hundred and forty acres were burned in 1987, 1,000 acres were burned in 1989, 1,300 acres were burned in 1990, and 1,000 acres in 1991.

"Habitat enhancement projects proposed for 1993 include providing improved forage conditions by planting, irrigating, and fencing a new five-acre pasture near the confluence of Elk Creek and the Eel River for the exclusive use of deer and elk. Cattle numbers have been regulated to reduce the impacts of grazing on deer and elk. The Elk Creek subunit of the ranch has not been grazed since 1990 (with the exception of trespass grazing). In the future, grazing is proposed for January through May. The controlled burn program with the California Department of Forestry and Fire Protection will be continued. Maintenance of water developments will also enhance elk and deer habitat.

"During the 1992 season, the ranch was issued one bull elk tag and 15 buck deer tags. One bull elk and 15 buck deer were taken.

"The post-season bull ratio objective for the Mendocino Tule Elk Herd Management Plan is 25 bulls per 100 cows. The elk herd could not be found during the survey period by the ranch biologist or Department of Fish and Game

personnel. The 1992-93 deer herd composition count ratios were 18 bucks/100 does (fall) and 50 fawns/100 does (spring). The Mendocino Deer Herd Management Plan goal is 30 bucks/100 does.

"The Department recommends that the Commission approve the Diamond h Ranch Wildlife Management Plan and the 1993 harvest program as modified:

- "1. Issue two bull elk tags to take two bull elk for the period of August 1, 1993 through September 30, 1993.
2. Issue 15 buck tags to take 15 buck deer, forked horn or better, for the period of October 1, 1993 through November 30, 1993."

(J) FIVE DOT RANCH - WILLOW CREEK UNIT, LASSEN COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 6,825-acre Five Dot Ranch-Willow Creek Unit in south central Lassen County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant has identified the location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat work accomplished under this plan will enhance and maintain the wildlife resources of Lassen County on and around the ranch. The goals and objectives outlined in the management plan are compatible with the East Lassen Deer Herd Management Plan and the California Pronghorn Antelope Management Plan.

"In 1992, the applicant maintained all previously completed projects, including maintaining four cattle exclosures for fawning habitat; planting 30 acres of barley; leaving the third cutting of alfalfa on 190 acres for wildlife and 185 acres unfarmed providing critical browse for wintering deer; and maintaining a 100 acre protection zone for bald eagle nesting. In addition, 50 acres of brush treatment to improve forage conditions for deer was accomplished on neighboring lands which are open to public access for hunting.

"During 1993, the applicant will plant 25 acres of oats for deer and goose use; retain water in the reservoir as a water source for wildlife use; establish one new reservoir; maintain 110 acres of alfalfa, leaving the third cutting for

deer and pronghorn antelope use; protect 150-acres of sagebrush habitat known to support sage grouse from agricultural conversion; maintain a 100 acre protection zone around a bald eagle nest site on the property; and maintain all previous projects, including four livestock exclosures completed under the initial management plan.

"Herd composition counts for the Eagle Lake subherd of the East Lassen deer herd (Zone X-5c) revealed 15 bucks and 29 fawns per 100 does. The current buck ratio is below the herd goal of 25 bucks per 100 does. Antelope herd composition counts have been made by the Department and are currently within the 20 bucks per 100 does specified as minimum in the California Pronghorn Antelope Management Plan.

"In 1992, two buck and three doe antelope tags were authorized by the Commission for use on the Willow Creek Unit of the Five Dot Ranch. Two bucks and three does were taken. In addition, the Five Dot Ranch-Willow Creek Unit was authorized 13 buck deer tags in 1992. Six buck deer were harvested.

"The applicant, Mr. Tom Swickard, has been instrumental in forming a coalition of Lassen County Private Lands Habitat Enhancement and Wildlife Management Area (PLM) Program licensees that donate hunting opportunities for an auction which raises funds for a local charity. Mr. Swickard's efforts have helped to offset adverse public opinion regarding the PLM Program, while providing substantial revenues for Lassen County charities. Also, Mr. Swickard hosted a field tour for the Lassen County Fish and Game Commission, a group largely opposed to the program, in order to promote the benefits of the PLM Program. Additionally, Mr. Swickard has initiated an effort to improve habitat on public access lands surrounding his PLM in order to broaden the positive effects to wildlife and to provide the public hunter with improved hunting conditions.

"The Department recommends that the Commission approve the Five Dot Ranch-Willow Creek Unit Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 11 buck deer tags to take forked horn or better buck deer for the period of October 2 through November 15, 1993.
- "2. Issue one buck antelope tag for the period of August 7 through August 29, 1993, pending the results of herd composition counts conducted in July 1993 by Department personnel.

"3. No person may take more than one buck deer and one buck antelope."

(K) GRASSHOPPER RANCH, LASSEN COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 11,650-acre Grasshopper Valley Ranch near Susanville in Lassen County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and habitat work was completed. The applicant has identified a location where records will be kept and made available for inspection. The plan is in compliance with Commission policy requirements for private lands management. The habitat improvements performed under this plan will help to enhance and maintain wildlife habitat in Lassen County on and around the ranch. The goals and objectives outlined in the management plan are compatible with the California Antelope Management Plan. In addition, public access to public lands will not be diminished under implementation of this management plan.

"Habitat enhancement projects completed in 1992 included maintaining a 160-acre livestock enclosure around dryland alfalfa which will be available exclusively for wildlife, installing a solar pump water source, maintaining an 80-acre wetland enclosure, implementing a livestock plan to promote vegetative residue and forbs available to antelope, providing trace mineral supplements exclusively for wildlife within livestock enclosure, and controlling predators to reduce predation on juvenile sandhill cranes and pronghorn antelope fawns.

"Habitat enhancement projects proposed for 1993 include maintaining a 160-acre livestock enclosure around dryland alfalfa which will be available exclusively for wildlife, maintaining an 80-acre wetland livestock enclosure to provide nesting habitat and protection for the threatened sandhill crane, maintaining a modified fence to allow safe passage of wildlife, providing trace mineral supplements exclusively for wildlife within livestock enclosures, continuing use of a livestock plan to promote vegetative residue and forbs available to antelope, and controlling predators to reduce predation on juvenile sandhill cranes and pronghorn antelope fawns.

"Antelope herd composition counts have been routinely made by the Department on the ranch and are currently well within the 20 bucks per 100 does specified as minimum in the California Antelope Management Plan. Since 1975, the average annual take of antelope on the ranch has been approximately four bucks. In 1992, four buck antelope were taken.

"The Department recommends that the Commission approve the Grasshopper Valley Ranch Wildlife Management Plan and 1993 harvest program under the following conditions:

- "1. Issue up to three buck antelope tags for the period of August 7 through August 29, 1993, pending the results of the herd composition counts to be conducted in July 1993 by Department personnel.
- "2. No one person may take more than one pronghorn antelope."

(L) LATOUR BUTTE RANCH, SHASTA COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 9,063-acre Latour Butte Ranch. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and habitat work was completed. The applicant has provided the location where records will be kept and made available for inspection. The plan is in full compliance with Commission policy requirements for private lands management. The habitat improvement accomplished under this plan will enhance and maintain wildlife resources of Shasta County on and around the Latour Butte Ranch. The goals and objectives outlined in the management plan are compatible with the Cow Creek Deer Herd Management Plan.

"Habitat enhancement projects completed in 1992 include brush treatment of 70 acres. This activity improves deer summer range forage quality over an area of about 700 acres, due to the mosaic distribution of the treatment. In addition, 50 acres of topsoil treatment occurred in commercially thinned areas to encourage seed source germination.

"Habitat enhancement projects proposed for 1993 include crushing 75 acres of decadent deerbrush and thinning 100 acres of conifer thickets to increase forage production.

"Fall 1992 deer herd composition counts for the Cow Creek deer herd revealed ratios of 22 bucks and 26 fawns per 100 does. Spring 1993 fawn ratios showed 25 fawns per 100 does. Composition counts are slightly below objectives outlined in the Cow Creek Deer Herd Management Plan.

"Latour Butte Ranch was authorized to issue 35 buck deer tags in 1992. Six buck deer were harvested. In 1987, within the Cow Creek deer herd, an estimated 40 percent of the doe population died due to severe drought-related forage conditions. Because the herd remains at a low population level, the operator did not propose to harvest antlerless deer in 1992.

"The Department recommends that the Commission approve the Latour Butte Ranch Wildlife Management Plan and the 1993 harvest program under the following condition:

- "1. Issue 35 buck deer tags to take forked horn or better buck deer for the periods of:

"Archery only: August 7 through August 15, 1993

"General methods: September 4 through October 31, 1993"

(M) POTTER VALLEY WILDLIFE MANAGEMENT AREA, MENDOCINO COUNTY

Action

Consideration of this item was deferred until the August 5-6 Commission meeting, at the request of Potter Valley Wildlife Management Area.

(N) PRATHER RANCH, SISKIYOU COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the annual report, management plan, and renewal application for the 6,521-acre Prather Ranch in northeastern Siskiyou County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. Full payment was made for all tags used in 1992, and all habitat work has been completed. The plan is in compliance with Commission policy for private lands management. The applicant has identified the location where records will be kept and made available for inspection. The goals and objectives outlined in the management plan are compatible with the McCloud Flats Deer Herd Management Plan and the California Pronghorn Antelope Management Plan.

"Habitat enhancement projects completed in 1992 included maintaining a five-acre cattle exclosure for fawning habitat; maintaining water levels in the two marsh areas until after June 1 to facilitate waterfowl brood survival; excluding cattle from the southeast marsh; and restoring riparian/stream channel on one wet meadow site; planting eight pivot corners to cereal grain to improve Swainson's hawk habitat; raising the bottom strand of wire to 18 inches on one mile of fence to facilitate antelope movement; maintaining 1,200 acres of irrigated alfalfa; and leaving 160 acres of dryland alfalfa unharvested northeast of Hay Ranch.

"Habitat enhancement projects proposed for 1993 include maintaining a five-acre cattle exclosure for fawning habitat; maintaining water levels in two marsh areas until after June 1 to facilitate waterfowl brood survival; providing 293 acres of native perennial grasses and dryland alfalfa for wildlife; excluding cattle from Headquarters Ranch Marsh; placing six perch poles for Swainson's hawk habitat; raising the bottom strand of fence wire to 18 inches on one mile of fence to improve antelope movement; and maintaining 1,135 acres of irrigated alfalfa.

"The ranch contains winter-range habitat for the migratory black-tailed deer of the Mt. Hebron subherd of the McCloud Flats deer herd. Fall 1992 herd composition counts revealed 15 bucks and 38 fawns per 100 does. Spring fawn ratios showed 28 fawns per 100 does.

"The ranch was authorized 15 buck deer tags and five buck antelope tags in 1992. Harvest was eight buck deer and five buck antelope. Waterfowl were taken in accordance with the regular waterfowl season and bag limits for northeastern California.

"The Department recommends that the Commission approve the Prather Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue 12 buck deer tags to take forked horn or better bucks for the period of October 2 through November 30, 1993.
- "2. Issue up to three buck pronghorn antelope tags for the period of August 7 through August 29, 1993, pending the results of herd composition counts conducted in July 1993 by Department personnel.
- "3. No person shall take more than one buck deer and one antelope."

(O) SKEDADDLE CREEK RANCH, LASSEN COUNTY

Department Recommendation

"The Department of Fish and Game has reviewed the application, annual report, and management plan for the 812 acre Skedaddle Creek Ranch in southeastern Lassen County. The ranch is currently licensed under Fish and Game Commission regulations in Section 601, Title 14, California Code of Regulations. The management plan is in compliance with Commission policy requirements for private lands management. Full payment was made for all tags used in 1992, and all habitat work was completed. The applicant 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 on and around the Skedaddle Creek Ranch. The goals and objectives outlined in the management plan are compatible with the Doyle Deer Herd Management Plan and the California Pronghorn Antelope Management Plan.

"Habitat enhancement projects completed in 1992 included developing one sump in Skedaddle Creek in the northern unit, retaining 652 acres of natural vegetation in the northern unit in Field 4, retaining a 50-70-foot-wide natural vegetation buffer along Skedaddle Creek on the east side of Field 3, maintaining previous fencing projects to exclude trespass livestock (domestic goats), and planting alternate strips of wild forage in Field 1.

"Habitat enhancement projects proposed for 1993 include maintaining alfalfa to provide summer green forage for wildlife use, protecting over 650 acres of Great Basin vegetation to retain antelope and deer fawning areas, further constructing perimeter fencing to exclude free ranging livestock while allowing unrestricted deer and antelope movement, maintaining water sources to provide year-round water for wildlife, and planting 30 acres of peas for wildlife use.

"Fall herd composition surveys for the Bass Hill subherd of the Doyle deer herd show 28 bucks and 40 fawns per 100 does. Spring ratios reflect the harsh winter conditions, with 14 fawns per 100 does. Buck ratios are consistent with the management plan goal of 25 bucks and 100 does. Antelope herd composition counts are currently within the 20 bucks per 100 does specified as minimum in the California Antelope Management Plan.

"In 1992, the ranch was authorized one buck deer tag, no deer were harvested. No antelope harvest was authorized in 1992.

"The Department recommends that the Commission approve the Skedaddle Creek Ranch Wildlife Management Plan and the 1993 harvest program under the following conditions:

- "1. Issue one buck deer tag to take forked horn or better buck deer for the period of November 1 through November 15, 1993.
- "2. Issue one buck antelope tag for the period of August 7 through August 29, 1993, pending the results of herd composition counts conducted in July 1993 by Department personnel."

Action

Executive Director Treanor stated that the Potter Valley Wildlife Management Area in Mendocino County had asked to have its name removed from the list and that it be considered at the August 5-6 Commission meeting. Mr. Treanor stated that the Department supported each one of the ranch's management plans and recommended that the Commission approve the annual reports and management plans.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUESTS OF BALD HILLS RANCH, MENDOCINO COUNTY; BARDIN RANCH, MONTEREY COUNTY; BIG BLUFF RANCH, TEHAMA COUNTY; BURROWS RANCH, TEHAMA COUNTY; CHRISTENSEN RANCH, MENDOCINO COUNTY; CLARKS VALLEY-RED ROCK RANCH, LASSEN COUNTY; CLOUD'S WILLOW CREEK RANCH, MODOC COUNTY; CORNING LAND AND CATTLE COMPANY, TEHAMA COUNTY; DIAMOND h RANCH, MENDOCINO COUNTY; FIVE DOT RANCH - WILLOW CREEK UNIT, LASSEN COUNTY; GRASSHOPPER RANCH, LASSEN COUNTY; LATOUR BUTTE RANCH, SHASTA COUNTY; PRATHER RANCH, SISKIYOU COUNTY; AND SKEDADDLE CREEK RANCH, LASSEN COUNTY, FOR APPROVAL OF THEIR 1993-94 MANAGEMENT PLANS, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED THE COMMISSION.

PASSED UNANIMOUSLY.

13. DEPARTMENT STATUS REPORT ON PISMO CLAM POPULATION.

Summary of Issue

This item is scheduled at Commissioner Taucher's request to receive a Department status report on the Pismo clam population. As the Commission may recall, the Pismo clam population was making a comeback in recent years; however, the sea otter population has severely impacted the Pismo clam population this past year. The Department will be prepared at the June 17, 1993 meeting to make its brief presentation.

Action

Deputy Director Petrovich verified that sea otters consumed Pismo clams in large quantities. He then discussed the recovery plan drafted by the Federal Government. He explained that the Federal Government had proposed that the population of sea otters be allowed to increase to 5,400 and then it would consider delisting the species. He stated that at this time the sea otters were federally listed and protected. He explained that even if the sea otters were delisted, they would fall under the purview of the Marine Mammals Protection Act and then would have to be managed for maximum sustainable yield. Mr. Petrovich explained that the sea otters had virtually annihilated the population of Pismo clams in the 70's, and then changed to a new food source, so during the 1980's the clams had recovered, then, beginning in 1991, the sea otters rediscovered the Pismo clams and were concentrating on consuming them back to the low levels they reached in the 70's. Mr. Petrovich explained that red abalone were a more important food source to the sea otter than black abalone. He explained that the sea otter had virtually annihilated the red abalone population in the San Luis Obispo County area and had displaced most of the commercial abalone fishermen from that area.

Commissioner Taucher suggested that the Department and the Commission write letters to the Federal Government asking them to work with the Department on this issue. Deputy Director Petrovich responded that the best option for the Department would be to have Department personnel on the Federal Recovery Team that was being established. Mr. Petrovich explained the historical balance that had been established between the shellfish and the sea otters, was artificially changed when sea otters were harvested by the early settlers for furs.

