

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of August 4-5, 1988

<u>ITEM</u>	<u>PAGE</u>
1. READING AND APPROVAL OF MINUTES OF MAY 12-13, 1988, MEETING.....	3
2. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.....	3
3. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.....	4
4. SPECIAL HEARING RE: (1) RECEIPT OF U.S. FISH AND WILDLIFE SERVICE'S ANNUAL REPORT, "TRANSLOCATION OF SEA OTTERS TO SAN NICOLAS ISLAND, VENTURA COUNTY", AND (2) RENEWAL OF PERMIT AND MEMORANDUM OF UNDERSTANDING FOR SUBJECT PROGRAM.....	4
5. PUBLIC ACCESS TO THE LOWER FALL RIVER, SHASTA COUNTY.....	8
6. DEPARTMENT COMMENTS RE: DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE SHERWIN BOWL SKI AREA, INYO NATIONAL FOREST.....	9
7. REQUEST OF PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS, SAUSALITO, FOR COMMISSION TO REVIEW THE IMPACT OF REDUCED FLOWS ON FISHERY RESOURCES OF THE TRINITY RIVER.....	10
7a. CONFIRMATION OF EMERGENCY ACTION OF JULY 28, 1988 AUTHORIZING THE DEPARTMENT TO ISSUE A PERMIT TO GOODYEAR TIRE AND RUBBER COMPANY TO USE A HELICOPTER TO FILM A COMMERCIAL WITHIN THE SEA OTTER REFUGE, MONTEREY COUNTY.....	13
7b. REQUEST OF STEVE ROSS, LONGLINERS ASSOCIATION, FOR AUTHORIZATION TO FISH UNTIL SEPTEMBER 1, WITHIN THE LONGLINE CLOSURE IN SOUTHERN CALIFORNIA.....	13
7c. RECEIPT OF DEPARTMENT REPORT REGARDING STATUS OF WATERFOWL POPULATION.....	14
7d. REQUEST OF JAN MIRASSOU, LIVE OAK, TO DISCUSS DEER TAG DRAWING PROBLEMS.....	22
7d. REQUEST OF JAN MIRASSOU, LIVE OAK, TO DISCUSS DEER TAG DRAWING PROBLEMS. (CONTINUED).....	111
8. PRESENTATION BY DEPARTMENT RE: MT. SHASTA HATCHERY CENTENNIAL CELEBRATION.....	26
9. DEPARTMENT REPORT RE: ACTIVITIES OF THE WILDLIFE PROTECTION DIVISION'S SPECIAL OPERATIONS UNIT.....	28

Aug 4-5

<u>ITEM</u>	<u>PAGE</u>
10. SPECIAL HEARING: AMENDMENT OF SECTIONS 671 AND 671.1; ADD SECTION 671.2; AMEND AND RENUMBER SECTIONS 671.3 TO 671.5; AMEND AND RENUMBER SECTION 671.4 TO 671.3; ADD A NEW SECTION 671.4; AMEND AND RENUMBER SECTION 671.5 TO 671.6 AND REPEAL SECTION 671.6, TITLE 14, CCR, TO PROVIDE FOR THE HUMANE CARE AND TREATMENT OF WILD ANIMALS. (FINAL ACTION SCHEDULED FOR AUGUST 26, 1988, IN NEWPORT BEACH.).....	29
11. ADOPTION OF 1988-89 RESIDENT AND MIGRATORY UPLAND GAME BIRD AND MIGRATORY NONGAME BIRD (AMERICAN CROW) REGULATIONS.....	40
12. AMENDMENT OF SECTIONS 550, 551, 551.5, 552 AND 553, TITLE 14, CCR, RE: CHANGES IN REGULATIONS FOR STATE WILDLIFE AREAS AND PUBLIC SHOOTING AREAS.....	47
13. RECEIPT OF DEPARTMENT REPORT RE: EXPERIMENTAL GEAR PERMITS TO USE "OPEN POND METHOD" TO TAKE HERRING EGGS ON SEAWEED IN SAN FRANCISCO BAY.....	59
14. AMENDMENT OF SECTION 163, TITLE 14, CCR, RE: COMMERCIAL HERRING FISHERY FOR 1988-89.....	59
15. ADOPTION OF SECTION 168.5, TITLE 14, CCR, RE: PENALTIES IN LIEU OF SUSPENSION OR REVOCATION - COMMERCIAL HERRING PERMITTEES.....	71
16. OPENING BIDS AND AWARDED OF 1988-89 PERMITS TO HARVEST HERRING EGGS WITH SEAWEED ATTACHED FROM SAN FRANCISCO BAY.....	77
17. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT LICENSES (1988-1991) FOR: (A) BUCK FEVER LODGE, SHASTA COUNTY; (B) CLARKS VALLEY - RED ROCK RANCH, LASSEN COUNTY; (C) FITZPATRICK RANCH, SHASTA COUNTY; (D) R-R RANCH, MENDOCINO COUNTY.....	78
18. RECEIPT OF ANNUAL REPORTS AND APPROVAL OF 1987-88 PRIVATE LANDS WILDLIFE MANAGEMENT AREA PLANS FOR: (A) BATTLE CREEK RANCH, TEHAMA COUNTY; (B) CANYON CREEK RANCH, MODOC COUNTY; (C) DRY LAKE RANCH, MODOC COUNTY; (D) HORNBACK RANCH, LASSEN COUNTY; (E) MARTIN RANCH, LASSEN COUNTY; (F) RANCHO GARATE RANCH, LASSEN COUNTY; (G) REDWOOD CREEK RANCH, HUMBOLDT COUNTY; (H) WEBER AND BAILEY RANCH, MODOC COUNTY; (I) BALDWIN RANCH, NEVADA COUNTY.....	83
19. CONFIRMATION OF EMERGENCY AMENDMENT, SECTION 27.80, TITLE 14, CCR, RE: NORTHCOAST OCEAN SALMON REGULATIONS.....	96
20. SCHEDULING OF SUBCOMMITTEE HEARING IN EUREKA, ON AUGUST 16, 1988, AT 7:00 P.M., RE: DEPARTMENT PROPOSAL TO ESTABLISH AN ANNUAL BAG/POSSESSION LIMIT FOR SALMON AND STEELHEAD ON THE NORTH COAST..	97
21. AMENDMENT OF SECTION 147, TITLE 14, CCR, RE: COMMERCIAL ANCHOVY REDUCTION FISHERY.....	98
22. RECEIPT OF DEPARTMENT REPORT RE: TRANSMITTAL OF RESULTS OF FIVE-YEAR REVIEW OF ENDANGERED SPECIES AND RECOMMENDATIONS FOR CHANGES TO THE LIST OF ENDANGERED SPECIES.....	102

<u>ITEM</u>	<u>PAGE</u>
23. DEPARTMENT REQUEST FOR RENEWAL OF SIX EXPERIMENTAL GEAR PERMITS TO USE ALTERNATIVE GEAR TO TAKE HALIBUT.....	103
24. RECEIPT OF DEPARTMENT'S SEA URCHIN MANAGEMENT PLAN AND REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 120.7, TITLE 14, CCR, RE: PROVIDING FOR A LIMITED ENTRY COMMERCIAL SEA URCHIN FISHERY.....	102
25. REQUEST OF TIMBUCTOO GAME BIRD CLUB, INC., SMARTVILLE, FOR AUTHORIZATION TO RELEASE PHEASANTS FOR HUNTING PURPOSES.....	103
26. REQUEST BY WILLIE T. WILLIAMS, ESTERO SHELLFISH FARMS, TO AMEND AQUACULTURE LEASE M-614-01, MORRO BAY, SAN LUIS OBISPO COUNTY, TO INCLUDE MANILA CLAMS (<i>Venerupis japonica</i>) AND BAY MUSSEL (<i>Mytilus edulis</i>) AS SPECIES APPROVED FOR CULTIVATION.....	103
27. REQUEST OF JAMES HENDRICKSON, SANTA ROSA, FOR REINSTATEMENT OF HIS FALCONRY PRIVILEGES.....	105
28. CONTINUED HEARINGS ON REQUESTS OF DENNIS POWERS, FORT BRAGG; JERRY TEISAN, VENICE; AND MARK CHARLES, SANTA CRUZ, RE: 1988-89 SALMON VESSEL PERMITS.....	105
29. REQUESTS OF ROGER S. CUTTING, FORT BRAGG, AND JIM HANDELMAN, SANTA BARBARA, FOR REINSTATEMENT OF SEA URCHIN PERMITS.....	107
30. REQUEST OF GREGORY HUFFT, FORT BRAGG, FOR REINSTATEMENT OF COMMERCIAL ABALONE PRIVILEGES.....	108
31. REQUEST OF MIKE RODUNER, MADERA, FOR REINSTATEMENT OF TRAPPING PRIVILEGES.....	109
32. REQUEST OF PAUL KRAWCHUK, SAN FRANCISCO, TO APPEAL DENIAL OF APPLICATION FOR SEA URCHIN PERMIT.....	110
33. ANNOUNCEMENT OF FUTURE MEETINGS.....	110

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of August 4, 1988

Pursuant to the authority of Government Code Section 11126(q), the Commission met in closed executive session at 1:15 p.m. The purpose of this executive session was to consider potential litigation regarding mountain lion, Tule elk, unauthorized county trapping ordinances and Fall River angling access.

Persons present:

FISH AND GAME COMMISSION

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

COMMISSION STAFF

Harold C. Cribbs	Executive Secretary
Robert R. Treanor	Assistant Executive Secretary
Ronald J. Pelzman	Associate Fishery Biologist

ATTORNEY GENERAL'S OFFICE

Denis Smaage	Deputy Attorney General
Michael Neville	Deputy Attorney General

DEPARTMENT FISH AND GAME

Pete Bontadelli	Director
Paul Jensen	Deputy Director
Eldridge Hunt	Chief, Wildlife Management Division
Spike Naylor	Regional Manager, Region 1

The Executive Session was adjourned at 2:20 p.m.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of August 4, 1988

Pursuant to the call of the President, the Commission met in the Auditorium, Resources Building, 1416 Ninth Street, Sacramento, California, on August 4, 1988. The meeting was called to order at 2:30 p.m. by President Taucher.

Persons present:

FISH AND GAME COMMISSION

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

COMMISSION STAFF

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

ATTORNEY GENERAL'S OFFICE

Denis Smaage	Deputy Director General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Robert Fletcher	Chief Deputy Director
Paul Jensen	Deputy Director
Eldridge Hunt	Chief, Wildlife Management Division
Spike Naylor	Regional Manager, Region 1

The following persons were also present and heard:

Gary Edwards	Action Regional Director, USFWS
Dr. Jim Estes	USFWS
Carl Benz	USFWS
Clay Phipps	Central CA Council of Diving Clubs
Carol Fulton	Friends of the Sea Otter
Richard Spotts	Defenders of Wildlife
Zeke Grader	PCFFA
Richard May	Cal Trout
Jan Mirassou	Sportsman

President Taucher introduced members of the Commission, its staff, Director Bontadelli, Chief Deputy Director Fletcher, Deputy Director Jensen and Denis Smaage of the Attorney General's Office.

The Executive Secretary briefly summarized the topics discussed by the Commission in Executive Session. He noted that the session had been recessed until August 11, 1988, when a subcommittee of Commissioners Bryant and McCracken would reconvene the Executive Session to receive a report from the Attorney General's office regarding the mountain lion litigation.

DISCUSSION ITEMS

1. READING AND APPROVAL OF MINUTES OF MAY 12-13, 1988, MEETING.

The Executive Secretary pointed out that copies of the minutes of the May 12-13, 1988, meeting had been distributed to members of the Commission. He stated that the staff knew of no errors or omissions therein and suggested that they be approved in their present form.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT INASMUCH AS THE MINUTES OF THE MAY 12-13, 1988, MEETING HAVE BEEN DISTRIBUTED TO 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. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

Mr. Cribbs stated that this item had been scheduled to afford the Department an opportunity to present the Commission with informational items which may be of interest to it. He indicated that in order to save time, the Department had prepared a written report on informational items it felt would be of interest to the Commission. He noted that the informational items included: automated deer lottery, drawing works perfectly; Lake Mendocino site of fish bites; Grizzly Island Tule elk move scheduled; second oil spill in Martinez area occurs; King salmon north coast harvest slows; Region 2 surplus vehicle sales investigated; and a legislative summary report.

NOTE:

On Friday afternoon, August 5, Don Koch, Associate Wildlife Biologist, Department of Fish and Game, summarized the Department's capture and relocation of 40 Tule elk from Grizzly Island Wildlife Area to the Elk Creek area, Mendocino County, on August 4, 1988. He noted that the age and sex composition of the relocated elk were 21 cows, 7 bulls, and 12 calves (7 female and 5 male). He noted that there was one capture related mortality (adult female). He pointed out that as the Department has informed the Commission in the past, the relocation of Tule elk was only one phase of the Department's Tule elk management program. He explained that in addition to relocating Tule elk in suitable areas within their historic range, the Department's Tule elk program employs management strategies which will provide for a balanced program, including both sport hunting and non-consumptive opportunities.

3. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

The Executive Secretary stated that this item had been scheduled for the Commission to receive informational items from its staff and to afford the Commission an opportunity to discuss items with the Department. He noted that Commissioner Biaggini had requested that an article from the Wilson Bulletin, June 1988, regarding the ingestion of lead shot and aluminum bands by Bald eagles during the winter in Nebraska, be distributed to the Commissioners. He pointed out that request had been met.

President Taucher then requested an update from the Department on several pieces of correspondence which the Commission office had distributed to the Commissioners. Deputy Director Jensen briefly responded to President Taucher's questions.

4. SPECIAL HEARING RE: (1) RECEIPT OF U.S. FISH AND WILDLIFE SERVICE'S ANNUAL REPORT, "TRANSLOCATION OF SEA OTTERS TO SAN NICOLAS ISLAND, VENTURA COUNTY", AND (2) RENEWAL OF PERMIT AND MEMORANDUM OF UNDERSTANDING FOR SUBJECT PROGRAM.

The Executive Secretary stated that this agenda item had been scheduled to receive the U.S. Fish and Wildlife Service's (USFWS) Annual Report regarding the translocation of sea otters to San Nicolas Island, Ventura County, and to consider the USFWS's request for renewal of its permit and Memorandum of Understanding (MOU) for this program for 1988-89. He reminded the Commission that at its May 12-13, 1988, meeting in Monterey, the USFWS provided a brief update on the status of the program. He pointed out that the Commission had been provided with a copy of the MOU for this program and Department correspondence relating to this matter, which included the following recommendation:

"Research and management personnel of the U.S. Fish and Wildlife Service (USFWS) intend to brief the Commission at the subject meeting on the overall status of the translocation program to date, as well as present their plans and objectives for year two of the project. They will be prepared to respond to any questions the Commission may have relative to this important program.

"Recently, a quarterly coordination meeting was held (July 14, 1988) between Department personnel and representatives of the U.S. Fish and Wildlife Service to review the status of the translocation program and discuss various sea otter issues of mutual concern. Based on those discussions and a careful review of project modifications proposed in the research protocol for year two of the program, the Department believes that it is important and justified to proceed with this project for another year. A tremendous amount of time and intensive effort has been dedicated to insure every possible success for this precedent-setting program and we believe that it should be given every opportunity to succeed.

"The Commission will also recall that the Memorandum of Understanding (MOU) signed by the USFWS and CDFG relating to the translocation program included a stipulation (No. 11) that the MOU would not become operative until, or unless, the Federal Wildlife Permit Office approved and issued a research permit to the Department; such permit was approved and issued effective August 12, 1987. The permit authorizes the capture, transport and release of sea otters to determine homing tendency and the feasibility of containing sea otters.

"Under Phase I of the permit (January 1, 1988 through December 31, 1988) the Department is authorized to take up to 20 sea otters from the southern end of the range (i.e., Port San Luis/Avila Beach) and release them at the northern end of the range (i.e., Moss Landing) to determine homing tendency. A total of nine sea otters was captured, radio-tagged, and transported to Moss Landing Harbor on May 17-20, 1988. Four of the animals were released immediately and the remaining five animals were held in a floating cage for two days before they were released. One of the animals, which was subsequently determined to be a very old male, died approximately 29 days after its release. The remaining eight animals, which have been monitored on a daily basis, are alive and well at the present time. A summary of the initial results of this effort are attached for the Commission's review. The Department intends to capture the remaining 11 sea otters later this year when "migrant front" animals will again be relatively abundant in the Port San Luis Bay/Avila Beach area.

"In summary, the Department believes that with the knowledge gained during the first year's translocation efforts, which have resulted in significant modifications in program procedures and protocol, that should lead to improved translocation efforts during year two of this program. Therefore, we recommend that the Commission approve the renewal of the USFWS permit to translocate sea otters to San Nicolas Island during 1988-89."

Gary Edwards, Acting Regional Director, USFWS, provided a brief status report concerning the translocation of sea otters to San Nicolas Island. He explained that 20 of the 69 otters translocated have frequently been seen around San Nicolas Island and that 23 otters could not be accounted for. He noted that 26 of the missing otters could possibly have made it back to the parent population on the central California coast, but were at this time considered "missing in action". He indicated that some of these sea otters could have died and not been found. He pointed out that there were two full time officers to enforce the laws and regulations and two biologists on the program. He indicated that, at this time, there were no otters in the management zone. He noted that the USFWS had provided copies of the annual report to the Commissioners for their review. He then introduced Joe Dowhan, Carl Benz, Dr. Jim Estes and Dr. Gaylord Rattus, who were on the translocation team for the USFWS.

Dr. Jim Estes made a slide presentation regarding the results of the translocation efforts to date. Carl Benz also showed slides concerning the translocation, particularly the management zone and translocation zone around San Nicolas Island.

Commissioner Murdy requested more information concerning the size range of those sea otters which had died. Dr. Estes indicated that very small otters in the 18-20 pound range and the larger males in the 60-65 pound range, were the ones that seemed to be most susceptible. Commissioner Murdy asked if the USFWS could project mortality rates of otters that were translocated this year. Dr. Estes indicated that the mortality rate should be substantially less as the USFWS had made a decision not to translocate animals in the size ranges that had exhibited high mortality rates last year. Commissioner Murdy asked how long it would take to make up the loss of last year's mortality. Dr. Estes stated that by translocating the smaller animals, it would be one to two years before they were sexually mature. He reiterated that the USFWS initially wanted to take adults in order to have reproduction the first year, but because the otters of that size range were more prone to leave the area, they were not going to translocate those animals this year. Commissioner Murdy stated that to him it appeared it would take up to ten years before the carrying capacity of 250 animals for San Nicolas Island was reached. Dr. Estes stated that figure seemed appropriate.

President Taucher stated that it was his recollection that the USFWS would look at delisting the animals in two years. Carl Benz stated that last year the USFWS requested that the translocation program be reviewed after five years, but that the Commission asked that the review take place in three years. He noted that the USFWS would comply, but that the only way sea otters could be delisted was to have a population at San Nicolas Island at optimal levels.

Chief Deputy Director Fletcher indicated that there had been some problems encountered with the translocation this past year, but that a tremendous amount of time and intensive effort had been dedicated to insure every possible success for this precedent setting program. He noted that the Department believed the program should be given every opportunity to succeed; and, therefore, it recommended that the Commission renew the permit and MOU for the coming year.

Clay Phipps, Central California Council of Diving Clubs, stated that his organization remained opposed to the translocation of sea otters to San Nicolas Island. He noted that the program had not lived up to its billing and should be discontinued. He explained that the USFWS had been slow in responding to observations of sea otters in the management zone. He noted that they were also hampered by the severity of winds and storms in the area. He requested that the USFWS distribute their quarterly reports in a more timely manner. Mr. Phipps indicated that his organization was also concerned with the effectiveness of containment because of the limited staff and equipment the USFWS had provided to date. He noted that his organization was also requesting that enhancement of the fisheries to other areas be required due to the losses at San Nicolas Island and that the long

term containment plan have a due date. Mr. Phipps submitted a lengthy letter of comments and concerns from the Central California Council of Diving Clubs to the Commission.

Carol Fulton, Executive Director, Friends of the Sea Otter, stated that her organization strongly supported the continuation of the program. She noted that she had provided written comments to the Commission earlier and would not go into great detail at this time. She stated that several questions should be asked concerning this program which would give an indication of whether or not it should be continued. They were: (1) "Has the translocation jeopardized the mainland population?" The answer was "no", as 1724 otters had been counted in the latest survey. (2) "Has the translocation caused damage to the fisheries at San Nicolas Island?" The answer to that question was also "no". (3) "Had the translocation effort been successful?" She indicated the answer to that was it was too early to tell.

Ms. Fulton stated that her organization was fully aware of the deaths of the sea otters this past year and that most of them were due to stress. She stated that stress-related deaths should be minimized this year. She concluded by thanking the USFWS and the Department of Fish and Game for their efforts in this historic program.

Richard Spotts, California Representative, Defenders of Wildlife, noted that his organization also remained in support of this program. He noted that overall it had been successful and it was an exciting opportunity that should be continued. He also pointed out that his organization had provided a letter of comments earlier to the Commission.

Commissioner McCracken asked for the total costs to federal and state governments this past year. Mr. Edwards stated that \$1.1 million of federal funds had been allocated to the translocation project, as well as \$600,000 of Endangered Species Funds. Director Bontadelli stated that the Department was reimbursed for its costs by the federal government.

Commissioner McCracken asked if the Department had conducted a comparison of the crab, lobster and other fisheries before and after the translocation project to San Nicolas Island. Al Petrovich stated that the area of landings was just noted by a block number and exact locations were not identified. He also pointed out that the log book analysis had not yet been completed. He explained that the USFWS, however, had seen an increase in the fishing effort around the island this year. Commissioner Murdy stated that it seemed prudent for the Department to do a logbook analysis as soon as possible for that area. Mr. Petrovich stated that the Department would finish that analysis for certain fisheries and report back to the Commission with its findings.

Commissioner Murdy explained that he had made the motion for approval last year and felt that one year was too short a time to gather all of the answers. He stated that, therefore, he would make the motion to approve the program for at least another year. Commissioner McCracken stated that he had just received the USFWS's report today and would like to review the

report prior to making a decision on this matter. He requested that the item be continued until tomorrow morning. The Commission then agreed to continue this matter until the morning of August 5.

Note: Continuation of this matter occurred at 8:15 a.m. on August 5, 1988.

President Taucher stated that there was a motion still on the floor for approval of the request of the USFWS for renewal of its permit and MOU pertaining to the translocation of sea otters to San Nicolas Island. He noted that he would pass the gavel to Commissioner McCracken and second the motion.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. TAUCHER, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE U.S. FISH AND WILDLIFE SERVICE FOR RENEWAL OF ITS PERMIT AND MEMORANDUM OF UNDERSTANDING PERTAINING TO THE TRANSLOCATION OF SEA OTTERS TO SAN NICHOLAS ISLAND, VENTURA COUNTY, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

5. PUBLIC ACCESS TO THE LOWER FALL RIVER, SHASTA COUNTY.

The Executive Secretary reminded the Commission that for some time now it had been interested in the issue of public access to the Lower Fall River, Shasta County. He noted that California Trout had requested the Commission be briefed on this matter by the Department at its April 1988 meeting in Long Beach. He noted that the discussion had been postponed until the early August meeting. Mr. Cribbs informed Richard May, President, Cal Trout, that based on the discussions held in the Executive Session on this matter, the Department was no closer to resolution of the issue than it was two years ago. He noted that the Department had pursued several alternatives, but each one had failed to provide a successful resolution of this matter.

Dick May, Cal Trout, explained that for the past three trout seasons, the public has been denied access to an area fishermen had used for decades. He reminded the Commission that two years ago Cal Trout had filed suit in the matter in order to cross private land to gain access to PG&E's dredge site location. He noted that two days before the court date, PG&E sent a letter that indicated they would not allow the public to launch from their dredge site which put their lawsuit on hold. He recommended that the Department and the Commission look into the Federal Energy Regulatory Commission's (FERC) requirement that PG&E provide adequate public access as part of their license for the hydroelectric project, and that the Commission join Cal Trout in its suit on this matter. He noted that the law was clear regarding implied dedication of land and felt that Cal Trout

could prove the issue in court, but would have a better chance with state support. Director Bontadelli stated that the Department has an agreement with the FERC concerning investigations of license condition violations. He stated that the Department would contact the FERC office in San Francisco in order for them to investigate the issue and to see if this matter could be resolved administratively.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DIRECTS ITS STAFF TO COORDINATE WITH THE DEPARTMENT TO PREPARE A LETTER TO SEND TO THE FEDERAL ENERGY REGULATORY COMMISSION REQUESTING THAT IT INVESTIGATE THE TERMS AND CONDITIONS OF PG&E'S LICENSE TO DETERMINE IF PG&E WAS REQUIRED TO PROVIDE PUBLIC ACCESS AT ITS DREDGE SITE.

PASSED UNANIMOUSLY.

6. DEPARTMENT COMMENTS RE: DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE SHERWIN BOWL SKI AREA, INYO NATIONAL FOREST.

The Executive Secretary stated that this item was scheduled to receive the Department's comments regarding the Draft Environmental Impact Statement for the Sherwin Bowl Ski Area, Inyo National Forest. He pointed out that the Commissioners had been provided with a copy of the Department's comments regarding this matter.

Deputy Director Jensen stated that the Department found that the document did not meet the requirements of the National Environmental Policy Act (NEPA), or the California Environmental Quality Act (CEQA), because it failed to provide a thorough description and analysis of potential adverse impacts to fish and wildlife resources and that the proposed mitigation measures did not reduce the adverse impacts to a level of non-significance. He noted that until such an analysis was performed and measures were developed and made conditions of project approval, the Department would oppose the project. He indicated that the following were the four major areas of the Department's concern:

1. Non-compliance with NEPA standards of environmental review;
2. Inconsistency with existing planning documents;
3. Inadequacy of the document in meeting NEPA and CEQA requirements; and
4. Adverse impacts of the preferred alternative.

Director Bontadelli stated that this was one of the most complex legal documents the Department had ever prepared. He believed the Department had a very strong case in its objections, as there was a similar case in Oregon. He noted that the Forest Service was finding it hard to answer the

Department's concerns. Commissioner Murdy stated that he hoped the Department was diligent with its follow through in this matter. Director Bontadelli stated that the Department would be. The Executive Secretary suggested that the Department prepare an informational item for the Commission's August 25-26 meeting in Newport Beach, in which the Department could provide an update to the Commission. Director Bontadelli stated that the Department would provide that item.

7. REQUEST OF PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS, SAUSALITO, FOR COMMISSION TO REVIEW THE IMPACT OF REDUCED FLOWS ON FISHERY RESOURCES OF THE TRINITY RIVER.

