

The required legal notice has been published.

Mr. Pat Wells of the Department of Health Services (DHS) has indicated that DHS has conducted some preliminary studies on shellfish in ocean waters off Orange County and have found high concentrations of bacteria (*E. coli*). Therefore, DHS has closed certain areas (see **Exhibit No. 3**) to the mariculture of shellfish. DHS recommends that this request be denied because of the health risk and contamination of the area.

Department Recommendation

"The Marine Forests Society has held a 10-acre lease (M-738-02) located about 1,100 yards east of Newport Pier since 1988. Between 1986 and 1988, they occupied a lease (M-738-01) approximately 220 yards due south of the pier. This lease was abandoned in 1988 at the lessee's request, and the current lease issued. Both leases were classified as research and development leases, where the lessee is allowed five years to develop and perfect culture techniques. At the culmination of the first five-year period, lessees are required to enter into a production agreement, or face abandonment of the lease by the Commission.

"Marine Forests Society is now requesting a second 10-acre lease located approximately 120 yards due south of Newport Pier, about 100 yards closer to the pier than its previously abandoned lease, and is requesting that structures to be placed on the lease be allowed to extend to within 15 feet of the surface.

"The proposed site lies within tidelands granted to the City of Newport Beach, as did the previously abandoned lease M-738-01. The City of Newport Beach has previously granted approval of the sites for lease M-738-01.

"The Department has several concerns regarding this request. The proximity of the requested lease to the Balboa Pier and to the measured mile course combined with the 15-foot minimum depth for supporting buoys could cause conflict the vessel traffic in the area. Previously, the Commission limited any facility structures to 20 feet or greater below the water surface to avoid conflicts with boat traffic.

"The five-year research and development period for Marine Forests' existing lease (M-738-02) expires March 31, 1993. The current lease specifies that the lessee must be prepared to enter into a production agreement with the Commission and meet minimum planting and production requirements in order to renew the lease. The lessee has

not reported any production (sales of products) from this lease and it does not appear that they will have any salable products in the foreseeable future. Rather, from the lessee's own

application and background material. The required legal notice has been published.

Mr. Pat Wells of the Department of Health Services (DHS) has indicated that DHS has conducted some preliminary studies on shellfish in ocean waters off Orange County and have found high concentrations of bacteria (*E. coli*). Therefore, DHS has closed certain areas (see **Exhibit No. 5**) to the mariculture of shellfish. DHS recommends that this request be denied because of the health risk and contamination of the area.

Department Recommendation

"Nautilus Farms indicates in their application that they will create unspecified underwater substrates as habitat for the cultured organisms and to anchor biostructures for the attachment of giant kelp. They also indicate that all structures will be over 20 feet below the surface. No details concerning the underwater substrates and anchors were provided in the application. However, the biostructures referred to in this application appear to be identical to those utilized by Marine Forests Corporation at their Newport Beach lease site. The Department has requested clarification of these details from Nautilus Farms, but has not yet received a reply.

"The Department is concerned that the technical details of this endeavor do not appear to be well conceived or developed. Some of the species listed for culture (Japanese abalone, giant abalone) are not native to California and most likely would not be allowed to be imported. Other species, such as dungeness crab and white abalone, are not well suited to the environmental conditions present at the lease site. The large size of this site and its location close to Huntington State Beach and to artificial fishing reefs may adversely affect activities such as surfing, boating and recreational fishing in the area. Also, the close proximity of the site to the Orange County Sanitation District sewage outfall would most likely preclude the harvest and sale of mussels grown there due to public health concerns. Also, the Department does not believe that the experimental nature of this venture warrants the large area requested. Most experimental leases issued by the Commission have been for areas of ten acres or less.

"Therefore, the Department recommends the Commission deny this application."