14. PUBLIC FORUM.

Summary of Issue

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

Action

Executive Director Treanor asked if anyone from the audience wished to speak to the Commission on any item under the Commission's jurisdiction, and there was no response.

NOTE:

Louis deBotari, concerned citizen, had provided testimony on June 18 regarding a fish ladder that had been placed on the West Walker River. He stated that thanks to the Commission's and the Department's assistance, this fish ladder was working.

15. REQUEST OF GREGORY L. BEAM, SITKA, ALASKA, FOR REINSTATEMENT OF AN EXPIRED COMMERCIAL SALMON VESSEL PERMIT.

Summary of Issue

Mr. Gregory L. Beam, Sitka, Alaska, requests reinstatement of an expired commercial salmon vessel permit. In a recent letter to the Commission, Mr. Beam provides the following information:

"Would the board please give serious consideration to reinstatement of my salmon power troll vessel permit upon my submittal of completed application and correct payment of fees.

"I wish to apologize for this unnecessary event for which I have no impressive excuses, only personal ones, (a sad divorce and lack of funds) and my mail and I don't get together on a regular basis. So, to keep it simple and not too boring, I'll appeal on the basis of unintentional failure to pay up on time and give me a break if you can."

Department Recommendation

"Mr. Gregory Beam is requesting the commercial salmon vessel permit be reinstated for the F/V Ida June (F&G 35789) even though, in his words he has 'no impressive excuses.'

"According to Fish and Game Code Section 8235 (f), '...the Department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.'

"The exceptions to this are found in Section 8246.7 (a)(1): 'The commission shall...order the permit renewed...if...the failure to renew a permit...was due to death, physical illness, mental incapacity, or being called to active military duty, and the person was not reasonably able to have an agent renew the permit.'

"Mr. Beam indicates in his letter (the Commission was provided with a copy) that he failed to renew his permit because of a divorce, lack of funds, and failure to read his mail. None of these factors are found in the exceptions stated above.

"The Department is unable to support the reinstatement of this commercial salmon vessel permit because the law does not provide an exception for the circumstances of this request."

Action

Executive Director Treanor explained that Mr. Beam had contacted the Commission office requesting that his letter speak on his behalf as he was unable to attend the meeting because of the distance he would have to travel.

Deputy Director Petrovich stated that the Department was unable to support the reinstatement of Mr. Beam's commercial salmon vessel permit because existing law did not provide for any exceptions such as those Mr. Beam had submitted.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF
GREGORY L. BEAM, SITKA, ALASKA, FOR REINSTATEMENT OF AN
EXPIRED COMMERCIAL SALMON VESSEL PERMIT.

PASSED UNANIMOUSLY.

16. COMMISSION FIELD TRIP TO EAST FORK WALKER RIVER AND BRIDGEPORT RESERVOIR.

Summary of Issue

The Department has planned a field trip to the East Fork Walker River and Bridgeport Reservoir immediately following the Commission meeting. This field trip is to acquaint the Commission with the area and some problems that the Department had on the East Fork Walker River.

Action

Executive Director Treanor explained that the Commission would be leaving for the field trip directly following the Executive Session. He indicated that members of public were welcome to attend; however, they would have to provide their own transportation.

The Fish and Game Commission recessed at 3:30 p.m. to reconvene at 8:30 a.m. on June 18, 1993 in Memorial Hall, Bridgeport.

State of California
FISH AND GAME COMMISSION

June 17, 1993

The Commission met in closed Executive Session at 3:35 p.m., pursuant to the authority of Government Code Section 11126(q) to consider the following items:

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

- (A) Natural Resource Defense Council, et al., vs. Fish and Game Commission Re: California Gnatcatcher.
- (B) California Native Plant Society vs. Fish and Game Commission Re: Vail Lake Ceanothus.
- (C) California Domestic Ferret Association vs. Fish and Game Commission, et al., Re: Ferrets.
- (D) Pacific Lumber Company vs. Fish and Game Commission, et al, Re : Marbled Murrelet.

2. POSSIBLE LITIGATION INVOLVING THE COMMISSION.

Persons present:

FISH AND GAME COMMISSION

Benjamin F. Biaggini	President
Albert C. Taucher	Vice President
Frank D. Boren	Member
Gus A. Owen	Member
Douglas B. McGeoghegan	Member

COMMISSION STAFF

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

DEPARTMENT OF FISH AND GAME

Boyd Gibbons	Director
Al Petrovich	Deputy Director
Ann Malcolm	Deputy General Counsel

The Executive Session adjourned at 3:55 p.m.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of June 18, 1993

Pursuant to the call of the President, the Commission met in Memorial Hall, corner of Bryant and School Streets, Bridgeport, California, on June 18, 1993. The meeting was called to order at 8:32 a.m. by President Biaggini.

Persons present:

FISH AND GAME COMMISSION

Benjamin F. Biaggini	President
Albert C. Taucher	Vice President
Frank D. Boren	Member
Gus A. Owen	Member
Douglas B. McGeoghegan	Member

COMMISSION STAFF

Robert R. Treanor	Executive Director
Ronald J. Pelzman	Assistant Executive Director
Connie Zakaria	Executive Secretary

RESOURCES AGENCY

Ben Haddad	Deputy Secretary, Legal Affairs
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DEPARTMENT OF FISH AND GAME

Boyd Gibbons	Director
John Sullivan	Chief Deputy Director
Al Petrovich	Deputy Director
Banky Curtis	Deputy Director
DeWayne Johnston	Chief, Wildlife Protection Division
Terry Mansfield	Chief, Wildlife Management Division
Ann Malcolm	Deputy General Counsel
Fred Worthley	Regional Manager, Region 5

The following persons were also present and heard:

Dan Heal	Representing Sen. Dan Rogers
Ross Sargent	Representing Sen. Patrick Johnston
Rick Staats	Representing Assemblyman David Knowles
Bill Reid	Representing Mono Co. Bd. of Supervisors
Norman Livermore	Concerned Citizen
Bud Starr	Outdoor Sportsman's Coalition and California Wildlife Foundation

Kent DeChambeau
Dan Tichenor
Dr. Cal Cadmus
Jerry Springer
John Vlasak
Dan Heal
Phil Pister
Gary West
Eldon Allinson
Steve Poplin
Virginia Handley
Ran Berlin
Gerald Uphort
Keith Ringgenberg
Steven Hinds
Patrick Ickes

Albert Pegorare
Calvin Langford
Butch Kughn
Tom Squire
Bill Atkins
Robert Alessio
Don Banta
Bruce Ivey
Sherrell Fallat
Dave Campbell
Silvia Colton
Hal Cribbs
Dr. David Soleymani
Fred Balderrama
Robert Mesta
Dr. Michael Wallace
David Remling
Bill Geyer

S.C.O.P.E.
Calif. Houndsmen for Conservation
Concerned Citizen
California Hunter Magazine
Inter-Mountain Houndsmen
Calif. Sportsman's Task Force
Concerned Citizen
Calif. Houndsmen for Conservation
Sierra Sportsman Association
Placer Sportsman
Fund for Animals
Concerned Citizen
Calif. Rifle and Pistol Association
Outdoor Sportsman's Coalition
North Central Houndsmen
Calif. Houndsmen for Conservation
and Mendo-Lake Houndsmen Assoc.
Bridgeport Gun Club
Concerned Citizen
California Bowman Hunters
Concerned Citizen
Concerned Citizen
Concerned Citizen
Mono Basin Sportsmen's Club
Lone Pine Pheasant Club
Concerned Citizen
Quail Unltd. & CA Waterfowl Assoc.
Concerned Citizen
Consultant representing Mr. Balderrama
Professor of Biology
Aquaculturist
U. S. Fish and Wildlife Service
Los Angeles Zoo
San Diego Zoo
Geyer Associates

President Biaggini introduced members of the Commission, its staff, Director Boyd Gibbons, Chief Deputy Director John Sullivan, Deputy Directors Petrovich and Curtis and Deputy General Counsel Ann Malcolm.

17. RECEIPT OF PUBLIC COMMENTS RE: THE USE OF DOGS FOR THE TAKE OF BEAR.

Summary of Issue

As the Commission may recall, Director Boyd Gibbons, at the Commission's April 2, 1993 meeting in Sacramento, made a statement to the Commission recommending that it ban the hunting of black bears with trailing hounds. The Commission agreed to conduct public hearings on this issue at its June 18 and August 6

meetings, after which the Commission will consider amending sections 265 and 367 to preclude the use of dogs for the take of bear.

On April 2 the Commission also continued discussion on Section 251.5, Title 14, CCR regarding the special permit for temporary possession of mammals to train dogs. The Commission will also receive testimony on this issue at its June 18 and August 6 meetings with consideration to eliminate the special permit at its August 6 meeting in Crescent City.

Action

Executive Director Treanor provided the Commission with a summary of the issue and stated that after the April 2 Commission meeting, the Director organized a special Department committee to evaluate the issue of the use of dogs to pursue bear. He noted that some of the recommendations made by the committee would be presented by Terry Mansfield, Chief of Wildlife Management Division.

Terry Mansfield stated that the special team of biologists and wardens had drafted several proposals, one of which would eliminate the use of dogs in the take of bear. He explained that if the Commission were to prohibit the use of hounds for the take of bear, the Department would anticipate that hunting pressure would decrease substantially. He pointed out that, though it was not recommended for the 1993 hunting year, to compensate for a decrease in hunting opportunity the Department recommended the season be increased in length and that hunters in certain parts of the state be allowed to purchase more than one bear tag per year. Mr. Mansfield then described the nine alternatives provided by the Department.

Commissioner Taucher asked Mr. Mansfield to discuss the reasons for a restriction of the use of radio collars. Mr. Mansfield explained that restriction of this gear was not recommended by the Department. He indicated that about 90% of the houndsmen used radio collars on their dogs and that it was valuable in retrieving lost dogs. He pointed out that the general public misunderstood the use of radio collars on dogs; they assumed that it was for use in tracking the bear rather than retrieving dogs.

Ross Sargent, Chief of Staff for Senator Patrick Johnston, stated that the Senator supported the Director's statement that this method of taking bears was unsportsmanlike. He explained that Senator Johnston was in support of hunting, but he also felt that the use of dogs reflected negatively upon the hunting community. He stated that the Senator believed that, in order to keep the sport acceptable to the general public, objectionable activities such as the use of dogs in the pursuit of bear, should

be discontinued. Mr. Sargent continued to speak on his own behalf as a concerned citizen and stated that he believed hunting must be perceived as both ethical and fair in order for the hunting tradition to continue.

Bill Reid, Mono County Board of Supervisors, stated that constituents in his county felt that the prohibition of the use of dogs in the pursuit of bear was the first step towards eliminating hunting as a sport. He then proceeded to express his personal opinion that he was opposed to the prohibition of the use of dogs in the pursuit of bear.

Norman Livermore, concerned citizen, expressed his support for the prohibition of the use of dogs in the pursuit of bear. He explained that if hunters did not take into consideration the perceptions of the general public, they could potentially lose all of their hunting privileges. He recommended a "catch-and-release" form of hunting for bear with the use of dogs or the elimination altogether of the hunting of bear with dogs.

Rick Staats read a letter from Assemblyman David Knowles, which expressed support for the continued use of hounds in the pursuit of bear. The letter requested that the Commission make its determination based upon scientific data and not upon moral issues.

Dan Heal presented a letter to the Commission from Senator Dan Rogers which expressed support for the continued use of hounds in the pursuit and take of bear.

The following individuals spoke in support of the continued use of hounds in the pursuit of bear: Bud Starr, Outdoor Sportsmen's Coalition and California Wildlife Foundation; Kent DeChambeau, S.C.O.P.E.; Dan Tichenor, California Houndsmen for Conservation; Dr. Cal Cadmus, concerned citizen; Jerry Springer, California Hunter magazine; John Vlasak, Intermountain Houndsmen and 440 individuals who submitted correspondence to the Commission; Dan Heal, California Sportsman's Task Force; Gary West, California Houndsmen for Conservation; Eldon Allinson, Sierra Sportsman's Association; Steven Poplin, Placer Sportsmen; Ran Berlin, concerned citizen; Gerald Uphort, Manager of Governmental Affairs for California Rifle and Pistol Association; Keith Ringgenberg, Outdoors Sportsmen Coalition; Steven Hinds, concerned citizen and Northern Central Houndsmen; Patrick Ickes, California Houndsmen for Conservation and Mendo-Lake Houndsmen Association; Albert Pegorare, Bridgeport Gun Club; Calvin Langford, concerned citizen; Butch Kughn, California Bowman Hunters; Tom Squires, concerned citizen; Bill Atkins, concerned citizen; Robert Alessio, concerned citizen; Don Banta, Mono Basin Sportsmen's Club; Bruce Ivey, Lone Pine Pheasant Club; Sherrell Fallat, concerned citizen; and Dave Campbell, Quail Unlimited and California Waterfowl Association.

The reasons given by the individuals in support of the hunting of bear with hounds were that: 1) sportsmanship could not be instilled by a regulatory body, but it was within the individual hunter; 2) it was a hidden agenda by environmental groups to outlaw hunting altogether; 3) the management of wildlife species should be based on scientific data only; 4) hunting should be encouraged because it prevented overpopulation and starvation of excess animals; 5) sections 203 and 203.1 of the Fish and Game Code do not allow the Commission to decide hunting issues on a moral or ethical basis; 6) the hunting of bear with the use of hounds keeps bears wary of human activities; and therefore, keeps them away from humans where they could pose a threat to humans and their property; 7) this was an issue of the misrepresentation of the activities of houndsmen and their hounds; 8) the pursuit of bear with hounds was actually a more effective and humane way to kill bear; 9) Section 1801(b) of the Fish and Game Code stated that: "...to provide for the beneficial and enjoyment of wildlife by all citizens of the state;" 10) the use of hounds in pursuit of bears brings much needed income into many parts of the state where there was high unemployment; 11) if the hunting of bears with dogs was prohibited, houndsmen would not be able to be in the woods even if they were not hunting bear but were in pursuit of other mammals; and 12) prohibiting the use of hounds in the pursuit of bear could open up all of the other uses for hounds and even bird dogs to public misconception which would infringe upon the use of dogs for all legal hunting activities.

Phil Pister, concerned citizen, spoke in support of the statements made by Director Gibbons. He expressed the concern that if the hunting community did not regulate itself, it would open itself up to regulation by the general public. He stated that the uninformed public could take away some, or all, of the hunting privileges currently held by the hunters.

Virginia Handley, Fund for Animals, stated that many states and national parks did not allow the hunting of bears with dogs and those states and parks had not suffered from overpopulation of bears. She contended that the pursuit of bear with hounds in itself caused an extreme amount of stress to the bear which would sometimes separate females from their cubs; and therefore, impact the population negatively. She also expressed concern in regards to the welfare of the dogs that were used to pursue the bears. She stated that she did not believe that hunters were using the radio telemetry collars merely to track their dogs, but that they were using them to track the bears. She also expressed her feeling that the activity of running hounds in pursuit of bear was to encourage poachers, and that the use of hounds in pursuit of bear was different than other sports which used dogs.

Virginia Handley stated her opposition to the issuance of a temporary permit to hold wild animals for the use of training dogs, pursuant to Section 251.5 of the Fish and Game Code. She contended that the Department of Fish and Game had no ability to monitor this practice and to insure that animals were treated humanely. She also expressed her feeling that released animals were traumatized by this activity. She stated that the use of live animals was unnecessary because there were artificial training scents available which the houndsmen could utilize rather than using live wild animals.

Silvia Colton, concerned citizen, spoke in opposition to the continued use of hounds in pursuit of bear. She stated that the environmental community had always acknowledged that there was mortality in the natural environment and they were willing to live with that as opposed to the activity of hunting.

Commissioner Biaggini thanked the audience for their participation and informed them that the Commission would again hear discussion of this issue at its August 6 meeting in Crescent City.

18. DEPARTMENT STATUS REPORT RE: UPLAND GAME STAMP PROGRAM.

Summary of the Issue

This item is scheduled at Commissioner's Taucher's request to receive a Department status report on the Upland Game Stamp Program. The Department will be prepared at the June 18 meeting to make its presentation on its proposed program.

Action

Terry Mansfield provided a packet of informational material on the projects being conducted utilizing the Upland Game Bird Stamp Program funds. Mr. Mansfield discussed the program and its funding. He stated that the Citizen Advisory Group would be meeting to discuss the direction the Department should take with the funds from this program. He explained that the monies generated by this program would be used to augment the existing programs, as well as to fund completely new programs relating specifically to resident game species.