The Executive Secretary stated that Mr. Zeke Grader, Executive Director, Pacific Coast Federation of Fishermen's Associations, Sausalito, had requested that the Commission review the impact of reduced flows on the Trinity River. He pointed out that the Commissioners had been provided with a copy of Mr. Grader's letter, dated July 6, 1988. The Department provided the following recommendation:

"Former Secretary for the Interior, Cecil Andrus, issued a Secretarial Decision in January 1981, increasing fishery mitigation flows within the Trinity River basin below Lewiston Dam. That decision, which the Department supports, established three different releases of water into the Trinity River. The three releases are identified as either normal year, dry year, or critically dry year based on total inflow to Shasta Lake. A normal water year occurs when Shasta inflow is 4 million acre-feet (MAF) or greater, a dry year occurs when Shasta inflow is less than 4 MAF but greater than 3.2 MAF, and a critically dry year occurs when Shasta inflow is less than 3.2 MAF. Corresponding releases into the Trinity River are: normal year—340,000 AF, dry year—220,000 AF, and critically dry year—140,000 AF.

"The April 1, 1988, estimated inflow to Shasta Lake was 3.8 MAF, thus establishing a dry year flow regime within the Trinity basin of 220,000 AF. The Bureau of Reclamation subsequently reduced flow releases into the Trinity basin to a level of 260,000 AF; 40,000 AF above the minimum requirement for a dry year.

"While total annual releases into the Trinity River are established actual monthly/weekly release schedules are flexible and established annually based on recommendations by the U.S. Fish and Wildlife Service (USFWS) and the Department of Fish and Game.

"There is one conflict, however. The water year begins October 1 and is not classified as normal, dry, or critically dry until April 1, several months later. The Department met recently with the Bureau of Reclamation and the USFWS to bring the two dates closer together in order to achieve more flexibility in providing the proper flow at the proper time.

"The Trinity basin experienced dry conditions last year (fall 1987) and Trinity releases were held at 300 CFS during the salmon spawning season. Even with the low flow conditions, Trinity River Hatchery easily reached their egg taking goal because of the large chinook salmon escapement. However, during the low flow conditions within the basin last year, Department personnel observed that chinook spawners were unable to freely ascend tributary streams to spawn. Also, chinook within the basin exhibited reduced desire to migrate into the upper basin. This probably had a neutral effect on spawning and survival of eggs within the main stem for the following reasons:

- 1) Spawning habitat in the upper Trinity basin below Grass Valley Creek remains degraded and will not provide suitable spawning areas until Buckhorn Dam is constructed to reduce sediment input, and until subsequent gravel cleansing and restoration actions are completed.
- 2) Spawning areas above Grass Valley Creek are limited and could not have provided area for any additional spawners.
- 3) Salmon were distributed more evenly throughout the basin, and utilized spawning areas that they might have bypassed at higher flows.

"Although only 300 CFS were released from Lewiston Dam into the Trinity River last fall, accretion from the tributaries increases flows in the lower river above 300 CFS. Because of conditions this year, the tributaries will not provide as much flow as last year; thus, flows in the lower river have the potential of being even less than last fall.

"Any significant storm from late September through October will help alleviate potential threats to the fishery resources of the basin. Should those storms not arrive, then we expect problems to increase. First, the migration of fall chinook into the upper basin may be reduced which could influence the egg take at Trinity Hatchery. This threat will be moderated by the number of spawners returning to the basin.

"Second, persistent low flows and limited holding areas will increase the exposure of large numbers of spring chinook to a popular sport fishery which may result in a higher than average pre-spawning mortality of these fish.

"And third, without rain, the use of tributary streams by spawning chinooks will be reduced for a second consecutive year.

"We are concerned about the fishery resource of the Trinity basin but at this time we do not foresee the need for any additional actions. We will continue our monitoring activities within the basin."

Zeke Grader thanked the Commission for scheduling this matter. He noted that, as he pointed out in his testimony on July 5, the Bureau of Reclamation had reduced the flows from Lewiston Dam into the Trinity River from 340,000 acre-feet to 260,000 acre-feet this year, while at the same time the Bureau was providing its Trinity River contractors with at least 100 percent of their water. He noted that while water for fish was reduced by over one-third, it was business as usual for the Bureau's contractors. He indicated that the Bureau of Reclamation did not coordinate this action with the Department, nor the Commission. He stated that the farmers rice production had been increased by 16 percent this year. He noted that this was also a year to gather baseline information for allocations of water in the future. He recommended that the Commission write a letter to the Secretary of Interior, requesting that the flows in the Trinity River be increased to 340,000 acre-feet level, but if that was not possible, then all contractors of Trinity River water should have their flows reduced by the same percentage as the fish flow reductions.

Commissioner Murdy stated that he had seen an article in a southern California paper which indicated that the farmers in the Central Valley were taking cutbacks in water. Director Bontadelli stated that it varied from location to location within the state. He noted that water from Friant Dam had been cut back and the farmers in the San Joaquin Valley were taking cutbacks, but there were no cutbacks in the federal water allocations for the CVP in the north central valley. Zeke Grader stated that Sacramento River and Trinity River contractors were receiving full allocation, while the Friant contractors had received cutbacks.

Gary Edwards, USFWS, stated that when the decision was made by the Bureau to provide 100 percent of the water to the farmers in the Central Valley, that decision was made in February 1988, when it was still considered a normal water year. He noted that when further precipitation did not occur, the Bureau had consulted with the USFWS and it was determined that the flows in the Trinity River could be reduced this year to provide low flows for the flow study that was being conducted in the Trinity River. Director Bontadelli agreed with Mr. Edwards on this point, that the decision to provide the farmers with their full allocation was made when it was still considered a normal water year, in February 1988. Mr. Edwards stated that he did not have any problems with the Commission sending a letter to the Secretary of Interior regarding this matter. Chief Deputy Director Fletcher stated that the Klamath River Management Council had written a letter to David Houston, Regional Director, Bureau of Reclamation, concerning this matter.

Dick May, Cal Trout, stated that the 340,000 acre-feet allocation for the Trinity River made by Secretary Andrus in 1981, was a minimum flow level. He noted that the Trinity River was constantly experiencing drought conditions and that the Commission and the Department should fight hard to keep the Trinity River flows up to an acceptable level.

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY DIRECTS ITS STAFF
TO WRITE A LETTER TO THE SECRETARY OF INTERIOR WITH A
COPY TO DAVE HOUSTON IN THE BUREAU OF RECLAMATION'S

REGIONAL OFFICE IN SACRAMENTO, STATING THAT THE FISHERY POPULATIONS IN THE TRINITY RIVER WERE VALUABLE RESOURCES TO THE STATE AND THAT THE FLOW LEVELS SHOULD BE MAINTAINED TO PROTECT THESE RESOURCES.

PASSED UNANIMOUSLY.

The Executive Secretary then asked the Commission to suspend its rules to hear additional items.

It was then:

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

PASSED UNANIMOUSLY.

- 7.a. CONFIRMATION OF EMERGENCY ACTION OF JULY 28, 1988, AUTHORIZING THE DEPARTMENT TO ISSUE A PERMIT TO GOODYEAR TIRE AND RUBBER COMPANY TO USE A HELICOPTER TO FILM A COMMERCIAL WITHIN THE SEA OTTER REFUGE, MONTEREY COUNTY.
-

The Executive Secretary reminded the Commission that on July 28, 1988, it authorized the Department to issue a permit to Goodyear Tire and Rubber Company to use a helicopter to film a commercial within the Sea Otter Refuge, Monterey County. He noted that this action was requested merely to confirm that telephonic authorization.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY CONFIRMS ITS EMERGENCY ACTION OF JULY 28, 1988, AUTHORIZING THE DEPARTMENT TO ISSUE A PERMIT TO GOODYEAR TIRE AND RUBBER COMPANY TO USE A HELICOPTER TO FILM A COMMERCIAL WITHIN THE SEA OTTER REFUGE, MONTEREY COUNTY.

PASSED UNANIMOUSLY.

- 7.b. REQUEST OF STEVE ROSS, LONGLINERS ASSOCIATION, FOR AUTHORIZATION TO FISH UNTIL SEPTEMBER 1, WITHIN THE LONGLINE CLOSURE IN SOUTHERN CALIFORNIA.
-

The Executive Secretary reminded the Commission that at its June 30, 1988, meeting in Bishop, it extended the July deadline for the longline closure to August 1, 1988, and had indicated that it would reconsider an extension to September 1 at its August 4, 1988, meeting in Sacramento. He indicated that the Department had been observing this fishery and had reported that the effort in the recreational marlin fishery had increased within the last few days. He noted that the Department recommended denial of the request.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF STEVE ROSS, LONGLINERS ASSOCIATION, TO EXTEND THE LONGLINE CLOSURE TO SEPTEMBER 1, 1988. FURTHER, ALL TERMS AND CONDITIONS FOR THE TEN EXPERIMENTAL GEAR PERMITS FOR THIS LONGLINE FISHERY REMAIN THE SAME.

PASSED UNANIMOUSLY.

7.c. RECEIPT OF DEPARTMENT REPORT REGARDING STATUS OF WATERFOWL POPULATION.

The Executive Secretary indicated that the Department wished to provide a status report on the waterfowl population and possible regulations for the upcoming waterfowl season. Eldridge Hunt, Chief, Wildlife Management Division, stated that he had just returned from meetings with the Pacific Flyway Council and the Federal Government concerning the status of waterfowl populations in North America. He stated that the USFWS had prepared a video concerning this matter which he wished to show the Commission at this time. He indicated that it would show depressed breeding habitat available in Canada and North America. He stated that the total duck population was down 16 percent below the long term average and the pintail population was down 54 percent. Mr. Hunt further indicated that the federal government would publish their proposed framework in the August 17, 1988, Federal Register. He indicated that the public review period would end August 29 and that the Federal Government would announce the final regulations on September 13. Director Bontadelli explained the proposed federal proposals as he knew them at that time. He indicated that these proposals were changing almost hourly. The proposed federal framework was as follows:

Section 502, Title 14, CCR, is amended to read:

502. Waterfowl, Migratory; Common Snipe; American Coot and Common Moorhen (Common Gallinule).

(a) Statewide Regulations.

(1) Seasons: See area regulations.

(2) Bag and Possession Limits.

(A) Ducks (including Mergansers): Limit: 5 4 per day; 10 8 in possession. The daily bag shall contain no more than 4 3 mallard and no more than 4 pintail, with 5 in the aggregate, and no more than one hen mallard and one hen pintail. The daily bag shall contain no more than 1 pintail of either sex. Possession limits of mallard and pintail shall be double the daily bag. No more than 2 redhead or canvasback, singly or in the aggregate, may be taken daily and only 4 may be possessed. There is a statewide closure on the take of canvasbacks.

(B) Geese: Statewide closure on the take of cackling Canada geese "cacklers" (*Branta canadensis minima*) and Aleutian Canada geese "Aleutians" (*Branta canadensis leucopareia*). For the purpose of these regulations, Canada geese refers to all subspecies of white-cheeked geese except "Aleutians" and "cacklers". For the purpose of these regulations, white-fronted geese refers to greater white-fronted geese. For additional information on other species see area regulations.

(C) American Coot and Common Moorhen: 25 per day, 25 in possession singly or in the aggregate of these species.

(D) Black Brant:

1. Bag and Possession Limits: 2 per day, 4 in possession.

2. Season: Open November 1 through November 30.

(E) Common Snipe: 8 per day, 16 in possession.

(F) Falconry Ducks (including Mergansers), Geese, American Coots, Common Moorhens and Common Snipe: 3 per day, 6 in possession singly or in the aggregate of all permitted migratory game birds.

(b) Area Regulations.

(1) Northeastern California: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with old Highway 99 at the town of Grenada; south along old Highway 99 to its junction with Interstate 5 just north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to the junction with Highway 49; east and north on Highway 49 to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada state line.

(A) Seasons:

1. Ducks (including Mergansers), American Coot, Common Moorhen and Common Snipe: Open on second Saturday of October and extending for a period of 79 59 consecutive days.

2. Geese: Open on second Saturday of October and extending for a period of 93 consecutive days. The white-fronted goose season shall run from October 10 8 through November 1, 1987 October 30, 1988 (23 days).

3. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days.

(B) Bag and Possession Limits: Geese, 3 per day, 6 in possession, of which not more than 1 white-fronted nor 2 Canada geese may be in the daily bag, nor more than 2 white-fronted geese or 4 Canada geese may be in possession.

(2) Colorado River: In those portions of San Bernardino, Riverside, and

Imperial counties lying east of the following lines: Beginning at the intersection of Highway 95 with the California-Nevada state line; south along Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside county line on a road known as "Aqueduct Road" in San Bernardino County; south from the San Bernardino-Riverside county line on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to its intersection with the Ogilby and Tumco Mine Road; south on this road to Highway 80; east seven miles on Highway 80 to its intersection with the Andrade-Algodones Road; south on this paved road to the intersection of the Mexican boundary line at Algodones, Mexico.

(A) Season:

1. Ducks (including Mergansers), American Coot, Common Moorhen and Common Snipe: A split season from October 9, 1987 through November 29, 1987, 20, 1988 and December 16, 1987, 19, 1988 through January 10, 1988, 8, 1989.

2. Geese: From November 15, 1987 through January 17, 1988, 22, 1988.

3. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days.

(B) Bag and Possession Limits: Geese, 6 per day, 6 in possession. Limits may not include more than 3 white and not more than 3 of the dark species of which only 2 may be Canada geese.

(3) Southern California: In that portion of southern California (but excluding the Colorado River zone) lying south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 166 near the City of Santa Maria; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada state line.

District 22 Defined: All of Imperial County, and those portions of Riverside and San Bernardino counties lying south and east of the following line: Starting at the intersection of Highway 86 and the north boundary of Imperial County; north along Highway 86 to Highway 111; north along Highway 111 to its junction with Interstate 10 in the town of Indio; east on Interstate 10 to its junction with the Cottonwood Springs Road in Sec. 9, T6S, R11E; north along that road and the Mecca Dale Road to Amboy; east along Highway 66 to its intersection with Highway 95; north along Highway 95 to the California-Nevada boundary.

(A) Season:

1. Ducks (including Mergansers), American Coots, Common Moorhen and Common Snipe: A split season from October 17, 1987 through November 29, 1987, 9, 1988 and December 7, 1987, 1988 through January 10, 1988, 8, 1989.

2. Geese: Open on the third Saturday of October and extending for a period of 93 consecutive days except as follows:

a. Canada geese: Open on the fourth Saturday in October and extending for a period of 86 consecutive days.

b. Canada geese in California Fish and Game District 22: Open on the fourth Saturday of October and extending for a period of 86 consecutive days.

3. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open concurrently with duck season and extending for a period of 107 consecutive days.

(B) Bag and Possession Limits: Geese, 6 per day, 6 in possession. Limits may not include more than 3 white and not more than 3 of the dark species of which only 2 may be Canada geese, except that in District 22 the daily bag limit may not include more than one Canada goose and 2 may be possessed.

(4) Balance of State: That portion of the state not included in northeastern California, southern California or the Colorado River.

(A) Season:

1. Ducks (including Mergansers), American Coot, Common Moorhen and Common Snipe: Open on A split season from the fourth Saturday of October and extending for a period of 79 23 consecutive days and from the Sunday closest to December 1 extending for a period of 36 consecutive days.

2. Geese: Open on Saturday closest to November 1 and extending for a period of 79 consecutive days. The white-fronted goose season shall run from the Saturday closest to November 1 through January 31, 1988 1, 1989.

3. Falconry Ducks (including Mergansers), Geese, American Coot, Common Moorhen and Common Snipe: Open on fourth Saturday of October and extending for a period of 107 consecutive days.

(B) Bag and Possession Limits: Geese, 3 per day, 3 in possession, of which not more than 1 dark may be in the daily bag and possession. The daily bag and possession limit on dark geese may be expanded to 2, provided both are Canada geese.

(c) Special Closures and Seasons:

(1) Canada Geese, or its subspecies and white-fronted geese:

(A) In the counties of Del Norte and Humboldt, there will be no open season on Canada geese or its subspecies.

(B) In the Sacramento Valley: In the area described as follows: Beginning at the town of Willows; south on Interstate 5 to the junction with Hahn Road; east on Hahn Road and the Grimes-Arbuckle Road to the town of Grimes; south on the Sacramento River to the Tisdale Bypass; east on the Tisdale Bypass to O'Banion Road; east on O'Banion Road to Highway 99; north on Highway 99 to the junction of the Gridley-Colusa Highway in the town of Gridley; west on the Gridley-Colusa Highway to its junction with the River Road; north on the River Road to the Princeton Ferry; west across the Sacramento River to Highway 45; north on Highway 45 to its junction with Highway 162; north on Highway 45-162 to the town of Glenn; west on Highway 162 to the point of beginning. There shall be no open season on Canada geese, "cacklers" or "Aleutians". The season for white-fronted geese shall run from the Saturday closest to November 1 through November 30, 1987.

(C) In the San Joaquin Valley: In the area described as follows: Beginning at the City of Modesto; west on Highway 132 to the junction of Interstate 5; south on Interstate 5 to the junction of Highway 152; east on Highway 152 to the junction of Highway 59; north on Highway 59 to the junction of Highway 99; north and west on Highway 99 to the point of beginning. The open season for the taking of Canada geese shall be from the Saturday closest to November 1 through November 22.

(D) Notwithstanding the provisions of subsections (c)(1)(B) and (C) above, there shall be no open season for the take of Canada geese, in either of the areas described in these subsections if the department determines that opening the season would have a deleterious impact on the Aleutian goose population. The department shall inform the commission, and the public via the news media, of any implementation of the provisions of this subsection.

(2) Closed to All Hunting:

(A) Morro Bay Closure: That portion of Morro Bay lying south and east of the following line: Beginning 200 yards offshore from the mean high tide line at the end of Inyo Street in Cuesta-by-the-Sea; north and east along a line to a point 200 yards offshore from the mean high tide line at the end of Santa Ysabel Avenue in Baywood Park; and then easterly along a line 200 yards offshore from the mean high tide line to a point north of 12th Street in Baywood Park.

(B) South Humboldt Bay Closure: Beginning at the intersection of the north boundary of Table Bluff County Park and the South Jetty Road; north along the South Jetty Road to the South Jetty; west along the South Jetty to the mean low water line of the Pacific Ocean to its intersection with the north boundary of the Table Bluff County Park; east along the north boundary of the Table Bluff County Park to the point of origin. Closure to be in effect for the regular brant season (see Section 502(a)(2)(D)2.).

(C) Martis Creek Lake Closure: The waters and shoreline of Martis Creek Lake, Placer and Nevada counties, shall not open to waterfowl hunting until November 16.

Authority: Section 355, Fish and Game Code

Reference: Sections 355 and 356, Fish and Game Code.

Section 506, Title 14, CCR, is amended to read:

506. Shooting Hours.

During the open season the shooting hours for migratory waterfowl, American coots, common moorhens and common snipe (jacksnipe) for all of California shall be from ~~one-half hour~~ before sunrise to sunset.

Authority: Sections 355 and 3000, Fish and Game Code.

Reference: Sections 355, 356 and 3000, Fish and Game Code.

Section 507.1, Title 14, CCR, is amended to read:

507.1. Zones Wherein Steel Shot is Required for Waterfowl, American Coot and Common Moorhen Hunting.

In the following areas, only shot shells loaded with steel shot may be used or possessed for waterfowl, American coot and common moorhen hunting:

(a) The entire counties of Alameda, Butte, Colusa, Contra Costa, Glenn, Imperial, Marin, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Yolo and Yuba;

(b) Those portions of Lassen, Modoc, Plumas, Shasta, Sierra, and Siskiyou and Tehama counties bounded by the following line: Beginning at I-5 at the Oregon border, south on I-5 to State Highway 89, southeast on State Highway 89 to State Highway 70, east on State Highway 70 to U.S. 395, south on U.S. 395 to the Nevada border; and

(c) That portion of San Pablo Bay National Wildlife Refuge lying within Sonoma County.

Authority: Section 355, Fish and Game Code.

Reference: Sections 355 and 356, Fish and Game Code.

Section 509, Title 14, CCR, is amended to read:

509. Concurrence with Federal Regulations.

The regulations adopted by the United States through its Secretary of Interior under the Migratory Bird Treaty Act, as amended in ~~1987~~ 1988 in Part 10, subparts A and B, and Part 20, Title 50, Code of Federal Regulations, are hereby adopted and made a part of this Title 14, except where said Federal regulations are less restrictive than the provisions of Chapter 7 of this Title 14 (Sections 500-509), the provisions of Chapter 7 prevail.

Authority: Section 355, Fish and Game Code.

Reference: Migratory Bird Treaty Act and Sections 355 and 356, Fish and Game Code.

PASSED UNANIMOUSLY.

Commissioner Murdy stated that he was recently in Alaska and there seemed to be an abundance of water in that state. Mr. Hunt stated that the USFWS found that there was some flyover of the drought areas, however, there was a problem with the birds pairing up; and, therefore, breeding success was down. Gary Edwards, USFWS, stated that the outlook was bleak for this year. He noted that Director Dunkle was taking a greater interest in waterfowl than previous directors and felt that there may be some short-term hunting closures or reductions in bag limits to allow for a brighter future outlook.

7.d. REQUEST OF JAN MIRASSOU, LIVE OAK, TO DISCUSS DEER TAG DRAWING PROBLEMS.

The Executive Secretary stated that Jan Mirassou had contacted the Commission office requesting the Commission hear his concerns about the recent deer tag drawing. He pointed out that normally the Commission does not hear requests that were not properly noticed on the Commission's agenda, but that the Commission had the ability to hear Mr. Mirassou at this time, if it so desired. The Commission decided to allow Mr. Mirassou the opportunity to relate his concerns to the Commission.

Jan Mirassou stated that in the recent deer tag drawing, his son had received a tag for Zone X5B, and he had received a tag for Zone X4; however, they had submitted their tags as a party. He explained that initially he had incorrectly filled out the tags and that they had been sent back to him for clarification and to identify which period he wished to hunt in Zone X5B. He stated that once he corrected the tags they were stapled together and mailed to the Department. He indicated, however, that the tags became separated at the post office and did not reach the Department as a pair. He requested that he and his son both be given tags for either Zone X5B or for Zone X4, but not separate zones. He stated that he and his son wished to hunt together and that he did not want to hunt in X5B without a proper tag.

Deputy Director Jensen stated that it was his information that Mr. Mirassou had not followed the procedures correctly when filing deer tags as a party. He noted that the tags were to be sent to the Department in an envelope, not merely stapled together. He pointed out that this would avoid the tag separation problem experienced by Mr. Mirassou. Mr. Mirassou stated that he had a letter from the postmaster at Live Oak indicating that the tags had become separated in the mail. The Executive Secretary recommended that the Department be given the opportunity to review this matter and make a recommendation to the Commission after tomorrow's meeting. The Commission concurred with that recommendation.

There being no additional items before the Commission, the meeting was recessed at 5:30 p.m., to be reconvened on August 5, 1988, at 8:00 a.m. in the Auditorium, Resources Building, 1416 Ninth Street, Sacramento.

State of California
FISH AND GAME COMMISSION

Minutes, Meeting of August 5, 1988

Pursuant to the call of the President, the Commission met in the Auditorium, Resources Building, 1416 Ninth Street, Sacramento, California, on August 5, 1988. The meeting was called to order at 8:15 a.m. by President Taucher.

Persons Present:

FISH AND GAME COMMISSION

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

COMMISSION STAFF

Harold C. Cribbs	Executive Secretary
Robert R. Treanor	Assistant Executive Secretary
Ronald J. Pelzman	Associate Fisheries Biologist

ATTORNEY GENERAL'S OFFICE

Denis Smaage	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Pete Bontadelli	Director
Robert Fletcher	Chief Deputy Director
Paul Jensen	Deputy Director
Eldridge Hunt	Chief, Wildlife Management Division
Al Petrovich	Chief, Marine Resources Division
DeWayne Johnston	Chief, Wildlife Protection Division
Ken Hashgen	Fisheries Management Supervisor
Greg Laret	Deputy Chief, Wildlife Protection Div.
Ryan Brodrick	Patrol Captain
Don Koch	Associate Wildlife Biologist

The following persons were also present and heard:

Bill Yeates	CA Animal Owner's Assn. (CAOA)
Kathleen Milnes	Deputy Director, CA Film Comm.
Dan Goldberg	Alliance of Motion Picture & TV Producers
Larry Kurbatoff	Teamsters Public Affairs Council
Stephen Chambers	Western Fairs Assn.

Gary Olsen
Charlie Sammut
Ursula Brauner
Karyn Hutchinson
Martine Colette
Mark Waters
Nicholas Toth
Penny Andrews
Paul Reynolds
William Andrews
Donna Martin
Steve Martin
Doree Sitterly
Joy Green
Boone Narr
Stacy Regan
Sheila Larson
Kari Johnson
Laurie Fay
Reenie Sullivan
Nanette Clark
Richard Potter
Bill Harvey
Gary Gero
Dave Nix
Greg Lille
Bob Dunn
Richard Evans, D.V.M.
Jan White
Jean Pasco
Dan Keeley
James Horn
William Phillips
Roberta Ratcliff
Chuck Trantham
David Blasko
William Knobloch
Lutz Rube
Erland Renslo
Bob Steele
Richard Sylvester
Warren Gibbons
Domenico Grillo
Duane Stapel
Douglas Stokes
Dominic Papetti
Bob Machin
Tom Davi

L.A. Dept. of Animal Regulation
President, CAQA
Hollywood Animal Rentals, Inc.
Exotic Paws, Inc.
Wildlife Waystation
Apes, Etc.
Cougar Hill Ranch
Hexagon Farm
Hollywood Animal Rentals, Inc.
Hexagon Farm
Working Wildlife
Working Wildlife
Animal Actors of Hollywood
Animal Actors of Hollywood
Hollywood Animal Rentals, Inc.
Great American Petting Zoo
Exotic Paws, Inc.
Have Trunk...Will Travel
Concerned Citizen
Concerned Citizen
CAQA
CA Wolf Hybrid Club
Secretary, CAQA
Wings Wildlife
Rare and Wild Presentations
Lill's Performing Chimps
Bob Dunn's Animal Rentals
National Wildlife Rehabilitator's Assn.
IWRC
Alliance for Wildlife
The Reptile Ranch
Concerned Citizen
CA Domestic Ferret Assn.
Folsom City Zoo
Foothill Game Farm
Elephants "R" Us
Concerned Citizen
Happy Hollow Zoo, San Jose
CA Hawking Club
Commercial Herring Fisherman
Commercial Herring Fisherman
Boat Manufacturer
Commercial Herring Fisherman
Commercial Herring Fisherman
Commercial Herring Fisherman
Commercial Herring Fisherman
Commercial Herring Fisherman
Commercial Herring Fisherman

Doug Karlberg
Ilson New
Ron Mangué
Tom O'Hara
Warren Cathern
Mike Tamman
Zeke Grader
John Beuttler
Mrs. Dennis Powers
Mark Charles
Roger Cutting
Jim Handelman
Mike Roduner
Paul Krawchuk

Commercial Herring Fisherman
Attorney
Commercial Herring Fisherman
Commercial Herring Fisherman
Commercial Herring Fisherman
Commercial Herring Fisherman
PCFFA
United Anglers
Commercial Salmon Fisherman
Commercial Salmon Fisherman
Commercial Fisherman
Commercial Fisherman
Trapper
Law Clerk

President Taucher introduced members of the Commission, its staff, Director Bontadelli, Chief Deputy Director Fletcher, Deputy Director Jensen and Denis Smaage of the Attorney General's Office.