Suggested Motion

MOVED BY SECONDED BY THAT
THE FISH AND GAME COMMISSION HEREBY (APPROVES) (DENIES) THE
REQUEST OF NAUTILUS FARMS, INC., IRVINE, FOR AN ALLOTMENT
OF APPROXIMATELY 177 ACRES OF STATE WATER BOTTOMS LOCATED 1/4
MILE OFF HUNTINGTON STATE BEACH, ORANGE COUNTY, FOR THE
PURPOSE OF CULTIVATION OF GIANT KELP, DUNGENESS CRAB,
MUSSELS, ABALONE AND SEA URCHINS.

11. REQUEST OF BRUCE AND DAWN HOEY, ESCONDIDO, TO MAINTAIN
POSSESSION OF AN ANTEATER (Tamandua mexicana) FOR
EDUCATIONAL PURPOSES.

Summary of Issue

Bruce and Dawn Hoey request authorization to maintain possession of an anteater (Tamandua mexicana) for educational purposes. In a letter dated November 18, 1992, the Hoeys' provide the following information:

"Recently there have been actions taken by the Fish and Game and we feel they were unjust. Our animal is being held at the San Diego Zoo until this matter is resolved. We were given a 72 hour notice of seizure that gave us three options: 1) euthanize; 2) return to place of origin; 3) transfer the animal. The Fish and Game said he must be transferred and donated to the zoo. We came up with two viable options other than the zoo, for the animal to be held until our permits were processed. (we were originally told by the Fish and Game that a permit was not necessary for this particular animal and therefore did not pursue obtaining one until the animal was seized.)

"The Fish and Game would not accept our (permitted) options. Our attorney has advised us that this is unjust, than an exhibitor's permit is all that is required to possess this animal. Would you advise having our attorney present during this proceedings.

"Our intentions are and always have been to provide an educational environment for young and old, so that we may spread awareness of these exotic animals. We currently have a photography/video business of 10 years and intend to incorporate this animal in future business ventures in an educational way. We have faith that you will sincerely consider our case."

Department Recommendation

"The Department recommends denial of Mr. and Mrs. Hoey's request to possess one tamandua (T. mexicana). The tamandua is a prohibited welfare species and was illegally imported into California from Mexico, a violation of Section 671 of the Commission's regulations.

"Mr. and Mrs. Hoey told the investigating warden they had accepted the animal as payment for a debt and that they had a permit. Mr. and Mrs Hoey do not have a permit issued by the Department for the animal, nor have they applied for one. The animal was found wandering in Escondido by animal control and is currently at the San Diego Zoo."

Exhibit No. 6 contains a copy of the Department's investigative report regarding the anteater as well as background information from the San Diego Zoo.

Suggested Motion

MOVED BY SECONDDED BY THAT
THE FISH AND GAME COMMISSION HEREBY (APPROVES) (DENIES) THE
REQUEST OF BRUCE AND DAWN HOEY, ESCONDIDO, FOR
AUTHORIZATION TO MAINTAIN POSSESSION OF AN ANTEATER
(Tamandua mexicana) FOR EDUCATIONAL PURPOSES.

13. RECEIPT OF PUBLIC TESTIMONY RE: SELECTION OF TROPHY BLACK
BASS WATERS. (SECOND HEARING WILL BE HELD ON APRIL 1,
1993 IN SACRAMENTO.)

Summary of Issue

The Commission, at its May 15, 1992 meeting in Bakersfield, adopted the policy regarding the Trophy Black Bass Program. The policy calls for at least one water in each of the Department's five regions to be designated and managed as a Trophy Black Bass Water. The Department is then expected to prepare, within one year from the date of the official designation, a management plan for each of these waters, special regulations and catch-and-release aspects would be emphasized.

Mr. Patrick J. Marley, General Counsel of the Southern California Bass Council, is the first individual to recommend designation of waters for inclusion into this program. **Exhibit No. 7** contains Mr. Marley's letter dated January 4, 1993 and a letter from Mr. John Graham, Clear Lake Bassmasters, dated January 8, 1993.