Commissioner Taucher asked the Department to provide the Commission with a status report in August regarding implementation of the programs currently being developed with these funds.

Commissioner Owen stated that he felt some of these funds should be used for outreach programs to the general public to educate them on the Department's actions regarding upland game species. Mr. Mansfield responded that the Department was

striving to develop educational programs and was working with the news media to publish more articles relating to upland game species.

19. RECEIPT OF PUBLIC RECOMMENDATIONS FOR CHANGES IN THE RESIDENT AND MIGRATORY UPLAND GAME BIRD AND MIGRATORY NONGAME BIRD (AMERICAN CROW) REGULATIONS FOR 1993-94.

Summary of Issue

At the Commission's May 14, 1993 meeting in Bakersfield, it authorized its staff to publish notice of the Commission's intent to receive public recommendations for changes in the 1993-94 Resident and Migratory Upland Game Bird and Migratory Nongame Bird (American Crow) Regulations at the June 18 meeting in Bridgeport, with discussion and final adoption of the modified regulations to occur on August 6, 1993 in Crescent City. That legal notice has been published.

This meeting is being held in compliance with Section 208 of the Fish and Game Code, to allow the public an opportunity to present orally any proposed changes it might have with respect to these regulations. The proposed recommendations received by the Commission office as of 5:00 p.m. on June 18 will be summarized and brought to the Commission's attention prior to the August 6, 1993 meeting in Crescent City.

The recommendations for changes must pertain to the provisions of Part Two, Chapter Two (Resident Small Game), Chapter Six, Section 485, (American crow) and Chapter Seven, (Migratory Game Birds) - sections 500, 501 and 504 only.

Sections 355, 356 and 3800 of the Fish and Game Code, and Section 20.135, 50CFR20 of the Federal Code of Regulations, provide for the Commission to establish seasons for doves and band-tailed pigeons within the federal framework. Those frameworks will be provided to the Commission in early July.

Environmental Document

The Department is recommending that the Commission adopt regulations that will continue to authorize hunting of 12 resident game species in the state. Recommendations are that hunting regulations for chukar, wild turkey, ringed-turtle dove, spotted dove, ring-necked pheasant, mountain quail, gambel's quail, California quail, blue grouse, ruffed grouse and white-tailed ptarmigan currently in effect be continued for the next (1993-94) hunting season. In addition, the Department recommends that modifications to the regulations be adopted for sage grouse and American Crow.

The Department is providing the Commission with alternatives to the proposed projects which could attain at least some of the basic objectives of the proposed projects. The effects of these alternatives, including no project alternatives, are evaluated and discussed in a draft resident game bird hunting document. This document contains analysis of potential impacts and a determination that no significant adverse environmental impacts, either cumulatively or individually, are expected as a consequence of the proposed projects.

The Commission was provided with a copy of the Department's Pre-publication of Notice Statement for the Upland Game Bird and Migratory Nongame Bird (American Crow) Regulations as well as the regulations in strikeout/underline format.

It will be appropriate at this time for the Commission to receive oral recommendations from the public on this subject.

Action

Executive Director Treanor summarized the issue and indicated that the federal framework for dove and bandtail pigeon would be transmitted to the Commission as soon as it was received, probably in early July. Mr. Treanor asked if anyone in the audience wished to make any recommendations for changes in the resident game bird regulations, and there was no response.

20. RECEIPT OF PUBLIC RECOMMENDATIONS FOR CHANGES IN THE REGULATIONS RE: WILDLIFE AND PUBLIC SHOOTING AREAS - SECTIONS 550-553, TITLE 14, CCR.

Summary of Issue

The Commission, at its May 14, 1993 meeting in Bakersfield, authorized its staff to publish notice of Commission intent to consider amending Sections 550-553, Title 14, CCR, regarding Wildlife and Public Shooting Areas. That legal notice has been published.

The purpose of this agenda item is to receive public recommendations for changes in those regulations. All correspondence concerning recommendations for changes in these sections, as well as any oral recommendations made at the June 18, 1993 meeting pertaining thereto, will be compiled and brought to the Commission's attention prior to its consideration of this matter at its August 6, 1993 meeting in Crescent City.

The Commission was provided with a copy of the Department's Pre-publication of Notice Statement as well as the text of the regulations in strikeout/underline format.

Action

Executive Director Treanor provided the Commission with a summary of the issue. Mr. Treanor asked if anyone in the audience wished to make any recommendations for changes regarding wildlife and public shooting areas, and there was no response.

21. RECEIPT OF PUBLIC RECOMMENDATIONS FOR CHANGES IN THE MIGRATORY GAME BIRD (WATERFOWL) REGULATIONS FOR 1993-94.

Summary of Issue

The Commission, at its May 14, 1993 meeting in Bakersfield, authorized its staff to publish notice of its intent to change the Migratory Game Bird (Waterfowl) Regulations for the 1993-94 season at its August 27, 1993 meeting in Sacramento. That legal notice has been published. The Commission will receive public recommendations for changes in its waterfowl regulations at its June 18, 1993 meeting in Bridgeport and August 6, 1993 meeting in Crescent City. Final adoption is scheduled for August 27, 1993 in Sacramento.

This agenda item is merely to receive public input. All correspondence received on this matter by June 18, 1993, as well as any oral recommendations received at the meeting, will be brought to the attention of the Commission when it meets on August 6 in Crescent City and on August 27 in Sacramento when it considers the adoption of the 1993-94 Waterfowl Regulations.

In the interim, we will await the arrival of the Federal 1993-94 framework which will identify those options available to the Commission. That information will be sent out to the Commission in early August. Under the current procedures, the Commission must consider the framework options available to it during its late August meeting.

The Commission was provided with the Department's proposed changes in Sections 502, 507.1, 509 and 600.4, Title 14, CCR, regarding migratory waterfowl, common snipe, American coot and common moorhen hunting, concurrence with Federal regulations and licensed domesticated migratory game bird shooting areas as well as regulations in strikeout/underline format.

Environmental Document

The Department is recommending that the Commission adopt regulations that will continue the hunting of 46 species of migratory game birds in California at the maximum levels that are allowed under the Federal regulation frameworks. The Department is providing the Commission with alternatives to the proposed project which could attain at least some of the basic objectives of the project. The effects of these alternatives, including a

no project alternative are evaluated and discussed in a draft Migratory Game Bird Hunting Environmental Document. The U. S. Fish and Wildlife Service has circulated and accepted comments on two Environmental Impact Statements (EIS) regarding the issuance of annual regulations permitting the hunting of migratory game birds. These documents are incorporated in the draft Environmental Document by reference. The draft Migratory Game Bird Hunting Environmental Document contains an analysis of potential impacts and a determination that no significant adverse environmental impacts, either cumulatively or individually, are expected as the consequence of the proposed project. The document will be posted for public review on June 22, 1993. The close of the 45-day public comment period will be August 6, 1993. Testimony on the draft document will be received at the Commission's meeting in Crescent City on August 6, 1993.

Action

Commissioner Taucher asked if the State waterfowl counts had been completed. Terry Mansfield stated that the counts had not been completed; however, they should be completed and discussed with the Pacific Flyway Council shortly. Draft proposals would be presented to the Commission at the August 6, 1993 meeting. Mr. Mansfield stated there may be an opportunity for additional harvest of hen mallard ducks.

22. AMENDMENT OF SECTION 7.50(b), TITLE 14, CCR, RE: SPORT SALMON FISHING REGULATIONS FOR THE KLAMATH RIVER SYSTEM.

Summary of Issue

The Commission, at its April 2, 1993 meeting in Sacramento, authorized its staff to publish notice of Commission intent to consider amending Section 7.50(b), Title 14, CCR, regarding sport salmon fishing regulations for the Klamath River System. That legal notice has been published. The Commission was provided with a copy of the Department's Pre-publication of Notice and Pre-adoption Statements and the text of the regulations in strikeout/underline format, a letter from Mrs. Virginia Bostwick with her recommendations for changes, as well as a Department memo summarizing a meeting it held on the Klamath River and responds to the proposed changes made by Mrs. Bostwick.

The Department's proposal can be summarized as follows:

"Fall-run chinook salmon runs in the Klamath River have exhibited alarming downward trends in recent years. Though the declines in spawning populations are due primarily to suboptimal environmental conditions, the runs in the fall-winter of 1991-92 reached such critically low levels, and Department predictions for the 1992-93 season were for such small numbers of escaping spawners, that severe

fishery restrictions were necessary to maximize the likelihood of successful fish population restoration. These restrictions were adopted prior to the fall-winter 1992-93 fishing season. They consisted of the following specific measures:

- "1. For chinook salmon more than 22 inches total length, a reduction of the daily bag limit from 2 to 1, the weekly bag limit from 6 to 3, and the possession limit from 6 to 3.
- "2. A ban on barbed hooks in the Klamath River main stem from 3500 ft, below Iron Gate Dam to the Klamath River mouth; in the Trinity River main stem below the old Lewiston Bridge; 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 820-fish quota, or "ceiling" on the recreational take of chinook salmon more than 22 inches total length in the Klamath River system.

"The 1992-93 spawning run--as predicted--proved to be the smallest in recent history. The Department predicts that the 1993-94 inriver run will be only slightly greater than the 1992-93 run.

"The Department therefore recommends continuation of the regulations adopted for the 1992-93 season with the exception that the prohibition against barbless hooks be repealed, and the quota be modified from the 820 in 1992-93 to a larger number for 1993-94 in response to the predicted slight increase in harvestable surplus.

"Alternative Number 1a

"Alternative number 1a calls for retention of the 1992-93 regulations for the Klamath River with the exception that the prohibition against barbless hooks would be repealed and the quota would be modified from the 820 of 1992-93 to 3,198 in 1993-94 in response to the predicted slight increase in the harvestable surplus.

"On the date of the originally-submitted Pre-publication of Notice the 3,198 quota was a highly probable contingency for eventual Pacific Fishery Management Council (PFMC) recommendation and was therefore presented as one of the two preferred alternatives.

"Because the PFMC eventually recommended a different quota--2,700--alternative 1a is no longer recommended as a preferred alternative.

"Alternative Number 1b

"Alternative number 1b calls for retention of the 1992-93 regulations for the Klamath River with the exception that the prohibition against barbless hooks would be repealed and the quota would be modified from the 820 of 1992-93 to 5,300 for 1993-94 in response to a predicted slight increase in the harvestable surplus. Except for the quota, this alternative is the same as alternative number 1a.

"On the date of the originally submitted Pre-publication of Notice the 5,300-fish quota was also a highly probable contingency and alternative 1b was also presented as one of two preferred alternatives. Because the PFMC eventually recommended a 2,700-fish quota, alternative 1b is no longer a preferred alternative.

"Alternative Number 1c
(the preferred alternative)

"Alternative Number 1c differs from alternatives 1a and 1b only in the size of the river recreational quota, which for alternative 1c is 2,700. Alternative 1c is the only alternative currently recommended by the Department.

"Alternative Number 2

"Alternative number 2 consists of closure of the Klamath River system to all salmon fishing all year, with additional closures to all recreational fishing during periods of peak fall-run salmon abundance.

"Closure to all salmon fishing or to all fishing would not be damaging to the fish populations, but it would be economically damaging to the resort industry in the Klamath area.

"Alternative Number 3

"In addition to the quota changes specified in other alternatives, alternative number 3 would restore the more liberal daily and weekly bag limits and possession limits which existed prior to the 1992-93 season. For chinook salmon more than 22 inches total length, this would change the daily bag limit from 1 to 2; the weekly bag limit from 3 to 6, and the possession limit from 3 to 6.

"This alternative is less desirable than 1c because it would increase the risk that an intense fishery could cause the quota to be reached in a very short time. A shorter season would not be harmful to the fish populations, but it could be economically damaging to the resort industry in the area."

Action

Executive Director Treanor introduced the item and pointed out that the Commission had been provided with the Department's three alternatives. He also noted that a letter had been received from Virginia Bostwick with her recommendations for the Klamath River regulations.

Deputy Director Petrovich stated that, based on the action taken by the Secretary of Commerce, the Department recommended Alternative 1c for a fish quota of 2,700 fish. He indicated that the 2,700 fish quota was not what the Department had originally recommended in its Pre-publication of Notice Statement; however, the Department had changed its recommendation based on the actions by the Secretary of Commerce. Mr. Petrovich explained that the 2,700 fish quota was derived from a complicated model, which used the number of four-year-old fish that returned to the river last year.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. BOREN, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 200, 202, 205 AND 220 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC, SECTIONS 200, 205, AND 206 OF SAID CODE, HEREBY AMENDS SECTION 7.50(b), TITLE 14, CCR, REGARDING SPORT SALMON FISHING REGULATIONS FOR THE KLAMATH RIVER SYSTEM. THE REGULATIONS ARE PROVIDED IN THE APPENDIX.

PASSED UNANIMOUSLY.

23. REQUEST OF FRED BALDERRAMA, MONTEREY PARK, FOR AUTHORIZATION TO IMPORT AND POSSESS CHINESE MITTEN CRAB (Eriocheir sinensis) FOR SCIENTIFIC AND AQUACULTURE PURPOSES.

Summary of Issue

Mr. Fred Balderrama, Monterey Park, requests authorization to import and possess Chinese mitten crab (Eriocheir sinensis) for scientific and aquaculture purposes. Eventually, if his scientific research is successful, he would then request permission to raise the Chinese mitten crab for aquaculture purposes. In a letter dated May 20, 1993, Mr. Balderrama provides the following information:

"I am hereby requesting an opportunity to appear before the Fish and Game Commission at its next regularly scheduled meeting to request a permit to import, transport and possess 400 pounds of Chinese mitten crab (Eriocheir sinensis), for scientific research purposes, at my closed-system aquaculture facility located at Newberry Springs, San Bernardino County.

"The source of the Chinese mitten crabs would be from an aquaculture facility located near Beijing, China. The Chinese mitten crabs would be certified by the Government of China to be disease and parasite free at the time of shipment from Shanghai, China. The shipment would be part of a Chinese/United States joint venture aquaculture operation. The intent of the research is to determine if the Chinese mitten crab can be cultivated in a closed-system aquaculture facility in a disease and parasite free condition.

"Dr. David Soleymani, Ph.D., Professor of Biology, California State University, Dominguez Hills, has agreed to carry out a scientific research project, under a grant, to determine if the mitten crab can be imported and maintained in a closed system in a condition that is free of disease and harmful parasites. Dr. Soleymani is an internationally recognized parasitologist who is familiar with the Oriental lung fluke (Paragonimus westermani), and the closely related U.S. species of lung fluke (P. kellicotti). As you are aware, the parasite issue has been the focus of public health and safety concerns. Shortly, I will forward to you copies of the scope of the proposed research, and Dr. Soleymani's resume. Dr. Soleymani will be in attendance at the June meeting to respond to questions from the Commission and the Department.

"I am very much aware of the specific concerns that the Commission, the Department of Fish and Game, as well as the U. S. Fish and Wildlife Service, and the California Department of Health Services have with genera Eriocheir.

"I believe that those concerns can be individually and collectively fully addressed in a positive manner. I would like to have the opportunity to present that information to the Commission."

The Commission was provided with a copy of Dr. David Soleymani's resume. Dr. Soleymani will be Mr. Balderrama's scientific expert.

Department Recommendation

"In his May 20, 1993 letter, Mr. Fred Balderrama, Mayor of the City of Monterey Park, requests permission to import 400 pounds of Chinese mitten crabs for research purposes. The crabs would be held at his closed-system aquaculture facility located at Newberry Springs, San Bernardino County. As Mr. Balderrama explains, 'The intent of the research is to determine if the Chinese mitten crab can be cultivated in a closed-system aquaculture facility in a disease and parasite free condition.' The Department is strongly opposed to this request. We see no reason to support the research since, regardless of the outcome, we would not support the culture of this species in California.

"The research would be conducted by Dr. David Soleymani, Professor of Biology at California State University Dominguez Hills, who will determine if the mitten crab can be reared free of diseases and parasites. He is familiar with the most serious of these parasites, the Oriental lung fluke (*Paragonimus westermani*). The crab is an intermediate host to the fluke, and human beings and other mammals are the final hosts. It is transmitted in raw or undercooked crab meat and is a very serious human health problem in the Orient. This is one of the reasons the Commission, at its October 3, 1986 meeting, added all crabs of the genus *Eriocheir* to its list of prohibited species (Section 671(c)(8)(B), Title 14, California Code of Regulations). This is also one of the reasons why the U.S. Fish and Wildlife Service on April 12, 1989 added the genus to its nationwide list of injurious wildlife (Lacey Act, 50 CFR 16.13). Importation of the crabs would require the approval of both the Commission and the Service.