DISCUSSION ITEMS

8. PRESENTATION BY DEPARTMENT RE: MT. SHASTA HATCHERY CENTENNIAL CELEBRATION.

The Executive Secretary stated that this item had been scheduled to acknowledge the Mt. Shasta Hatchery Centennial Celebration. He pointed out that the Commissioners had been provided with background information on the schedule of events for the centennial celebration. He noted that the Department was prepared to provide the Commission with a short presentation concerning this historic facility and that the Commission staff had prepared a resolution to present to the Department commemorating this important occasion.

Ken Hashagen, Fishery Management Supervisor, Department of Fish and Game, gave a brief slide presentation of the history of the hatchery. The Executive Secretary then read the resolution prepared for this occasion and President Taucher presented the resolution to Director Bontadelli. Mr. Cribbs noted that copies of the resolution would also be provided to the Sission Museum and the Department's Mt. Shasta Hatchery.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY ADOPTS THE
FOLLOWING RESOLUTION COMMEMORATING THE CENTENNIAL
CELEBRATION OF THE MT. SHASTA HATCHERY:

DRAFT

RESOLUTION HONORING
CALIFORNIA DEPARTMENT OF FISH AND GAME'S
MT. SHASTA HATCHERY

WHEREAS, 1988, marks the centennial celebration of the California Department of Fish and Game's operation of the Mt. Shasta Hatchery, Siskiyou County; and

WHEREAS, the Mt. Shasta Hatchery, originally named the Sission Hatchery, is the oldest operating hatchery in the western United States having produced, over the past 100 years, more salmonids representing at least 18 different species and strains, than any other hatchery in the world; and

WHEREAS, the hatchery has supplied salmon and trout eggs to hatcheries in many states and foreign nations, including Mexico, New Zealand, China, India, Pakistan, The Philippines, and Bangladesh; and

WHEREAS, the Mt. Shasta Hatchery, as the cornerstone of the Department's hatchery system, has contributed significantly in providing recreational and economical benefits to California and the nation;

NOW, THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby officially recognizes the centennial celebration of the Department of Fish and Game's Mt. Shasta Hatchery and the Department's personnel for its invaluable contribution to the people of California for the past 100 years.

FINALLY, BE IT RESOLVED, that the Commission directs its staff to provide suitable framed copies of this Resolution to the Director of the Department of Fish and Game and to the Director of the Session Museum, Mt. Shasta.

Date

Albert C. Taucher, President

Robert A. Bryant, Vice President

John A. Murdy III, Member

E. M. McCracken, Jr., Member

Benjamin F. Biaggini, Member

Harold C. Cribbs, Executive Secretary

PASSED UNANIMOUSLY.

9. DEPARTMENT REPORT RE: ACTIVITIES OF THE WILDLIFE PROTECTION DIVISION'S SPECIAL OPERATIONS UNIT.

Mr. Cribbs indicated that this item had been scheduled to afford the Department's Wildlife Protection Division an opportunity to update the Commission on the activities of its Special Operations Unit (SOU). Greg Laret, Deputy Chief, Wildlife Protection Division, briefly outlined two successful operations it had just completed. He noted that because of the undercover work of this unit, he was unable to provide a lot of specifics concerning the SOU. He stated that it was a hard job to do and very stressful, but needed to be done. He pointed out that the Department had been educating the courts and the different district attorney offices to make them more fully aware of the importance of fish and wildlife laws and regulations. He noted that there were two tools available to the Department in enforcing the laws and regulations, one being the uniformed personnel and the other, its undercover operations. He noted that the Department was dedicated to using both tools to apprehend poachers. He provided the following brief review of the two operations that demonstrated the effectiveness of this kind of enforcement:

"OPERATION RUBE began on November 1, 1985 and concluded on February 10, 1987 - a total of 15 months, 10 days. The operation was a deep undercover investigation operated by Region 4 into the white bass containment program and associated resource violations in the Tulare County area. This operation resulted in the arrest of 44 suspects on various wildlife violations, eight of which were felony conspiracy game violations, one felony altering of state records and fraud, and one felony possession of controlled substances for sale. By undercover purchase or by search warrant seizure, the Department seized six mountain lion skins, bear parts or full skins of 16 black bears, 250 bobcat hides, 90 fox hides, 3 pine martins, 2 ring tail cats, 2 hawks, talons of 2 eagles, 600 rabbits, 2,000 pounds of white bass, 11 raccoons, and several mounted or half mounted deer heads.

"The court cases on this operation have recently been concluded with a total of 43 convictions. The 44th case was not prosecuted. The most severe penalty given to any one person was one year in jail, a total of \$12,000 in fines, penalties and restitutions and three years of no hunting during which he is subject to the search of his person, vehicle and home by any peace officer.

"OPERATION URSUS was a complex covert investigation into the illegal killing and trafficking of bear and bear parts. The investigation began in April, 1986 and concluded February 29, 1988, spanning 23 months.

"The investigation ranged from infiltrating an organized ring of bear poachers who guided hunters willing to pay their price, to the wholesale house distributing bear parts, seal and tiger penises, to segments of the medical community using bear gall bladders for medicinal purposes. Also included in the sting operations were dealers selling jewelry made with bear claws and apothecary shops selling gall bladders touted as bear but actually from cows or pigs.

"OPERATION URSUS resulted in 75 cases being filed with 14 physical arrests, 3 search warrants served and 5 felony complaints filed. The defendants are now being prosecuted for cases ranging from illegally killing bears to selling bear claw jewelry at a swap meet.

"Covert investigations are absolutely essential to effectively combat illegal commercialization of wildlife in this day and age. The Department is committed to continuing to employ this technique to harass wildlife thieves from every possible angle."

10. SPECIAL HEARING: AMENDMENT OF SECTIONS 671 AND 671.1; ADD SECTION 671.2; AMEND AND RENUMBER SECTION 671.3 TO 671.5; AMEND AND RENUMBER SECTION 671.4 TO 671.3; ADD A NEW SECTION 671.4; AND REPEAL SECTION 671.6; AMEND AND RENUMBER SECTION 671.5 TO 671.6, TITLE 14, CCR, TO PROVIDE FOR THE HUMANE CARE AND TREATMENT OF WILD ANIMALS. (FINAL ACTION TENTATIVELY SCHEDULED FOR AUGUST 26, 1988, IN NEWPORT BEACH.)

The Executive Secretary stated that this was a special hearing to receive public comment concerning the proposed changes in the Commission's regulations regarding the care, confinement and treatment of wild animals. He pointed out that the Commissioners had been provided with a copy of the Department's pre-publication of notice statement and the text of the proposed regulations in strike-out and underline format, copies of the correspondence received in the Commission office concerning this proposal, as well as the Department's response to those comments.

He explained that the existing regulations related to the importation, transportation and possession of wild animals are confusing to the public, difficult to enforce, and do not adequately provide for the proper care and treatment of wild animals. He noted that during the public review of the Department's proposed changes there had been a lot of misinformation distributed and confusion among the public on this issue. He stated that the Department of Fish and Game had submitted these proposals in an effort to comply with the intent of AB 1620, authored by Assemblyman Farr, and that during the Department's review on the proper containment and care of wild animals, the Department was prompted to consider revamping the entire regulations on the importation, transportation and possession of wild animals. He indicated that the Commission had broad regulatory powers dealing with prohibited species and decided that if the regulations were to be amended, it would be a good opportunity to deal with all of the sections at one time.

Mr. Cribbs then briefly outlined the requirements of Assemblyman Farr's AB 1620 legislation. He pointed out that it dealt with the transfer of animals, exemptions to zoos and animals used for display purposes, deleted requirements of zoos meeting federal regulations, fees of inspections, a Director appointed committee to advise the Director on proper containment and care of wild animals and the frequency of inspections. He noted that the Department had been working with the Director's Advisory Committee for approximately two years. He reported

that the Advisory Committee had provided recommendations to the Department and that the Department took those recommendations and prepared those amendments which were now before the Commission. He indicated that the Department had prepared responses to all of the public's comments to date and that the Department had accepted numerous recommendations made by the public. He noted, however, that the Department had not had the opportunity to provide regulatory language for those changes, but would do so in the near future.

The Executive Secretary stated that the purpose of this meeting was to accept the public's input on the Department's proposal and that he hoped that the public would provide its comments in a constructive mode. He noted that originally the Commission had tentatively set August 26 in Newport Beach to adopt the amendments to these regulations; however, he stated that it was the Commission's staff's suggestion that the Commission should receive public input at both the August 5 and August 26 meetings, after which the Commission staff and Department staff would review all of the public's comments and make appropriate changes in the proposals. He stated that the revised proposal would then be provided to all interested parties for a new 45-day review period, and if time allowed, the Commission could consider adoption at its October 7 meeting in Sacramento; if not then, at a future meeting.

Mr. Cribbs stated that the proposed regulations did not relate to the rehabilitation facilities. He noted that the Department dealt with rehabilitation facilities with a memorandum of understanding. He emphasized that the Commission and the Department's intent with these amended regulations was not to put legitimate exhibitors and other small business people out of business, but to adopt regulations that would provide for the humane care and treatment of wild animals. He noted that he had recently spoken with Assemblyman Farr and that Assemblyman Farr was also interested in the humane care and proper treatment of wild animals which was the intent of his legislation. Mr. Cribbs emphasized that with regard to the caging requirements, the Department's responses have been flexible in dealing with this issue and that he had been assured by the Department that it would continue to be objective in its review of the public's recommendations.

Deputy Director Jensen thanked the Director's Advisory Committee members for their input into this process. He noted that the committee was formed approximately two years ago. He pointed out, however, that the committee was considered advisory in their proposals and comments to the Department. He noted that the bulk of the proposals made by the Advisory Committee had been addressed by the Department. He explained that the Department had not had an opportunity to incorporate all of the changes it had made into regulatory language, but that it would do so within the next few days. Mr. Jensen then went through the Department's responses to the public recommendations point by point.

Director Bontadelli stated that the Department's proposal was just the starting point of this process. He noted that after today he was recommending that a working group be formed with representatives from the

various groups to sit down with the Department to review and modify where appropriate, these proposals and then come back to the Commission at its October and November meetings.

President Taucher asked if there was a change in the responsibility for inspection of these facilities. Deputy Director Jensen stated that Assemblyman Farr's legislation allowed for the inspection to be conducted by a responsible local entity. He noted that the Department had solicited bid proposals on this issue and that it had received 12 bid proposals to handle the annual inspections. He pointed out that the groups ranged from humane societies to county animal control facilities. He noted that the Department was now reviewing those bids. President Taucher asked the Department if it could hire additional personnel to continue with the inspection of these facilities, would it be interested in doing so? Deputy Director Jensen indicated that Fish and Game wardens now made the inspections, but the Department had discussed changing the procedure and the possibility of hiring animal technicians to conduct the inspections, as the Department was not adverse to continuing the inspections. Director Bontadelli stated that it was difficult for the Department to make that determination without a full review of its budget and personnel years available. He pointed out that the Department had a maximum number of personnel years available to it and had to work with it in those confines. He noted that if the public wished the Department to continue the inspections, then the Governor would have to approve additional personnel years for the Department.

The Executive Secretary thanked Tracey Moreno and Mike Herlache of the Department's Wildlife Protection Division, and Ron Pelzman of Commission staff for working long hours on these proposals. He then asked Denis Smaage to briefly review the Commission's authority in dealing with these proposed regulation changes. Denis Smaage stated that the Commission received its authority from sections 2116-2120 of the Fish and Game Code. He then read sections 2116.5 and 2118 of the Fish and Game Code outlining the Commission's ability to amend these regulations and to add animals to the prohibited species list by regulation. Mr. Smaage also read Section 2120 of the Fish and Game Code. He noted that Assemblyman Farr's bill related back to Section 2120 and stated that it relied on the Commission's previous authority; therefore, the Commission has adequate authority in adopting these proposed regulation changes concerning the importation, transportation and possession of prohibited species, as well as the humane care and treatment of wild animals.

Mr. Cribbs stated that it would now be appropriate for the Commission to receive testimony from the public, and the following discussions took place:

Bill Yeates, Attorney, California Animal Owners Association, stated that he appreciated the Executive Secretary's and Director's comments this morning. He noted that most of his previous comments were made to start a dialogue between his group, the Commission and the Department, and that his group was willing to work with the Commission and Department in development of these regulations. He indicated that there were no separate permits

mentioned in the Fish and Game Code and that he had thought that there was a procedural problem because the statutory language had not been provided to the Office of Administrative Law. He recommended that this item be removed from the hearing process at this time and, after changes had been made and the regulations had been redeveloped, then the recommendations could come back to the Commission. The Executive Secretary stated that the statutory language had been included in the packet submitted to the Office of Administrative Law and that the public notice address the points of authority read by Mr. Smaage. He indicated that this item would be kept on the calendar and that after the August 26 meeting in Newport Beach, the Department and Commission staffs would review the public's input to date and make modifications in the Department's proposal, where appropriate, and then go out for further public review and comment with possible adoption of the regulations at the October/November meetings, but more than likely the November meeting. He indicated that the Commission was not locked into a timeframe, but was willing to work with the public in developing the best regulations possible with the intent of proper treatment and humane care of wild animals.

Kathleen Milnes, Deputy Director, California Film Commission, stated that their office was created in 1985 to promote, attract and retain the production of motion pictures, television and commercials in California. She noted that they were part of the Department of Commerce because they were part of the administration's business development efforts. She stated that she was here today because the implementation of these proposed revisions would severely impact not only those individuals and businesses who work as professional animal trainers in the entertainment industry, but also other elements of the industry, as well as the economic well-being of the state. She stated that to illustrate, there were approximately 20 principal facilities and nearly 200 professionals who service the film industry's needs for exotic and wild animals and that they estimated their aggregate annual income to be \$10 million. She stated that this was apparently a small segment of the motion picture industry and represented over 3500 days of production, of which 25 percent came from out of state. She indicated that since the average production employed 65 people and cost \$40 thousand each day, that if these proposed regulations were adopted the potential loss in dollars and jobs to California was \$140 million and 227 thousand man days. She noted that \$26 million of this total was business attracted to California by the expertise in animals the state offered. She indicated they had met with the Department of Fish and Game and have heard their recommended changes to the proposals this morning. She stated that they were pleased that the Department recognized the concerns of these animal handlers and have suggested changes that would mitigate the impact of these regulations on their ability to do business. She noted, however, that there were still several critical issues to be resolved, as others will testify, principally in the area of public contact, still photography, transportation, inspection and appeal procedures. She noted that balance was something that we all understand and the California Film Commission urged the Fish and Game Commission to work toward achieving that balance in these regulations and that her office stood ready to continue to assist in whatever way they could.

Dan Goldberg, Alliance of Motion Picture and Television Producers, supported the Commission's efforts to provide for the humane care and treatment of wild animals, but felt that the recommendations would have a negative impact to his industry. He noted that the lack of ownership of detrimental animals would have a severe financial impact on trainers who would have to relocate out of California. He noted that this would impact the production companies with high costs because of lack of animals and trainers. He recommended that the Commission continue to allow the transport and import of animals for film production and that the Commission adopt the recommendations submitted by the animal trainers.

Larry Kurbatoff, Teamsters Public Affairs Council, noted that the regulations were all inclusive and that the cost to comply far exceeded what the Department had intended. He stated that it was his opinion that the contracting out for inspection purposes and the new regulations were two separate issues. He stated that his members were concerned with these proposals and would like the record to remain open for discussion. The Executive Secretary clarified the Commission's intent again and reassured Mr. Kurbatoff that the Commission would continue to receive public input on this issue.

Stephen Chambers, Western Fairs Association, stated that he represented all of the fairs in California, as well as other businesses. He pointed out that they were concerned with the display of exotics at fairs as they use these animals to educate people who can't make it to the zoos.

Gary Olsen, District Supervisor, City of Los Angeles, Department of Animal Regulation, was pleased that the Commission was providing additional time for public input. He stated that he had only received the proposals on July 28 and had not had time to adequately review the proposals. He noted that the City of L.A. could make investigations and impound animals and take them to permitted establishments, but under the new proposals, they would not be able to use those shelters or rehabilitation facilities. He recommended that more than one permit be made available and believed that there should be a grace period after the regulations are adopted. He noted that a grandfather clause with a reasonable timetable, say six months for upgrading to animal welfare standards. He asked that he be put on the mailing list. The Executive Secretary asked Mr. Olsen if he felt the regulations were necessary for the humane care and proper treatment of animals. Mr. Olsen stated yes.

Charlie Sammut, President, California Animal Owners Association, indicated he would like to see the Department continue the inspection process. He indicated that the transfer process was hard enough now and if another entity needed to be involved, it would be tremendously confusing to the individual. He suggested additional personnel for wildlife protection because the time period involved in processing the paperwork was long and if someone was sick or out of the office, it took that much longer to have the Department complete the necessary paperwork.

President Taucher asked Mr. Sammut how many people would be required to operate the inspection within the state. Mr. Sammut stated that it was difficult for him to answer that, but he estimated it would be five to seven people statewide, which would include three inspecting officers plus office staff.

Ursula Brauner, Hollywood Animal Rentals, agreed with the Department's recommendation on permit requirements that detrimental animals be used by exhibitors, it but needed to clarify how a decision would be made on the qualifications. She felt that it was a contradiction. She recommended that several animals be handled on a transfer permit and was confused on how often the permit must be renewed. She recommended that the regulations be stated more clearly. She noted that she realized the permit fees must rise, but it was unclear with the language now proposed and was open to interpretation. She recommended that the fee be kept as low as possible and not raised above the proposal.

President Taucher asked Ms. Brauner how many animals she transported per year. She stated that it varied from year to year, but up to 50 animals, depending on the movie contracts. President Taucher stated that it was his opinion that whatever fee would be charged would be passed on to the client. Ursula Brauner stated that was correct.

Karyn Hutchinson, Exotic Paws, indicated she was concerned with the humane care and treatment of wild animals and indicated there needed to be enforceable care standards. She explained that members of the Director's Advisory Committee were responsible for advising the Department; however, no one on that committee worked in the film industry. She indicated that it was her information that there would be a detrimental effect on exhibitors for the film industry regarding costs to improve the cage facilities which would be in the hundreds of thousands of dollars.

Martine Colette, Founder, Wildlife Waystation, indicated that she had a shelter and that shelter permits needed to be issued. She briefly explained the responsibilities of an animal shelter. She explained that financing was a critical issue with shelters, especially how they were funded, by whom, if subsidized by an agency, and if they were a nonprofit organization. She indicated that a limit of only one permit would affect her fundraising efforts nationwide. She recommended that shelters be able to: (1) accept any wild or exotic animals; (2) have moral and ethical standard; (3) have zoning requirements dictate what shelters are opened in an area; (4) required resume'; (5) have a license provided on a temporary or permanent basis; (6) have a grace period to meet standards and verbal permission over the phone with written requests submitted within 24 hours for transfer of animals; and, (7) use the regulatory dictionary definition of shelter.

The Executive Secretary asked Ms. Colette what percentage of her animals were imported into California. Martine Colette stated that approximately 30 percent or more of her animals were imported from out-of-state. She indicated that her group was a national funding organization and was nonprofit. Mr. Cribbs asked what type of animals she normally imported. Martine stated that she imported cats, bears, some native wildlife and some reptiles. She asked if the shelters would have special regulations. Mr. Cribbs stated that at this time, shelters would fall under Section 671 and must meet the standards recommended by the Department. He pointed out that in the future, the Department may be looking at separate regulations for shelters.

Mark Waters, Apes, Etc., stated that President Taucher's statement regarding the passing of permit fees onto clients indicated that many clients would write animal acts out of production rather than pay the increased costs. He noted that these recommendations would put his company out of business. He noted that he was not opposed to reasonable regulations and was willing to work with the Department to make sure the regulations were workable.

Nick Toth, Cougar Hill Ranch, stated that his caging varied in age and size because his company had been around so long, but that it was comfortable and safe. He recommended that a grandfather clause be approved and recommended that if compounds are found to be safe and comfortable, including caging built but not used, those facilities be approved. He stated that there needed to be a schedule of compliance, as the exhibitors could not change overnight. He supported Director Bontadelli's working group concept and felt that the regulations had been enforced prematurely. He noted that he had seen a copy of the bids and felt that the costs would be prohibitive.

Penny Andrews, Hexagon Farm Breeding Compound, indicated that most of her concerns had already been addressed this morning. She recommended that the definition of breeder be clarified. She indicated that passing fees onto clients would put her out of business, as a client would buy the animals from another state. She recommended that the transfer of animals be conducted with one permit and that the breeder be able to submit an annual report at the end of the year itemizing his/her transfers.

Paul Reynolds, Hollywood Animal Rentals, noted that the use of detrimental animals by only the entertainment industry, would put a lot of people out of business. Deputy Director Jensen agreed with that and noted that the Department would look at different uses and make any necessary changes. Mr. Reynolds noted that putting the inspections out for bid would be like the fox watching the hen house. He noted that the humane societies were against what his industry was doing and recommended that the Department and Commission back away and start over. He recommended that people be allowed more than just one permit.

Bill Andrews, Hexagon Farm Breeding Compound, requested that breeder permits not be limited to only threatened and endangered animals. He noted that zoos wanted nonendangered animals and they needed to maintain a gene pool and genetic diversity. He noted that he agreed with Assemblyman Farr's bill. He supported his wife's recommendation regarding the breeders being allowed to transfer animals and provide the Department with an annual report.

Donna Martin, Steve Martin's Working Wildlife, presented a video regarding the transportation of caged animals.

Steve Martin, Steve Martin's Working Wildlife, noted that transportation caging requirements for chimps and baboons requires one size each for exercise, transport and location. He noted that he had specially

built cages and trailers and he exercised his animals regularly. He recommended that the Commission adopt the IATA regulations concerning the transportation of animals. He noted that when exercising his animals on location, they used a hotline (hotwire) system. He noted that the animals were exercised with someone always with the animal and that the animals were conditioned for years to stay within the hotwire system.

Doree Sitterly, Animals Actors of Hollywood, spoke on the economic difficulty of the new caging costs. She noted that animal trainers breed endangered animals in captivity and also conduct lectures and make presentations at camps, senior citizen centers, etc., and do provide much needed education on wild animals.

Joy Green, Animal Actors of Hollywood, provided a video regarding how their animals were well taken care of and that trained animals are healthy.

Boone Narr, Hollywood Animal Rentals, pointed out that other entities inspected their facilities other than the Department, such as, USDA, USDI, county zoning, Department of Health, SPCA, humane societies, animal control, local agencies, etc. He recommended that the Department keep the inspection process.

Stacy Regan, Great American Petting Zoo, recommended public contact with exotic animals. She recommended that petting zoos be given the same exceptions as the film industry.

Sheila Larson, co-owner Exotic Paws, recommended a new advisory committee to address all concerns. She questioned the Department's criteria for qualifying experience as being too vague.

Kari Johnson, Have Trunk...Will Travel, was concerned with the public display and public contact recommendations by the Department. She noted that she worked with elephants and escape-proof barriers for elephants were hard to construct. She indicated that the staking requirements were unclear and needed revision.

Laurie Fay, private wild animal owner, stated that chaining and staking was used so that animals became conditioned to being around people, and was also used as a training tool. She then showed a video regarding some of the animals she had trained.

Reenie Sullivan, private animal owner, stated that most of her concerns had been answered. She recommended continuation of private wild animal ownership.

Nanette Clark, CAO, agreed with all of the Department's responses, except the clearinghouse permit. She recommended that the individuals should be able to own the wild animal and not the Department.

Bill Yeates, CAO, asked if the animal welfare permittees were ever notified of the Commission policy change that pet owners would no longer be allowed to maintain exotic animals as pets. The Executive Secretary stated

that there was a misconception regarding an abrupt change of Commission policy. He pointed out that the statutes were clear regarding what permits were required and he briefly indicated that the importation, possession or transportation of exotic animals were to be used for zoological gardens filmmaking purposes, scientific or educational uses. He pointed out that the only individuals who came before the Commission would be those who did not fit into that category. He explained that on January 9, 1987, the Commission took a policy position to deny requests for pet purposes and directed the Department not to issue any permits for pet purposes.

Richard Potter, California Wolf Hybrid Club, asked for a clarification on the wolf hybrid F-1 generation issue. Mr. Cribbs explained that an F-1 hybrid was the first generation removed from the parent stock, or a fullblooded wolf and dog cross. Mr. Potter stated that California Wolf Hybrid Club supported the recommendations regarding wolf hybrids.

Bill Harvey, CAO, stated that the majority of the animal welfare permits were by private owners. He stated that his organization wanted continuation of private exotic pet ownership and that they should have the same rights as other exotic animal owners. The Executive Secretary indicated that the Commission's intent of the issuance of no further pet permits, was to reduce breeding of exotic animals, except by zoos, exhibitors and qualified breeders, in order to reduce the sale of exotic animal within California.

Gary Gero, Wings Wildlife, indicated that according to the present regulations, if an exhibitor was at a location more than 48 hours, he must build permanent facilities. He stated that this would be cost prohibitive and put exhibitors out of business. He recommended that the Commission and Department look at these requirements and modify them to allow animals to be held in the temporary traveling cages. He indicated that the AAZPA facilities compete with exhibitors and recommended that AAZPA facilities comply with the new proposals. Deputy Director Jensen indicated that AAZPA facilities were statutorily excluded from these regulations and to make that change would require legislation.

David Nix, Rare and Wild Presentations, asked for a clarification of escape proof cages. He also indicated that public display animals should be expanded to allow public contact with additional animals. Deputy Director Jensen stated that the Department may have been overly restrictive with this aspect of the regulations and would look into this issue to determine which animals they could include for public contact through educational programs.

Greg Lille, Lill's Performing Chimps, indicated that his facility always maintained high standards and that his animals entertain and educate people. He noted that his chimps were used in still photos and printed material and, in addition, he needed to be able to breed chimps in order to maintain an adequate number of animals for his business. He noted that he exhibited animals at fairs and zoos and people held his animals after the show for photographs. He recommended that the Department work together with the industry to clarify these regulations.

Bob Dunn, Bob Dunn's Animal Rentals, indicated that AAZPA facilities should not be the only recognized breeders. He recommended that detrimental animal permits be only \$50. He indicated that AAZPA facilities don't recognize exhibitors, but the zoos do hire them to do different shows on their facilities. He recommended that the AAZPA facilities also comply with these regulations.

Richard Evans, D.V.M., National Wildlife Rehabilitator's Association, requested wording be added in the introduction to indicate that these regulations did not pertain to rehabilitators. He indicated that he was opposed to the idea of wild animals going into people's homes as pets; therefore, he was opposed to the clearinghouse permit concept. He stated that Section 251.5, Title 14, CCR, should be amended to address animals permanently kept by rehabilitators.