Since the Commission received public input at four different meetings before adoption of their Trophy Black Bass Program policy, your staff recommends that, before any action is taken on designation of certain waters to be included as Trophy Black Bass Waters, the Commission should receive public input from both southern and northern California. It is recommended that the Commission receive public testimony at this meeting and then schedule the matter for a second hearing to be held on April 1, 1993 in Sacramento. This will allow ample opportunity for all interested parties to provide both written and oral testimony to the Commission prior to the Commission making a decision on this matter.

Department Recommendation

"The Commission adopted the Trophy Black Bass Program policy at its May 15, 1992 meeting. Mr. Marley's organization is the first to recommend designation of waters for inclusion in this program. The Program is designed to enhance angling for trophy-sized black bass.

"Waters designated for inclusion in the Program must be open for angling with unrestricted access or with controlled access consistent with Commission policy. Most important, the waters selected must be capable of producing, with appropriate regulations or other management activities, trophy-sized black bass. To qualify as trophy size, largemouth bass must weigh at least ten pounds, smallmouth bass six pounds, and spotted bass six pounds. A program for Commission recognition of trophy catches will be instituted.

"The Program policy calls for at least one water in each of the Department's five management regions to be designated and managed as a Trophy Black Bass Water. The Department is expected to prepare, within one year from the date of official designation, a management plan for each of these waters. Special regulations and catch-and-release aspects will be emphasized.

"Mr. Marley recommends that the Commission designate the following seven waters as Trophy Black Bass Waters: lakes Piru, Perris, Casitas, and Castaic in Region 5, Lake Isabella in Region 4, Clear Lake in Region 3, and Trinity Lake in Region 1. These are excellent candidates for the Program. The Department recommends, however, that only lakes Castaic, Isabella, Clear and Trinity be officially designated at this time. We prefer a more modest approach to insure that all aspects of the Program (timely completion of management plans, recognition program in place, etc.) are functioning as expected. At a later date, a Region 2 water will be proposed for the Program.

"We don't anticipate any serious objections to the four waters recommended for official designation. They are well known to black bass anglers for producing trophy-sized fish.

"We are excited about the potential of this new program and look forward to working with the Commission in its implementation."

15. REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 27.80, TITLE 14, CCR, RE: OCEAN SALMON SPORT FISHING REGULATIONS.

Summary of Issue

This item is scheduled to receive an "early warning" from the Department regarding any proposed regulation changes in the Ocean Salmon Sport Fishing Regulations which the Department may anticipate the Pacific Fisheries Management Council (PFMC) considering in the next few months. The PFMC will be adopting its regulations the second week in April, therefore, the Commission will consider adoption of the State regulations at its April 22, 1993 meeting in Sacramento. The Commission will need to authorize its staff to publish notice of its intent to amend Section 27.80, Title 14, CCR, regarding Ocean Salmon Sport Fishing Regulations in order to allow adequate public notice prior to its adoption in April.

As the Commission may recall, the PFMC restricted the number of fishing rods (one) a sport fisherman could use in taking salmon in the ocean, therefore, the Commission was placed in a difficult situation to restrict the number of rods a fisherman could utilize in California ocean waters. Historically, in California, multiple rods may be used in the harvest of ocean fish. Last year the Commission had indicated it would send a letter to the PFMC requesting that they not implement the one-rod requirement for 1993. The Commission may wish to request the Department to draft a letter for Commissioner Biaggini's signature which would clarify California's position in this matter.

Suggested Motion

MOVED BY SECONDED BY THAT
 THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO
 PUBLISH NOTICE OF THE COMMISSION'S INTENT TO AMEND
 SECTION 27.80, TITLE 14, CCR, REGARDING OCEAN SALMON
 SPORT FISHING REGULATIONS.

17. AMENDMENT OF COMMISSION POLICIES RE: RETENTION OF COMMISSION RECORDS; DISSEMINATION OF INFORMATION REGARDING CHANGES IN MAMMAL HUNTING AND TRAPPING, SPORT FISHING, MIGRATORY AND RESIDENT GAME AND WATERFOWL REGULATIONS; AND COMMERCIAL FISHING AND PACKING INDUSTRIES.