"There are two additional reasons for opposition to the importation of mitten crabs. The first involves its burrowing behavior. This is summarized (February 14, 1986 letter) by Dr. Dustin D. Chivers, Senior Scientific Assistant of the Department of Invertebrate Zoology of the California Academy of Sciences: 'In my opinion this crab should be given the highest priority as a potential environmental threat to California, especially the San Francisco Bay Delta system. This crab is a native of mainland China, but has been introduced into northern Europe. The mitten crab is a notorious borer and has caused millions if not billions of dollars damage to dikes in Holland and Germany. I shudder to think of what could happen to our delta if this crab started its boring activities into our levee system and our earth fill agricultural canals.'

"The final reason is the threat to our native aquatic life, should the mitten crab become established in our estuarine and fresh waters. Dr. Mary K. Wicksten, Assistant Professor of the Department of Biology at Texas A & M University, noted (April 8, 1986 letter), 'Ecological effects of the mitten crab are poorly documented. However, large, active crabs often eat smaller crustaceans and mollusks, which could pose problems for native fresh-water species. Big, active crabs have been known to feed on hatchling birds and turtles. To make matters worse, large crabs have been known to cross land at night or during rain storms, allowing them to colonize new areas rapidly...I hasten to add that the mitten crab may be a host for other parasites and diseases alien to California--crabs have their own infections, including bacterial joint disease, molting failure diseases, gill parasites, and protozoan infections that might spread from the mitten crab to native decapod crustaceans.'

"The Department might reconsider its opposition to the proposed importation, if the disease and parasite question could be resolved, and if only dead, processed crabs were marketed. However, many seafood consumers are very concerned about food freshness and pay a premium price for certain live fish and shellfish. Until it was prohibited by the Commission, Asian-American markets in the Los Angeles Metropolitan Area and the Bay Area sold live mitten crabs at prices ranging from \$12.50 to \$14.50 per pound. It is this sale of live crabs that concerns us.

"Despite the high price of the crabs and the illegality of the act, some individuals will release them into public waters. They may hope to establish local populations for later harvest and personal use. Also, they may believe that this new source might reduce the high retail prices. Another motive has religious connotations. Some members of the Asian-American community have been known to purchase turtles from local markets for release into the wild in the belief that this will grant greater longevity to the rescuers. This practice may extend to fish and shellfish.

"Due to their high value, legalization of the sale of live mitten crabs would almost certainly result in the smuggling into California of live crabs from the Orient. Under the Commission's strong existing prohibited species laws and regulations, the very possession of live mitten crabs in California can lead to immediate confiscation and possible other legal action. Law enforcement effectiveness, however, would be seriously hampered if wardens were forced to distinguish between legal and illegal crabs.

"We need to assume a conservative stance on exotic species, especially with the many serious drawbacks associated with the mitten crab. If there is academic interest in the diseases and parasites of the crab, those studies should be conducted where the crab is indigenous."

Action

Hal Cribbs, private consultant hired to Mr. Balderrama, discussed Mr. Balderrama's request to import Chinese mitten crabs to his research facility at Newberry Springs in San Bernardino County. Mr. Cribbs submitted numerous letters from citizens in the surrounding area, attesting to Mr. Balderrama's standing in the community. He explained that Mr. Balderrama's facility was a 50-acre, secured facility with three full-time employees. He stated that Mr. Balderrama was certain that his facility could be secured from the escape of the organisms, and Mr. Balderrama was willing to make the certification of the health of the mitten crabs prior to their being imported. Mr. Cribbs explained that Mr. Balderrama wished to establish a local broodstock for the species and when the supply was large enough, they would be used by his restaurant. Mr. Cribbs assured the Commission that the security issue had been addressed regarding the transportation of the animals from the Newberry Springs breeding facility to the restaurant. He explained that his client would be able to conduct his business in a fashion that would not harm the State's environment or citizens. He discussed at length the issue of escape of mitten crabs into the wild and the issue of their potential to introduce diseases into the human population. He stated that Dr. David Soleymani had agreed to conduct studies on the species to determine if they could be safely imported and maintained in a disease-free environment. Mr. Cribbs stated that the issuance of a permit for importation of this species would be precedent setting because the Commission often allowed permits for prohibited species with no negative effect upon the environment or the Department's ability to manage native wildlife.

Dr. Soleymani discussed the life cycle of the mitten crab and the parasites that could be transferred by the mitten crabs. He explained that once the life cycle of the parasites had been eliminated, they were no longer a threat to the crab or to other animals that could act as hosts.

Mr. Cribbs stated that Mr. Balderrama was aware of his responsibilities in bringing this crab into the United States, and he was willing to comply with whatever conditions and stipulations the Department of Food and Agriculture and the Department of Fish and Game chose to put on his permit to allow him to import this species.

Executive Director Treanor stated that letters had been received from the Department of Water Resources, Department of Food and Agriculture, and the Department of Health Services opposing the importation of this species to the State.

Jerry Clark, Department of Food and Agriculture, expressed his Department's concern regarding Mr. Balderrama's request, and stated that his Department was opposed to the issuance of a permit authorizing Mr. Balderrama to possess and import Chinese mitten crab. He then enumerated the reasons for his Department's opposition to the request.

Mr. Balderrama expressed his desire to import the Chinese mitten crabs because a large number of people in his community were Chinese and eating mitten crab was part of their ethnic heritage. He stated that he had made extensive changes in his effort to upgrade the security of his facility so that escape of the crabs was impossible.

Deputy Director Petrovich responded that the species was prohibited because of its disease threat to humans and its burrowing damage the crabs could do in earthen levees. Mr. Petrovich also stated that the U. S. Fish and Wildlife Service had followed the lead of the State of California in listing Chinese mitten crabs as a detrimental species.

Commissioner Owen stated that it would not be prudent for the Commission to go against the advice of the U. S. Fish and Wildlife Service, Departments of Food and Agriculture, Health Services, and Water Resources, as well as the Department of Fish and Game on this issue.

Commissioner McGeoghegan complimented Mr. Balderrama on the experts that he had commissioned to conduct studies for him; however, he expressed his agreement with Mr. Owen regarding the Commission going against the advice of numerous state and federal agencies.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. BOREN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF FRED BALDERRAMA, MONTEREY PARK, FOR AUTHORIZATION TO
IMPORT AND POSSESS CHINESE MITTEN CRAB (Eriocheir sinensis)
FOR SCIENTIFIC PURPOSES.

PASSED UNANIMOUSLY.

Mr. Cribbs asked the Commission if it would reconsider the importation of the mitten crabs if they were dead in order for them to conduct the parasitic studies.

Commissioner Owen stated he was still concerned with the parasite issue. Commissioner Biaggini instructed Mr. Cribbs to present a new petition to the Commission requesting the importation of dead mitten crabs.

24. REQUEST OF THE U.S. FISH AND WILDLIFE SERVICE FOR MODIFICATION OF THE CALIFORNIA CONDOR PROGRAM MEMORANDUM OF UNDERSTANDING TO TRANSFER PART OF THE CALIFORNIA CONDOR CAPTIVE BREEDING COLONY TO THE WORLD CENTER FOR BIRDS OF PREY IN BOISE, IDAHO.

Summary of Issue

The U. S. Fish and Wildlife Service (USFWS) is requesting a modification of the Condor Program Memorandum of Understanding (MOU). Specifically, the USFWS requests approval for a third condor breeding facility to allow up to 10 captive-bred condors to be transferred in August or September 1993 to the World Center for Birds of Prey, Boise, Idaho.

Department Recommendation

"The Department of Fish and Game requests that the subject item be placed on the agenda for Commission approval at the June meeting.

"As indicated at the Commission's May 14, 1993 meeting, the Department has received the U. S. Fish and Wildlife Service's letter requesting a modification of the August 1, 1991 MOU relating to the California Condor conservation program. The Commission has been provided with copies of this letter. The Service requests Commission approval of an amendment to the MOU, pursuant to conditions #3 and #12, to recognize the World Center for Birds of Prey, Boise, Idaho, as the third condor breeding facility and to allow up to 10 captive-bred condors to be transferred in August or September 1993 to that facility. The Boise facility is operated by The Peregrine Fund, and its condor breeding operations would be made part of the interagency condor recovery program. That facility has already received approval by the Fish and Wildlife Service for breeding California Condors.

"Attached to the Service's request are copies of background information on selection criteria for condor breeding facilities and information about the World Center for Birds of Prey. (The Commission has been provided with copies.)

"The Department is evaluating the proposal and will provide the Commission with recommendations for revised MOU conditions prior to the June 17-18 meeting."

Action

Robert Mesta, U. S. Fish and Wildlife Service, provided the Commission with a status report on the California Condor Recovery Program. He explained that the facilities they wished to transfer the 10 birds, meet all of the U. S. Fish and Wildlife Service's standards of adequacy. He requested authorization to transfer 10 to 12 birds to the Boise, Idaho facility and to amend the Memorandum of Understanding (MOU) to allow that transfer.

Dr. Michael Wallace, Los Angeles Zoo Curator, provided a status report on the facilities being developed at the Los Angeles Zoo.

David Remling, San Diego Zoo, provided a status report on the program at the San Diego Wild Animal Park and stated that the authorization for the transfer of condors would allow the expansion of the program, as well as allowing more fledglings to be released into the wild.

Commissioner Taucher asked questions regarding the funding for the transfer of these species from one zoo to the other. Mr. Remling responded that the transfer of these birds would not cost California residents anything.

Commissioner McGeoghegan asked for an estimate of what the number of birds should be in the wild for the U. S. Fish and Wildlife Service to consider delisting the species. Mr. Mesta responded that they wanted to establish two separate wild populations, each with 150 birds and at least 10-15 breeding pairs. He stated that the breeding population would need to be self-sustaining and the 150-bird population would have to be in a secure, safe habitat. He noted that once the populations had reached those levels, the Federal Government would downlist the species to the level of threatened. Mr. Mesta then indicated that the Federal Government was evaluating areas in Arizona and New Mexico in which to establish one of the 150-bird population. He pointed out that the U. S. Fish and Wildlife Service was requesting an amendment to the MOU to allow for the transfer of these birds out-of-State to establish breeding populations at three other facilities; however, at this time, they were requesting that the MOU be amended to transfer the animals to the World Center for Birds of Prey in Boise, Idaho.

Terry Mansfield stated that the Department fully supported the amendment to the MOU to allow the transfer of these 10-12 birds out-of-State.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE U.S. FISH AND WILDLIFE SERVICE FOR AN AMENDMENT TO THE CALIFORNIA CONDOR PROGRAM MEMORANDUM OF UNDERSTANDING TO TRANSFER TEN (10) CAPTIVE-BRED CALIFORNIA CONDORS TO THE WORLD CENTER FOR BIRDS OF PREY, IN BOISE, IDAHO, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

25. COMMISSION FINDING REGARDING THE PETITION TO LIST THE MORRO BAY MANZANITA (Arctostaphylos morroensis) AS A THREATENED SPECIES.
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Summary of Issue

As background, on December 5, 1991, pursuant to Section 2074.2 of the Fish and Game Code, the Commission found that the petition contained sufficient information to determine that the petitioned action may be warranted. Pursuant to Section 2074.6 of the Fish and Game Code, the Department undertook a review of the petition and was to report back to the Commission within 12 months.

The Commission, at its December 4, 1992 meeting in Eureka, received the Department's report and recommendation regarding the petition to list the Morro Bay manzanita (Arctostaphylos morroensis) as a threatened species. This issue was then scheduled for the Commission's January 5, 1993 meeting where it was to receive public comments, discuss the Department's report and recommendation and then, pursuant to Section 2075.5 of the Fish and Game Code, the Commission was to make a finding of whether or not the petitioned action was warranted.

After hearing the testimony, the Commission's vote ended in a 2-2 deadlock. Therefore, the Morro Bay manzanita remains a candidate species and at that time, the Commission indicated it would reconsider the petition at its June meeting in Bridgeport. In the interim, the Commission requested that the Department work with the petitioner, State Parks, local government, environmental organizations and interested landowners to initiate the development of a management plan.

The Commission, under the legal criteria for listing set forth in the California Endangered Species Act, is not authorized to give consideration to potential economic losses, present or future, in making the factual determination as to whether listing is warranted. Both the determination of said economic impacts and the resolution of such conflicts are left to other agencies under California law on a case-by-case basis. The Commission's

position is that, in implementing the California Endangered Species Act, it is not legally permitted to consider economic impacts and no implications should be drawn from this action that it has such authority, or that it has exercised it.

Department Recommendation

"Background:

"On December 5, 1991, the Commission designated Morro Bay manzanita (Arctostaphylos morroensis) a candidate species for threatened status. Following that action, and as provided for in the California Endangered Species Act (CESA), the Department of Fish and Game undertook a review of the existing information, and presented the Commission with its report and recommendation on the listing at the January 5, 1993 meeting in Palm Springs. At that meeting, the Commission's vote on the listing was tied, and the manzanita remained a candidate species. The Commission directed the Department to work with the petitioner, State Parks, local government, environmental organizations, and interested landowners to initiate the development of a management plan for Morro Bay manzanita. The Commission indicated that it would reconsider the listing of the manzanita as a threatened species at its June 17-18, 1993 meeting in Bridgeport.

"Scope:

"The Department believes that an ecosystem based approach is key to the conservation of Morro Bay manzanita and other sensitive resources in the Morro Bay area. We believe that a multispecies regional conservation plan should be developed which will integrate conservation of Morro Bay manzanita with that of Morro Bay kangaroo rat and several other sensitive plant and animal species in the area. The objective of such a plan is to achieve permanent protection for the species and their habitats while allowing for appropriate development in the area.

"Progress to Date:

"We have discussed possible mechanisms for developing an ecosystem based regional conservation plan with the California Coastal Conservancy and San Luis Obispo County, and developed a list of major participants. Both agencies are very interested in cooperating in a coordinated planning effort. During our discussions, the Land Conservancy of San Luis Obispo County, a local nonprofit organization that protects natural resources through voluntary acquisition of title or easements, offered to facilitate development and implementation of the plan. After discussing other possible

options for facilitation, we decided that the Land Conservancy's involvement would be helpful. The Coastal Conservancy provided the Land Conservancy initial funding to determine whether or not sufficient interest exists among local landowners, agencies, and conservation groups to proceed with the development of such a plan.

"The Land Conservancy has contacted and interviewed all major landowners as well as representatives of conservation groups and Federal, State, and local agencies. It has received a positive response from all areas of interest. The Land Conservancy has determined that there is sufficient interest in resolving conflicts over land use and protection of natural resources to proceed with the initial phases of developing a regional plan. Firm commitments of funding for developing and implementing the plan have not been secured.

"We have met several times with Mr. Ray Belknap of the Land Conservancy to discuss how to integrate an ecosystem based conservation plan into two ongoing local planning efforts, the Baywood and Los Osos Greenbelt and the Morro Bay Kangaroo Rat Habitat Conservation Plan (HCP). The goals of the Greenbelt are to create an urban boundary for the communities of Baywood and Los Osos, to provide open space for the people living in these communities, and to protect the tremendous biological diversity of the land surrounding the communities. The Kangaroo Rat HCP is still in the development stages. We believe that the opportunity is before us to integrate these planning efforts into an ecosystem based approach to conserving the sensitive resources in the Morro Bay region.

"Next Step:

"The Land Conservancy is ready to proceed by bringing together all of the major participants in the upcoming months. As a first step, it will facilitate a two-day meeting of the key players to discuss overall goals and objectives, planning area, scope of work, integration of planning efforts, funding needs, potential sources of funding, and a schedule for implementation. Last minute discussions are ongoing as to format, agenda, and date. The meeting will result in an outline and schedule for plan development and implementation, and allow key players to proceed with a common understanding.

"Recommendation:

"In the past six months, we have worked with the Land Conservancy, San Luis Obispo County, and the California Coastal Conservancy to initiate development of a regional, ecosystem based conservation plan which includes Morro Bay

manzanita and other sensitive resources in the Morro Bay area. We consider the initial efforts of the Land Conservancy to bring together key players a necessary beginning for the eventual development of an integrated conservation plan. We look forward to continued coordination with the Land Conservancy, landowners, conservation groups, and local, State, and Federal agencies.

"Given the progress made to date and the upcoming plans for a meeting of the key players to discuss development of the conservation plan, we request that you postpone a decision on the listing of Morro Bay manzanita until the August 5-6, 1993 Commission meeting."