Jan White, Director, International Wildlife Rehabilitation Council, recommended euthanizing non-releasable animals. She indicated that a rehabilitation center was not for permanent maintenance of animals and it was in the best interest of the animals, not the people's problem. She indicated that native racoons should not become pets.

Jean Pasco, Alliance for Wildlife Education and Rehabilitation, was concerned with the classification of detrimental and welfare animals. She indicated that animals should not be lumped into subjective categories. She pointed out that the Department's recommendations were too restrictive on fund raising for shelter facilities. She supported Dr. Evan's request for wording in the introduction of Section 671 regarding rehabilitation facilities handled under an MOU, and Section 251.5.

Dan Keeley, The Reptile Ranch, stated that he had a photo booth after his shows where people could have their pictures taken with a boa or an iguana. He recommended that these animals be included as ones allowable for public contact. He asked that the Department look at clarifying the transportation requirements of reptiles and also classification of detrimental animals.

James Horn, private exotic animal owner, indicated he raised and bred parrots. He pointed out that cage sizes for some animals were spelled out and others weren't. He recommended that the Department review this matter. He requested that the transportation permit be written to allow traveling to a vet in the same county or within a 15-mile radius, with a letter from the vet.

William Phillips, Attorney, California Domestic Ferret Association, stated that ferrets were domesticated animals and should not be included on the prohibited species list. He indicated the fitch should be the one on the list. He explained that the Department's recommendations provided a cage size restriction which should not be necessary since ferrets were domesticated animals. He pointed out that the Federal Government also considered them to be domesticated. The Executive Secretary explained that animals not normally domesticated in California were listed as prohibited species. He asked Mr. Phillips the lifespan of a ferret. Mr. Phillips

answered that research animals lived five to seven years and pets lived 10 to 13 years. Mr. Cribbs asked Mr. Phillips if he knew of any individuals who illegally possessed ferrets in California and how many were in his group. Mr. Phillips stated that there were 2500 members in his organization and that he was not aware of any individuals who illegally possessed ferrets. Mr. Cribbs stated that 2500 individuals were a lot of people to be included in the domestic ferret association, since there were less than 100 permits issued by the Department for possession of ferrets in California.

Roberta Ratcliff, Folsom City Zoo, stated that the recommendations would have a large economic impact on nonaccredited zoos. She indicated that Folsom Zoo supported the need for the humane care and treatment of animals, but felt that the proposed regulations would have tremendous, added costs for locally-owned and operated zoos. She recommended that nonaccredited zoos be exempt from the regulations.

Chuck Trantham, Foothill Game Farm, indicated that fencing requirements for hoof stock were an overkill. He pointed out that many people would like to have deer as pets or to rehabilitate deer that have been injured, but the fencing requirement were too restrictive.

David Blasko, Elephants "R" Us, recommended that the Department continue the inspection process. He indicated that if inspections were contracted out, it would be less consistent than if the Department continued the inspections. He noted it would be difficult to determine if the contractors had the expertise to handle the inspections.

William Knobloch stated that he was an exotic pet owner and wanted to keep his pets. He was not supportive of the clearinghouse permit concept, and pointed out that the Commission and Department were only patronizing pet owners with that recommendation. He stated that he was also concerned with an outside agency conducting the inspections.

Lutz Rube, Happy Hollow Zoo, San Jose, indicated that his zoo was also nonaccredited and wished to meet with the Department to discuss how they would handle nonaccredited zoos. The Executive Secretary stated that the nonaccredited zoos would be licensed as exhibitors and the facilities would be inspected on a case by case basis.

The Executive Secretary indicated that the Department would review the all public recommendations made up to this time and provide draft regulatory language for public review by August 20. President Taucher thanked the Department for its work on these proposed regulations. He indicated that he did have a concern with some other agency conducting the inspections. He asked the Department if they could discuss with Assemblyman Farr the concept of amending his legislation to allow the Department the ability to conduct the inspections. Director Bontadelli pointed out that the statute did not need to be amended. He indicated that the Department would have to be provided with the necessary personnel years and funding to maintain inspection and permit issuance. He stated that the Department would determine if PY's and funding were available and if the

inspections could be done more economically by the Department or by a contractor. He pointed out that it would be difficult at this time to obtain additional PY's in the budget. He indicated that a firm dollar value for permits and inspections must be determined and would be presented prior to final adoption of the regulations.

President Taucher recommended that the Department change the recommendation concerning the permanent facility after 48 hours on location. He stated that he was also concerned with the existing pet owners being able to maintain animals in the future. Commissioner Murdy stated that he supported Commissioner Taucher in requesting that the Department maintain the responsibility of inspections and permit issuance.

Bill Yeates again requested that the Commission remove this item from its calendar and not hold a hearing at its August 26 meeting in Newport Beach, but form a working committee and come back at a future Commission meeting when most of the issues had been resolved. The Executive Secretary indicated that the Commission had already noticed the fact that it would hold a meeting August 26 in Newport Beach. He pointed out that this would allow individuals living in the south who could not make it to this meeting to provide their input to the Commission. He noted that if the Commission did not conduct this hearing, it would be severely criticized by the public.

11. ADOPTION OF 1988-89 RESIDENT AND MIGRATORY UPLAND GAME BIRD AND MIGRATORY NONGAME BIRD (AMERICAN CROW) REGULATIONS.

The Executive Secretary pointed out that this was the final meeting required for the receipt, consideration and adoption of changes in the resident and migratory upland game bird and migratory nongame bird (American crow) regulations. He reminded the Commission that at its May 12-13, 1988, meeting in Monterey, the Department provided its recommended changes in the subject regulations and that the Commission also received recommendations from the public on these regulations at its June 30, 1988, meeting in Bishop. Mr. Cribb's noted that the Commissioners had been provided with copies of the Department's pre-publication of notice and pre-adoption statements, as well as the Department's responses to those recommendations received by the Commission at its June 30, 1988, meeting. He stated that all legal requirements had been met and that the Commissioners had before them copies of all correspondence received by the Commission relating to the subject regulations.

Mr. Cribbs informed the Commission that its staff had prepared the necessary regulatory documents and had filed notice with the Office of Administrative Law to adopt regulations to provide an accountability for ownership of all animals held at cold storage/frozen food locker facilities. He indicated that this would implement Commissioner Bryant's related recommendation at the June 30, 1988, meeting in Bishop.

The Executive Secretary stated that another aspect of this item was confirmation of the Commission's approval of the 1988-89 dove and pigeon regulations within the frameworks submitted to the state by the federal

government. He noted that the dove and pigeon frameworks required that the Commission adopt regulations and submit them to Washington, D.C. as soon as possible. He pointed out, however, that the federal government had recently informed the state that it would extend the second half of the dove season from 30 days to 45 days. He explained that the Commission office had sent that proposed change out for further public review and comment and that the Commission would be adopting the dove regulations on August 16, 1988, at a meeting in Sacramento.

Mr. Cribbs also pointed out that the Department had accepted a public recommendation concerning the falconry pheasant season, that would extend the falconry pheasant season from 30 days, beginning on the first Monday after the close of the general season, to a falconry season of October 1 to the last day in February, with a bag limit of two pheasants of either sex and a possession limit of two in Zone A of southern California and four in Zone B in the balance of the state. He noted that the Commission would adopt the pheasant regulations at its August 26, 1988, meeting in Newport Beach.

Eldridge Hunt briefly described the Department's surveys for upland game this past year. He noted that it was the best upland game production in a long time. He pointed out that pheasant production had been the highest since 1972 and that the sage grouse count was 250 birds with the size of broods at an all time high of eight chicks per pair. He also noted that the dove coo counts were the highest in a number of years. Mr. Hunt stated that since the Commission would be considering the falconry pheasant regulations at its August 26, 1988, meeting in Newport Beach, the Department requested an increase in the bag limit after the opening weekend of the season based on the latest production estimates. He noted that the Department would recommend the daily bag limit be increased to four male pheasants after the opening weekend of the season. He explained that the other upland game regulations would remain the same as last year, except for the dove season change as pointed out by Mr. Cribbs.

Mr. Cribbs stated that it would be appropriate at this time to take public testimony on this item and the following discussion took place:

Erland Renslow, California Hawking Club, supported the proposed falconry pheasant season and commended the Department for accepting that public recommendation. He noted that he would not be able to attend the meeting on August 26, and wished to ask a question regarding the waterfowl proposals. He asked if snipe had been included with the falconry waterfowl regulations. Mr. Hunt stated that it was his understanding that snipe would be included.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT
THE FISH AND GAME COMMISSION, HEREBY TENTATIVELY
APPROVES THE DOVE REGULATIONS AS MODIFIED BY THE
FEDERAL FRAMEWORK TO ALLOW FOR A SPLIT SEASON AS
FOLLOWS: SEPTEMBER 1-15 AND NOVEMBER 12-DECEMBER 26.
FINAL ADOPTION IS SET FOR AUGUST 16, 1988.

PASSED UNANIMOUSLY.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION, UNDER THE AUTHORITY VESTED BY SECTIONS 200, 202, 203, AND 3800 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SAID SECTIONS OF SAID CODE AND SAID FEDERAL REGULATIONS AND ACT, REPEALS AND ADDS OR AMENDS ITS REGULATIONS IN SECTIONS 301, 302 AND 711, TITLE 14, CCR, AS FOLLOWS:

Section 301, Title 14, CCR, Re: Quail is amended to read:

301. Quail.

Valley quail, mountain quail and desert quail may be taken only as follows:

(a) General Seasons and Areas:

(1) The season in the counties of Marin, Napa, Solano, Sonoma, Lake and Mendocino shall open on the last Saturday in September extending through the last Sunday in January.

(2) The season in the counties of Del Norte, Humboldt, Lassen, Modoc and Siskiyou shall open on the third Saturday in October extending through the last Sunday in December.

(3) The season in the balance of the state not included in (1) and (2) above shall open on the third Saturday in October extending through the last Sunday in January.

(4) The additional season for mountain quail only shall be for 35 consecutive days prior to the third Saturday in October in the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity; those portions of Amador, Calaveras, El Dorado, Fresno, Madera, Mariposa, Nevada, Placer, Tuolumne and Tulare counties lying east of the western boundary of the national forests.

(5) Bag and Possession Limit: Ten quail per day, twenty in possession.

(b) Archery and Falconry Quail Seasons and Areas:

(1) Valley quail, mountain quail and desert quail may be taken with bow-and-arrow or raptors as specified in 301(a)(1), (2), (3) and (4) above; in addition, these areas shall open to archery (excluding crossbows) and falconry on the last third Saturday in August extending through the third Sunday in September for 21 consecutive days

(2) Bag and Possession Limit: Ten quail per day, twenty in possession in the aggregate of all species.

Authority: Sections 200, 202 and 203, Fish and Game Code.

Reference: Sections 200, 202, 203, ~~206~~, 208, ~~214~~, ~~214.5~~ and 220, Fish and Game Code.

Section 302, Title 14, CCR, Re: Chukar is amended to read:

302. Red-legged Partridge (Chukar).

Red-legged partridges may be taken only as follows:

(a) General Seasons and Areas:

(1) The season in the counties of Modoc and Lassen shall open on the third Saturday in October extending through the last Sunday in December.

(2) The season in the balance of the state shall open on the third Saturday in October extending through the last Sunday in January.

(3) Bag and Possession Limit: Six red-legged partridge per day, twelve in possession.

(b) Archery and Falconry Red-legged Partridge (Chukar) Season and Area:

(1) Red-legged partridge may be taken with bow-and-arrow or raptors as specified in 302(a)(1) and (2) above and in addition, these areas shall open to archery (excluding crossbows) and falconry on the last third Saturday in August extending through the third Sunday in September for 21 consecutive days

(2) Bag and Possession Limit: Six red-legged partridge per day, twelve in possession.

Authority: Sections 200, 202 and 203, Fish and Game Code.

Reference: Sections 200, 202, 203, ~~206~~, 208, ~~214~~, ~~214.5~~ and 220, Fish and Game Code.

Section 501, Title 14, CCR, Re: Doves is amended to read:

501. Doves.

(a) Seasons and Areas:

(1) Mourning Doves: The open season for the taking of mourning doves statewide shall be from September 1 through September 30 15, and from the second Saturday in November extending for an additional 45 days.

(2) White-winged Doves:

(A) White-winged doves may be taken only in Imperial, Riverside and San Bernardino counties from September 1 through September 30 15, and from the second Saturday in November extending for an additional 45 days.

(B) White-winged doves may not be taken in the balance of the state.

(b) Bag Limit: The bag limit on mourning doves shall be 10 per day, 20 in possession. In Imperial, Riverside and San Bernardino counties the daily bag limit on mourning doves and white-winged doves shall be 10 and 20 in possession in the aggregate. All doves shall have a fully feathered wing left attached while being moved from the place where taken to a personal abode or commercial preservation facility.

(c) Shooting Hours. The shooting hours shall be from one-half hour before sunrise to sunset.

Authority: Section 355, Fish and Game Code.

Reference: Section 355 and 356, Fish and Game Code.

Section 711, Title 14, CCR, is added to read:

711. Cold Storage/Frozen Food Locker Plant Records.

(a) Any person operating a cold storage plant or frozen food locker plant where animals, or parts thereof, taken pursuant to a sport fishing or hunting license are processed, preserved or stored, shall prepare and maintain the following records:

(1) name and address of residency of the individual who delivers the animal to the facility;

(2) name, address of residency and hunting license number, and tag number if applicable, of the individual who took the animal;

(3) location of kill - State _____ County _____
Deer Zone or Special Hunt Number _____;

(4) species and number of parts thereof;

(5) weight of the animal; and

(6) date received.

(b) The records required by this section shall be maintained for a period of three years for each animal retained, shall be maintained in the State of California and shall be open for inspection by wardens of the Department.

Authority: Section 200, Fish and Game Code.

Reference: Sections 200, 208, 2001, 2002 and 3086, Fish and Game Code.

PASSED UNANIMOUSLY.

12. AMENDMENT OF SECTIONS 550, 551, 551.5, 552 AND 553, TITLE 14, CCR, RE: CHANGES IN REGULATIONS FOR STATE WILDLIFE AREAS AND PUBLIC SHOOTING AREAS.

The Executive Secretary reminded the Commission that at its May 12-13, 1988, meeting in Monterey, it authorized its staff to publish notice of its intent to amend sections 550, 551, 551.5, 552 and 553, Title 14, CCR, regarding wildlife and public shooting areas. He pointed out that the legal notice had been published and that the Commission at its June 30, 1988, meeting in Bishop, received public recommendations for changes in the regulations pertaining to these areas. Mr. Cribbs noted that all oral and written recommendations received by the stated deadline were provided to the Commission.

Mr. Cribbs also pointed out that the Commissioners had been provided copies of the Department's pre-publication of notice and pre-adoption statements in strike-out and underline format, as well as copies of the correspondence received from the public related to this matter. He stated it would be appropriate to receive public testimony at this time; however, there was no response.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCrackEN THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 350, 356, 1050, 1526, 1528, 1530, 10502 AND 10504 OF THE FISH AND GAME CODE; TITLE 50, FEDERAL CODE OF REGULATIONS, PART 20, THE 1962 U.S. STATUTES AT LARGE, PAGE 238; FEDERAL MIGRATORY BIRD TREATY ACT; AND EXISTING AGREEMENTS WITH THE UNITED STATES RELATING TO THE ADMINISTRATION OF FEDERALLY OWNED OR LEASED AREAS, HEREBY AMENDS SECTIONS 550, 551, 551.5, 552 AND 553, TITLE 14, CALIFORNIA CODE OF REGULATIONS, RELATING TO STATE WILDLIFE AREAS AND PUBLIC SHOOTING AREAS AS FOLLOWS:

Section 550, Title 14, CCR is amended to read:

550. Wildlife Areas General.

The following rules promulgated pursuant to the Fish and Game Code shall govern use of State Wildlife Areas:

(a) State Wildlife Areas:

(1) Sutter Bypass Wildlife Area (Sutter and Colusa counties) including the Butte Slough, Tisdale Weir, Sutter Basin, Sutter Bypass and Colusa Bypass Management Units.

(2) Spenceville Wildlife Area (Yuba and Nevada counties)

(3) Eel River Wildlife Area (Humboldt County)

(4) Indian Tom Wildlife Area (Siskiyou County)

(5) Sheepy Ridge Wildlife Area (Siskiyou County)

(6) Doyle Wildlife Area (Lassen County)

(7) Tehama Wildlife Area (Tehama County), including the Carley Range Management Unit

(8) Oroville Wildlife Area (Butte County), including the Thermalito Afterbay Management Unit

(9) Biscar Wildlife Area (Lassen County)

(10) Little Panoche Reservoir Wildlife Area (Fresno County)

(11) O'Neill Forebay Wildlife Area (Merced County)

(12) San Luis Reservoir Wildlife Area (Merced County)

(13) Honey Lake Wildlife Area (Lassen County)

(14) Gray Lodge Wildlife Area (Butte and Sutter counties)

(15) Grizzly Island Wildlife Area (Solano County), including the Garibaldi, Gold Hills and Grey Goose Management Units

(16) Los Banos Wildlife Area (Merced County)

(17) Mendota Wildlife Area (Fresno County)

(18) Imperial Wildlife Area (Imperial County)

(19) Volta Wildlife Area (Merced County)

(20) Salinas Wildlife Area (Monterey County)

(21) San Pablo Bay Wildlife Area (Marin and Sonoma counties)

(22) Big Lagoon Wildlife Area (Humboldt County)

(23) Big Sandy Wildlife Area (Monterey and San Luis Obispo counties)

(24) Lower Sherman Island Wildlife Area (Sacramento County)

(25) Napa-Sonoma Marshes Wildlife Area (Solano, Napa and Sonoma counties) including the Tolay Creek Management Unit

(26) Horseshoe Ranch Wildlife Area (Siskiyou County)

(27) Bass Hill Wildlife Area (Lassen County), including the Egan Management Unit

(28) Cinder Flats Wildlife Area (Shasta County)

(29) Cottonwood Creek Wildlife Area (Merced County), including the Upper Cottonwood and Lower Cottonwood Management Units

(30) Lake of the Woods Wildlife Area (Yuba County)

(31) Sacramento River Wildlife Area (Butte and Glenn counties), including the Jacinto, Pine Creek, Princeton, Shannon Slough and Wilson Landing ~~Joint~~ Management Units

(32) Merrill's Landing Wildlife Area (Tehama County)

(33) Slinkard-Little Antelope Wildlife Area (Mono County)

(34) Surprise Valley Wildlife Area (Modoc County)

(35) Hill Slough Wildlife Area (Solano County)

(36) Petaluma Marsh Wildlife Area (Sonoma County)

(37) Lake Earl Wildlife Area (Del Norte County)

- (38) Eureka Slough Wildlife Area (Humboldt County)
- (39) Crescent City Marsh Wildlife Area (Del Norte County)
- (40) Camp Cady Wildlife Area (San Bernardino County)
- (41) Coon Hollow Wildlife Area (Butte County)
- (42) Antelope Valley Wildlife Area (Sierra County)
- (43) White Slough Wildlife Area (San Joaquin County)
- (44) Butte Valley Wildlife Area (Siskiyou County)
- (45) Fremont Weir Wildlife Area (Yolo County)
- (46) Miner Slough Wildlife Area (Solano County)
- (47) Putah Creek Wildlife Area (Solano County)
- (48) San Jacinto Wildlife Area (Riverside County)
- (49) Grass Lake Wildlife Area (Siskiyou County)
- (50) Mud Lake Wildlife Area (Siskiyou County)
- (51) Spannus Gulch Wildlife Area (Siskiyou County)
- (52) Mouth of Cottonwood Creek Wildlife Area (Shasta County)
- (53) Heenan Lake Wildlife Area (Alpine County)
- (54) Battle Creek Wildlife Area (Shasta and Tehama counties)
- (55) Santa Rosa Wildlife Area (Riverside County)
- (56) San Luis Obispo Wildlife Area (San Luis Obispo County)
- (57) Moss Landing Wildlife Area (Monterey County)
- (58) Point Edith Wildlife Area (Contra Costa County)
- (59) Watsonville Wildlife Area (Santa Cruz County)
- (60) Ash Creek Wildlife Area (Lassen and Modoc counties)
- (61) Lake Sonoma Wildlife Area (Sonoma County)
- (62) Los Ranchos (San Luis Obispo County)
- (63) Moro Cojo Wildlife Area (Monterey County)
- (64) Kinsman Flat Wildlife Area (Madera County)
- (65) Smithneck Creek Wildlife Area (Sierra County)
- (66) Cache Creek Wildlife Area (Lake County)
- (67) Collins Eddy Wildlife Area (Sutter and Yolo counties)
- (68) Decker Island Wildlife Area (Solano County)
- (69) Fay Slough Wildlife Area (Humboldt County)
- (70) Red Lake Wildlife Area (Alpine County)
- (71) Sacramento Bypass Wildlife Area (Yolo County)

(b) Area Regulations:

(1) The Regional Manager shall have the authority to regulate public use of State Wildlife Areas where such use is not provided for in these regulations or in Sections 551, 552 and 553 of this Title.

(2) Motorized Equipment.

(A) Motor Driven Vehicles. No person shall drive, operate, leave, place or stop any motor driven vehicle on any State Wildlife Area except on public or established roads or on designated jeep trails and such other areas as designated by the department. No person shall drive a vehicle carelessly in willful disregard of the rights or safety of others, or without due caution and at a speed or in a manner likely to endanger any person or property.

(B) Boats. The Department may restrict the use and operation of boats on State Wildlife Areas to protect the resource or provide for the orderly operation of hunting and fishing programs maintained on these areas. Boating restrictions may include, but not be limited to, limiting boat speeds or prohibiting the use of motors. During the times waterfowl are present, the provisions of Section 251 of this title will also apply.

(3) Road Closures. Any road within a wildlife area, except county, state or federal highways or roads, may be closed by posting or erection of a physical barrier at any time by the department for the protection of life or property.

No person shall break down, remove, injure or destroy any barrier, sign or signboard erected or placed on any road, jeep trail or unimproved road. Drivers of motor driven vehicles operated within the areas shall comply with the directions of traffic signs posted in the area by the department.

(4) Vandalism and Litter.

(A) No person shall tamper with, damage or remove any property not his own, when such property is located within a State Wildlife Area.

(B) No person shall leave, deposit, drop, bury or scatter bottles, broken glass, feathers, hides, wastepaper, cans, waste matter or other rubbish in any State Wildlife Area except in a receptacle or area designated for that purpose, and no person shall import and deposit any rubbish into State Wildlife Areas from other places. Where no designated receptacles are provided, any refuse resulting from a person's use of the area must be removed from the area by such person.

(5) Firearms Use.

(A) General Provisions: Except as provided in subsections (B) and (C), no person shall possess or discharge a firearm, bow and arrow, air or gas gun, or other propulsive device of any kind on any State Wildlife Area.

(B) Periods of Authorized Firearms Use:

1. General Period: Wildlife areas are open to firearms use during the period September 1 to January 31 (see subsections (5)(B)2. and (5)(B)3., (5)(C) and (6) Special Closures below).

2. Additional Periods: Firearms use is also permitted in the following areas designated by the department:

(a) on Bass Hill, Big Sandy, Biscar, Doyle, Heenan Lake, Salinas and Surprise Valley wildlife areas during the period July 1 to January 31.

(b) on the Tehama Wildlife Area all year except in special winter closure area and on the Carley Range Unit when occupied by livestock (see (6) Special Closures below).

(c) on the Upper Cottonwood Unit of the Cottonwood Creek Wildlife Area from the opening of Coastal deer season to January 31.

(d) on the Lake Sonoma Wildlife Area during Department of Fish and Game authorized hunts for wild pigs, early season deer and turkeys.

(e) on Spenceville and Kinsman Flat wildlife areas, with shotguns only, for the purpose of turkey hunting during the regular spring turkey season.

(f) on Spenceville Wildlife Area all year on the designated shooting range.

3. Department Designation of Additional Periods: Additional firearms use may be permitted in areas designated by the department during the period February 1 to August 31.

(C) Area Firearms Restrictions:

1. Only shotguns and bow and arrows may be possessed or used on Ash Creek, Big Sandy, Lower Cottonwood Unit of Cottonwood Creek, Eel River, Fay Slough, Gold Hills and Grey Goose Units of Grizzly Island, Fremont Weir, Lake Earl, Lake of the Woods, Little Panoche Reservoir, Lower Sherman Island, Miner Slough, Mouth of Cottonwood Creek, O'Neill Forebay, Oroville (see 2. below), Petaluma Marsh, Sacramento River, San Jacinto, San Luis Reservoir, Sutter Bypass, and White Slough wildlife areas (see (6) Special Closures below).

2. On Oroville Wildlife Area rifles and pistols may only be discharged at designated target practice areas.

3. Only centerfire rifles, shotguns and bow and arrows may be used on the Putah Creek Wildlife Area (see (6) Special Closures below).

4. No firearms practice, target shooting or firearms using rim-fired cartridges are permitted on the Upper Cottonwood Unit of Cottonwood Creek

Wildlife Area.

5. No firearms or other propulsive devices of any kind may be possessed or discharged on the San Luis Obispo Wildlife Area except at the designated shooting range at such times as the facility is open to the public and under the direction and control of the authorized rangemaster (see (6) Special Closures below).

6. See Section 551 (j) for additional restrictions on certain areas during waterfowl season.

7. Additional use of archery equipment and air or gas guns may be permitted under authority of Section 550(b)(1).

(D) No glass or porcelain targets shall be used for firearms practice on these areas.

(6) Special Closures.

(A) Special Tehama Wildlife Area Closure.

1. No person shall enter the Carley Range Unit or that portion of Tehama Wildlife Area lying south of Hogsback (Belle Mill) Road during the period December 1 through the first Friday in April except with prior written permission of the Regional Manager to conduct business with the department;

2. During the Zone X-11 Period 2 general deer season and any special hunt period authorized by the Fish and Game Commission, only persons with department issued use permits may enter the Tehama Wildlife Area;

3. During November, April and May, wild pig hunting will be permitted in designated areas by department issued permits only.

(B) Special Hill Slough Wildlife Area Closure. No person, except authorized personnel, shall possess or discharge a firearm, bow and arrow, air or gas gun, spear gun, or other propulsive device of any kind on the Hill Slough Wildlife Area.

(C) Special Lake Earl Wildlife Area Closure. Possession and use of authorized firearms is permitted only within the first 100 feet of land along the shoreline and on the water surface of Lake Earl and Talawa during the regular open waterfowl season.

(D) Special White Slough Wildlife Area Closure. Possession and use of firearms is prohibited in that portion of White Slough Wildlife Area designated as Pond 9.

(E) Special Grass Lake, Los Ranchos and Moro Cojo Wildlife Area Closure. No person shall enter area, except with prior written permission of the Regional Manager to conduct business with the department.