Summary of Issue

The Department, at the Commission's January 5, 1993 meeting in Palm Springs, provided the Commission with some suggested amendments to three of its policies. This item is scheduled for the Commission to consider the Department's recommendations and to amend and/or repeal any of the following policies which the Department had commented on: Retention of Commission Records; Dissemination of Information Regarding Changes in Mammal Hunting and Trapping, Sport Fishing, Migratory and Resident Game and Waterfowl Regulations and Commercial Fishing and Packing Industries. **Exhibit No. 9** contains copies of the Department's recommendations in this matter. The following policies incorporate the Department's recommendations in strikeout/underline format:

RETENTION OF COMMISSION RECORDS

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

I. The Commission's regulatory rulemaking files shall be retained on file in the Commission office for public and judicial review pursuant to ~~Section 11347.5(e) of the Government Code and~~ Section 343 of the Code of Civil Procedure for a period of four years from the date of implementation of the specified regulation, and thereafter shall be destroyed.

II. The Commission's nonregulatory files and records not addressed specifically in Section 1600 of the State Administrative Manual shall be retained on file in the Commission office for a period of three calendar years, and thereafter shall be destroyed unless it is determined by the Executive ~~Secretary~~ Director that such documents are of historical or reference value.

COMMERCIAL FISHING AND PACKING INDUSTRIES

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

Foster and encourage the development and expansion in all lawful ways of the commercial fishing and fish packing and preserving industries consistent with the ~~needs of the sportfishing industry and a recognition of the interdependence of species to the end that the fishery resources of this state may be fully utilized in the public interest without~~

~~jeopardizing the existence or maintenance of any species.~~
State's policy to provide for aesthetic, educational,
scientific, and recreational

19. PUBLIC FORUM - ANY MEMBER OF THE PUBLIC MAY ADDRESS AND/OR ASK QUESTIONS OF THE COMMISSION RELATING TO THE IMPLEMENTATION OF ITS POLICIES OR ANY OTHER MATTER WITHIN THE JURISDICTION OF THE COMMISSION. THIS NEED NOT BE RELATED TO ANY ITEM ON THE AGENDA.

Summary of Issue

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

LICENSE AND PERMIT CONSIDERATIONS

21. REQUEST OF DAVID A. FOREMAN, JUNEAU, ALASKA, FOR REINSTATEMENT OF AN EXPIRED COMMERCIAL SALMON VESSEL PERMIT.

Summary of Issue

Mr. David A. Foreman, Juneau, Alaska, requests reinstatement of his commercial salmon vessel permit. In a letter dated January 7, 1993 Mr. Foreman provides the following information:

"In Reference to your letter of December 21, 1992, I am submitting the following explanation as my reason for not renewing my California salmon permit by the required deadline.

"The vessel 'Zebra' was purchased through a boat broker, Bob Hatting, who was handling the permit transfers as well as the other necessary paperwork.

"Due to the limited openings in California, the boat did not fish California the year of 1991, although the fees for the permit were paid through the broker, Mr. Hatting. The documentation papers had not been returned by the time the renewal of the permit was due, so therefore, it was renewed in Mr. Stryker's name (the previous owner).

"My brother, Joe Foreman, was the managing partner in the vessel. As I reside out of the area, I had left all paperwork to my brother in good faith as he had assumed all responsibility for the working portion of our partnership.

"In February 1992 my brother was supposed to pay for his half of the vessel and was unable to do so. I, therefore, paid off the balance of the vessel to Mr. Stryker and assumed total ownership. At that time I was assured by my brother that all permits were paid and in place, and that all other related documents and business transactions pertaining to the vessel were in order. Up to this time I had only verbal information regarding the working part of our partnership and had no reason to question his word.

"Having received the paperwork from him and, in checking through it, I saw the 1991-92 license renewal worksheet showing Joe Foreman as the owner and fees paid, sent and handled by Bob Hatting to T.R. Pagel who attached a note

stating she had received the renewal. I saw nothing in the paperwork to alert me to any problems with this permit, and did not note the date of these transactions.