Action

Executive Director Treanor summarized the history of the issue. He explained that the Department had been meeting and working with all interested parties to develop a plan for protection of the species. He indicated that some progress was being made, but that a program had not been finalized; therefore, the Department recommended that this item be postponed until the August 5-6 meeting to allow additional time to work with all interested parties.

Bill Geyer, representing the main landowner, supported the Department's recommendation to postpone this item until the Commission's August 5-6 meeting.

26. AMENDMENT OF COMMISSION POLICIES RE: PUBLICLY OPERATED REARING PROGRAMS FOR SALMON AND STEELHEAD; STEELHEAD AND SALMON; AND STEELHEAD RAINBOW TROUT.

Summary of Issue

This item is scheduled to consider the Department's recommendations for amendments of the Commission's policies regarding Publicly Operated Rearing Programs for Salmon and Steelhead, Steelhead and Salmon and Steelhead Rainbow Trout. The Department's recommendations were received at the Commission's May 14, 1993 meeting in Bakersfield. Staff was directed to schedule this matter for action at the Commission's June meeting in Bridgeport.

Action

Executive Director Treanor stated that these draft policy amendments had been submitted to the Commission at its prior meeting, and the Department recommended adoption of these modifications to the policies. He indicated that the Department requested additional time, until the Commission's August 5-6 meeting to prepare its comments on the next four policies.

Commissioner Taucher asked for clarification on the policy relating to Publicly-operated Rearing Programs for Salmon and Steelhead. Deputy Director Petrovich responded that the Department wanted to have a stronger control over the implementation of the programs conducted under this policy. He explained that the Department wanted to study the effects of these programs on the native steelhead populations by the introduction of pen-reared salmon into areas where historically they were not found.

It was then:

MOVED BY MR. TAUCHER, SECONDED BY MR. OWEN, THAT THE FISH AND GAME COMMISSION HEREBY AMENDS ITS PUBLICLY-OPERATED REARING PROGRAMS FOR SALMON AND STEELHEAD, STEELHEAD AND SALMON AND STEELHEAD RAINBOW TROUT POLICIES AS FOLLOWS:

~~PUBLICLY OPERATED REARING PROGRAMS
FOR SALMON AND STEELHEAD~~

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

~~I. Support the utilization of the state's salmon and steelhead resources for public rearing programs within the following constraints:~~

~~A. Only those fish surplus to the needs of the Departments programs shall be utilized for such programs.~~

~~B. The suitability and acceptance or rejection of proposed programs shall be determined by the Department.~~

~~C. Priority of allotment of available surplus fish among acceptable programs shall be based on past performance on existing programs and the Department's evaluation of the potential of proposed new programs.~~

~~D. Routine care and food costs shall be the financial responsibility of the sponsoring group. The Department will provide technical advice and counsel and special assistance as appropriate.~~

~~II. It is recognized that natural production provides the great bulk of the state's salmon and steelhead resources. The Department's goals of maintaining and improving this production shall not become subservient to the goals of publicly operated rearing programs.~~

COOPERATIVELY OPERATED REARING PROGRAMS
FOR SALMON AND STEELHEAD

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

I. The State's salmon and steelhead resources may be used to support cooperative rearing programs. Rearing programs may be of two types: (1) those that grow fish for use in accelerating the restoration/ rehabilitation of depleted wild populations in underseeded habitat and (2) those that are dedicated solely to growing fish for harvest. The following constraints apply to both types:

A. Only those fish surplus to the needs of the Department's programs shall be utilized for such programs and allocation shall be based on past performance and the Department's evaluation of the potential of proposed new programs.

B. The suitability and acceptance or rejection of proposed programs shall be determined by the Department, after reviewing a written proposal. A written project and management plan providing for evaluation and covering a period of five years must be evaluated and approved by the Department. Prior to reauthorization the Department must determine that the project is in compliance with the approved plan and continuance of the program is in the best interest of the State's fishery resources.

D. Routine care and food costs shall be the financial responsibility of the sponsoring entity. The Department shall provide technical advice and special assistance as appropriate.

E. Fish raised in these programs shall not be stocked in, or broodstock captured from, waters where the Department has determined that adverse effects to native fish populations or other ~~beneficial~~ aquatic species may result.

II. The bulk of the state's salmon and steelhead resources shall be produced naturally. The State's goals of maintaining and increasing natural production takes precedence over the goals of cooperatively operated rearing programs.

SALMON

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

I. Salmon shall be managed to protect, restore and maintain the populations and genetic integrity of all identifiable stocks. Naturally spawned salmon shall provide the foundation for the Department's management program.

II. All salmon streams shall be evaluated and the stocks classified according to their probable genetic source and degree of integrity. The stock classification system will define the role of artificial propagation in each stream.

[II] III. Salmon streams shall be inventoried for quantity and quality of habitat, including instream flows requirements. Restoration plans shall identify habitats for restoration and acquisition and opportunities to protect or guarantee future instream flows. Commercial Salmon Trollers Stamp and other funding shall be directed to implement the plans.

[III] IV. Existing salmon habitat shall not be diminished further without offsetting the impacts of the lost habitat. All available steps shall be taken to prevent loss of habitat, and the Department shall oppose any development or project which will result in irreplaceable loss of fish. Artificial production shall not be considered as appropriate mitigation for loss of wild fish or their habitat.

[IV] V. Salmon shall be rescued only when they will be returned to the stream system of origin. Rescue of juvenile salmon shall be limited to circumstances where fish can be held until habitat conditions improve, or where immediate release can be made in understocked areas of their natal stream system.

[V] VI. In coastal streams without Department hatcheries, artificial rearing shall be limited to areas where the Department determines it would be beneficial to supplement natural production to re-establish or enhance the depleted wild population. In the Sacramento, American, Feather, San Joaquin, Klamath, and Trinity river systems, hatchery production shall be used to meet established mitigation goals. At the discretion of the Department excess eggs and fish from state, federal, or cooperative hatcheries may be used to provide additional fish for the commercial and sport fisheries.

[VI] VII. Resident fish will not be planted in coastal salmon streams, except after prior Commission approval. [or resident fisheries developed in drainages of salmon waters, where, in the opinion of the Department, such planting or development will interfere with salmon populations. Exceptions to this policy may be authorized by the Commission (a) where the stream is no longer adaptable to anadromous runs, or (b) during the mid-summer period in those individual streams considered on a water-by-water basis where there is a high demand for angling recreation and such planting or development has been determined by the Department not to be detrimental to salmon.]

~~STEELHEAD AND SALMON~~

~~It is the policy of the Fish and Game Commission:~~

~~I. To maintain an adequate breeding stock, suitable spawning areas, and provide for natural rearing of the young to migratory size. Hatchery production shall be limited to areas where it is necessary to supplement natural production in coastal streams.~~

~~II. That resident fish will not be planted or developed in coastal steelhead and salmon streams, except after prior Commission approval (a) where the stream is no longer adaptable to anadromous runs, or (b) during the mid-summer period in those individual streams considered on a water-by-water basis where there is a high demand for angling recreation and such planting or development has been determined by the Department not to be detrimental to the anadromous species.~~

~~III. That salmon and steelhead may be rescued whenever the water supply in a stream is inadequate to maintain fish life.~~

~~STEELHEAD RAINBOW TROUT~~

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

~~I. The steelhead rainbow trout in California is recognized as a valuable resource with strict environmental requirements and a limited range. Steelhead waters include all streams or stream sections accessible to steelhead along the California coast and in the Sacramento-San Joaquin River drainage above the Delta, and such other waters as the Commission may designate.~~

~~II. The greatest fishery value of this resource is its potential to provide recreational angling for sea-run fish. Management shall be directed toward providing angling, maintaining a vigorous, healthy resource. Angling for juvenile steelhead will be restricted to the extent necessary to insure optimum spawning stock and angling opportunity for sea-run fish.~~

~~III. Resident fish will not be planted or developed in steelhead waters. Resident fish will not be planted or developed in drainages of steelhead waters, where, in the opinion of the Department, such planting or development will interfere with steelhead populations. Programs on threatened or endangered species, within the species natural range, are excepted.~~

~~IV. California's steelhead resources are largely dependent upon the quality and quantity of habitat. Because of damage and threats to this restricted habitat, emphasis shall be placed on management programs to inventory and protect and, wherever possible, restore or improve the habitat of natural steelhead stocks.~~

~~V. The Department shall seek prevention or alleviation of those aspects of projects, developments or activities which would or do exert adverse impact on steelhead habitat or steelhead populations. All available steps will be taken to prevent loss of habitat, and the Department shall oppose any development or project which will result in irreplaceable losses of fish.~~

~~VI. The Department shall develop and implement plans and programs to improve the protection of steelhead habitat including, but not limited to, assessment of habitat status and adverse impacts, land use planning, acquisition of interests in streams threatened with adverse developments, and research on effects on habitat changes caused by activities such as overgrazing, gravel extraction, logging, road construction, urbanization and water development.~~

~~VII. The Department shall develop and implement programs to measure and, where appropriate, increase steelhead population size and angler use and success, consistent with the objectives of providing quality angling and maintaining a healthy resource.~~

~~VIII. Artificial propagation of steelhead, except for mitigation, shall be for the purpose of improving angling for sea-run fish, and should include strains or varieties of steelhead which have the greatest potential to contribute to recreational angling. Artificial production of rearing and stocking programs shall be managed so as to produce minimal interference with natural salmonid stocks, and such programs shall be periodically reviewed to assess their effects on these stocks.~~

~~IX. Juvenile steelhead rescue shall be limited to instances where habitat conditions are temporarily inadequate to maintain fish life and when suitable rearing areas are available with the capacity to rear rescued fish to smolts without impairment of other steelhead populations. Rescue should be undertaken only in special circumstances involving large numbers or steelhead of special significance.~~

~~X. The following streams or stream sections are deleted from the steelhead waters described in item I of this policy.~~

Big Lagoon	Humboldt County
Stone Lagoon	Humboldt County
Arroyo Seco Creek	Monterey County
Nacimiento River	San Luis Obispo County
North Fork Battle Creek	Shasta County, upstream from Manton
Cow Creek	Shasta County, upstream from Fern Road and Ingot
Middle Fork Cottonwood Creek	Shasta County, upstream from Platina

Antelope Creek	Tehama County, upstream from Ponderosa Way
Beegum Creek	Tehama County, upstream from Beegum
Deer Creek	Tehama County, upstream from Highway 32 at Windy Cut
Mill Creek	Tehama County, upstream from Hole in the Ground Camp

STEELHEAD RAINBOW TROUT

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

I. Steelhead rainbow trout shall be managed to protect and maintain the populations and genetic integrity of all identifiable stocks. Naturally spawned steelhead shall provide the foundation of the Department's management program.

~~II. All steelhead streams shall be evaluated and the stocks classified according to their probable genetic source and degree of integrity. The stock classification system will define the role of artificial propagation in each stream.~~

[II] III. Steelhead shall be rescued only when they will be returned to the stream system of origin. Rescue of juvenile steelhead shall be limited to circumstances where fish can be held until habitat conditions improve, or where immediate release can be made in understocked areas of their natal stream system.

[III] IV. Restoration and acquisition plans shall be developed and implemented to safeguard such critical habitats as estuaries, coastal lagoons, and spawning and rearing areas, and to protect or guarantee future instream flows. All steelhead streams shall be inventoried for quantity and quality of habitat, including stream flow conditions. Steelhead Restoration Card and other funding shall be directed to implement the plans.

IV. Existing steelhead trout habitat shall not be diminished further without offsetting mitigation of equal or greater long-term habitat benefits. All available steps shall be taken to prevent loss of habitat, and the Department shall oppose any development or project which will result in irreplaceable losses. Artificial production shall not be considered appropriate mitigation for loss of wild fish or their habitat.

V. Sport fishing for sea-run steelhead shall be encouraged where the Department has determined that harvest will not harm existing wild populations. Harvest of juveniles shall only be permitted where such harvest does not impair adequate returns of

adults for sport fishing and spawning. Special restrictions on the harvest of wild juvenile steelhead may be necessary when a fishery includes both wild and hatchery stocks.

[VI. Resident fish will not be planted or resident fisheries developed in drainages of steelhead waters, where, in the opinion of the Department, such planting or development will interfere with steelhead populations.] ~~Resident trout will not be planted in waters accessible to sea-run steelhead except as specifically permitted by the Commission and listed below.~~

[VII. Exceptions to this policy may be made by the Commission (a) where the stream is no longer adaptable to anadromous runs, or (b) during the mid-summer period in those individual streams considered on a water-by-water basis where there is a high demand for angling recreation and such planting or development has been determined by the Department not to be detrimental to steelhead. The following waters are excepted.]

Nacimiento River
North Fork Battle Creek

Cow Creek

Antelope Creek

Deer Creek

American River

San Luis Obispo County
Shasta County, upstream from
Manton

Shasta County upstream from
Fern Road and Ingot

Tehama County, upstream from
Ponderosa Way

Tehama County, upstream from
upper Deer Creek Falls

Sacramento County, only in
Arden Pond

PASSED UNANIMOUSLY.

CONSENT CALENDAR

Items 27 through 45 have been placed on the Commission's consent calendar. Your 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. Your staff prepared a summary of consent items which was made available to the audience. One overall motion is appropriate for approval of these items.

Action

Executive Director Treanor stated that staff knew of no opposition to any of the consent calendar items. Mr. Treanor then asked if anyone from the audience wished to discuss any of

these items, and there was no response. He explained that Item Number 36 had been removed from the consent calendar and was handled administratively by the Department.

It was then:

MOVED BY MR. BOREN, SECONDED BY MR. OWEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES ITS
JUNE 18, 1993 CONSENT CALENDAR, ITEMS 27-35 AND 37-45.

PASSED UNANIMOUSLY.

27. AMENDMENT OF SECTION 121.5, TITLE 14, CCR, RE: SPINY
LOBSTERS.

Summary of Issue

The Commission, at its April 2, 1993 meeting in Sacramento, authorized its staff to publish notice of its intent to amend Section 121.5, Title 14, CCR, regarding spiny lobsters. That legal notice has been published. The Department's proposal can be summarized as follows:

"At present, neither the Fish and Game Code, nor Title 14 of the California Code of Regulations, specify the manner in which lobsters must be maintained for verification of size by Fish and Game personnel. Processors of lobsters are occasionally cutting undersize lobsters in such a way as to prevent verification of legal size; this could endanger the lobster resources by excessive taking of immature lobsters.

"The proposed addition to the regulation would add Section 121.5 to Title 14, CCR, requiring that all lobsters taken, possessed, transported or sold be maintained in such a way as to permit verification of size until prepared for immediate consumption or sold to the ultimate consumer. This would give enforcement personnel a way to identify undersize lobster and take the necessary action to prevent further removal of undersize lobster from their natural habitat."

The Commissioners received a copy of the Department's Pre-publication of Notice and Pre-adoption Statements and the text of the regulations in strikeout/underline format.

28. AMENDMENT OF SECTION 630, TITLE 14, CCR, RE: ECOLOGICAL
RESERVES.

Summary of Issue

The Commission, at its April 2, 1993 meeting in Sacramento authorized its staff to publish notice of its intent to amend Section 630, Title 14, CCR, regarding ecological reserves. That legal notice has been published. The Department's proposal can be summarized as follows:

"The proposed regulatory change would designate three areas as State ecological reserves. They are: McGinity Mountain, Oasis Springs, and King Clone ecological reserves. At present, these properties, owned by the State, are undesignated. The proposed regulatory amendment will provide authority to the Department to protect wildlife habitat values thereon, and will regulate public use and authorize certain departmental management activities.

"The Department also proposes to add the following lands to existing ecological reserves:

- "(1) Blue Sky Ecological Reserve: 86.5 acres owned by the County of San Diego to be added to the existing Blue Sky Ecological Reserve for regulatory purposes to protect wildlife and habitat resources.
- "(2) Coachella Valley Ecological Reserve: contiguous lands owned by the Bureau of Land Management, the U.S. Fish and Wildlife Service, and The Nature Conservancy to be added to the existing Coachella Valley Ecological Reserve for regulatory purposes to protect wildlife and habitat resources.

"The proposed regulatory change also will accommodate or restrict public use as outlined below:

- "(1) Oasis Springs Ecological Reserve: Authorizes the Department to prohibit fishing on the area and to allow hunting on the area in accordance with the general hunting regulations.
- "(2) By-Day Creek Ecological Reserve: Authorizes the Department to allow hunting on the area in accordance with the general hunting regulations."

The Commissioners received a copy of the Department's Pre-publication of Notice and Pre-adoption Statements and the text of the regulations in strikeout/underline format.