(F) Special Putah Creek Wildlife Area Closure. Possession and use of authorized firearms is permitted only during the regular open hunting seasons. No firearms practice or target shooting is permitted on the wildlife area.

(G) Special Battle Creek and Santa Rosa Wildlife Area Closure. No person, except authorized personnel, shall possess or discharge a firearm, bow and arrow, air or gas gun, spear gun or other propulsive device of any kind on the Battle Creek Wildlife Area or that portion of the Santa Rosa Wildlife Area lying within Fish and Game refuge District 4D (see Section 10837, Fish and Game Code).

(H) Special San Luis Obispo Wildlife Area Closure: No person shall enter the San Luis Obispo Wildlife Area, except that portion of the area designated as a public shooting facility under supervision of the authorized range master or with written permission from the Regional Manager (see subsection (b)(5)(A)10.).

(I) Special Bass Hill Wildlife Area including the Egan Management Unit Closure: No person shall enter Bass Hill Wildlife Area, including the Egan Management Unit during the period January 1 through April 30 except with prior written permission of the Regional Manager. The Egan Management Unit of Bass Hill Wildlife Area shall be closed to entry and hunting from the last Friday

in September through the first Sunday in December except for permitted deer hunting. Hunters must possess an use permit to hunt deer on the Egan Management Unit in addition to appropriate deer tags.

(J) Special Eel River Wildlife Area Closure. Possession and use of firearms or other propulsive devices is prohibited in that portion of the Eel River Wildlife Area designated as Fields B and D.

(K) Special Grizzly Island Wildlife Area Closure. No person, except authorized personnel, shall possess or discharge a firearm or other propulsive device on the Caribaldi Management Unit. Possession and use of authorized firearms is permitted only during waterfowl season on the Gold Hills Unit and waterfowl and pheasant seasons on the Grey Goose Unit.

(L) Special Lake Sonoma Wildlife Area Closure. No person, except by special authorization of the Department of Fish and Game, shall enter that portion of Lake Sonoma Wildlife Area marked by signs as "Critical Habitat" during the period of February 1 - August 1.

(M) Special Fay Slough Wildlife Area Closure. Possession and use of weapons authorized for use pursuant to subsection 550 (b)(5)(C)1 are permitted only during the regular waterfowl season.

(7) Trees. No person shall dig up, cut, damage or remove from the area any trees, shrubs, vines, plants or wood, except that vegetation may be cut and used as directed by the Area Manager for the purpose of building blinds during the waterfowl season. This shall not preclude the collecting of dead wood for immediate use. No person shall dig up or remove any humus, soil, sand, gravel or rock except with written permission of the Area Manager. This shall not preclude the collection of bait or recreational gold panning.

(8) Bottle and Artifact Collecting. No person shall dig or otherwise disturb the soil to locate or remove bottles or artifacts except by permit from the Regional Manager. Such permit shall prescribe the conditions under which bottle and artifact collecting may be done, including the provision that the area must be substantially restored to its natural condition.

(9) Camping. No person shall camp in any part of a State Wildlife Area except in areas designated by the department. Camping on such areas shall be limited to not more than seven consecutive days, and not more than 14 days total in any calendar year. Personal property may not be left on State Wildlife Areas for camping or other purposes, except at designated campgrounds, and all personal property must be removed from the wildlife area at the end of each day (see subsection (b)(12) below.)

(10) Fires. At Hill Slough and Grizzly Island wildlife areas no fires shall be allowed except in portable gas stoves. At the Sacramento River Wildlife Area no fires are permitted. On the Tehama Wildlife Area, and all other areas within special fire closure zones established by the California Department of Forestry, campfires and other burning requires a written permit from the State forester or his duly authorized representative as provided for in Section 4123 of the Public Resources Code during the declared fire seasons. On all other areas from April 30 through October 30, no person shall build or maintain fires except in portable gas stoves or in fireplaces at sites developed by the department. No fire shall be left unattended and all fires shall be extinguished with water before leaving.

(11) Use of Dogs and Field Trials. The department may prohibit or restrict the use of dogs on any State Wildlife Area to provide for the orderly operation of such areas and protect associated wildlife and habitat resources. State Wildlife Areas may be used for field trials when authorized by the department.

(12) Hunting and Trapping. Hunting and trapping shall be allowed on State Wildlife Areas during the regular open seasons subject to subsections (b)(5)

Firearms Use, and (b)(6) Special Closures, above, and such other area use regulations as specified by the Regional Manager. The department may limit the number of persons hunting or trapping on areas during any period for safety reasons, to provide for the limited take of a species or close areas entirely to hunting or trapping to protect a species. In the event that the department elects to limit the number of hunters or trappers, permits will be issued on a first-come, first-served basis, or by a drawing to be held at a designated department office. No person shall enter any State Wildlife Area or portion thereof where the department has limited public entry without a valid permit in their immediate possession. The department shall inform the commission in writing and the public via the news media of any implementation of the provisions of this subsection. Such notification shall include: the State Wildlife Area affected, the time period, the species involved, the number of permits to be issued and the method of issuance. This paragraph shall not apply to State Wildlife Areas numbered 13-19 above. Unattended personal property including decoys may not be left on State Wildlife Areas for the purpose of reserving a hunting site (see subsection (b)(9) above).

(13) Fish and Frogs. Frogs may not be taken for commercial purposes. Access for taking of fish and frogs on State Wildlife Areas shall be permitted as determined by the Regional Manager.

(14) Pesticides Use. No person, other than authorized federal, state or local employees conducting an approved pest control program, shall operate any power driven pesticide fogging device in any State Wildlife Area.

(15) Livestock. No person shall permit livestock including but not limited to cattle, horses, sheep, goats and hogs to browse, graze, bed, cross or otherwise trespass on any State Wildlife Area except under an authorized grazing permit issued by the department. This shall not prohibit the recreational use of horses. Persons who fail to remove their livestock from any State Wildlife Area within 48 hours after receiving official notice by the Regional Manager through certified mail, shall be in violation of this section.

(16) User Permits.

(A) Permit Requirement: Any person organizing an event or gathering for private purposes to be conducted on a State Wildlife Area shall obtain a permit from the department. Such events or gatherings shall be compatible with wildlife area objectives. Individual user permits other than as provided for in subsection 550(b)(16)(B), and Sections 551, 552 and 553, Title 14, CAC, are required in all wildlife areas unless waived by the director of the department.

(B) Daily \$1.00 User Permits at Gray Lodge, Imperial, Los Banos and San Jacinto wildlife areas: Every person entering Gray Lodge, Imperial, Los Banos and San Jacinto wildlife areas must possess a valid California sport fishing license, hunting license, trapping license or a \$1.00 user daily permit, except for persons under 18 years of age or persons 18 years of age and over associated with a youth or school group and having free permits issued by the appropriate regional office.

(17) Ejection. The department is hereby authorized to eject any person from a state wildlife area for violation of any of these rules or regulations or for disorderly conduct, intoxication or for any reason when it appears that the general safety or welfare of the area or persons thereon is endangered. The decision, in such respect, of any department employee assigned management or enforcement responsibilities for the area shall be final.

(18) No person shall violate any of the provisions of this section or any order or directive issued pursuant thereto.53-

Authority: Sections 1526, 1528, 1530 and 10504, Fish and Game Code.

Reference: Sections 1526, 1528, 1530 and 10504, Fish and Game Code.

Subsections (c), (d) and (e), Section 551, Title 14, CCR are amended to read:

551. Hunting on State and Federal Areas.

(c) Priorities: Persons issued advance reservations shall be granted waterfowl and pheasant hunting privileges, provided they present themselves at the checking station prior to the hour indicated. Successful applicants shall present their reservations at the appropriate area checking station at least one hour before waterfowl shooting time on the designated shooting date, except at the Wister Unit of the Imperial Wildlife Area, at Kern, Merced and Sacramento National Wildlife Refuges where successful applicants shall present their reservations at the checking station at least one and one-half hours before shooting time on the designated shooting date. At Gold Hills and Grey Goose Units of Grizzly Island Wildlife Area, a type A or type B season pass (see subsection 551(e)) shall serve as the entry permit.

Except as noted below, a reservation shall assure entry for up to two adults, 18 years of age or older. Each adult may be accompanied by up to two minor hunters, or two non-shooters irrespective of age, or two persons in combination thereof. Non-shooters are defined as persons who wish to accompany a permittee in the field or remain at a designated parking space. They shall not discharge or possess a firearm on the area. All persons intending to hunt under the reservation shall apply for and receive a permit to shoot. There is no limit to the number of times a successful applicant may hunt the area, either as a person receiving the reservation or as a partner.

At Merced National Wildlife Refuge, because duck hunters are in double blinds, each permittee may be accompanied by only one other hunter. In the goose blind area each permittee may be accompanied by two other hunters. No non-shooters will be permitted on the area.

On the designated space-blind areas at the Kern and Sacramento National Wildlife Refuges, because of the limited capacity at each blind site the holder of the assigned blind site may be accompanied by not more than three other persons. Non-shooters will be permitted provided there is space in the blind. At Kern National Wildlife Refuge non-reservation holders may register at the checking station for a drawing which will be held prior to shooting time to establish the order of sale of permits to fill existing vacancies in the hunter quota.

At the Wister Unit of the Imperial Wildlife Area, six individuals are allowed per reservation with no more than four adults. Hunters without reservations may register at the checking station for a drawing which will be held prior to shooting time to establish the order of sale of permits to fill existing vacancies. When a vacancy or vacancies exist, permits to fill area quotas may be issued to licensed hunters without advance reservations who are actually present, on a first-come, first-served basis, regardless of the number of time such persons may have hunted on the area.

When hunting migratory waterfowl, common snipe, American coots and common moorhens at the Union Tract and Hazard Unit of the Salton Sea National Wildlife Refuge, each blind site will be limited to four individuals.

At Ash Creek, Butte Valley and Honey Lake Wildlife Areas, successful applicants must obtain a type B season shooting permit (See subsection (e)). Registration of licensed hunters for each shoot day except for opening weekend of waterfowl season (and pheasant season at Honey Lake) shall be on a first-come, first-served basis regardless of the number of times such persons may have hunted on the area, but not in a number exceeding the shooting capacity of the area. No one will be checked in to hunt during the last hour of legal shooting time when reservations are required at Honey Lake.

At the Finney and Ramer Units of the Imperial Wildlife Area and at the Perris Reservoir State Recreation Area, permits shall be issued on a first-come, first-served basis on shooting days.

At the Lake Earl Project Area no written permit is required.

At Baldwin Lake waterfowl hunting reservations, which serve as entry permits, are required for the first 7 shoot days (Saturdays and Wednesdays).

At San Jacinto Wildlife Area reservations, which also serve as entry permits, are required for the entire duck season.

Unless otherwise provided for in this section, the advance reservation system only serves to assure entry onto the area and does not necessarily constitute a method for prioritization over other users.

(d) Issuance of Permits: Subject to all conditions of these regulations, permits to shoot on said areas will be issued only to holders of valid hunting licenses at checking stations by authorized employees of the Department of Fish and Game. Such permits will be known as entry permits and may be in the form of a kill record card. Minor permittees must be accompanied by an adult. (Such adult may accompany up to two minors). Entry permits, including kill records, must be returned to issuing checking station when leaving said areas. (Possession of a valid Federal Migratory Waterfowl Hunting Stamp and a State Duck Stamp is required of all migratory waterfowl hunters 16 years of age or over. A State Duck Stamp is not required of holders of junior hunting licenses.)

No person shall apply for or obtain a Wildlife Area Pan entry permit using an advance reservation form which has not been validated and issued to that person by the department, or which is a duplicate, forgery or alteration of an official department form. No person shall use, or have in his possession while hunting, any Wildlife Area entry permit which has not been issued to that person by the department or which is a duplicate, forgery or alteration of an official department form, or which has been obtained by use of a fraudulent application or advance registration form. Any person who violates this section shall be barred from all state-operated areas for the entire waterfowl season following the date of discovery of the violation by the department.

(e) Shooting Fees: Shooting fees vary by type of area. On Type A areas (all those aforesaid areas in subsections (a)(1)(A,B,C,D and E) except Ash Creek, Butte Valley, Honey Lake and San Jacinto Wildlife Areas, the Finney and Ramer Units of Imperial Wildlife Area, Perris Reservoir State Recreation Area, the Lake Earl Project Area and Baldwin Lake) the shooting fee for all allowable species shall \$10.00 per day for adult license holders. Two-day permits at \$15.00 and seasonal permits at \$75.00 shall be available from license agents and Department offices. These permits will be good at any time on any Type A area. Season permits will also be valid on Type B areas. On Type B areas (Ash Creek, Butte Valley, Gold Hills and Grey Goose Units of Grizzly Island and Honey Lake, Lower Sherman Island and Napa-Sonoma wildlife areas) a \$25.00 seasonal permit, good only at any Type B area, shall be required. Permits will be available only from license agents and Department offices. ~~All purchasers of season permits must have a valid U. S. migratory bird hunting stamp and a State Duck Stamp.~~ Holders of such seasonal permits shall be subject to the same restrictions as holders of daily permits, and shall be accommodated on the same, first-come, first-served basis up to the shooting capacity of the areas named, unless a reservation is received. At Perris Reservoir State Recreation Area the shooting fee shall be the Recreation Area day-use fee (\$2). On Type C Areas (all areas not listed as Type A or Type B areas in this section or Section 552, Title 11, FAF (CCR)) no fees are required.

Authority: Sections 355, 1526, 1528, 1530, 1570-1572 and 10504, Fish and Game Code.

Reference: Sections 355, 1526, 1528, 1530 and 10504, Fish and Game Code, Volume 62, U.S. Statutes at Large, page 238 (1948), and existing agreements with the United States relating to the administration of federally owned or leased areas.

Subsection (a)(5) of Section 552 of Title 14, CCR, is amended to read:

(5) Shooting days shall be every day of the legal waterfowl season, except that waterfowl hunting on Clifton Court Forebay and the Moss Landing Wildlife Area shall be limited to Wednesdays, Saturdays, and Sundays of the legal waterfowl season. Shooting days for mourning doves at Napa-Sonoma Marshes Wildlife Area, excluding Leslie Salt Ponds, shall be every day of the legal dove season. On Moss Landing Wildlife Area, that portion of the area known as the Salt Ponds shall not open to hunting until the first shoot day in December. ~~Clifton Court Forebay~~ and Moss Landing Wildlife Area shall also be closed to all hunting on ~~Thanksgiving Day, Christmas Day and New Year's Day.~~

Authority: Sections 355, 1526, 1528, 1530, 1570-1572 and 10504, Fish and Game Code.

Reference: Sections 355, 1526, 1528, 1530, 1570-1572 and 10504, Fish and Game Code.

PASSED UNANIMOUSLY.

13. RECEIPT OF DEPARTMENT REPORT RE: EXPERIMENTAL GEAR PERMITS TO USE "OPEN POND METHOD" TO TAKE HERRING EGGS ON SEAWEED IN SAN FRANCISCO BAY.

The Executive Secretary reminded the Commission that at its May 12-13, 1988, meeting in Monterey it authorized the Department to issue five experimental gear permits to provide for the use of the "open pond method" to take herring eggs on seaweed in San Francisco Bay. He pointed out that the Commission had asked the Department to report back to it at its August 5 meeting concerning implementation of those permits.

Chief Deputy Director Fletcher stated that the Commission had, at its May 12-13 meeting, also authorized the Department to renew the experimental gear permit for Darrell Kapp, Bellingham, Washington, to utilize the "open pond method" to take herring eggs on seaweed in San Francisco Bay. He stated that by letter dated May 20, 1988, the Department informed all San Francisco Bay herring permittees of the availability of the subject experimental gear permits and instructed permittees who were interested to submit an application along with a \$50 nonrefundable filing fee to the Department no later than 5:00 p.m. on July 15, 1988. He indicated that the Department received applications from 18 permittees and that a lottery was held on July 20, 1988, to determine who would be awarded the four available permits. He stated that the four successful applicants represented one purse seine permittee, one lampara permittee and two gill net permittees, and were as follows: Stanley Nelson, Jim Williams, Douglas Stokes, and Peter A. Zuanich.

Mr. Fletcher explained that the Department would be preparing draft regulations regarding the "open pond method" of harvest for the Commission's consideration at its January 1989 meeting. He noted that this would allow sufficient time to be sure that permanent regulations were in place prior to the 1989-90 herring fishing season.

President Taucher asked the Department how much it would cost to set up one of the floating rafts. Chief Deputy Director Fletcher stated that the prior permittee, Mr. Darrell Kapp, had indicated that it cost approximately \$70,000 to gear up for this "open pond" fishery. The Executive Secretary asked if the Department would report back to the Commission after the fishing season to provide a status report of this year's activities. Chief Deputy Director Fletcher stated that the Department could do that, possibly at either the February or March 1989 meeting.

14. AMENDMENT OF SECTION 163, TITLE 14, CCR, RE: COMMERCIAL HERRING FISHERY FOR 1988-89.

The Executive Secretary reminded the Commission that at its May 12-13, 1988, meeting in Monterey, it authorized its staff to publish notice of its intent to amend Section 163, Title 14, CCR, regarding the commercial herring fishery for 1988-89. He noted that the legal notice had been published. He pointed out that the Commissioners had been provided with copies of the Department's pre-publication of notice and pre-adoption statements, as well as the proposed regulations in strike-out and underline format. He further reminded the Commission that this matter had been discussed by the Commission at its June 30, 1988, meeting in Bishop, and at

that time, the Commission authorized its staff to further notice the fact that it would consider all of the alternatives suggested by the Department and the public. He indicated that the public had been notified of this fact.

Mr. Cribbs further indicated that the Commissioners had been provided with copies of all correspondence received from the public on this matter. He stated that the following was a summary of the most significant changes proposed by the Department for Section 163, Title 14, CCR:

- Require all fish taken by gill nets to be retained and landed, regardless of roe quality.
- Add halibut to the list of species which must be returned immediately to the water if taken incidentally during herring fishing operations.
- Provide for use of purse seine and lampara nets at any hour in specified waters of Fish and Game districts 12 and 13.
- Provide for in-season adjustment (i.e., increase) in Tomales-Bodega Bay fishing quota based on escapement.
- Provide for a 1,000-ton increase in the San Francisco Bay herring fishery (9,500 tons).
- Prohibit herring buyers from placing the landings of more than one permit vessel in any bin or container capable of holding more than 2,000 pounds of herring.

Commissioner McCracken asked the Department for the justification of the individual vessel quota which had been recommended by the public for the gill net permittees. Mr. Petrovich stated that the Department had not made a recommendation concerning the individual vessel quota because it believed it was a social problem and not a resource-oriented problem. He explained that the Department had provided some recommendations for regulatory options if the Commission considered adopting the individual vessel quota for the gill net permittees. He noted that those options were as follows:

1. A prohibition on the unloading of fish for all gear types between 10:00 p.m. and 6:00 a.m.;
2. A restriction on the number of herring buying locations to four specific areas (Sausalito, Oakland, Pier 33 and Pier 45, San Francisco);
3. A two-week reduction in the length of the fishing season in San Francisco Bay.

Chief Deputy Director Fletcher stated that the Department's wardens had serious concerns regarding undocumented movement of fish if the individual vessel quota was adopted.

Mr. Cribbs stated that the Commission office had been contacted by Mr. John Whalen, Blue Pacific Industries, requesting the use of a floating buying station. He pointed out that the use of this item was not noticed as a possible change; therefore, this item would have to be considered in 1989.

Bob Steele stated that he was a herring gill net fisherman and was also on the Director's Herring Advisory Committee since its initiation. He also noted that he belonged to a co-op consisting of 48 gill net fishermen. He briefly gave a history of the herring gill net fishery in San Francisco Bay and how the Department was measuring the mesh size on the gill nets. He pointed out that the fisheries started with a 2 1/4-inch mesh size, went to 2 1/8-inch and then some wanted a 2-inch mesh size. He noted that the regulations are for 2 1/8-inch mesh size, but that the way the wardens measure the nets could allow for 2 1/16-inch mesh sizes to be used. He noted that the Japanese were not as interested in California herring, as they used to be, because the roe content was down. He noted that this could reverse itself if the Commission required a larger mesh size. He stated that a solution to this problem could be an individual vessel quota, but that the mesh size should also be increased. He stated that the third alternative before the Commission was to completely ignore the fact. He did point out that if an individual vessel quota was instituted, it would lead to increased enforcement efforts.

Richard Sylvester, Domenico Grillo and Tom Davi all supported the establishment of an individual vessel quota for San Francisco gill net permittees. The following were the main points of their testimony:

1. A quota would encourage the use of larger mesh gill nets which would increase the roe percentage/quality of fish;
2. It would eliminate gear conflicts;
3. It would remove the incentive to use an illegal number of nets;
4. It would allow smaller boats to compete on an equal basis with larger and more efficient boats;
5. It would eliminate all cheating; and
6. It would reduce enforcement needs and result in less gear damage and loss and/or abandonment of nets.

Warren Gibbons, Duane Stapel, Doug Stokes, Dominic Papetti, Bob Machin, Doug Karlberg, Ron Mangué, Tom O'Hara, Warren Cathern and Mike Tamman all opposed the establishment of an individual vessel quota for gill net permittees. Following were the main points of their testimony:

1. It was an unfair and unnecessary restriction of the free enterprise system;

2. It would result in illegal and unreported landings;
3. It would unnecessarily extend the herring season, resulting in higher operating costs for the Department;
4. It would encourage the dumping of lower quality fish; and
5. It was unenforceable.

Ilson New stated that he had contacted five herring buyers within the last 11 days and was informed that if the Commission established an individual vessel quota for gill netters, the buyers would be forced to buy unreported landings. He pointed out that it was his opinion that the individual vessel quota would not be in the best interest of the herring fishery resource. Domenico Grillo stated that the Department's survey of fishermen indicated that 53 percent favored an individual vessel quota.

Captain Ryan Broderick briefly explained how the Department measured the mesh size of the gill nets. He noted that if there was a problem, the Commission had the option to change the mesh size. He stated that the Department had heard rumors of purse seine or lampara fishermen exceeding their individual quotas and that some buyers were not reporting their landings, but based on the Department's undercover work last season, the Department was not able to confirm any of those reports.

Commissioner Taucher asked the Department how the advisory committee stood on the individual vessel quota. Mr. Petrovich stated that there were three gill net fishermen on the advisory committee and that the Commission had heard from two of them today, those being Messrs. Steele and Grillo. He stated that Mr. Carpenter was not present today, but had been on record in opposition to the individual vessel quota.

The Executive Secretary suggested that the Department review the mesh size issue and report back to the Commission after the end of the herring season. The Commission concurred with that suggestion.

Mr. Cribbs then pointed out that Ilson New had requested on behalf of six San Francisco Bay round haul net herring permittees, permission to use an alternative form of round haul net for the 1988-89 herring season. He indicated the request was for the use of a round haul purse seine net instead of a round haul lampara net. Chief Deputy Director Fletcher stated that the Department had reviewed Mr. New's request and supported that modification, as it would not impact the overall quota. Mr. Cribbs also pointed out that the overall quota for the round haul permittees would not change, but just be switched from one type of gear to another.

Commissioners Murdy and McCracken indicated that they did not support the individual vessel quota as it would eliminate the free enterprise system.

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 1050, 8550, AND 8553 OF THE FISH AND GAME CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC SECTIONS 1050, 8043 AND 8550-8559 OF SAID CODE, HEREBY AMENDS SECTION 163, TITLE 14, CALIFORNIA CODE OF REGULATIONS, TO PROVIDE REGULATIONS GOVERNING THE COMMERCIAL HERRING FISHERY FOR 1988-89 AS FOLLOWS:

Amendments to Section 163, Title 14, CCR:

(1) Subsection (a)(1) is amended to read:

(1) Be a currently licensed California commercial fisherman and be the owner, lessee or operator of a current California registered commercial fishing vessel.

(2) Subsection (a)(5) is amended to read:

(5) Any person denied a permit for ~~1987-88~~ 1988-89 under these regulations may request a hearing before the commission to show cause why his permit should not be denied. Such request must be submitted in writing no later than October 16. Applicants disqualified under subsections (c)(1)(B) or (c)(1)(C) will be granted a hearing if the number of points claimed would have placed them in the point category from which new permits will be issued.

(3) Subsection (e)(4) is amended to read:

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

(4) Subsection (e)(5) is amended to read:

(5) Lampara and purse seine permittees may not take more than 68 76 tons of herring per vessel per season. All herring landed in excess of any established vessel quota shall be forfeited to the department by the signing of an official release of property form. Such fish shall be sold or disposed of in a manner determined by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund.

(5) Subsection (e)(6) is amended to read:

(6) Sturgeon, halibut, salmon and striped bass may not be taken by or possessed on any vessel operating under the authority of these regulations. All round haul vessels shall have a rigid grate acceptable to the department covering the hold hatch at all times while loading fish in their hold. Such grate shall have rigid bars with a gap between bars of not more than 3 inches. All sturgeon, halibut, salmon and striped bass shall be returned immediately to the water alive and unharmed.

(6) Subsection (f)(2) is amended to read:

(2) The use of round haul nets to take herring for roe purposes is prohibited in districts 6, 8, 9, 10 (including Tomales Bay) and in district 11, in waters greater than 20 fathoms in depth, west of the Golden Gate Bridge. Purse seine and vessels may not be used in districts ~~12 and 13.~~ Lampara permittees may fish from one hour before sunrise to one hour after sunset in district 13 waters greater than 6 fathoms in depth and in that portion of district 12 west of a line extending between the westerly tip of Yerba Buena Island and the

most westerly portion of Castro Rocks, and north of the Oakland Bay Bridge in waters greater than 6 fathoms in depth except that lampara and purse seine permittees may fish in waters less than 6 fathoms in depth between Southampton Shoal Channel and the main shipping lanes. Lampara and purse seine permittees may fish at any hour in all of district 12 and district 13 only after gill net quotas have been reached, or upon prior notification by the department in the event that gill net fishing is temporarily suspended. Purse seine and lampara permittees shall not fish or possess more than a total of 240 fathoms of net. Drift and set gill nets may be used only to take herring pursuant to these regulations.

(7) Subsection (g)(3) is amended to read:

(3) Bodega Bay and Tomales Bay: The total take of herring in Bodega Bay and Tomales Bay for commercial purposes by use of gill net and beach net only shall not exceed ~~700~~ 400 tons for the roe fishery, except as specified in subsections (g)(3)(A) and (g)(3)(B), and 10 tons for the fresh fish market per season.

(8) Subsection (g)(3)(A) is added to read:

(A) Notwithstanding the 400-ton quota, herring fishing shall be permitted in Bodega Bay waters north of a line drawn due west, 270° magnetic, from the mouth of Estero de San Antonio. The total take of herring in Bodega Bay and Tomales Bay shall not exceed 750 tons under any circumstances.