"What I do not understand at this point is why a 92-93 renewal for the permit was not sent to Joe Foreman after the previous year's fees were sent in his name, as the worksheet indicates to me. I have since sold the vessel, holding papers as lienholder. I sold the vessel with the understanding that the permits were in place as to my knowledge they were.

"Ken Ambrosini (the man now purchasing the vessel), in the attempt to transfer the permit, was told it had been revoked. Prior to receiving this information from him, I had no idea there was any problem with the permit.

"The lack of having this permit in place, as I stated in my contract of sale to Mr. Ambrosini, is now possibly going to result in a large monetary loss to me in the balance of my contract with Mr. Ambrosini.

"I have since checked extensively into this and the possibility of a reinstatement of the permit and have faxed all pertinent documents in my possession to Maria Melchiorre on 11/30/92.

"I request a chance to explain all facts to the Fish and Game Commission at a hearing and hope to show cause for the lapse in the permit renewal, that I was totally unaware of until after the fact."

Department Recommendation

"Mr. Foreman is the current lienholder of this vessel and feels he meets the requirements of an exemption that allows for renewal of the vessel permit.

"Fish and Game Code Section 8246.7(a)(2) states: 'The Commission shall...order the permit renewed...if...a lienholder of a permitted vessel, if the vessel is the property of the lienholder as a result of foreclosure, surrender, or litigation, can show loss due to the nonrenewal of a permit by the permittee, and the nonrenewal occurred without the knowledge of the lienholder.'

"In looking at the chain of events leading to this request it is easy to understand that the confusion that followed the permit renewal in 1991 in turn led to the nonrenewal in 1992.

"During the March 1991 renewals, David Foreman and his brother, Joe Foreman, of Coos Bay, Oregon, were waiting for the Certificate of Documentation from the U.S. Coast Guard that would show them as the new owners of the F/V Zebra. That meant the Commercial Boat Registration (see **Exhibit No. 11**) and the U.S. Coast Guard Certificate of Documentation issued May 9, 1991 (see **Exhibit No. 11**), Joe Foreman became the managing owner, and meanwhile his brother, David, returned to taking care of his own business in Alaska. For some reason, perhaps because they were making the changes through a broker or because Joe Foreman's name was listed on a renewal worksheet, the assumption was made that the change of ownership had been recorded with the Department. Also, according to his January 7, 1993 letter, David Foreman became involved in the vessel again, in February of 1992, from his home in Alaska. Joe Foreman was correct in telling his brother that the commercial salmon vessel permit was still current at that time. Apparently not too much time passed before negotiations began for the sale of the vessel to Mr. Ken Ambrosini and Ms. Merle O'Leary, because on July 10, 1992, a U.S. Coast Guard Certificate of Documentation was issued reflecting this change of ownership (see **Exhibit No. 11**). When Mr. Ambrosini and Ms. O'Leary discovered the California salmon permit had not been renewed they immediately took action and have been actively pursuing this request for permit renewal since that time.

"As a side note, many vessel owners were confused during the 1992 renewals. Because of pending legislation, the Department sent out information that indicated there would be a renewal exemption for those who qualified and the renewal applications were held until the status of the legislation was determined. The legislation ultimately did not pass and the renewal forms were sent out, but nearly four weeks later than usual. And, because of the earlier assumption made regarding the Department's records, the renewal forms were sent to the previous owner, Mr. James

"Medical reasons: Because of financial problems and depressed fisheries, I became chemically dependent on illegal substances preventing me from diving for sea urchins. In order to correct this problem I attended detox

and rehab treatments and have written proof of treatment. I have fully recovered from this disease and I am anxious to return to my fishing business.

"I sincerely request attention to the matter of obtaining my sea urchin permit."

Department Recommendation

"Mr. Williams wrote to the Commission saying, in part, that he did not renew his 1990-91 sea urchin diving permit for the 1991-92 license year because he could not dive as a result of a chemical dependency. He further stated he can provide the Commission with proof of successful rehabilitation treatment.