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

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of Commission intent to consider proposed changes in Section 163, Title 14, CCR, regarding commercial herring fishery. The Commissioners received the Department's Pre-publication of Notice Statement as well as the proposed regulations in strikeout/underline format. Those changes are summarized as follows:

"Under existing law (Section 163, Title 14, CCR), herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permit qualifications; permit validation requirements; permit limitations; permit areas; seasons; fishing quotas; gear restrictions; and landing and monitoring requirements.

"The proposed amendments will establish fishing quotas by area and gear type for the 1993-94 herring fishing season, based on the most recent assessments of the size of the herring spawning populations in San Francisco and Tomales Bays. In addition, other changes relating to seasons, temporary substitutions, use of beach seines, notification requirements, closed fishing areas, and revocation of permits are recommended to improve or provide for the efficient harvest and orderly conduct of the herring fishery. The following is a summary of the most significant changes proposed for Section 163, Title 14, CCR.

- "- Close the herring fishery in San Francisco Bay until the season following a spawn escapement greater than 26,000 tons.
- "- Provide for an initial 300 ton fishing quota in Tomales Bay.
- "- Eliminate the restriction that a temporary substitution shall not be granted for more than two consecutive years.
- "- Repeal provision allowing use of beach seines in Tomales Bay.
- "- Require round haul permittees to notify Department within 24 hours if they terminate fishing operations prior to taking their individual quota.
- "- Prohibit use of nets within 300 feet of fishing pier at Fort Baker.
- "- Change "Point Tiburon" to "Elephant Rock" for Belvedere Cove closure.
- "- Provide that a temporary substitute may not participate in any herring fishery for the following season if a permit is suspended or revoked while under his/her control.

"In addition, the Commission will consider the option of providing for a small San Francisco Bay fishing quota for the 1993-94 herring season, under specified conditions."

The Commission will receive public comments on these proposed changes at its August 6, 1993 meeting in Crescent City. The adoption hearing is scheduled for August 27, 1993 in Sacramento.

30. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 164, TITLE 14, CCR, RE: HARVESTING OF HERRING EGGS.

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of its intent to consider proposed changes in Section 164, Title 14, CCR, regarding harvesting of herring eggs. The Commissioners received the Department's Pre-publication of Notice Statement as well as the proposed regulations in strikeout/underline format. Those changes are summarized as follows:

"Under existing law, herring eggs on kelp may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. In addition, every person taking herring eggs must pay a royalty, as the Commission may prescribe, of not less than fifty dollars (\$50) per ton of herring eggs taken. Current regulations specify: permit numbers; permit qualifications; method of take; season; permit areas; permit limitations; landing and processing requirements; fishing quotas; gear restrictions; monitoring requirements; and a royalty fee of \$500 per ton of herring eggs taken.

"The proposed amendments to Section 164, Title 14, CCR will: establish a fishing quota of 0 tons until the season following a spawn escapement greater than 26,000 tons; require permittees to notify the Department's Menlo Park office rather than the Region 3 office prior to harvesting operations; and prohibit the harvest of herring eggs on kelp between the hours of 10 p.m. and 6 a.m., or at any time on Saturdays and Sundays without prior Department approval.

"In addition, the Commission will consider the option of providing for a small fishing quota for the 1993-94 herring season pursuant to Section 163, Title 14, CCR. If this option is adopted, quotas for herring-egg-on-kelp fishermen will be 3.8 tons for round haul permittees and 0.9 tons for gill net permittees."

The Commission will receive public comments on these changes at its August 6, 1993 meeting in Crescent City. The adoption hearing is scheduled for August 27, 1993 in Sacramento.

31. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 180.2, TITLE 14, CCR, RE: TRAP DESTRUCTION DEVICES.

Summary of Issue

The Department requests that the Commission authorize its staff to publish notice of Commission intent to consider proposed changes in Section 180.2, Title 14, CCR, regarding trap destruction devices. The Commissioners received the Department's Pre-publication of Notice Statement as well as the text of the regulations in strikeout/underline format. Those changes are summarized as follows:

"Existing law does not designate 24 gauge crimps (J clips/cage clips) or cotton twine size No. 21 as approved destruct devices for traps. This appears to be an oversight in the original adoption of §180.2 since these devices had been Department-approved destruct devices for many years prior to enactment of this section.

"This proposed regulation would add 24 gauge crimps and cotton twine size No. 21 to the current list of approved destruct devices."

The Commission will consider adoption of these regulations at its August 27, 1993 meeting in Sacramento.

32. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT (1) VALENCIA WATER RECLAMATION PLANT CONSERVATION EASEMENT; (2) CITY OF SAN MARCOS CONSERVATION EASEMENT; AND (3) CENCAL INVESTMENTS CONSERVATION EASEMENT.

Summary of Issue

The Department requests Commission approval for its acceptance of (1) the Valencia Water Reclamation Plant Conservation Easement; (2) City of San Marcos Conservation Easement; and (3) Cencal Investments Conservation Easement. In a memo dated May 11, 1993, the Department provides the following information:

"The Department of Fish and Game requests authorization to accept the above subject conservation easements pursuant to individual mitigation agreements with the grantors.

"The County Sanitation District No. 32 of Los Angeles County (District) is required under a Fish and Game Code, Section 1600, Streambed Alteration Agreement (1600 Agreement) to offset the impacts associated with its Stage IV expansion wall project located at its Valencia Water Reclamation Plant. The project's impacts have

necessitated the District granting Fish and Game a Conservation Easement over 2.53 acres of land. The easement will be located on-site and adjacent to the expansion wall.

"The second easement, also required under a 1600 Agreement, requires the City of San Marcos to offset the impacts associated with the construction of its Town Centre site. The easement is located on 27.4 acres of land adjoining San Marcos Creek in San Diego County. Approximately 12 acres will be used to satisfy the mitigation requirements of the Town Centre site and the remaining acreage will be applied to other projects in the San Marcos corridor.

"Lastly, Cencal Investments, pursuant to Section 2081 of the Fish and Game Code, wishes to transfer a five-acre conservation easement to the Department to offset the impacts associated with their construction project in Three Rivers, Tulare County. The purpose of this mitigation is permanent protection for Kaweah brodiaea, a state-listed species, and its habitat to assure the conservation, restoration, and long-term survival of such listed species." (Commissioners were provided with copies of the conservation easements and associated maps.

33. REQUEST OF E.W. JAMESON, JR., DAVIS, FOR AUTHORIZATION TO IMPORT AND POSSESS ONE PAIR OF CHANGEABLE HAWKEAGLES (Spizaetus cirrhatus) FOR BREEDING PURPOSES.

Summary of Issue

Everett W. Jameson, Jr., Davis, requests authorization to import and possess one pair of Changeable Hawkeagles (Spizaetus cirrhatus) for breeding purposes. In a letter dated May 10, Mr. Jameson provides the following information:

"I am requesting permission (1) to acquire and possess and (2) to breed one pair of changeable hawk eagles (Spizaetus cirrhatus), a common geographically widespread raptor of southeast Asia.

"I am also requesting that this item be placed on the agenda for your June meeting.

"Supporting documents are attached."

Department Recommendation

"Dr. Bill Jameson, Professor Emeritus, U. C. Davis, has requested approval for a Detrimental Species Permit authorizing importation and possession of Changeable Hawkeagles (Spizaetus cirrhatus) for captive breeding purposes.

"The Department of Fish and Game recommends approval of this request. Dr. Jameson is a professional zoologist and longtime falconer with specific experience caring for hawkeagles. He has authored three books that address falconry in the United States, falconry in Japan, and vertebrate reproduction.

"He has provided the required documentation of the need by zoological gardens for the resulting progeny. Other species of hawkeagles, although not Federally listed, are threatened by habitat degradation in Southeast Asia and Dr. Jameson will be developing procedures that will apply to other species like the Java hawkeagle. For that reason, the Department recommends that Dr. Jameson be authorized to import and breed other species (Spizaetus sp.) of hawkeagles so he may become involved with future breeding projects worldwide.

"Dr. Jameson already has a source for the hawkeagles in Indonesia and has applied for the U. S. Fish and Wildlife Service permits."

34. REQUEST OF DAVID RUHTER, FLORIDA LEISURE, SILVER SPRINGS, FLORIDA, FOR AUTHORIZATION TO IMPORT AND POSSESS CERTAIN DETRIMENTAL SPECIES FOR EXHIBITION PURPOSES.

Summary of Issue

David Ruhter, Florida Leisure, Silver Springs, Florida, requests authorization to import and possess certain detrimental species for exhibition purposes. In a letter dated May 13, 1993, Mr. Ruhter provides the following information:

"Silver Springs Attraction and Wildlife park has a possible opportunity to participate in the filming of a television show at CBS Studios, Los Angeles, California between the approximate dates of July 15, 1993 and August 7, 1993. Our animal trainer, Mr. Joel Slaven, has been asked to be the animal expert and speaker on the show. Joel talked with Mr. Jim Zobel on the phone on May 13, 1993 and was advised to send this information to you. We request to be put on the Commission agenda for the June meeting and request for a Detrimental Species Permit. The animals would be going from Silver Springs in Ocala, Florida directly to CBS Studios and staying only for filming and then directly back to Florida.

"The list of animals we would like to bring is attached."
(The Commissioners were provided with copies of this list.)

Department Recommendation

"Mr. David Ruhter, Director of Wildlife for Silver Springs Attraction and Wildlife Park in Florida, has requested approval to import various detrimental species for exhibition during a CBS television production.

"The Department of Fish and Game and the Departments of Health Services and Food and Agriculture have no objections to a permit being approved for all of the animals on the inventory, except the ferret, subject to the following conditions:

- "1. The animals have no direct contact with the general public or other animals in California.
- "2. The animals are returned to Florida immediately after taping the television show.
- "3. The health histories for each animal be reflected on their respective Interstate Health Certificates.
- "4. The protocol below be followed for the skunk and fruit bats:

"the animal handler, trainer or anyone else having direct contact with those animals have specific training regarding bite prevention and be rabies immunized.

"The ferret should not be approved for use during general exhibition because such use tends to promote these animals as pets."

35. REQUEST OF SHANNON L. THOMPSON, E AND E ANIMALS, RIVERSIDE, FOR AUTHORIZATION TO POSSESS A KINKAJOU (Potos flavus) FOR EXHIBITION PURPOSES.

Summary of Issue

Shannon L. Thompson, E and E Animals, Riverside, requests authorization to possess a kinkajou (Potos flavus) for exhibition purposes. In a letter dated May 19, 1993, Ms. Thompson provides the following information:

"E and E Animals is requesting written permission from the California Department of Fish and Game Commission to possess the following detrimental species:

<u>"Common Name</u>	<u>Scientific Name</u>
"kinkajou	Potos flavus

"This request will supplement our current residential exhibit on permit #942, which already includes detrimental species. Our company will display the animal to children in

educational presentation, mainly through school assemblies. We firmly believe that education is the key to conservation and environmental awareness.

"Dorothy Huguen, co-owner of E and E Animals, has had over ten years experience with exotic animals, she also rehabilitates native wildlife and has a wonderful success rate! Shannon Thompson, co-owner, has had over four years experience in handling and exhibiting wild animals and is currently writing a non-fiction book on primates. E and E owners also possess one of the kinkajou's closest relatives, the raccoon.

"The San Diego Wild Animal park wishes to transfer their educational kinkajous to our company. We are very grateful that the reputable organization has chosen our facility and wish to acquire the animals as soon as possible. This South American mammal would make a nice addition to our presentations."

Department Recommendation

"The Department recommends approval of Ms. Thompson's request to amend her current Detrimental Species/Resident Exhibitor's Permit to possess kinkajou (Potos flavus) for exhibition purposes. The animals will be obtained from the San Diego Wild Animal Park.

"The Wildlife Protection Division has contacted the Department of Health Services and the Department of Food and Agriculture and those agencies have no objection to this request."

36. REQUEST OF WILLIAM MACKENZIE, COYOTE POINT MUSEUM, SAN MATEO, FOR AUTHORIZATION TO IMPORT AND POSSESS TWO STRIPED SKUNKS FOR EXHIBITION PURPOSES.

This item has been withdrawn and was handled administratively by the Department.

37. REQUEST OF JOHN MCMULLEN, AB LAB, PORT HUENEME, FOR AUTHORIZATION TO SUBLEASE A PORTION OF KELP BED NO. 17 TO KELCO.

Summary of Issue

Mr. John McMullen, Ab Lab, Port Hueneme, requests authorization to sublease a portion of Kelp Bed No. 17 to Kelco. In a letter dated May 5, 1993, Mr. McMullen provides the following information:

"Ab lab is leasing Kelp Bed No. 17, lease No. L-285(1) effective 1 Jan 1992. In accordance with Section 6708 of the California Fish and Game Code, Ab Lab Aquaculture Industries, Inc., requests permission to sublease a portion of Bed No. 17 on the following terms:

"1. SUBLESSEE

Kelco Company
8355 Aero Drive
San Diego, CA 92123-1718

"2. PORTION OF BED TO BE SUBLEASED

Kelco shall have access to cut kelp canopies in water deeper than 20 ft. within the boundaries of Bed No. 17. In addition, Ab Lab shall have access to all of Bed No. 17 for the purpose of harvesting kelp.

"3. SUBLEASE RENTAL FEE

Ab Lab will not charge Kelco any fee for this proposed sublease. All kelp harvested by Kelco Co. from Bed No. 17 shall apply toward the minimum annual royalty for Bed No. 17. Ab Lab will report all kelp harvested by Kelco Co. on its monthly harvesting report, and appropriate royalty fees will be paid to the State of California on kelp harvested by Kelco Co.

"4. SUBLEASE TERM

The sublease will have an initial term of one year, and would be renewable by Ab Lab for successive one-year terms.

"Ab Lab requests that paragraph 10 of lease No. L-285(1) be amended to authorize Ab Lab to grant this sublease to Kelco Company upon prior approval of the Commission, subject to the conditions that the Commission may prescribe."

Department Recommendation

"The Ab Lab proposes to sublease its exclusive right to harvest the kelp contained in that portion of Kelp Bed No. 17 lying in waters more than 20 feet in depth to Kelco Company, as provided for by Section 6708, Fish and Game Code. The sublease would be for a one-year period, renewable by Ab Lab for successive one-year periods. The Ab Lab would report and remit royalty fees for all kelp harvested by Kelco. Ab Lab would retain the right to harvest kelp from the entire bed. Ab Lab proposes to charge Kelco Company no fee for this sublease other than reimbursement for the royalty fees on the kelp harvested.

"The Department recommends approval of this request to sublease Kelp Bed No. 17 for the one-year period commencing June 20, 1993 and for successive one-year periods, provided that the terms for such successive periods remain the same

as stated above, that Ab Lab provide a signed copy of the sublease to the Commission, and that the Commission be notified by Ab Lab each time the sublease is extended."

38. REQUEST OF FRANK R. OAKES, THE ABALONE FARM, INC., CAYUCOS, FOR AUTHORIZATION TO SUBLEASE A PORTION OF KELP BED NO. 207 TO KELCO.

Summary of Issue

Mr. Frank R. Oakes, The Abalone Farm, Inc., Cayucos, requests authorization to sublease a portion of Kelp Bed No. 207 to Kelco. In a letter dated April 20, 1993, Mr. Oakes provides the following information:

"1. Sublessee

Kelco Company
8355 Aero Drive
San Diego, CA 92123-1718

"2. Portion of Bed To Be Subleased

Kelco Company (Kelco) shall have access to cut kelp canopies of plants growing in waters deeper than 25 feet within the boundaries of Bed No. 207. In addition, AFI shall have access to all of Bed No. 207 for the purpose of harvesting kelp.

"3. Sublease Rental Fee

The Abalone Farm, Inc. will not charges Kelco any fee for this proposed sublease. All kelp harvested by kelco from Bed 207 shall apply toward the minimum annual royalty for Bed No. 207. AFI will report all kelp harvested by Kelco on its monthly harvesting report, and appropriate royalty fees will be paid to the State of California on kelp harvested by Kelco.

"4. Sublease Term

The sublease will have an initial term of one year, and would be renewable by The Abalone Farm, Inc. for successive one-year terms.

"The Abalone Farm, Inc. requests that paragraph 11 of Lease No. L-1100 be amended to authorize AFI to grant this sublease to Kelco Company upon prior approval of the Commission, subject to the conditions that the Commission may prescribe."