(9) Subsection (g)(3)(B) is added to read:

(A) If spawning escapement in Bodega and Tomales bays, as

determined by the department, reaches or exceeds 3,000 tons, the total take of herring from all fishing areas of Bodega and Tomales bays shall not exceed 750 tons.

(10) Subsection (g)(4) is amended to read:

(4) San Francisco Bay: The total take of herring in San Francisco Bay for commercial purposes shall not exceed ~~8,500~~ 9,500 tons per season. Tonnage shall be allocated on the following basis:

(A) Purse seine or ring net vessel: ~~1,490~~ 1,665 tons.

(B) Lampara net vessels: ~~1,422~~ 1,590 tons.

(C) Gill net vessels: ~~5,588~~ 6,245 tons of the gill net quota shall be allocated to permittees described in subsection (h)(2)(A), and ~~1,900~~ 2,123 tons to permittees described in subsection (h)(2)(B) and ~~1,788~~ 1,999 tons to permittees described in subsection (h)(2)(C) of these regulations.

(11) Subsection (h) is amended to read:

(h) Season.

(1) Crescent City area and Humboldt Bay: The season shall be from sunset on January ~~3~~ 1 until noon on March ~~11~~ 10.

(2) San Francisco Bay: The season shall be from sunset on November ~~29~~ 30 until noon on December ~~18~~ 21, and from sunset January ~~3~~ 1 until noon on March ~~11~~ 10.

(A) In San Francisco Bay, gill net permittees with even permit numbers shall be permitted to fish only on the following dates: ~~January 10-15, January 24-29, February 7-12, February 21-26, and March 6-11.~~ January 1-6, January 15-20, January 29-February 3, February 12-17, and February 26-March 3.

(B) In San Francisco Bay, gill net permittees with odd permit numbers shall be permitted to fish only on the following dates: ~~January 3-9, January 17-22, January 31-February 5, February 14-19, and February 28-March 4.~~ January 8-13, January 22-27, February 5-10, February 19-24, and March 5-10.

(C) In San Francisco Bay, gill net permittees with "XH" permit numbers shall be permitted to fish only on the following dates: ~~November 29-December 5, December 6-11, and December 13-18.~~ November 30-December 2, December 4-9, December 11-16, and December 18-21. In the event permittees described under subsections (h)(2)(A) and (h)(2)(B) both reach their quotas pursuant to subsection (g)(4)(C), "XH" permittees, on notification by the department, may resume fishing operations until such group has reached the successive established termination date or quota.

(D) In San Francisco Bay, purse seine and lampara permittees shall be permitted to fish from sunset on January 3 1 until noon on March ~~11~~ 10.

(3) In Tomales and Bodega bays, the season shall be from sunset on November 29 27 until noon on December ~~18~~ 16 and from sunset January 3 1 until noon on March ~~11~~ 10.

(12) Subsection (j)(2) is amended to read:

(2) A ~~Fish and Game~~ landing receipt must be made out immediately upon completion of weighing of any single boat load ~~or lot~~ (hereinafter "load") of herring of a permittee. No herring will be taken for testing purposes that have not been weighed and recorded.

(A) The ~~Fish and Game~~ landing receipt for each vessel must be completed and signed by a certified weighmaster or his deputy prior to

commencing unloading operations of another vessel.

(B) The weighmaster or deputy filling out the fish landing receipt must include all information required by Fish and Game Code Section 8043 and shall sign the landing receipt with his complete signature.

(C) In addition to the information required by Section 8043, the landing receipt shall record the serial number of all of the initial containers in which the load is placed and all subsequent containers, if any, in which the load is placed until, and including for, shipment from the buyer's premises.

~~(C)~~ (D) A reasonable amount of herring will be made available by the herring buyer to the department, at no cost, for management purposes.

(13) Subsection (j)(4) is amended to read:

(4) Weight tally sheets shall be used when any load ~~of lot~~ of fish is divided up into several bins or containers and placed into more than one container prior to the completion of the Fish and Game landing receipt.

(14) Subsection (j)(5) is amended to read:

~~(5)~~ In San Francisco Bay, herring may not be unloaded between the hours of ~~10 p.m.~~ and ~~6 a.m.~~ or at any time on Saturdays and Sundays, unless the permittee has notified and received prior approval from the department to conduct such activities during those hours.

(A) The tally sheets shall be composed of four columns:

1. The serial or I.D. numbers, of all containers in which the load is initially placed and all subsequent containers, if any, in

which the load is placed until, and including for, shipment from the buyer's premises.

2. The gross weight;
3. The tare weight of the bin or containers; and
4. The net weight of fish. Net weight will include the weight of the herring taken for testing purposes.

(B) The work or weight tally sheets shall be retained by the permittee for one year, and must be available at all times for inspection by the department.

(C) When requested by the department, the buyer shall submit to the department a California Highway Patrol weighing certificate for any truck load designated by the department. Such certificate shall be placed in the U.S. Postal system to the department's Menlo Park office within twenty-four (24) hours of the truck's departure from buyer's premises.

(15) Subsection (j)(5) is added to read:

(5) In San Francisco Bay, herring may not be unloaded between the hours of 10 p.m. and 6 a.m., or at any time on Saturdays and Sundays, unless the permittee has notified and received prior approval from the department to conduct such activities during those hours.

Authority: Sections 1050 and , 8550, and 8553, Fish and Game Code.

Reference: Sections 8043, 8550, 8554, 8557, and 8559, Fish and Game Code.

PASSED UNANIMOUSLY.

15. ADOPTION OF SECTION 168.5, TITLE 14, CCR, RE: PENALTIES IN LIEU OF
SUSPENSION OR REVOCATION - COMMERCIAL HERRING PERMITTEES.

The Executive Secretary reminded the Commission that at its May 12-13, 1988 meeting in Monterey, it authorized its staff to publish notice of its intent to add Section 168.5, Title 14, CCR, to provide for the assessment of monetary penalties in lieu of suspension or revocation of commercial herring permits. He indicated that the required legal notice had been published. He pointed out that the Commissioners had been provided with copies of the Department's pre-publication of notice and pre-adoption statements, the text of the regulations in underline format, as well as a letter from Mr. Ilson New, dated May 6, 1988, containing specific comments on the initial draft of these regulations. He noted that the Department's pre-adoption statement had incorporated the majority of Mr. New's recommendations in its revised regulations. He indicated that as of this date, the Commission office had received no additional correspondence on this matter. Mr. Cribbs further reminded the Commission that at its June 30, 1988, meeting in Bishop, it authorized its staff to make it clear to the public that the Commission would consider a range of points for each of the specific violations. He explained that the Commission staff had carried out the Commission's desire, and those changes were identified in the Department's pre-adoption statement.

Chief Deputy Director Fletcher gave a brief history of how the Department and Commission had dealt with violations in the past. He noted that sometimes a suspension had no impact on the fisherman, or it removed him completely from the fishery for that given year, as the season was only one or two days. He stated that the Department felt this was a good method to deal with herring violations and that the Department recommended Commission approval. Zeke Grader, PCFFA, noted that the Director's Herring Advisory Committee supported adoption of these regulations and had worked very closely with the Department in preparation of these regulations. He explained that it was a better way to handle violations rather than with suspensions or revocations.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCrackEN, THAT
THE FISH AND GAME COMMISSION, PURSUANT TO THE AUTHORITY
VESTED BY SECTIONS 8553 AND 8555 OF THE FISH AND GAME
CODE, AND TO IMPLEMENT, INTERPRET OR MAKE SPECIFIC
SECTIONS 8552, 8553 AND 8555 OF SAID CODE, HEREBY ADDS
SECTION 168.5, TITLE 14, CCR, TO PROVIDE FOR THE
ASSESSMENT OF MONETARY PENALTIES IN LIEU OF SUSPENSION
OR REVOCATION OF A COMMERCIAL HERRING PERMIT AS
FOLLOWS:

Add Section 168.5 to Title 14, CCR, to read:

168.5. Penalties in Lieu of Suspension or Revocation—Herring Permittees.

Pursuant to the provisions of section 309 of the Fish and Game Code and sections 163 and 746 of these regulations, the Commission, after notice and an opportunity to be heard, may suspend or revoke the commercial herring fishing privileges of any person issued a permit pursuant to the provisions of section 8550 of the Fish and Game Code upon conviction of a commercial herring fishing violation. Notwithstanding this provision, the Executive Secretary of the Commission shall enter into a stipulated compromise settlement agreement with the consent of the permittee for category I violations, and may enter into a compromise for category II violations with the consent of the permittee, on terms and conditions which may include, but are not limited to, the payment of monetary penalties, the reduction of a revocation to a suspension for a specified period of time, a period of probation not to exceed three years or any other terms and conditions, mutually agreed upon by the Executive Secretary acting for the Commission and the permittee, without further hearing or appeal. Conviction of multiple violations, committed at the same time shall be treated as one conviction for the purposes of implementing the provisions of this section.

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

If the permittee fails to perform ⁻⁷²⁻all of the terms and conditions of the

compromise settlement agreement, such agreement is thereby declared void and the Commission, notwithstanding the compromise settlement agreement, may take any action authorized by section 8553 of the Fish and Game Code and section 163 of these regulations against the permittee.

(a) Procedures for determining monetary penalties:

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

<u>SCORE RANGE</u>	<u>MONETARY RANGE</u>
<u>(Total Points)</u>	
<u>1-10</u>	<u>\$100 per point as provided in subsection (a)(2) below.</u>
<u>11+</u>	<u>\$150 per point as provided in subsection (a)(2) below.</u>

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

(A) GRAVITY OF THE VIOLATION. CATEGORY I VIOLATIONS

- | | |
|---|--|
| <u>1. Failure to properly identify vessel (Sec. 163(d))</u> | <u>1 point</u> |
| <u>2. Improperly marked buoys or flags (Sec.163(f)(2)(F))</u> | <u>1 point</u> |
| <u>3. Failure to validate permit (Sec.163(b)(3))</u> | <u>1 point</u> |
| <u>4. Failure to submit application for renewal of permit prior to the established deadline (Sec.163(b)(3))</u> | <u>1 point plus 1/4 point for each day, or portion thereof, the application is late.</u> |

5. Failure of permittee to have herring permit, commercial fishing license, or boat registration aboard the permit vessel ((Sec. 163, para. 1)) 2 points
6. Setting or operating nets within 300 feet of specified piers and jetties, or setting nets in specified channel entrances (Sec. 163(f)(2)(C), (f)(2)(D), and (f)(2)(E)) 3 points
7. Failure to "tend" nets (Sec.163(f)(2)(A)) 5 points
8. Failure of herring buyer to permanently mark all vehicles, containers or pallets (Sec. 163(j)(1)) 5 points

(B) GRAVITY OF THE VIOLATION - CATEGORY II VIOLATIONS

1. Failure to have a rigid grate covering hold hatch while loading fish (Sec. 163(e)(6)) 6 points
2. Unloading fish without recovering both nets and having them aboard vessel Sec. 163(e)(4)) 6 points
3. Fishing in a closed area (Sec. 163(f)(1) and (f)(2)) 6 points
4. Failure to remove fishing gear from water by announced time terminating fishery operations Sec. 163(e)(3)) 6 points, plus 1/2 point for each hour, or portion thereof, after closing time
5. Possession or use of nets with undersized mesh (Sec. 163(f)(2)(B)) 10 points
6. Failure to immediately return all halibut, sturgeon, salmon and striped bass to the water (Sec.163(e)(6)) 10 points
7. Possession or use of extra nets or nets which exceed maximum length restrictions (Sec.163(f)(2)(A)) 10 points, plus 1/2 point for

every 5 fathoms
of net, or
portion thereof,
exceeding
maximum

8. Failure of permittee to be aboard the vessel
during herring fishing operations (Sec.163,para 1)) 10 points
9. Failure to complete and maintain weight tally
sheets (Sec. 163(j)(4)) 10 points
10. Failure to immediately complete a Fish and Game
receipt upon completion of weighing any load
or lot of fish (Sec. 163(j)(2)) 15 points

(C) PRIOR VIOLATIONS.

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

a. For one prior conviction for a violation of the commercial herring
fishing laws or regulations within the past three years, the monetary assessment
shall be doubled if the total point score (points from prior violation added to
points for current violation) is 10 or less, and tripled if such total point
score is 11 points or more.

b. For two prior convictions for violations of the commercial herring
fishing laws or regulations within the past three years, the monetary assessment
shall be quadrupled if the total point score (points from prior convictions added
to points for current violation) is 17 or less, and the permit shall be revoked,
or suspended for a period of at least 1 year, if the total point score is 18
points or more.

c. The provisions of this section regarding compromise settlement
agreements shall not apply if action is brought to recover civil damages under

Section 2014 of the Fish and Game Code from the person subject to action under this section.

(3) When determining total monetary penalties for compromise agreements, an adjustment may be made in the monetary value of the accumulative point score for points assigned under subsections (a)(2)(B) 1 through (a)(2)(B) 10, by the total amount of any fine and/or equipment assessment imposed and received by any court.

(4) All monetary penalties for compromise agreements assessed under this section shall be deposited by the Department to the Fish and Game Preservation Fund.

Authority: Sections 8553 and 8555, Fish and Game Code.

Reference: Sections 309, 8552, 8553 and 8555, Fish and Game Code.

PASSED UNANIMOUSLY.

16. OPENING BIDS AND AWARDING OF 1988-89 PERMITS TO HARVEST HERRING EGGS WITH SEAWEED ATTACHED FROM SAN FRANCISCO BAY.

Mr. Cribbs stated that the Commissioners were provided with copies of Section 164, Title 14, CCR, regarding the harvest of herring eggs on seaweed. He pointed out that the Commissioners were also provided with a synopsis of the bid prices for the period 1969 through 1987, as well as the amounts of herring eggs on seaweed harvested by area. He noted that among the requirements of this section were provisions for a royalty payment of not less than \$50 per ton of herring eggs taken for submission of sealed written bids to the Commission's Executive Secretary by 5:00 p.m. on July 10 of each year. The Executive Secretary noted that the sealed bids must include a performance deposit of 50 percent of the bid price and that the Commission may refuse any and all bids and determine the qualifications of the bidders. He pointed out that the Commission may also specify those areas and quantities for which bids may be accepted.

Mr. Cribbs then noted that under the provisions of Section 164, the Commission had allotted 2-1/2 tons for each of two permit areas, Allotment A and Allotment B. He also pointed out that the fishery had been limited to San Francisco Bay.

The Executive Secretary then stated that the Commission office had received bids from six individuals and that the bids would be opened at this time. He then opened the bids for Allotment A and the bids per ton were as follows: Stanley Nelson, \$4,127; Wallace Green, \$4,126.50; Darrell Kapp, \$3,580; Jim Glenovich, \$3,350; Doug Karlberg, \$1,220; R.M. Dexter, Jr., \$2,201.20.

The Executive Secretary then opened the bids for Allotment B and the bids per ton were as follows: Wallace Green, \$4,127; Stanley Nelson, \$4,126.50; Darrell Kapp, \$3,580; Jim Glenovich, \$3,350; R. M. Dexter, \$2,201.20 and Doug Karlberg, \$1,200.

Chief Deputy Director Fletcher stated that the Department recommended that the Commission accept the bids from Stanley Nelson, Bellingham, Washington, for Allotment A and Wallace Green, Bellingham, Washington, for Allotment B.

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION, UNDER THE AUTHORITY OF SECTION 8489 OF THE FISH AND GAME CODE AND IN ACCORDANCE WITH THE REGULATIONS IN SECTION 164, TITLE 14, CCR, AWARDS TO STANLEY NELSON, BELLINGHAM, WASHINGTON, A PERMIT TO HARVEST NOT TO EXCEED 2-1/2 TONS OF HERRING EGGS AND MARINE PLANTS COMBINED FROM ALLOTMENT A, SAN FRANCISCO BAY, AND AGREES UPON A ROYALTY FEE OF \$4,127 PER TON FOR ALLOTMENT A, AND FURTHER, AWARDS TO WALLACE GREEN, BELLINGHAM, WASHINGTON, A PERMIT TO HARVEST NOT TO EXCEED 2-1/2

TONS OF HERRING EGGS AND MARINE PLANTS COMBINED FROM ALLOTMENT B, SAN FRANCISCO BAY, AND AGREES UPON A ROYALTY FEE OF \$4,127 PER TON FOR ALLOTMENT B. SUCH PERMITS TO BE SUBJECT TO TERMS AND CONDITIONS AGREED UPON BY THE COMMISSION AND INCLUDED IN THE PERMITS.

PASSED UNANIMOUSLY.

17. APPROVAL OF PRIVATE LANDS WILDLIFE MANAGEMENT LICENSES (1988-1991):

The Executive Secretary stated that four applicants had requested new private lands wildlife management area licenses. He noted that the required applications and management plans had been submitted to the Department. He explained that the license period would be from 1988-1991. He indicated that the Department had determined that these plans conformed to the regulations provided in Section 601, Title 14, CCR, and to the Commission's policy relating to private lands wildlife management areas. He pointed out that summaries of each proposal, as well as a petition with over 700 signatures in opposition to the private land wildlife management area program had been provided to the Commissioners. The following were the ranchers that were requesting private lands wildlife management area licenses, a brief summary of their proposal plan and the Department's recommendation:

(A) BUCK FEVER LODGE, SHASTA COUNTY

Department Recommendation

"The Department has reviewed the application for license and management plan for the 4,480-acre Buck Fever Lodge Private Lands Wildlife Management Area in southwestern Shasta County. The prospective licensee, Rex Wittner, is applying for a license under Commission regulations in Section 601, Title 14, CCR. This new plan is in compliance with Commission policy requirements for Private Lands Wildlife Management Areas. A public notice regarding the matter was published in the "Record Searchlight" in Redding on March 17, 1988. The goals and objectives outlined in the plan are compatible with the Yolla Bolly Deer Herd Management Plan.

"Prescribed burning of chamise brushfields on the area has been an historical management practice. The purpose was to reduce the fuel load fire hazard and to increase the area's ability to support more deer.

"During the next three years, Mr. Wittner plans to annually burn 269 acres of decadent brush, (chamise and buckbrush) under a 10-year rotational schedule. The goals of the prescribed burning program are to develop a forage-to-cover ratio of approximately 60-to-40 percent, improve quality and palatability of forage species, maintain riparian habitats and maintain and enhance black oak stands.

"Since 1965, the annual buck deer harvest on the area has ranged from 5 to 25 deer.

"The Department recommends that the Commission approve the Buck Fever Lodge Management Plan and the 1988 harvest program under the following conditions:

1. Issue five buck deer tags, forked horn or better, during the period of September 17, 1988 through October 10, 1988.
2. Issue six buck deer tags, forked horn or better, during the period of September 17, 1988 through November 6, 1988.
3. The licensee will modify the management plan to clearly grant Department Wildlife Protection personnel unlimited access for law enforcement purposes. To determine compliance with habitat project prescriptions, wildlife management personnel will arrange inspections."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF BUCK FEVER RANCH, SHASTA COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1988-1991) AND FURTHER APPROVES THE 1988-89 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

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

Department Recommendation

"The Department has reviewed the annual report, new application and wildlife management plan for the 7,360-acre Clarks Valley-Red Rock Ranch. The ranch was licensed in 1987 under Commission regulations in Section 601, Title 14, CCR. This area is applying for a new three-year license in 1988 after three previous years in the program. Full payment was made for all tags used in 1987. The plan is in compliance with Commission policy for private lands management pending final monitoring of habitat improvements to be completed by August 1, 1988. The habitat improvements performed under this plan will help to enhance and maintain deer 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. Public access to public lands shall not be diminished under implementation of this management plan.

"This plan provides for improvements to summer range for the Warner Mountains deer herd by increasing forage quality and fawning cover. A 110-acre prescribed burn was completed in the fall of 1986.

Five livestock exclosures in aspen stands have been completed, and two more will be completed this summer. Aspen understory improvement is a key goal to increase fawning cover at this site. In addition, two large riparian exclosures of about eight acres each will be completed this year, and livestock use will be reduced by about 20 percent.

"Deer herd composition counts performed in fall 1987 and spring 1988 showed 26 bucks and 37 fawns per 100 does, respectively. These counts were made offsite, as deer in this area are not present on the ranch during the time when herd composition data are collected due to migration patterns. Current fawn ratios in and around the area are adequate to provide a biologically sound justification for the issuance of a limited number of either-sex deer tags on this ranch.

"This plan proposes to hunt deer for 45 consecutive days. The season would begin two weeks earlier and end two weeks later than the regular X-3b deer season. The earlier season will help to ensure that some deer raised onsite are taken onsite before they migrate off the area.

"This area is zoned "UC 100" (Upland Conservation, 100-acre minimum) by Lassen County, and all of the ranch is in the Williamson Act designation. Development threats are low to nonexistent.

"The average annual buck take in this area has been about 18 bucks for several years.

"The owners/operators agree to allow unrestricted access to Department of Fish and Game employees for the purposes of habitat improvement compliance checks and law enforcement.

"The Department recommends that the Commission approve the Clarks Valley-Red Rock Ranch Wildlife Management Plan and the 1988 harvest program under the following conditions:

1. Issue 24 either-sex deer tags, of which bucks must be forked horn or better, during the period of September 17, 1988 through October 30, 1988.
2. No one person may take more than one buck and one antlerless deer.
3. The licensee shall modify the management plan to clearly grant Department Wildlife Protection personnel unlimited access for law enforcement purposes. To determine compliance with habitat improvement projects, wildlife management personnel will arrange inspections."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. MURDY, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
APPLICATION OF CLARKS VALLEY-RED ROCK RANCH, LASSEN

COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1988-1991) AND FURTHER APPROVES THE 1988-89 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(C) FITZPATRICK RANCH, SHASTA COUNTY

Department Recommendation

"The Department has reviewed the new fourth year (1988) plan for the 4,900-acre Fitzpatrick Ranch in eastern Shasta County. The area has been licensed under Commission regulations in Section 601, Title 14, CCR, for the past three years. Full payment was made for all tags used on this ranch over the three-year license period. The new plan is in compliance with Commission policy requirements for private lands management areas. The goals and objectives outlined in the management plan are compatible with the Cow Creek Deer Herd Management Plan.

"Since 1974, a total of 9,900 acres of decadent brush and slash have been burned and returned to improve ranch carrying capacity. Many of these acres were subsequently reseeded to rose clover, perla grass, subclover, perennial rye grass and harding grass, in addition to rejuvenation of browse plant species. Furthermore, nine springs and seven reservoirs have been developed on the ranch, as well as an extensive meadow area ditch irrigation system. Water availability has been greatly enhanced. Moreover, significant numbers of livestock have been removed from the ranch.

"During the next three years, the Fitzpatrick Ranch has agreed to burn 400 acres of brush land to improve forage for deer. The plan calls for delaying any additional burning to help promote deer forage and cover rather than repeatedly burning browse stands to convert to livestock forage. Conversion burns for cattle have been the primary management strategy on the property prior to entering the Private Lands Wildlife Management Area Program.

"The proposed management plan is consistent with the goals and objectives of the Cow Creek Deer Herd Management Plan. The 1987 postseason buck ratio was 27, which is above the objective of 25 for the herd. Last year's harvest was 6 buck deer, though, since 1973, the annual ranch buck deer harvest has ranged from 12 to 18 deer.

"The Department recommends that the Commission approve the management plan and the 1988 harvest program under the following conditions:

1. Issue 18 buck deer tags, forked horn or better, during the period of September 17, 1988 through November 30, 1988.

2. The licensee shall modify the management plan to clearly grant Department personnel unlimited access for law enforcement purposes and to determine compliance with habitat project prescriptions of the subject management plan."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF FITZPATRICK RANCH, SHASTA COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1988-1991) AND FURTHER APPROVES THE 1988-89 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(D) R-R RANCH, MENDOCINO COUNTY

Department Recommendation

"The Department has reviewed the 1988-1991 application and management plan for the 5,727-acre R-R Ranch in Mendocino County. It has determined that the plan conforms to the requirements of Section 601, Title 14, CCR, and Commission policy. A public notice was published in the Ukiah Journal on July 7, 1988. In addition, the plan is consistent with Section 3951 of the Fish and Game Code and the Potter Valley Tule Elk Management Plan.

"The goals and objectives outlined in the management plan are compatible with the Department's long-term Tule elk management goals and objectives. The 1987 population estimate for the Potter Valley Tule elk herd was 115 animals. A survey of the 1988 calf crop will be conducted within the next few weeks. Based on previous herd performance and preliminary observations, it is expected that approximately 30 calves will be recruited into the population in 1988, resulting in a herd size of approximately 145 animals.

"Habitat improvements were initiated in the fall of 1987. Approximately 40 acres of permanent, irrigated pasture were planted in the heart of the area first used by Tule elk in Potter Valley. In addition to the permanent pasture, 120 acres of oat/vetch will be planted for the exclusive use of elk. A 225 acre-foot reservoir is also planned for construction during the summer of 1988. The reservoir perimeter will be planted with willows and other riparian plant species to provide additional habitat for Tule elk. In addition, there has been a series of controlled burns on several of the adjacent ranches over the past five years. Burns have improved forage conditions for both Tule elk and deer. The California Department of Forestry and Fire Protection (CDFFP) has completed a

Coordinated Resource Plan for the area. It will continue to work with all landowners in the elk range to improve wildlife habitat through prescribed burns. In 1987, a 67-acre controlled burn was completed by CDFFP.

"The R-R Ranch Private Lands Wildlife Management Area applicant proposes to donate one of the five bull elk tags to a nonprofit organization to be auctioned off with the proceeds donated to the Department of Fish and Game for its Tule elk management program.

"The Department recommends that the Commission approve the R-R Ranch Wildlife Management Plan and the 1988 harvest program under the following conditions:

1. Issue 16 either-sex elk tags to permit the take of no more than 5 bull elk and no more than 7 cow elk during the period of October 1, 1988 through December 3, 1988."

The Executive Secretary stated that Commissioner Bryant had informed him that unless the state won its court case regarding the Tule elk litigation, he did not believe it would be appropriate for the Commission to approve the harvest of Tule elk on the R-R Ranch.

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE APPLICATION OF R-R RANCH, MENDOCINO COUNTY, FOR A PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE (1988-1991) AND FURTHER TENTATIVELY APPROVES THE 1988-89 MANAGEMENT PLAN FOR THIS AREA, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION. HOWEVER, IF THE PUBLIC IS PRECLUDED FROM HUNTING TULE ELK THIS YEAR, THEN THE COMMISSION DOES NOT CONCUR WITH THE HARVEST OF TULE ELK ON THE R-R RANCH, MENDOCINO COUNTY.

PASSED UNANIMOUSLY.