"The Department recommends that, if the Commission grants Mr. Williams' request, he be required to provide the aforementioned proof of successful treatment and pay back fees of \$680.00 for commercial fishing and sea urchin diving permits:

| | Commercial License | Sea Urchin permit |
|---------|--------------------|-------------------|
| 1991-92 | \$50.00 | \$330.00 |
| 1992-93 | \$50.00 | \$250.00 |

"Also, we recommend that the minimum landing requirements be waived for Mr. Williams's 1993-94 permit."

Suggested Motion

MOVED BY _____ SECONDED BY _____ THAT
 THE FISH AND GAME COMMISSION HEREBY (APPROVES) (DENIES) THE REQUEST OF CRAIG WILLIAMS, LONG BEACH, FOR REINSTATEMENT OF AN EXPIRED COMMERCIAL SEA URCHIN DIVING PERMIT. IN ADDITION, THE COMMISSION GRANTS MR. WILLIAMS A WAIVER OF THE COMMERCIAL SEA URCHIN LANDING REQUIREMENTS FOR PERMIT YEAR 1992-93.

25. REQUEST OF RONALD D. LOPER, SAN DIEGO, FOR REINSTATEMENT OF AN EXPIRED GENERAL GILL AND TRAMMEL NET PERMIT.

Summary of Issue

Mr. Ronald D. Loper, San Diego, requests reinstatement of

an expired general gill and trammel net permit. In a recent letter submitted to the Commission office, Mr. Loper provides the following information:

"My name is Ronald D. Loper. I have been fishing for 11 years and have been a gill net permit holder since 1985, except for the years of 1990 to 1992. I had to take a break from fishing to straighten out some personal and family matters.

"My I.D. is #L02651 except for some reason it is different for the year of 1987-88 it was L30846.

"In 1982 after a 3 year tour in the Navy I started commercial fishing. I worked on 2 bait boats out of San Diego on F/V Andalucia and F/V Valincia; owner, Frank Chase, captain, Jimmy Costa. While working on Andulcia, I had the unfortunate experience of sinking. After this, I stayed on and helped prepare the Valincia for another trip with an all American crew. I made two trips with them and then went on the fish with Robert N. Paris owner/operator of F/V G-M.

"At this time I was introduced to gill netting, most of our fishing was for rock cod. While working on the G-M I was taught every aspect of gill netting (net repair, building and modification of new gear, setting/retrieving and anything that was affiliated with this fishery and its markets).

"In 1985 I got my general gill net permit. Then I went back to fishing tuna on the F/V Sara Ann owned and operated by Mr. Bobby Jason. I made a few trips with his crew as deck boss and assistant engineer.

"After leaving the Sara Ann, I started fishing on the F/V Nicola - J, owner/operator Joe Alfiarie (fishing rock cod and swordfish) all with gill nets bottom set gear and drift net gear both on a split spool. At this time I started getting more involved in the marketing and politics of this type of fishing.

"In 1986 I bought the F/V G-M and after extensive modifications to the G-M (new spool, hydraulics, refrigeration, lighting and electronics) I started fishing both rock cod and swordfish (for the swordfish, I had to lease a permit).

"During this time I worked with Ron Dotson from National Marine Fisheries in La Jolla. On some experimental gear types mostly for black cod. Then I did a job for NOSC from Hawaii. It consisted of capturing bottle nose porpoise to be sued by the Navy for training.

"After this time I started getting interested in the alternative gear initiative, then I had an injury that stopped me from fishing for approximately 4 months (I cut the end off of my left thumb). At this time it put a burden on my personal and financial situation.

"A short time after this I lost the G-M and had to stop fishing to try and save my marriage with a one year old baby. It meant a lot to me so I took a job on the beach. (All in all, things don't always work out as they plan.) Now with being divorced, I have returned back to fishing.

"Presently, I am fishing on the F/V Sunshine owned by O.T. Garner out of San Diego. Mr. Garner also owns the F/V Carolyn - J also out of San Diego.