Department Recommendation

"The Abalone Farm proposes to sublease its exclusive right to harvest the kelp contained in that portion of Kelp Bed No. 207 lying in waters more than 25 feet in depth to Kelco Company, as provided for by Section 6708, Fish and Game Code. The Abalone Farm would report and remit royalty fees for all kelp harvested by Kelco. The Abalone Farm would retain the right to harvest kelp from the entire bed. The Abalone Farm proposes to charge Kelco Company no fee for this sublease other than reimbursement for the royalty fees on the kelp harvested.

"The Department recommends approval of this request to sublease Kelp Bed No. 207 to Kelco Company for the one-year period commencing June 20, 1993 and for successive one-year periods, provided that the terms for such successive periods remain the same as stated above, that The Abalone Farm provide a signed copy of the sublease to the Commission, and that the Commission be notified by The Abalone Farm each time the sublease is extended."

39. REQUEST OF T.R. ANDREW, MONTEREY KELP CORPORATION, SAN DIEGO, TO RENEW LEASE FOR KELP BED NO. 208 AND TO INCORPORATE IT WITH EXISTING LEASE FOR KELP BED NOS. 209, 210 AND 216.

Summary of Issue

Mr. T. R. Andrew, Monterey Kelp Corporation, San Diego, requests renewal of their lease for Kelp Bed No. 208 and in addition requests that this new lease be incorporated with existing lease for Kelp Bed Nos. 209, 210 and 216. In a letter dated May 11, 1993, Mr. Andrew provides the following information:

"Monterey Kelp Corporation presently has Kelp Beds No. 209, 210 and 216 under lease pursuant to Lease No. S-1782. We also have a separate lease for Kelp Bed No. 208. Our first five-year option for Bed No. 208 is exercisable on or before June 30, 1993.

"Rather than exercising our option for Bed No. 208 and continuing to carry it on separate lease, Monterey Kelp Corporation respectfully requests that Bed No. 208 be added to Lease No. S-1782, by an amendment thereto, to be subject to all the terms and conditions of Lease No. S-1782.

"This would eliminate the administrative expenses of maintaining the additional lease and should be more efficient for all parties concerned, including the Commission and the Department of Fish and Game.

"Please let me know if you have any questions or require any additional information. Thank you for considering this request."

Department Recommendation

"The lease of Kelp Beds No. 209, 210, and 217 was granted to Monterey Kelp Corporation in 1990 (Lease S-1782). This lease provides for a royalty rate of \$1.90 per wet ton harvested, expires December 31, 2010, and is renegotiable in 1995, 2000, and 2005. A separate lease for that portion of Kelp Bed No. 208 lying outside the six fathom depth contour was granted in 1988 (Lease No. L-1196). This lease provides for a royalty rate of \$1.51 per wet ton harvested, expires October 31, 2008, and is renegotiable in 1993, 1998, and 2003.

"Section 165.5, Title 14, California Code of Regulations provides that at any time during the term of a lease, a lessee may notify the Commission of its desire to enter into a new lease, and that a new lease may be drawn on terms agreed upon between the two parties, provided that the lessee can demonstrate to the Commission that all terms of the existing lease have been met.

"The Department has reviewed Monterey Kelp Corporation's performance with regard to the terms and conditions of its existing leases, and has found it to be fully satisfactory. Therefore, the Department recommends that the Commission approve the amendment of Kelp Bed Lease No. S-1782 to incorporate the lease of the exclusive right to harvest the kelp contained in that portion of Kelp Bed No. 208 located outside the six-fathom depth contour. Said lease to continue to provide for a royalty rate of \$1.90 per wet ton of kelp harvested and to extend not longer than December 31, 2010, renegotiable in 1995, 2000, and 2005."

40. REQUEST OF PETER NEUSHUL, NEUSHUL MARICULTURE, INC., GOLETA, TO RENEGOTIATE LEASE NO. C-1037 FOR KELP BED NOS. 26 AND 29.

Summary of Issue

Mr. Peter Neushul, Neushul Mariculture, Inc., Goleta, requests that their Lease No. C-1037 for Kelp Bed Nos. 26 and 29 be renegotiated. In a letter dated May 20, 1993, Mr. Neushul provides the following information:

"Neushul Mariculture Inc. would like to renegotiate our kelp bed lease agreement for beds 26 and 29 (#C-1037). The recent death of our president, Dr. Michael Neushul, has caused us to fall behind in the negotiation process.

"During 1981 we installed a successful kelp farm at Ellwood, California. From 1982 to 1984 we refined our farming technology to produce a self-sustaining kelp bed. To date, this is the only man-made, self-sustaining kelp bed in the U.S. At present, we are using a grant from the National Science Foundation's Engineering Division to test kelp spore seeding on farm structures located at our aquaculture lease-site adjacent to bed 26. We recently received a research grant from the United States Department of Agriculture to develop a method for broadcast seeding of Macrosystis pyrifera. Ultimately, we hope to provide the means for inexpensive, large-scale restoration of kelp forests.

"Due to the recent El Nino, there is very little kelp remaining in beds 26 and 29. We hope that our reforestation efforts will help reverse this decline. Due to the small quantity of kelp available, we feel that the renegotiated lease should remain at the minimum legal rental rate. Renewal of our kelp bed leases will enable NMI to continue its research and development of kelp farming and reforestation techniques.

"I look forward to hearing from you in the near future. Please let us know if any further information is required in order to expedite the renegotiation process."

Department Recommendation

"Neushul Mariculture has held a lease of the exclusive right to harvest Kelp Bed Nos. 26 and 29 since 1984. This lease expires October 14, 2004 and is renewable every five years. These two Kelp Beds were, at the time of the issuance of the original lease, devoid of kelp, although historically kelp had been present in both beds. The lease was originally let for the purpose of research into kelp bed restoration techniques and although the lease allows for the harvest of kelp by Neushul Mariculture, it was not expected that a harvestable crop of kelp would be available in most years, therefore, the deposit of these two beds was set by the Commission as low as possible.

"Neushul Mariculture was successful in re-establishing kelp in some portions of these two beds, but recent environmental conditions (El Niño) have been unfavorable to kelp bed growth, and very little kelp remains on either bed. However, several promising restoration techniques have been tested in these beds, and we expect that productive research will continue during the remainder of the life of this lease.

"Section 165.5, Title 14, California Code of Regulations provides that at any time during the term of a lease, a lessee may notify the Commission of its desire to enter into a new lease, and that a new lease may be drawn on terms agreed upon between the two parties, provided that the lessee can demonstrate to the Commission that all terms of the existing lease have been met. Also, Neushul Mariculture's lease specifies that the Department, at its option, may renegotiate the terms of the lease every five years. This provision allows the royalty rate to be adjusted to conform to the value of the products derived from it. The Department did not choose to exercise this option at the last opportunity (1989), since no kelp was being harvested from the lease and none was expected to be harvested.

"Neushul Mariculture has requested that its lease of Kelp Beds Nos. 26 and 29 be renewed for the remainder of the original 20-year term, rather than the customary five-year period. The Department believes that the research conducted by Neushul Mariculture is the best and highest use of these kelp beds, and, therefore, recommends approval of this request."

41. REQUEST OF BENJAMIN E. BEEDE, THE CULTURED ABALONE, GOLETA, TO HAVE AQUACULTURE LEASE NO. M-653-04, SANTA BARBARA COUNTY, DECLARED ABANDONED.

Summary of Issue

Mr. Benjamin E. Beede, The Cultured Abalone, Goleta, requests that the Commission declare abandoned Aquaculture Lease No. M-653-04 as they have moved all of their activities to a site onshore. In a letter dated May 24, 1993, Mr. Beede provides the following information:

"The Cultured Abalone, Inc. wishes to abandon its Aquaculture Lease Site, Lease No. M-653-04.

"In May of 1993, all the abalone cultivated on the lease site were transferred to our new on-shore facility in Goleta.

"We ask the Commission to approve the abandonment, since our company no longer has use for the site."

Department Recommendation

"The Cultured Abalone no longer has need for this site, having moved all their activities to a site onshore. The Cultured Abalone has complied with all terms and conditions of their lease and has removed all structures from the lease area as required.

"The Department recommends approval of this request."

42. REQUEST OF WILLIAM C. WORLIE AND PAUL D. MASK, PACIFIC COAST BIOLOGICALS, FOR AUTHORIZATION TO COLLECT BULLFROGS FOR SALE TO SCIENTIFIC OR EDUCATIONAL INSTITUTIONS.

Summary of Issue

Messrs. William C. Worlie and Paul D. Mask, Pacific Coast Biologicals, request authorization to collect bullfrogs for sale to scientific or educational institutions. On May 10, 1993, the Department contacted the Commission indicating that Messrs. Worlie and Mask requested approval of their qualifications of the Pacific Coast Biologicals as a scientific supply house.

Department Recommendation

"Messrs. William C. Worlie and Paul D. Mask have obtained a business license from El Dorado County to establish a scientific supply house under the name Pacific Coast Biologicals. They intend to collect bullfrogs from the wild in California and sell them to scientific or educational institutions.

"Mr. Worlie has had many years of experience collecting bullfrogs for other scientific supply houses. With Mr. Mask's support, they desire to establish a new scientific supply house. Based on Mr. Worlie's knowledge and experience with bullfrogs and the market these frogs supply, we believe that their operation qualifies as a scientific supply house. However, under the provisions of Section 658(a), Commission approval is required to operate such an enterprise. We recommend that this approval be granted.

"The take of frogs from the wild for scientific and educational purposes is consistent with State policy (Section 1700 of the Fish and Game Code), and no significant damage to the bullfrog resource is anticipated as long as all of the provisions of Section 658 are followed. If the Commission approves the qualifications of Pacific Coast Biologicals, we will issue a permit to the company which will require them to operate under these provisions.

"Also, we request that the Commission grant the Department blanket authority to approve the qualifications of future applicants for status as scientific supply houses. The issue is not socially or biologically controversial, and the change would simplify procedures for both the Commission and the Department."

43. REQUEST OF KEN BATES AND PHIL GLENN, CLOUDBURST FISHING COMPANY, EUREKA, FOR AN EXPERIMENTAL GEAR PERMIT TO USE A LAMPARA NET TO HARVEST ANCHOVIES IN DISTRICTS 8 AND 9 FROM MAY 1 TO SEPTEMBER 1 FOR BAIT PURPOSES.

Summary of Issue

Messrs. Ken Bates and Phil Glenn, Cloudburst Fishing Company, Eureka, request an experimental gear permit to use a lampara net to harvest anchovies in Districts 8 and 9 from May 1 to September 1 for bait purposes. In a letter dated May 11, 1993, Messrs. Bates and Glenn provide the following information:

"We are writing to request your consideration of the issuance of an experimental gear permit to take anchovies for use as bait in District 8 and 9 from May 1 to September 1.

"Present legislation allows for the taking of anchovies in Humboldt Bay from September 1 to December 1 for bait purposes. This legislation was drafted to exercise control over southern California albacore boats taking bait in Humboldt Bay for commercial use. Specific provisions allow 'that the operator may make incidental sales of anchovies so taken to local sport fishermen for their use as bait.'

"Although this legislation was written with sport fishing interests clearly in mind, the vast majority of sport fishing takes place before the legislated season for bait for commercial use begins. Because of the lateness of the present season, we are requesting an experimental gear permit to take anchovies for live bait before the beginning of the existing season.

"Anchovies would be captured alive by the use of a lampara net (bait net as defined by Section 8780 California Fish and Game Code), and transferred alive to holding receivers located in Humboldt Bay. Amounts of anchovies surplus to weekly bait needs would be released unharmed, as would any incidental species (perch, smelt, etc.).

"Our operation would be open to observation either on board the fishing vessel or at our receiver site by both Fish and Game personnel and members of the local salmon restoration groups. Individuals involved in salmon restoration have expressed their interest in gathering data concerning juvenile salmon movements in Humboldt Bay during the interaction of those fish with anchovy schools.

"It is hoped that this proposal would help bolster the summer sport fishing activities in this economically depressed area. Several summer jobs for school-aged individuals and two days per week employment for one local fishing boat could be created by offering live bait to local sport fishermen.

"Specifically, we would request the following conditions:

- "1. Anchovies may be taken in Districts 8 and 9 for bait purposes via this permit;
- "2. Only bait nets, as defined in Section 8780, shall be used to take anchovies;
- "3. Permit to be effective from May 1 to September 1;
- "4. Any game fish caught incidentally in bait nets shall be released by use of hand scoop net or by sinking the net cork line;
- "5. An observer who is an employee of the Department may inspect any bait operation and may halt that operation if that operation cannot be conducted without adversely effecting the game species of Humboldt Bay."

Department Recommendation

"Existing law (Section 8183, Fish and Game Code) provides that anchovies may be taken for live bait purposes in Humboldt Bay waters north of a line extending through channel markers 9 and 10 only from September 1 through December 1.

"Applicants note that most demand for sport fishing and live bait occurs prior to September 1. Consequently they are requesting an experimental gear permit authorizing the take of anchovies for live bait for the period May 1 through August 31.

"The Department has reviewed subject request and recommends approval subject to the following special conditions:

- "1) Permittee shall notify the Department's Eureka office prior to commencement of any fishing trip.
- "2) Permittee shall keep an accurate record of all fishing operations authorized under subject permit.
- "3) Permittee shall return immediately to the water any species, other than anchovies, taken during fishing operations.
- "4) Anchovies may only be taken in Humboldt Bay north of a line extending through channel markers 9 and 10.
- "5) Not more than a total of one ton of anchovies shall be taken in all fishing activities authorized under subject permit."

44. DEPARTMENT REQUEST FOR COMMISSION POLICY THAT DOMESTIC CAT/WILD CAT HYBRIDS ARE DOMESTIC ANIMALS.

Summary of Issue

The Department requests a Commission policy that domestic cat/wild cat hybrids be declared domestic animals. In a memo dated May 25, 1993, the Department provides the following information:

"Regulations classify all animals in the family Felidae as prohibited, '...except that domestic cat is not prohibited and exempt from permit requirement.'

"The Department requests that the Commission adopt a policy designating domestic cat/wild cat hybrids as domestic cats.

"A common example of the animals in question is the Bengal cat, the result of crossing the domestic cat (Felis catus) with the Leopard cat (Felis bengalensis). As indicated in the attached copies of subject advertisements, these animals are being treated as domestic cats by the cat breeding industry.

"Specific language will be included in the package of amendments to Section 671, Title 14, CCR, now being prepared by the Department for publishing in the Office of Administrative Law's 'California's Regulatory Notice Register.'"

45. RECEIPT OF DEPARTMENT REPORT AND RECOMMENDATION ON PETITIONS TO LIST THE VAIL LAKE CEANOOTHUS (Ceanothus ophiochilus) AS AN ENDANGERED SPECIES AND CALIFORNIA VERBENA (Verbena californica) AS A THREATENED SPECIES. (ACTION HEARING SCHEDULED FOR AUGUST 5, 1993 MEETING IN CRESCENT CITY.)

Summary of Issue

This item is scheduled to receive the Department's reports and recommendations on the petitions to list the Vail Lake ceanothus (Ceanothus ophiochilus) as an endangered species and California verbena (Verbena californica) as a threatened species. The record contains a copy of the petition and the Department's report. The Commission will consider this matter at its August 5, 1993 meeting in Crescent City.

Department Recommendation

Vail Lake ceanothus (Ceanothus ophiochilus)

"At its June 18, 1992 meeting, the Commission formally adopted a plant species a candidate species for endangered status, and a public notice was published on June 22, 1992 to commence a period of up to one year for the Department to evaluate the proposed listing.

"The Department has completed its review pursuant to Section 2074.6 of the Fish and Game Code and recommends adding Vail Lake ceanothus (Ceanothus ophiophilus) to the list of endangered species. We solicited data and comments on the petition from affected and interested parties pursuant to Section 2074.4 of the Fish and Game Code. Letters were sent to local, State, and Federal agencies, and to private individuals and organizations, and legal notices were published in local newspapers.

"Enclosed is the original petition recommending listing and the Department's status report on the plant species." (The Commissioners were provided with copies.)

California verbena (Verbena californica)

"At its August 6, 1992 meeting, the Commission formally adopted a plant species as a candidate species for threatened status, and a public notice was published on September 18, 1992 to commence a period of up to one year for the Department to evaluate the proposed listing.

"The Department has completed its review pursuant to Section 2074.6 of the Fish and Game Code and recommends adding California verbena (Verbena californica) to the list of threatened species. We solicited data and comments on the petition from affected and interested parties pursuant to Section 2074.4 of the Fish and Game Code. Letters were sent to local, State, and Federal agencies, and to private individuals and organizations, and legal notices were published in local newspapers.