18. RECEIPT OF ANNUAL REPORTS AND APPROVAL OF 1988-89 PRIVATE LANDS WILDLIFE MANAGEMENT AREA PLANS FOR THE FOLLOWING:

The Executive Secretary stated that nine applicants had requested renewal of their private lands wildlife management area license and approval of their 1988-89 management plans. He noted that the Department had reviewed the annual report from each of these ranches and recommended the Commission approve the management plan for the coming year. He explained that the Department had determined that the activities on the ranches, unless otherwise specified, had been completed as proposed in the 1987-88 objectives, except for the Hornback Ranch, Lassen County, and the Weber and Bailey Ranch, Modoc County. He stated that the Department recommended Commission approval of those two ranches pending the

Department's field review to determine that the habitat work had been completed. Mr. Cribbs pointed out that the Commissioners had been provided copies of the summary of the annual reports, as well as additional background information on each of the ranches. The following is a list of those ranches, a brief summary of each plan, as well as the Department's recommendation:

(A) BATTLE CREEK RANCH, TEHAMA COUNTY

Department Recommendation

"The Department has reviewed the renewal application, annual report and management plan for the 1,616-acre Battle Creek Ranch in northeastern Tehama County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR, and is in compliance with Fish and Game Commission Policy for private lands wildlife management. Full payment was made for all tags used in 1987. The goals and objectives outlined in the management plan are compatible with the East Tehama Deer Herd Management Plan.

"Approximately 50 acres of brush were mechanically crushed and subsequently burned. A test area was planted to clover species to increase the amount of green forage available, but the extremely dry conditions this year did not provide enough moisture for germination and growth. Several miles of firebreak trails have been installed to facilitate the burning program. Brush was piled for quail cover. These projects have had or will have direct benefits to wildlife in the area.

"Plans for the coming year include crushing and burning an additional 50 acres of brush with attendant firebreaks and trails, development of springs or other water sources, additional clover plantings and a 25-head reduction in cattle numbers.

"The brush areas which were opened up this past winter have already provided significant forage to deer. The operator reports over 300 deer using a portion of the area during the spring migration—a time critical for pregnant does. Composition counts revealed a ratio of 38 bucks per 100 does, which is well above the general herd ratio of 23 bucks per 100 does.

"The harvest program for the area was far below agreed upon levels. One buck and five does were taken. One reason for this reduction was that permits were not sold. Only family members and associates are allowed to use the area. As a result, many of the tags were issued to people who did not or could not hunt. An increase in tags to take the same number of bucks will help increase the harvest.

"The Department recommends that the Commission approve the management plan and the 1988 harvest program under the following conditions:

1. Issue 20 buck deer tags to permit the take of no more than 12 buck deer, forked horn or better, during the period of September 17, 1988 through November 30, 1988.
2. Issue 12 antlerless deer tags during the period of September 17, 1988 through November 30, 1988.
3. The licensee shall modify the management plan to clearly grant Department personnel unlimited access for law enforcement purposes and to determine compliance with habitat project prescriptions of the subject management plan."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF THE BATTLE CREEK RANCH, TEHAMA COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(B) CANYON CREEK RANCH, MODOC COUNTY

Department Recommendation

"The Department has reviewed the annual report, management plan and renewal application for the 2,958-acre Canyon Creek Ranch in south-central Modoc County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1987. The plan is in compliance with Commission policy requirements for private lands management. Goals and objectives outlined in the management plan are compatible with the Adin Deer Herd Management Plan and Pronghorn Antelope Management Plan.

"Habitat projects completed in 1987 included: planting six acres of clover, grass and alfalfa; removing junipers on 20 plus acres to reduce competition to forage species; providing pronghorn improved field of vision and created quail cover; building three goose nesting structures in addition to nine previously built; burning decadent cattail stands to open pond for waterfowl; and maintaining waterfowl nesting habitat and cover through a carefully-managed grazing program which includes deferred grazing during the nesting season. Moreover, a 200-acre burn of Field 14 several years ago has resulted in increased pronghorn antelope numbers and use. Some habitat projects scheduled for years two and three have been completed and include juniper removal from the creek meadow area, planting of alfalfa and

oats in Field 14, and control of medusa head. Removal of junipers from an area above the ranch headquarters was additional project work not required in the management plan.

"Habitat projects for 1988 include construction of one-quarter mile of fence to further protect riparian habitat, removal of 22 juniper trees and maintenance of last year's projects.

"Harvest in 1987 was one buck deer.

"The Department recommends that the Commission approve the management plan and the 1988 harvest program with the following conditions:

1. Issue two buck deer tags, forked horn or better, during the period of September 17, 1988 through October 16, 1988.
2. Issue one buck deer tag, forked horn or better, during the period of September 17, 1988 through October 30, 1988.
3. Issue one doe pronghorn antelope tag during the period of August 13, 1988 through September 18, 1988.
4. The management plan be modified to clearly grant Department personnel unlimited access for law enforcement purposes and to determine compliance with prescriptions of the subject management plan."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION APPROVES THE REQUEST OF THE CANYON CREEK RANCH, MODOC COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(C) DRY LAKE RANCH, MODOC COUNTY

Department Recommendation

"The Department has reviewed the annual report, 1988-89 management plan and license renewal application for the 2,180-acre Dry Lake Ranch in western Modoc County. The Dry Lake Ranch Private Lands Wildlife Management Area is in the third year of its initial three-year license period under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1987. This

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 Dry Lake Ranch. Goals and objectives outlined in the management plan are compatible with the McCloud Flat Deer Herd Management Plan (including the Devil's Garden interstate deer herd and Glass Mountain deer herd) and the Pronghorn Antelope Management Plan.

"In 1987, the licensee created nesting islands, installed water control structures for riparian waterfowl nesting habitat and planted 200 Russian olive sprouts and 120 acres of dryland alfalfa.

"The initial management plan requires the licensee to plant 75 bitterbrush seedlings per year east of the highway for three years. The first-year seedlings died as a result of being planted in the spring instead of the winter, as specified in the plan. The operator is preparing to plant the second-year seedlings.

"The licensee further deviated from the plan by not planting willows and junipers for cover along the ditch lines. The plan specifically calls for planting 25 willows and 25 junipers each year. Because of drought conditions the last two years, he did not plant willows. However, this spring he completed planting of over 200 Russian olive sprouts around the designated wildlife reserve area and plans to plant willows between the olive plants. This is in addition to projects outlined in the plan. Mr. Ackley has completed additional work which has benefitted wildlife on his ranch that is well beyond what is specified in his plan. Specifically, he has:

1. Established nesting islands on Dry Lake and is constructing water control structures to maintain year-round water and riparian nesting habitat for waterfowl.
2. Planted an additional 120 acres of dryland alfalfa above and beyond the acreage required by his plan. This was completed during the first year.

"Habitat projects for 1988 include: extensive willow, alfalfa, bitterbrush, poplar and olive seeding planting and maintenance; maintenance of 300 acres of irrigated alfalfa; deferred grazing of 200 acres in field C; fence improvements to facilitate antelope movements; predator control; maintenance of 30 wetland acres; summertime removal of cattle from Dry Lake; and building raptor perches.

"The area provides winter range for both the migratory Glass Mountain and Devil's Garden interstate deer herds. The area also provides summer range for the migratory Clear Lake pronghorn antelope herd.

"The plan area is designated A-1, General Agriculture, with a minimum 40-acre parcel size. Public domain surrounds the area. The threat of subdivision is not immediate.

"The average annual harvest has been 15-20 three-point bucks. Over 140 deer are killed annually due to auto collisions on the highway in front of the ranch. Another six to eight forked horns are killed and left by trespassers.

"The Department recommends that the Commission approve the renewal for the Dry Lake Ranch Wildlife Management Plan and the 1988 harvest program under the following conditions:

1. Issue five buck deer tags, forked horn or better, during the period of September 24, 1988 through November 13, 1988. No more than two buck deer may be taken after October 8, 1988.
2. Issue two antlerless deer tags during the period of August 27, 1988 through September 7, 1988.
3. Issue one buck pronghorn antelope tag during the period of August 27, 1988 through September 5, 1988.
4. Issue one doe pronghorn antelope tag during the period of August 27, 1988 through September 5, 1988.
5. The licensee will modify the management plan to clearly grant Department Wildlife Protection personnel unlimited access for law enforcement purposes. To determine compliance with habitat project prescriptions of the subject management plan, Wildlife Management personnel will arrange inspections."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF DRY LAKE RANCH, MODOC COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(D) HORNBACK RANCH, LASSEN COUNTY

Department Recommendation:

"The Department has reviewed the annual report, management plan and license renewal application for the 3,400-acre Hornback Ranch in northeastern Lassen County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. Full payment was made for all tags used in 1987. The plan is in compliance with

Commission policy for private lands management, pending final monitoring of habitat improvements to be completed by August 1, 1988. The habitat improvements performed under this plan will help to enhance and maintain deer habitat in Lassen County on and around the Hornback Ranch. The goals and objectives outlined in the management plan are compatible with the Warner Mountains Deer Herd Plan. Public access to public lands shall not be diminished under implementation of this management plan. This is the third year of the three-year license period for Hornback Ranch.

"This Plan provides for improvements to summer range for the Warner Mountains Deer Herd by increasing forage quality and fawning cover. Two exclosures to improve fawning cover and forage by fencing out livestock were completed in the fall of 1986. Aspen regeneration for additional fawning cover was developed at a third site. In 1987 another aspen site was improved and junipers were thinned to reduce their ability to compete for water. An additional livestock exclosure and another aspen enhancement site will be completed this summer. Aspen understory improvement is a key goal to increase fawning cover at this site.

"Deer herd composition counts performed in fall 1987 and spring 1988 showed 26 bucks and 37 fawns per 100 does, respectively. While these counts were made offsite, but in the general area, the deer in this area are not present onsite at appropriate times for herd composition counts due to migration patterns. Current fawn ratios are high enough to provide a biologically sound justification for the issuance of a limited number of antlerless deer tags on this ranch.

"This plan proposes to take deer two weeks before through two weeks after the regular X-3b deer season. The earlier season will help to ensure that some deer raised onsite are taken onsite before they migrate off the area.

"This area is zoned A-1, General Agriculture, with no minimum parcel size by Lassen County but all of the ranch is in the Williamson Act designation. Development threats are low to nonexistent.

"The annual buck deer take in this area has been about six deer.

"The owners/operators agree to allow unrestricted access to Department of Fish and Game employees for the purposes of habitat improvement compliance checks and law enforcement.

"The Department recommends that the Commission approve the management plan and the 1988 harvest program under the following conditions:

1. Issue ten buck deer tags to permit the take of no more than ten buck deer, forked horn or better, and five antlerless deer tags to permit the take of no more than five antlerless deer during the period September 17, 1988 through October 30, 1988.

2. No one person may take more than one buck deer and one antlerless deer.

3. The licensee modify the management plan to clearly grant Department personnel unlimited access for law enforcement purposes and to determine compliance with habitat project prescriptions of the subject management plan."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF HORNBACK RANCH, LASSEN COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE DEPARTMENT'S CONCURRENCE THAT ALL TERMS AND CONDITIONS OF THE 1987-88 PLAN HAD BEEN COMPLETED AND SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(E) MARTIN RANCH, LASSEN COUNTY

Department Recommendation

"The Department has reviewed the renewal application and management plan for the 2,002-acre Martin Ranch in northern Lassen County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. The plan is in compliance with the Commission's policy for private lands management areas. Full payment was made for all tags used in 1987. The habitat improvements performed under this plan will help to enhance and maintain deer habitat in Lassen County on and around the Martin Ranch. The goals and objectives of the management plan are compatible with the Adin Deer Herd Management Plan. Public access to public lands will not be diminished under implementation of this management plan.

"This plan provides for improvements to summer range for the Adin deer herd by increasing forage quality and by reducing competition between juniper and mountain mahogany to favor the mahogany. Also, improvements to two ponds are proposed to increase water availability for deer. This owner has indicated all livestock will be removed from this ranch in 1988.

"To help ensure that deer raised onsite are taken on site, the operator is proposing a season beginning two weeks before the regular Zone X-3a season and ending when the regular season ends. Proposed harvest is for the same number and class of deer as in 1987; two either-sex deer with bucks to be forked horn or better. Either sex

deer harvest at the level proposed in this plan is consistent with the goals and objectives of the Adin Deer Herd Management Plan. The average annual deer harvest on the ranch has been five bucks, three-point or better, for the past several years.

"The operator and owners agree to allow the Department of Fish and Game employees unlimited access to the area for determining compliance and law enforcement under this plan.

"The Department recommends that the Commission approve the renewal of the Martin Ranch Wildlife Management Plan and the 1988 harvest program under the following conditions:

1. Issue two either-sex deer tags during the period of September 17, 1988 through October 16, 1988. Buck deer must be forked horn or better.
2. No one person may take more than one buck deer and one antlerless deer."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF MARTIN RANCH, LASSEN COUNTY, FOR RENEWAL OF ITS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

(F) RANCHO GARATE RANCH, LASSEN COUNTY

Department Recommendation

"The Department has reviewed the renewal application for the 6,640-acre Rancho Garate in Lassen County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. The plan is in compliance with Commission policy for private lands management. The habitat improvements performed under this plan will help to enhance and maintain deer habitat in Lassen County on and around Rancho Garate. The goals and objectives outlined in the management plan are compatible with the East Lassen Deer Herd Management Plan. Full payment was made for all tags used in 1987. Public access to public lands will not be diminished under implementation of this management plan. We recommend renewal of this license pending a final check of habitat projects to be completed by July 15, 1988.

"The 1987-88 habitat projects consisted of minor improvements to two springs, installing bitterbrush protective devices on 800 plants, hiring additional personnel for fence improvement and cattle enclosure, improving one mile of fence to exclude cattle and continuing a predator control program.

"This plan provides for improvements to summer range for the East Lassen Deer Herd by increasing forage quality and fawning cover. All livestock use will be eliminated on 1,400 acres of Rancho Garate deeded lands in 1988. Livestock use on these lands in 1989 will be limited to 30 days of early season use to reduce competition to deer browse from grass. Additional work in 1988 includes: one spring improvement on the Casey property at Post Camp, 800 bitterbrush protective screens to recruit young plants for deer forage, continuing predator control, five additional acres of alfalfa exclusively for wildlife and a water distribution system along 2.5 miles of Bureau of Land Management land on Spanish Springs Peak for wildlife.

"Deer herd composition counts made in the area, but not specifically on this ranch, showed 23 bucks and 27 fawns per 100 does in fall 1987 and spring 1988, respectively. These figures are below the previous year's ratios. For this reason, the maximum proposed harvest on the area has been reduced from 19 bucks in 1987 to 15 in 1988. Herd composition counts on site are not possible, as deer are not present at the time appropriate for data collection. While this plan does not request season dates extending past the regular season, it does request a season starting two weeks earlier than the regular deer season. This is to help ensure that deer raised onsite are taken on site before they migrate. The 1987 harvest was 12 buck deer.

"The operator agrees to allow Department of Fish and Game employees unlimited access to the area for the purposes of law enforcement and compliance checks for habitat improvements.

"The Department recommends that the Commission approve the Rancho Garate Wildlife Management Plan and the 1988 harvest program under the following conditions:

1. Issue 20 buck deer tags to permit the take of no more than 15 buck deer, forked horn or better, during the period September 17, 1988 through October 16, 1988.
2. No one person may take more than one buck deer.
3. The licensee shall modify the management plan to clearly grant Department personnel unlimited access for law enforcement purposes and to determine compliance with habitat project prescriptions of the subject management plan."

It was then:

MOVED BY MR. MCCrackEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF RANCHO GARATE RANCH, LASSEN COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT LICENSE AND APPROVAL

OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE
TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND
APPROVED BY THE COMMISSION.

(G) REDWOOD CREEK RANCH, HUMBOLDT COUNTY

Department Recommendation

"The Department has reviewed the annual report, management plan and license renewal application for the 17,500-acre Redwood Creek Ranch in northern Humboldt County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. The plan is in compliance with Commission policy requirements for private lands management. Full payment was made for all tags used in 1987. Goals and objectives outlined in the management plan are compatible with the Redwood Creek Deer Herd Management Plan. If approved, the renewal will authorize the final year of the Redwood Creek Ranch Private Lands Wildlife Management Area 1986-89 license period.

"In 1987-88, habitat improvements have involved: planting approximately ten acres of a perennial rye grass and subterranean clover mixture for deer forage; harvesting 400 acres of Douglas fir and tan oak in a mosaic pattern, thereby increasing production of browse species; maintaining a 50-foot hardwood tree buffer in conifer release areas adjacent to meadows and openings; and fencing two 14-acre plots for fawning habitat and restricting vehicle use on the area.

"For the 1988-89 license year, habitat projects include: revising the fawning area/livestock enclosure fencing design, waterhole improvements and subterranean clover plantings. In addition to the above, the licensee plans to remove all cattle and horses from 6,000 acres of the ranch from early June to early December to provide more feed (grasses, forbs and mast) to deer.

"During the 1987 season, 15 buck deer and 22 antlerless deer were harvested. A December 1987 herd composition count of 201 deer showed a ratio of 57 bucks and 56 fawns per 100 does.

"The Department recommends that the Commission approve the management plan and 1988 harvest program under the following conditions:

1. Issue 30 buck deer tags, forked horn or better, during the period of September 1, 1988 through December 6, 1988.
2. Issue 40 antlerless deer tags during the period of September 1, 1988 through November 5, 1988.
3. The licensee shall modify the management plan to clearly grant Department personnel unlimited access for law enforcement purposes and to determine compliance with habitat project prescriptions."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF REDWOOD CREEK RANCH, HUMBOLDT COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(H) WEBER AND BAILEY RANCH, MODOC COUNTY

Department Recommendation

"The Department has reviewed the annual report, management plan and license renewal application for the 4,240-acre Weber and Bailey Ranches located in east central Modoc County. The ranch is currently licensed under Commission regulations in Section 601, Title 14, CCR. The plan is in compliance with Commission policy requirements for private lands management. Full payment was made for all tags used in 1987. Goals and objectives outlined in the management plan are compatible with the Warner Mountains Deer Herd Management Plan and Pronghorn Antelope Management Plan.

"Habitat improvements during 1987 involved planting of approximately 35 acres of alfalfa (17 acres more than required), spring development on three sites (only two were required), clearing of approximately five acres of thick juniper stands and continuation of a predator control program. The 1987-88 planned fencing of a one-acre aspen grove to exclude livestock will be completed in August 1988. Furthermore, 64 acres of established alfalfa, 781 acres of meadows and 3,135 acres of properly-controlled grazing use were maintained. Historical wildlife management practices include planting alfalfa forage for deer and pronghorn antelope, maintaining meadow and riparian habitat, predator trapping and building brush piles for upland game birds. To control soil and stream bank erosion and improve fisheries habitat, the landowner is currently working with both the Department and the U.S. Department of Agriculture, Soil Conservation Service.

"Habitat projects for 1988-89 consist of: fencing a 3/4-mile riparian corridor approximately 15 acres in size; fencing a stretch of Parker Creek to exclude cattle and curtail soil and bank erosion, thereby enhancing riparian and fisheries habitat; developing and fencing two springs; maintaining 64 acres of established alfalfa, 781 acres of meadows and 3,135 acres of controlled grazing; and continuing the predator control effort.

"According to the management plan, the ranch's historical annual

harvest for deer and pronghorn antelope has been ten and four, respectively. Under the Private Lands Wildlife Management Area Program, seven buck deer were taken in 1987.

"The Department recommends that the Commission approve the management plan and the 1988 harvest program under the following conditions:

1. Issue four buck deer tags, forked horn or better, during the period of September 24, 1988, through October 16, 1988.
2. Issue four buck deer tags, forked horn or better, during the period of September 24, 1988 through November 13, 1988.
3. Departmental inspection and confirmation of the completed aspen grove fencing will be required prior to issuance of tags to the licensee."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF WEBER AND BAILEY BRANCH, MODOC COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE DEPARTMENT'S CONCURRENCE THAT ALL TERMS AND CONDITIONS OF THE 1987-88 PLAN HAD BEEN COMPLETED AND SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

(I) BALDWIN RANCH, NEVADA COUNTY

Department Recommendation

"The Department has reviewed the 1988 renewal application and management plan for the 800-acre Baldwin Ranch in Nevada County. The ranch is currently licensed under the Commission regulations in Section 601, Title 14, CCR. The plan is in compliance with the Commission's policy for private lands management. Full payment was made for all tags used in 1987. The goals and objectives outlined in the management plan are compatible with the Nevada City Deer Herd Management Plan.

"Habitat improvements over the past two years have been completed. This involved brush burning, fertilizing and seeding about 300 acres to improve forage conditions. Fencing was added to more carefully control livestock grazing, and about 30 acres were converted to an irrigated vetch pasture. A reduction of livestock numbers is planned for the current year.

"This ranch is zoned for 10-acre minimums and is adjacent to an intensive residential development. The plan provides an alternative land use which should maintain wildlife habitat for the Nevada City deer herd. The proposed harvest program involves a late season buck and antlerless hunt. Both late season buck and either-sex deer hunts are provided in nearby zones.

"The Department recommends that the Commission approve the renewal of the Baldwin Ranch Wildlife Management Plan and the 1988 harvest program under the following conditions:

1. Issue five buck deer tags, forked horn or better, during the period of August 20, 1988 through October 30, 1988. However, archery equipment only may be used during the period of August 20, 1988 through September 11, 1988, and general methods may be used during the period of September 24, 1988 through October 30, 1988.
2. Issue three buck deer tags, forked horn or better, during the period of November 12, 1988 through November 27, 1988.
3. Issue four antlerless deer tags during the period of August 20, 1988 through October 30, 1988. However, archery equipment only may be used during the period August 20, 1988 through September 11, 1988, and general methods may be used during the period September 24, 1988 through October 30, 1988.
4. Issue two antlerless tags during the period of November 12, 1988 through November 27, 1988."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF BALDWIN RANCH, NEVADA COUNTY, FOR RENEWAL OF ITS PRIVATE LANDS WILDLIFE MANAGEMENT AREA LICENSE AND APPROVAL OF ITS 1988-89 MANAGEMENT AREA PLAN, SUBJECT TO THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT AND APPROVED BY THE COMMISSION.

PASSED UNANIMOUSLY.

19. CONFIRMATION OF EMERGENCY AMENDMENT OF SECTION 27.80, TITLE 14, CCR, RE: NORTH COAST OCEAN SALMON REGULATIONS.

The Executive Secretary reminded the Commission that on July 8, 1988, the Commission, by conference call, adopted emergency amendments to Section 27.80, Title 14, CCR, Re: the north coast ocean salmon regulations. He pointed out that the Commissioners had been provided with a copy of those

regulations. He noted that, in summary, the Commission provided for one salmon per day and four salmon per week as a bag and possession limit, as well as a restriction to the use of one rod while salmon fishing on the north coast. He noted that those regulations became effective at midnight Sunday, July 10, 1988, and that the matter before the Commission was merely to confirm that emergency telephonic action. He stated that the Department was prepared to update the Commission on the status of this issue.

Mr. Cribbs reported that, in addition, the Department was recommending an additional emergency action to rescind the earlier emergency regulations to Section 27.80, Title 14, CCR, prior to September 12, 1988, when the quota requirement of the Pacific Fisheries Management Council terminated. He noted that the hearing for this matter would be scheduled under Item No. 20.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCrackEN, THAT THE FISH AND GAME COMMISSION HEREBY CONFIRMS ITS EMERGENCY ACTION OF JULY 8, 1988, TO AMEND SECTION 27.80, TITLE 14, CCR, TO REDUCE THE BAG AND POSSESSION LIMIT TO ONE SALMON PER DAY, FOUR SALMON PER WEEK, AND THE RESTRICTION TO USE ONLY ONE ROD WHILE SALMON FISHING IN THE OCEAN ON THE NORTH COAST.

PASSED UNANIMOUSLY.

20. SCHEDULING OF SUBCOMMITTEE HEARING IN EUREKA, ON AUGUST 16, 1988, AT 7:00 P.M., RE: DEPARTMENT PROPOSAL TO ESTABLISH AN ANNUAL BAG/POSSESSION LIMIT FOR SALMON AND STEELHEAD ON THE NORTH COAST.

The Executive Secretary stated that the Department had requested that the Commission hold a subcommittee hearing at 7:00 p.m. on the evening of August 16, 1988, in the Redwood Ballroom of the Red Lion Inn, 1929 Fourth Street, Eureka, to receive public comments on the following proposal:

"We are in the process of developing the final design of the salmon and steelhead catch report card so that it can be printed in time for distribution to license agents this November. The card will contain instructions to anglers which will include reference to annual salmon and steelhead catch limits if the Commission chooses to establish annual limits in the affected waters.

"We must know by September 1, 1988, what the limits are so the information can be included on the cards. To accomplish this, I request that the Commission's Freshwater Subcommittee conduct a public hearing in Eureka prior to the August 26 Commission meeting, to receive public input regarding annual salmon and steelhead catch limits in ocean waters north of Point Delgada, waters of the north coast district, and in the Eel River, and that the Commission tentatively adopt the limits at the August 26 meeting with final adoption at the November 10 meeting."

Mr. Cribbs stated that as suggested in Item No. 19 above, the Commission's motion on this matter should also reflect the scheduling of a hearing to receive public comments on the Department's recommendation that the Commission adopt the emergency regulations regarding modifying the north coast salmon sport fishery.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION CONCURS IN ITS STAFF RECOMMENDATIONS TO HOLD A SPECIAL PUBLIC HEARING IN EUREKA, ON AUGUST 16, 1988, AT 7:00 P.M. TO RECEIVE PUBLIC COMMENTS ON: 1) PROPOSED EMERGENCY AMENDMENTS OF SECTION 27.80, TITLE 14, CCR, RE: NORTH COAST OCEAN SALMON SEASON AND BAG/POSSESSION LIMIT; AND 2) ADOPTION OF REGULATIONS TO PROVIDE FOR THE ESTABLISHMENT OF AN ANNUAL BAG/POSSESSION LIMIT FOR SALMON AND STEELHEAD ON THE NORTH COAST. FURTHER, THE COMMISSION APPOINTS THE EXECUTIVE SECRETARY AS HEARING OFFICER IF NO COMMISSIONER IS ABLE TO MAKE THE SUBCOMMITTEE HEARING.

PASSED UNANIMOUSLY.

CONSENT CALENDAR

The Executive Secretary stated that items 21 - 26 have been placed on the Commission's Consent Calendar. He noted that the Department and United Anglers had requested that Item No. 23 be removed from the Consent Calendar. Mr. Cribbs then indicated that the Commission staff knew of no additional opposition to any of the remaining proposals at this time, other than as specified in the analysis. He stated that the Department had provided a recommendation for each of these items, which either called for approval or modified approval by the Commission. He noted that any additional item could be removed from the consent calendar by the Commission upon request of the Department or someone in the audience who would like to speak to that item. He pointed out that the Commission staff had prepared a summary of the consent items which were made available to the public. Mr. Cribbs then stated that one overall motion was appropriate for approval of the Consent Calendar items.

21. AMENDMENT OF SECTION 147, TITLE 14, CCR, RE: COMMERCIAL ANCHOVY FISHERY.

The Department has requested that the Commission amend Section 147, Title 14, CCR, Re: the granting and issuance of permits to take and use anchovies by a reduction process. The purpose of this proposed action is to establish the quotas for anchovies taken and used for reduction (conversion to fish meal and oil) purposes for the upcoming 1988-89 and subsequent seasons. Commissioners were provided with copies of the Department's pre-publication of notice and pre-adoption statements, and a letter from E. C. Fullerton, Regional Director, National Marine Fisheries Service, regarding this fishery.