"Enclosed is the original petition recommending listing and the Department's status report on the plant species." (The Commissioners were provided with copies.)

46. CONSIDERATION OF SUSPENSION OF COMMERCIAL PASSENGER FISHING BOAT LICENSE OF EDWARD M. AND ROBERT JAMES GALLIA, RICHMOND.

Summary of Issue

This item was originally scheduled for consideration at the Commission's April 1, 1993 meeting in Sacramento; however, the Commission postponed that action because Mr. Robert James Gallia had renewed his commercial passenger fishing boat license in his father's name; and therefore, no action could be taken at that time. Subsequent to that meeting, the Commission sent letters to Messrs. Edward M. Gallia and Robert James Gallia requesting their appearance at the Commission's May 14, 1993 meeting in Bakersfield; however, the Gallia's attorney, Mr. James Lozenski, requested a ninety-day extension. The Commission did grant Mr. Lozenski an extension of time until the Commission's June 18, 1993 meeting in Bridgeport.

The Department requests that the Commission suspend the commercial passenger fishing boat license of Edward M. Gallia/Robert James Gallia (F/V El Dorado) for a period of sixty days from June 19, 1993 through August 18, 1993. The Department's request is predicated on the fact that on August 17, 1992 in the Berkeley-Albany Municipal Court, Mr. Robert James Gallia was found guilty of violating his probation regarding a violation of Section 190(d), Title 14, California Code of Regulations, failure to submit party boat logs as required. As way of background, a Department warden boarded Mr. Gallia's F/V El Dorado on April 23, 1992 at about 4:45 p.m. The El Dorado, operated by Mr. Gallia had just returned from a commercial passenger fishing trip offshore. While checking the commercial party boat log book, the warden found two copies - one dated October 19, 1991 and the second dated February 29, 1992 that had not been submitted to the Department by the 10th of the following month. Mr. Gallia was fined \$1,000 and placed on one year probation. The Commission's authority to take this action is pursuant to Section 7924 of the Fish and Game Code.

The record contains copies of the Commission's April 12, 1993 letters to Mr. Robert James Gallia and Edward M. Gallia, the Department's request dated August 26, 1992, a copy of the citation, the Department's arrest report as well as the court record.

Action

Executive Director Treanor indicated that Bill Cunningham, Deputy Attorney General, stated that it would be appropriate to continue this item at the August 26-27, 1993, meeting. Mr. Treanor indicated that this request was made by Mr. Lozenski, attorney for Edward and Robert Gallia, based on the fact that Edward Gallia was in the hospital.

Commissioner Taucher expressed disapproval of this action. He felt it was a delaying tactic by Mr. Gallia and his attorney to allow Mr. Gallia to continue fishing.

47. RECEIPT OF DEPARTMENT REPORT RE: LEGISLATION.

Summary of Issue

This item is scheduled to afford the Commission an opportunity to receive an update from the Department regarding its proposed legislation for 1993 and comments on any current bills which may affect the Department or Commission. The Department will be prepared to discuss this item and respond to any questions the Commission may have at the June 18, 1993 meeting.

Action

Director Gibbons stated that Assembly Bill 899 had passed the Assembly. He explained that the bill would repeal the filing fees established by AB 3158 which allowed the Department to recover its costs of reviewing environmental documents.

Mr. Gibbons pointed out that in regards to the Department's budget, most of the items which the Department was concerned with had been successfully resolved. He noted, however, that the Department did receive a cut of half a million dollars from the General Fund and the funds for the resource assessment on the Cantara spill were reduced by 2 million dollars. He indicated that the Department could return to the Legislature to request those funds be reinstated by providing additional justification. He explained that the Natural Community Conservation Planning Program funds were reduced by \$100,000.00.

Director Gibbons discussed two letters that he had sent, one was to Senator Feinstein and the other to Congressman Vic Fazio. He indicated that these letters were regarding HR 518 and S.21, two pieces of legislation regarding the Desert Protection Act. Director Gibbons stated that his letters addressed the issue of the loss of hunting opportunities, as well as the Department's ability to access wilderness areas to be protected by this Act to continue its activities of monitoring and managing the State's wildlife resources.

Commissioner Taucher asked why the Department had taken an oppose position to a bill requiring that a recovery plan be developed during the one year candidacy period before a species was considered for listing. Chief Deputy Director Sullivan responded that the Department could possibly support such a bill, however, the bill in question did not include any additional funding for the Department to cover the additional personnel that would be needed to develop recovery plans during that one year period. Commissioner Taucher suggested that the Department evaluate having petitioners pay a fee for the development of recovery plans.

Commissioner Taucher also expressed his support for AB 521 regarding marine ecological reserves and questioned the Department's neutral position on that bill. Director Gibbons indicated that the language for this bill would be coming before the Commission when it considers the designation of the four ecological reserves required by Proposition 132 at the August, October and November Commission meetings. He explained that this bill was to clarify the intent of the ballot initiative that was approved by the voters in 1990. He noted that an Attorney General's Opinion on this issue had stated that these areas were going to be closed to public access except for scientific research.

Commissioner Owen also suggested that the Department evaluate the requirement of having a recovery plan submitted as part of a petition when it was submitted to the Commission for consideration. Director Gibbons explained that it would be almost impossible to require a completed recovery plan at the time that a petition was submitted; however, there was a possibility that a recovery plan could be developed during the one year candidacy period. Commissioner Owen expressed his approval for the Director's letters to Senator Feinstein and Congressman Fazio regarding the Desert Protection Act. He also suggested that the Commission might want to write a similar letter in that regard. Commissioner Taucher also expressed his support for the letters to Senator Feinstein and Congressman Fazio.

48. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

A. STATUS REPORT ON THE NATURAL COMMUNITY CONSERVATION PLANNING PROGRAM (NCCP).

Summary of Issue

This item has been set aside to afford the Department an opportunity to present the Commission with informational items. The Director, or his representative, will be prepared to make a presentation to the Commission at its June 18 meeting.

Action

Commissioner Taucher requested that the Department present monthly updates on the progress being made with the Upland Game Bird Stamp Program.

Executive Director Treanor stated that the Department had transmitted to the Commission, as an informational item, the Department's report on the Northern Goshawk. He stated that there was currently a closure in place for Inyo and Mono counties and the Department was requesting that staff be provided authorization to go to notice to amend Section 670 to consider the removal of those closures.

It was then:

MOVED BY MR. OWEN, SECONDED BY MR. TAUCHER, THAT
THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO
NOTICE ITS INTENT TO AMEND SECTION 670, TITLE 14, CALIFORNIA
CODE OF REGULATIONS.

PASSED UNANIMOUSLY.

49. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

Summary of Issue

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

Action

Commissioner Taucher expressed his concern that the TEAM NEWS printed by the Department did not contain any articles relating to hunting and fishing. He expressed his opinion that since hunters and fishermen were the ones mainly financing the Department, they should be given credit wherever possible. Director Gibbons stated that he would review the matter.

50. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.

Summary of Issue

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

No topics were discussed.

51. ANNOUNCEMENT OF FUTURE MEETINGS.

1993 Fish and Game Commission Meetings

August 5 (10:00 a.m.)	Cultural Center
6 (8:30 a.m.)	1001 Front Street
	Crescent City, CA
August 26 (10:00 a.m.)	Office Building 8, Auditorium
27 (9:30 a.m.)	714 P Street
	Sacramento, CA
October 7 (10:00 a.m.)	State Building, Room B-109
8 (8:30 a.m.)	1350 Front Street
	San Diego, CA
November 4 (10:00 a.m.)	Red Lion Inn, Sacramento Rm.
5 (8:30 a.m.)	1830 Hilltop Drive
	Redding, CA

December 2 (10:00 a.m.)

Sheraton Hotel
Barcelona/Casablanca Room
333 E. Ocean Blvd.
Long Beach, CA

3 (8:30 a.m.)

City Council Chambers
333 West Ocean Boulevard
Long Beach, CA

December 23 (Thurs 1:00 p.m.)
(Tentative date for adoption
of sport fishing regulations)

Auditorium, Resources Building
1416 Ninth Street
Sacramento, CA

There being no further business, the Fish and Game
Commission adjourned the meeting at 1:08 p.m.

APPENDIX TO JUNE 17-18, 1993 MINUTES #22

(91.1) Klamath River
Below Iron Gate Dam.

(A) Bogus Creek and Last Saturday in Apr. 2
tributaries. through Aug. 31.

(B) Klamath River main Closed to all fishing all
stem from Iron Gate Dam to year.
3,500 feet downstream.

(C) Klamath River main All year. Special Fishing 3
stem from 3,500 feet below Restrictions: No more than 2 trout.
Iron Gate Dam to mouth. 1. No fishing is allowed No more than 1 salmon over
within 400 feet of any 22 inches total length.
U.S. Fish and Wildlife or No more than 3 salmon over
Department of Fish and 22" in any 7 consecutive
Game seining operation and days.
from the Ishi Pishi Falls No more than 8 salmon may
Road Bridge upstream to be possessed, of which no
and including Ishi Pishi more than 3 may be over
Falls from August 15 22" total length.
through Nov. 1.

2. No fishing is allowed
from September 15 through
November 15 in the Klamath
River within 500 feet of
the mouths of the Salmon,
the Shasta and the Scott
Rivers.

~~3. Only barbless hooks
may be used from August 1
through December 31.~~

3. KLAMATH RIVER SALMON QUOTA RESTRICTIONS: THE 1992³ KLAMATH RIVER BASIN
ALLOWABLE SPORT CATCH IS ~~8202~~8,700 KING SALMON.

A. RESTRICTIONS BELOW THE FALLS AT COON CREEK; IN THOSE YEARS WHEN THE
DEPARTMENT DETERMINES THE TOTAL SPORT CATCH OF ADULT KING SALMON BELOW THE FALLS
AT COON CREEK EQUALS OR EXCEEDS 50% OF THE KLAMATH RIVER BASIN ALLOWABLE SPORT
CATCH, NO PERSON SHALL RETAIN ANY KING SALMON OVER 22.0 INCHES TOTAL LENGTH.

B. RESTRICTIONS FROM IRON GATE DAM TO THE FALLS AT COON CREEK: NO PERSON SHALL
RETAIN ANY KING SALMON OVER 22.0 INCHES TOTAL LENGTH FROM IRON GATE DAM NEAR
HORN BROOK DOWNSTREAM TO THE FALLS AT COON CREEK COMMENCING 28 DAYS AFTER THE
DEPARTMENT DETERMINES THAT 50% OF THE ALLOWABLE KLAMATH RIVER BASIN SPORT CATCH
HAS BEEN TAKEN BELOW THE FALLS AT COON CREEK IN ANY YEAR.

C. EXCEPTION TO SUBSECTION B.: KING SALMON OVER 22.0 INCHES TOTAL LENGTH MAY BE
TAKEN FROM 3,500 FEET BELOW THE IRON GATE DAM TO THE INTERSTATE 5 BRIDGE WHEN THE
DEPARTMENT DETERMINES THAT THE ADULT FALL KING SALMON SPAWNING ESCAPEMENT AT IRON
GATE HATCHERY EXCEEDS 8,000 FISH DURING ANY YEAR SUBSECTION B. IS IMPLEMENTED.

Body of Water	Open Season and Special Regulations	Daily Bag and Possession Limit
(D) Salmon River main stem, main stem of North Fork, and main stem of South Fork above the confluence of the East Fork of the South Fork.	Last Saturday in Apr. through Feb. 28	2 trout 0 salmon
(E) Salmon River South Fork below the confluence with the East Fork of the South Fork.	Nov. 15 through Feb. 28.	2 trout 0 salmon
(F) Scott River main stem from mouth to Port Jones-Greenview bridge.	Last Saturday in Apr. through Feb. 28.	2 trout 0 salmon
(G) Shasta River and tributaries (Siskiyou Co.).		
1. Shasta River and tributaries above Dwinnell Dam.	Last Saturday in Apr. through Nov. 15.	5 per day 10 in possession
2. Shasta River and all tributaries between Interstate 5 and Dwinnell Dam.	Last Saturday in Apr. through Nov. 15.	2 trout 0 salmon
3. Shasta River from Interstate 5 to 250 feet above the Department of Fish and Game counting weir.	Last Saturday in Apr. through Feb. 28.	2 trout 0 salmon
4. Shasta River from 250 feet above the Department of Fish and Game counting weir to mouth.	Last Saturday in Apr. through Aug. 31 and Nov. 16 through Feb. 28.	2 trout 0 salmon
(H) All tributaries of the main stem Klamath, Salmon, Scott and Shasta rivers and parts of the main stems not listed above.	Last Saturday in Apr. through Nov. 15. Maximum size limit: 14 inches total length.	2 trout 0 salmon
(I) Trinity River.		
1. Trinity River and tributaries above Lewiston Dam.	Last Saturday in Apr. through Nov. 15.	5 per day 10 in possession

2. Lewiston Dam to 250 feet downstream from Lewiston Dam. Closed to all fishing all year.

3. From 250 feet below Lewiston Dam to Old Lewiston bridge. Last Saturday in Apr. through Sept. 15. Only artificial flies with barbless hooks may be used. 2 trout
0 salmon

4. From Old Lewiston bridge to the Highway 299 West bridge at Cedar Flat. Last Saturday in Apr. through Mar. 14. ~~Only barbless hooks may be used from Aug. 1 through Dec. 31.~~ 3
No more than 2 trout. No more than 1 salmon over 22 inches total length. No more than 3 salmon over 22" in any 7 consecutive days. No more than 8 salmon may be possessed, of which no more than 3 may be over 22" total length.

5. From the Highway 299 West bridge at Cedar Flat downstream to the Hawkins Bar Bridge (Road to Denney). Last Saturday in Apr. through Aug. 31. Nov. 16 through Mar. 14. ~~Only barbless hooks may be used from Aug. 1 through Dec. 31.~~ 3
No more than 2 trout. No more than 1 salmon over 22 inches total length. No more than 3 salmon over 22" in any 7 consecutive days. No more than 8 salmon may be possessed, of which no more than 3 may be over 22" total length.

6. From Hawkins Bar Bridge (Road to Denney) to the mouth of the South Fork Trinity. Last Saturday in Apr. through Mar. 14. ~~Only barbless hooks may be used from Aug. 1 through Dec. 31.~~ 3
No more than 2 trout. No more than 1 salmon over 22 inches total length. No more than 3 salmon over 22" in any 7 consecutive days. No more than 8 salmon may be possessed, of which no more than 3 may be over 22" total length.

7. The main stem Trinity River downstream from the mouth of the South Fork of the Trinity. All year. ~~Only barbless hooks may be used from Aug. 1 through Dec. 31.~~ 3
No more than 2 trout. No more than 1 salmon over 22 inches total length. No more than 3 salmon over 22" in any 7 consecutive days. No more than 8 salmon may be possessed, of which no more than 3 may be over 22" total length.

8. South Fork of the Trinity River downstream from the South Fork Trinity River bridge at Hyampom. Saturday preceding Memorial Day through March 14. ~~Only barbless hooks may be used from Aug. 1 through Dec. 31.~~

3
No more than 2 trout. No more than 1 salmon over inches total length. No more than 3 salmon over 22" in any 7 consecutive days. No more than 8 salmon may be possessed, of which no more than 3 may be over 22" total length.

9. South Fork Trinity River main stem above the South Fork Trinity River bridge near Hyampom. Closed to all fishing all year.

10. North Fork Trinity River above the lower boundary of the Hobo Gulch Campground. Closed to all fishing all year.

11. New River main stem above the confluence with the East Fork. Closed to all fishing all year.

12. All tributaries of the Trinity River not listed above. Last Saturday in Apr. through Nov. 15; Maximum size limit: 14 inches total length. 2 trout 0 salmon

13. THE 1993 KLAMATH RIVER BASIN ALLOWABLE SPORT CATCH IS 8702,700 KING SALMON. NO PERSON SHALL RETAIN ANY KING SALMON OVER 22.0 INCHES TOTAL LENGTH IN THE TRINITY RIVER AND SOUTH FORK TRINITY RIVER COMMENCING 28 DAYS AFTER THE DEPARTMENT DETERMINES THAT 50% OF THE ALLOWABLE KLAMATH RIVER BASIN SPORT CATCH HAS BEEN TAKEN BELOW THE FALLS AT COON CREEK ON THE KLAMATH RIVER IN ANY YEAR. THE DEPARTMENT SHALL INFORM THE COMMISSION AND THE PUBLIC VIA THE NEWS MEDIA PRIOR TO ANY IMPLEMENTATION OF THE PROVISIONS OF THIS SUBSECTION.