In the past, the Commission has established quotas for the anchovy reduction fishery prior to the opening of each fishery season on a season-by-season basis. The proposed regulatory action would provide for departure from this practice by specifying that each season's quota shall be the same as those established for the anchovy reduction fishery under federal law; thus, the quotas would be established automatically for each season and would no longer require Commission action each year. The Department provides the following information concerning this important fishery:

"In the management of the anchovy resource, the establishment of season quotas serves to limit the catch to safe levels and to help allocate the anchovy resource among the different users, including those marine resources which depend on anchovies for forage.

"The size of the anchovy population fluctuates from year to year, depending on the success of spawning and the survival of larval and juvenile anchovies. Due to these changes in population size, management of the anchovy resource depends on the establishment of season quota levels appropriate to the current status of the resource.

"In addition, the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) authorized the federal government to manage fishery resources within the fishery conservation zone, three to 200 miles offshore. A Fishery Management Plan (FMP) for the anchovy population off California has been developed, approved by the Secretary of Commerce and implemented by the federal government. The FMP for the anchovy resource includes provisions and formulas for determining the optimum yield (OY) and for the allocation of the allowable catch among the different user groups, including the reduction fishery.

"Also, the MFCMA provides that nothing in the Act shall be construed as diminishing the jurisdiction or authority of any state within its boundaries, except if the Secretary of Commerce finds that any state has taken any action or omitted to take any action, the results of which will substantially and adversely affect the carrying out of the fishery management plan.

"The state maintains its interest in the anchovy resource and enforces regulations, concerning the reduction of anchovies to fish meal and oil, as adopted by the Fish and Game Commission. The state maintains jurisdiction for enrollment of regulations relating to the anchovy fishery, based on the state Registry of Vessels used in the fishery and the landing of the anchovy catch in California.

"As noted above, in the past the Commission has considered the need for changes in the season quotas prior to each season. The setting of quotas on a season-by-season basis was necessary

when the anchovy reduction fishery was relatively large (taking on the order of 100,000 tons of anchovies each year) and of a magnitude which could potentially affect the health of the resource.

"However, in recent years, anchovy reduction landings have been relatively low, less than 1,000 tons. These low landings are due to the fact that this fishery is no longer economically viable on a large scale due to increased processing costs and reduced demand for fish meal. In addition, it is unlikely that a large anchovy reduction fishery will develop in the foreseeable future. In this regard, the processing machinery at the major facility in southern California was dismantled and sold several years ago.

"The approach proposed in this statement would minimize the administrative and regulatory costs associated with the anchovy reduction fishery without impacting the management and protection of the anchovy resource."

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION PURSUANT TO THE AUTHORITY VESTED BY SECTIONS 7708 AND 8075 OF THE FISH AND GAME CODE AND TO IMPLEMENT AND INTERPRET AND MAKE SPECIFIC SECTIONS 8075, 8076 AND 8191 OF SAID CODE, AND 50 CFR, PART 662, HEREBY AMENDS SECTION 147, TITLE 14, CALIFORNIA CODE OF REGULATIONS, REGARDING COMMERCIAL ANCHOVY FISHERY AS FOLLOWS:

(1) Subsection 147(a)(3)(F)3, Title 14, CFR, is amended to read:

3. Quotas. The total tonnage reserved for the northern permit area shall be 10,000 tons per season. The and the total tonnage for the southern permit area shall be 144,350 tons per season, the same as those established by the National Marine Fisheries Service under the provisions of the Northern Anchovy Fishery Management Plan. Pursuant to 50 Code of Federal Regulations Section 662.20, an announcement of harvest quotas will be made by notice in the Federal Register on or about August 1 of each year.

Authority: Sections 7708 and 8075, Fish and Game Code.

Reference: Sections 8075, 8076 and 8190, Fish and Game Code; and 50 CFR Section 662.20.

PASSED UNANIMOUSLY.

22. RECEIPT OF DEPARTMENT REPORT RE: TRANSMITTAL OF RESULTS OF FIVE-YEAR REVIEW OF ENDANGERED SPECIES AND RECOMMENDATIONS FOR CHANGES TO THE LIST OF ENDANGERED SPECIES.

The Commissioners were provided with copies of the Department's report regarding its five-year review of threatened and endangered species. The Department provides the following information:

"Pursuant to Section 2077 of the Fish and Game Code, we are hereby transmitting the results of our reviews of the following listed species. Some of these documents are still undergoing review by experts at various colleges and universities; thus we anticipate some minor changes. Reviews for two additional species scheduled for 1988 (Swainson's hawk and greater sandhill crane) will be submitted on September 30, 1988, enabling the Department to incorporate the results of field studies currently underway.

<u>PLANTS</u>	<u>RECOMMENDED ACTION</u>
<u>Arabis macdonaldiana</u>	Retain Endangered Designation
<u>Castilleja grisea</u>	" " "
<u>Cordylanthus maritimus</u> ssp. <u>maritimus</u>	" " "
<u>Delphinium kinkiense</u>	" " "
<u>Dudleya traskiae</u>	" " "
<u>Erysimum capitatum</u> var. <u>angustatum</u>	" " "
<u>Lotus dendroideus</u> var. <u>traskiae</u>	" " "
<u>Malacothamnus clementinus</u>	" " "
<u>Oenothera deltoides</u> ssp. <u>howellii</u>	" " "
<u>Pogogyne abramsii</u>	" " "
<u>Tuctoria mucronata</u>	" " "

<u>ANIMALS</u>	<u>RECOMMENDED ACTION</u>
Bull trout (revision to 1987 review)	Retain Endangered Designation
Bald eagle	" " "
Giant kangaroo rat	" " "
Stephens' kangaroo rat (revision to 1987 review)	Change Designation to Endangered"

This matter will be scheduled for Commission discussion at its August 25-26, 1988 meeting in Newport Beach.

24. RECEIPT OF DEPARTMENT'S SEA URCHIN MANAGEMENT PLAN AND REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 120.7, TITLE 14, CCR, RE: PROVIDING FOR A LIMITED ENTRY COMMERCIAL SEA URCHIN FISHERY.

The Department had requested this matter be scheduled in order for the Commission to receive the Department's sea urchin management plan and to consider authorization to publish notice of Commission intent to amend Section 120.7, Title 14, CCR, to provide for a limited entry commercial sea

urchin fishery. The Commissioners were provided copies of the Department's pre-publication of notice statement, as well as the text of the regulations in strikeout and underline format. In summary, the principal regulation changes as proposed by the Department are as follows:

- "(1) The establishment of a limited entry system, including a ceiling on the number of permits; establishment of a sea urchin apprentice permit and the institution of minimum landing requirements.
- (2) The establishment of a minimum size limit.
- (3) Modification of the sea urchin fishing season closure."

25. REQUEST OF TIMBUCTOO GAME BIRD CLUB, INC., SMARTVILLE, FOR AUTHORIZATION TO RELEASE PHEASANTS FOR HUNTING PURPOSES.

The Commission at its June 30, 1988, meeting in Bishop, considered the request of the Timbuctoo Game Bird Club, Inc., Smartville, for authorization to release chuckers on their property for hunting purposes. At that time, the applicant also asked for authorization to release pheasants for hunting purposes, under the same basic provisions as set forth for a Zone B license pheasant club. As you recall, the property involved lies within the statutory provided boundaries for a Zone A club. The Commission, after hearing the request from the applicant, asked the Department to evaluate additional alternatives to determine if the Commission could lawfully provide for the release of pheasants, as proposed by the applicant.

26. REQUEST BY WILLIE T. WILLIAMS, ESTERO SHELLFISH FARMS, TO AMEND AQUACULTURE LEASE M-614-01, MORRO BAY, SAN LUIS OBISPO COUNTY, TO INCLUDE MANILA CLAM (Venerupis japonica) AND BAY MUSSEL (Mytilus edulis) AS SPECIES APPROVED FOR CULTIVATION.

Mr. Willie T. Williams, Estero Shellfish Farms, has requested an amendment of aquaculture lease agreement M-614-01, Morro Bay, San Luis Obispo County, to authorize the cultivation of Manila clam (Venerupis japonica) and bay mussel (Mytilus edulis).

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES ITS CONSENT CALENDAR RELATING TO ITEMS 21-22 AND 24-26, AS SET FORTH IN THE COMMISSION'S ANALYSIS FOR ITS AUGUST 5, 1988, MEETING.

23. DEPARTMENT REQUEST FOR RENEWAL OF SIX EXPERIMENTAL GEAR PERMITS TO USE ALTERNATIVE GEAR TO TAKE HALIBUT.

The Executive Secretary reminded the Commission that at its April 10, 1987, meeting it authorized the Department to issue up to six additional experimental gear permits to use modified trawl nets or Danish seines to

take California halibut in state waters. He noted that the purpose of the experimental gear permits was to support continuing industry efforts to develop viable alternatives to the use of gill and trammel nets in nearshore coastal waters where the use of gill and trammel nets had been prohibited. He explained that the Department was requesting Commission approval to extend for one year the Department's blanket authority to renew and/or reissue the aforementioned six experimental gear permits. He noted that, at the same time, the Department was requesting that certain standard conditions be made a part of subject experimental gear permits. He stated that those conditions would require: (1) a minimal level of fishing activity to occur under authority of the permit in order for the permittee to retain the permit; (2) that modified trawl nets be fished a minimum distance from shore; and, (3) that the permittee could only use the experimental gear from the vessels specified in the experimental gear permit, unless the Department approved its use aboard another vessel. He pointed out that these conditions would assist in addressing problems with inactive permits (which generate little or no information needed to evaluate the effects of experimental gear), will assist in relieving any potential conflicts with recreational fishermen and will prevent the introduction of larger trawl vessels (with greatly increased fishing capability) into nearshore waters as replacements or substitutes for smaller gill and trammel net vessels.

Mr. Cribbs stated that recreational anglers had voiced concerns regarding the use of modified trawl nets near the mouths of San Francisco and Morro bays and in nearshore waters of the adjacent coastlines where recreational fishing for halibut, salmon, and striped bass occurred. He stated that, therefore, the Department recommended that modified trawl nets not be used: (1) in waters less than ten fathoms (60 feet) deep in Estero Bay (San Luis Obispo County); (2) in waters within a radius of one-half mile from the breakwater entrance to Morro Bay; (3) inside a line extending one mile south 164 degrees magnetic, to the shore at Pismo Beach (San Luis Obispo County); and (4) in waters less than one mile from shore from Ducksbury Point (Marin County) south to point San Pedro (San Mateo County).

John Beuttler, United Anglers, stated that he was basically in agreement with the Department on these additional conditions; however, he had not had an opportunity to discuss the buffer areas in Recommendation No. 4, and would like to check with his association on this matter.

Zeke Grader, PCFFA, stated that there were two unresolved issues, one, with the pair trawl for the Vietnamese fishermen and two, the striped bass fishery.

The Executive Secretary recommended that the Commission grant a one-month extension of the experimental gear permits to September 1 and requested that the Department work with the commercial and recreational fishermen concerning a buffer area and report back to the Commission at its August 26 meeting in Newport Beach.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY EXTENDS THE RENEWAL
OF THE SIX EXPERIMENTAL GEAR PERMITS TO USE ALTERNATIVE

GEAR TO TAKE HALIBUT FOR ONE MONTH, OR UNTIL SEPTEMBER 1, 1988, TO ALLOW THE DEPARTMENT TO WORK OUT TERMS AND CONDITIONS WITH THE COMMERCIAL AND RECREATIONAL FISHERMEN. FURTHER, THE EXTENSION OF THE PERMITS WOULD BE UNDER THE TERMS AND CONDITIONS RECOMMENDED BY THE DEPARTMENT IN ITS AUGUST 4, 1988, MEMO.

PASSED UNANIMOUSLY.

LICENSE AND PERMIT CONSIDERATIONS

27. REQUEST OF JAMES HENDRICKSON, SANTA ROSA, FOR REINSTATEMENT OF HIS FALCONRY PRIVILEGES.

The Executive Secretary stated that in November 1985, the Department denied issuance of a falconry license to James Hendrickson, Santa Rosa, based upon the fact that he had been convicted of a violation of the falconry regulations (Section 670(1), Title 14, CCR). He stated that Mr. Hendrickson had requested reinstatement of his falconry license. Mr. Cribbs asked if Mr. Hendrickson was present, and there was no response.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF JAMES HENDRICKSON, SANTA ROSA, FOR REINSTATEMENT OF HIS FALCONRY LICENSE UNTIL HE APPEARS BEFORE THE COMMISSION TO SHOW CAUSE WHY HIS FALCONRY PRIVILEGES SHOULD BE REINSTATED.

PASSED UNANIMOUSLY.

28. CONTINUED HEARINGS ON REQUESTS OF DENNIS POWERS, FORT BRAGG; JERRY TEISAN, VENICE; AND MARK CHARLES, SANTA CRUZ, RE: 1988-89 SALMON VESSEL PERMITS.

The Executive Secretary reminded the Commission that at its June 30, 1988, meeting in Bishop, it considered the revocation of the 1988-89 commercial salmon vessel permits of some 80 individuals. He noted that at that hearing the Commission was informed of the desire of Dennis Powers, Fort Bragg, and Jerry Teisan, Venice, for an opportunity to appear at the Commission's August 5 meeting concerning this matter. He pointed out that the Commission had granted their request. Mr. Cribbs explained that subsequent to that meeting, the Commission office was notified by Mr. Bruce Charles, an attorney representing Mark Charles, Santa Cruz, that Mr. Charles had not received notification of the pending action. He stated that Mr. Bruce Charles requested that the Commission, therefore, grant Mark Charles an opportunity to appear at the August 5 meeting on the matter.

Dennis Powers, Fort Bragg

Mrs. Powers indicated that she was speaking for her husband as he was at sea fishing. She explained that they had a large expensive vessel to maintain. She pointed out that they had not been notified and recommended

that the Commission approve their request for reinstatement of their salmon vessel permit.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE COMMERCIAL SALMON VESSEL PERMIT PRIVILEGES OF DENNIS POWERS, FORT BRAGG, IF HE RENEWS HIS PERMIT BY AUGUST 20, 1988. IF NOT, HIS COMMERCIAL SALMON VESSEL PERMIT PRIVILEGES WILL BE REVOKED.

PASSED UNANIMOUSLY.

Jerry Teisan, Venice

Mr. Cribbs indicated that Mr. Teisan had contacted the Commission office just prior to the June 30 meeting and asked to be put on the August 5 agenda. He asked if Mr. Jerry Teisan was present, and there was no response.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF JERRY TEISAN, VENICE, FOR REINSTATEMENT OF HIS 1988-89 SALMON VESSEL PERMIT; AND THEREFORE, REVOKES HIS COMMERCIAL SALMON VESSEL PERMIT.

PASSED UNANIMOUSLY.

Mark Charles, Santa Cruz

Mark Charles stated that he had been fishing out-of-state and that a childhood friend of his was to renew his commercial salmon vessel permit. He noted that Mr. Mike Thorne had renewed his permit in 1987, and was to do it again in 1988. He stated that Mr. Thorne had left town and went to Hawaii with his money and didn't purchase his permits. He stated that he was unaware that this had happened until after the renewal deadline.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE REQUEST OF MARK CHARLES, SANTA CRUZ, FOR REINSTATEMENT OF HIS 1988-89 SALMON VESSEL PERMIT, IF HE RENEWS HIS PERMIT BY AUGUST 20, 1988. IF NOT, HIS COMMERCIAL SALMON VESSEL PERMIT PRIVILEGES WILL BE REVOKED.

PASSED UNANIMOUSLY.

29. REQUESTS OF ROGER S. CUTTING, FORT BRAGG, AND JIM HANDELMAN, SANTA BARBARA, FOR REINSTATEMENT OF SEA URCHIN PERMITS.

The Executive Secretary stated that Roger S. Cutting, Fort Bragg, and Jim Handelman, Santa Barbara, had requested reinstatement of their sea urchin permits. He reminded the Commission that it established a moratorium concerning the issuance of new sea urchin permits in 1987. He noted that this regulation (Section 120.7, (A)(4), Title 14, CCR) required that sea urchin permits for the 1988-89 permit year (April 1 to March 31) were only to be issued to persons who held a valid 1987-88 permit.

Al Petrovich stated that Section 120.7 allowed eligible fishermen until March 31, 1988, to purchase a 1987-88 sea urchin permit. He noted that Messrs. Cutting and Handelman failed to purchase a 1987-88 sea urchin permit prior to March 31, 1988. He pointed out that, as a consequence they were not allowed to purchase a 1988-89 sea urchin permit and were now appealing that denial to the Commission. He indicated that both individuals had purchased a 1986-87 permit. Mr. Petrovich explained that there was no basis in existing regulations for granting an exception to the sea urchin permitting requirements. He pointed out that the Department had consistently adhered to the sea urchin regulations for others who had requested special considerations regarding the issuance of sea urchin permits and the Department had denied those requests. He stated that, therefore, the Department recommended that an exception not be granted for these individuals.

Roger S. Cutting - Fort Bragg

Mr. Roger Cutting stated that he was injured and was out of the area for rehabilitation last year; and therefore, did not renew his sea urchin permit due to financial difficulties. He indicated that he had been on a fixed income and was undergoing vocational rehabilitation. He stated that he had fished one year and wished to continue that vocation. He noted that he had fished during the 1986-87 season and was not aware that the sea urchin fishery was going to become a limited entry fishery. He requested that the Commission grant him a waiver and allow him to purchase a 1987-88 permit to be eligible to purchase the 1988-89 permit.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF ROGER S. CUTTING, FORT BRAGG, FOR A WAIVER OF THE
SEA URCHIN REGULATIONS TO ALLOW HIM TO PURCHASE A SEA
URCHIN PERMIT FOR THE SEASONS 1987-88 AND 1988-89.

PASSED UNANIMOUSLY.

Jim Handelman - Santa Barbara

Mr. Jim Handelman, stated that he had not purchased a sea urchin permit for the 1987-88 season because his mother had moved out of state and he went to live with her to finish high school. He pointed out that he had

purchased a permit for the 1986-87 season. He also stated that when he left the state he had no idea the sea urchin fishery was becoming a limited entry fishery. He explained that he had graduated from high school in June and had come back to California to live and to dive for sea urchins. He stated that when he went to purchase his permit, he was informed that he was three months too late. Mr. Handelman requested that he be granted the ability to purchase a 1987-88 permit in order to buy the current 1988-89 sea urchin permit.

Chief Deputy Director Fletcher stated that this request was the same as Mr. Cutting's and that there are no provisions in the regulations to allow an exception to the sea urchin permitting requirements.

Al Petrovich stated that the Department in its current proposals for amendments to Section 120.7, Title 14, CCR, was recommending that an apprentice diver permit be issued and would be used as a vehicle to add additional sea urchin divers once the number of permits fell below 400 permits. He pointed out that this option would be available to Mr. Handelman.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF JIM HANDELMAN, SANTA BARBARA, FOR A WAIVER OF THE
SEA URCHIN REGULATIONS TO ALLOW HIM TO PURCHASE A SEA
URCHIN PERMIT FOR THE SEASONS 1987-88 AND 1988-89.

PASSED UNANIMOUSLY.

30. REQUEST OF GREGORY HUFFT, FORT BRAGG, FOR REINSTATEMENT OF COMMERCIAL ABALONE PRIVILEGES.

The Executive Secretary stated that Mr. Gregory Hufft, Fort Bragg, had requested reinstatement of his commercial abalone diving privileges. He pointed out that Mr. Hufft had been scheduled for the Commission's May 13, 1988, meeting in Monterey, but unfortunately arrived after the meeting ended because he was delayed by a landslide on Highway 101, south of Willets. He noted that the Commission did not grant Mr. Hufft a waiver at the May 13 meeting and that Mr. Hufft was now requesting reinstatement of his commercial abalone privileges.

DeWayne Johnston stated that the Department had telephoned Mr. Hufft on July 20 and was informed that Mr. Hufft's boat sank on January 24, 1988, and was not repaired until June 1988. He stated that the Department recommended approval of Mr. Hufft's request provided the Department verified the sinking and repair of Mr. Hufft's vessel.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT
THE FISH AND GAME COMMISSION HEREBY APPROVES THE
REQUEST OF GREGORY HUFFT, FORT BRAGG, FOR REINSTATEMENT
OF HIS COMMERCIAL ABALONE PRIVILEGES IF HE OBTAINS HIS
PERMIT BY SEPTEMBER 1, 1988.

PASSED UNANIMOUSLY.

31. REQUEST OF MIKE RODUNER, MADERA, FOR REINSTATEMENT OF TRAPPING PRIVILEGES.

The Executive Secretary stated that Mr. Mike Roduner, Madera, had requested an opportunity to appear before the Commission to show cause why his trapping privileges should be reinstated. He pointed out that on June 30, 1988, Mr. Roduner was notified that his trapping privileges were subject to revocation for a three-year period, or until March 4, 1991, as a result of his conviction on February 4, 1988, in the Mono County Justice Court for a violation of sections 461(b)(1) and 465.5(d), Title 14, CCR, pertaining to the unlawful take of gray fox out of season and the use of exposed bait. Mr. Cribbs pointed out that the Commissioners had been provided with the Department's case report on this matter.

Mr. Mike Roduner stated that he had recently had back surgery and his doctor recommended that he do a lot of walking. He explained that he had been trapping coyotes for a rancher and unfortunately caught two gray fox in his traps. He stated that the gray foxes had broken legs and he had to kill the animals. He noted that he wanted to show the Department he was not a poacher and he flagged down a warden by his campsite. He pointed out that he had tried to work within the system with the Department. Mr. Roduner indicated that he had trapped a skunk and threw it approximately 20 feet into the brush. He stated that because he did not throw the animal far enough away from his traps he was cited for baiting, and also because there were some old bleached-out cattle bones nearby, that had compounded the baiting issue.

Commissioner McCracken asked Mr. Roduner how long he had been a trapper. Mr. Roduner stated he had started trapping in 1981.

DeWayne Johnston stated that the Department was concerned because Mr. Roduner was trapping in gray fox habitat and a veteran trapper should be aware of the different habitat preferences of the animals he is trapping and should trap in areas where he would avoid nontarget species. He stated that the Department recommended suspension of Mr. Roduner's trapping privileges through December 31, 1988.

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF MIKE RODUNER, MADERA, FOR REINSTATEMENT OF HIS TRAPPING PRIVILEGES UNTIL JANUARY 1, 1989. FURTHER, THE COMMISSION ADMONISHED MR. RODUNER THAT IN THE FUTURE HE SHOULD ABIDE BY ALL THE LAWS AND REGULATIONS PERTAINING TO TRAPPING AND HIS FAILURE TO SO COULD RESULT IN THE REVOCATION OF HIS TRAPPING PRIVILEGES FOR A PERIOD OF THREE YEARS.

PASSED UNANIMOUSLY.

32. REQUEST OF PAUL KRAWCHUK, SAN FRANCISCO, TO APPEAL DENIAL OF APPLICATION FOR SEA URCHIN PERMIT.

The Executive Secretary stated that Mr. Paul Krawchuk, San Francisco, had requested an opportunity to appeal the Department's denial of his application for a sea urchin permit. He pointed out that the Commissioners had been provided with Mr. Krawchuk's request, as well as the Department's background information on this matter.

Mr. Paul Krawchuk indicated that he had been a commercial sea urchin diver since 1978. He indicated that he had also been a law student and did not fish last year because he was finishing school and working as a law clerk. He stated that he was a single parent and was unable to purchase the 1987-88 permit prior to the deadline. He pointed out that he had tried to get a loan to buy the permit and was only able to get the loan on March 31, 1988. He indicated he had arrived at the Fish and Game office in Monterey at about 5:10 p.m. He requested that the Commission grant him the ability to purchase the 1987-88 permit so he would be eligible to purchase the 1988-89 sea urchin diving permit. He also pointed out that he had received an abalone permit this year and wished to dive for both abalone and sea urchins.

Chief Deputy Director Fletcher stated that the Department sympathized with Mr. Krawchuk, but that there was no provision for the Commission to waive the permitting requirements for sea urchin permits. He noted that this case was similar to Messrs. Cutting and Handelman and that the Department recommended denial of Mr. Krawchuk's request.

It was then:

MOVED BY MR. MURDY, SECONDED BY MR. MCCRACKEN, THAT THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST OF PAUL G. KRAWCHUK, SAN FRANCISCO, FOR A WAIVER OF THE SEA URCHIN REGULATIONS TO ALLOW HIM TO PURCHASE A SEA URCHIN PERMIT FOR THE SEASONS 1987-88 AND 1988-89.

PASSED UNANIMOUSLY.

OTHER

33. ANNOUNCEMENT OF FUTURE MEETINGS.

8/25/88 (1:00 p.m.)	City Council Chambers
8/26/88 (8:30 a.m.)	3300 Newport Boulevard
	Newport Beach
10/6/88 (1:00 p.m.)	Auditorium, Resources Bldg.
10/7/88 (8:30 a.m.)	1416 Ninth Street
	Sacramento
11/9/88 (1:00 p.m.)	Cliff Room
11/10/88 (8:30 a.m.)	Yosemite Lodge
	Yosemite National Park
12/1/88 (1:00 p.m.)	City Council Chambers
12/2/88 (8:30 a.m.)	531 "K" Street
	Eureka

7.d. REQUEST OF JAN MIRASSOU, LIVE OAK, TO DISCUSS DEER TAG DRAWING PROBLEMS. (Continued)

Deputy Director Jensen explained that on August 4, Mr. Jan Mirassou had come before the Commission to request an X-5b, Period 2, deer tag because of the problem he had in submitting his and his son's tags as a party for the deer tag drawing. He stated that the Department had reviewed Mr. Mirassou's case and that the Department was unable to recommend approval of Mr. Mirassou's request. He stated that the Department makes every effort to assist applicants and make corrections wherever possible. He explained, however, that the ultimate responsibility for submitting applications correctly must rest with each individual applicant; therefore, the Department recommended denial of Mr. Mirassou's request. He stated that, if appropriate, the Department would help prepare a letter to Mr. Mirassou explaining the decision and Mr. Mirassou's options that were now available to him.

It was then:

MOVED BY MR. MCCRACKEN, SECONDED BY MR. MURDY THAT
THE FISH AND GAME COMMISSION HEREBY DENIES THE REQUEST
OF JAN MIRASSOU, LIVE OAK, FOR A X-5B, PERIOD 2, DEER
TAG.

PASSED UNANIMOUSLY.

There being no additional items before the Commission the meeting was adjourned at 2:30 p.m.

(NOTE: Copies of the environmental reports, with respect to items considered by the Commission at this meeting and responses to alternatives proposed by the public, are available upon request from the Fish and Game Commission office, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090.)