"This is why I am asking for your help in this matter this is my livelihood. Its what I do for a living and what I enjoy doing.

"For the past two years I have gone through a lot of grief and punishment, the loss of a boat, my marriage and everything the IRS could take.

"At least I have one thing that no one can take from me and that is my faith in God and in myself to survive and pick up the pieces and start putting my life back together.

"I am looking forward to hearing from you on this matter and I am in hopes that my general gill net permit can be reinstated after meeting with you and the Commission at the February 4 and 5 meeting in Long Beach."

Department Recommendation

"Mr. Ronald D. Loper first acquired his general gill and trammel net permit in 1985 an maintained it each year until the 1989-90 season when it expired and was not renewed. Mr. Loper has now requested that the Commission approve reinstatement of his expired permit.

"Mr. Loper infers in his letter that he let the permit expire because he was having difficulty in his marriage, had financial problems and was working with alternative gear. He now has an opportunity to rejoin the fishery working on a boat for another fisherman.

"The Department recommends denial of this request because:

"Mr. Loper had the permit for a total of five seasons (1985-86 through 1989-90) and has been out of the fishery for almost three seasons.

"His request now is based on an opportunity offered by another fisherman.

"We are continuing to reduce the number of fishermen in this fishery and are not recommending approval except in cases of hardship."

Suggested Motion

MOVED BY SECONDED BY THAT
THE FISH AND GAME COMMISSION HEREBY (APPROVES) (DENIES) THE
REQUEST OF RONALD D. LOPER, SAN DIEGO, FOR REINSTATEMENT OF
AN EXPIRED GENERAL GILL AND TRAMMEL NET PERMIT AS OF
_____.

27. REQUEST OF MEO DOAN, OXNARD, FOR REINSTATEMENT OF HIS GENERAL GILL AND TRAMMEL NET PERMIT.

Summary of Issue

Mr. Meo Doan, Long Beach, requests reinstatement of his general gill and trammel net permit. As the Commission may recall, it suspended Mr. Doan's general gill and trammel net permit for one year at its January 5, 1993 meeting in Palm Springs. Mr. Doan did not appear at that meeting but, via a telephone conversation with his daughter, the Commission office was requested to place this matter on the February meeting in Long Beach since it was closer to his home.

Exhibit No. 14 contains the background information which the Commission had at its January 5, 1993 meeting in Palm Springs. The Department recommends that Mr. Doan's permit remain suspended for one year or until January 5, 1994.

Suggested Motion

MOVED BY SECONDED BY THAT
THE FISH AND GAME COMMISSION HEREBY (APPROVES) (DENIES) THE
REQUEST OF MEO DOAN, OXNARD, FOR REINSTATEMENT OF HIS
GENERAL GILL AND TRAMMEL NET PERMIT AS OF
_____.

29. CONSIDERATION OF ACCEPTANCE OF STIPULATED COMPROMISE SETTLEMENT AGREEMENT OR THE REVOCATION/SUSPENSION OF THE COMMERCIAL SALMON FISHING PRIVILEGES OF THOMAS ALLEN STOCKLEY, EUREKA.

Summary of Issue

The Department requests that the commercial salmon fishing privileges of Thomas Allen Stockley, Eureka, be suspended and/or

OJAI, FOR A PERIOD OF _____ OR
UNTIL _____.

b. Gregory George Hufft, Santa Barbara

The Department requests that the Commission revoke the commercial sea urchin diving permit of Gregory George Hufft, Santa Barbara, for a period of seven months from February 6, 1993 through August 31, 1993. The Department's request is predicated on the fact that, on October 5, 1992 in the Santa Barbara Municipal Court, Mr. Hufft pled nolo contendere to a violation of Section 120.7(p)(1), Title 14, CCR, regarding take of undersized red sea urchins. As way of background, on April 17, 1992 Mr. Gregory Hufft was seen taking sea urchins off the Goleta Coast. When Mr. Hufft's load of sea urchins was inspected by the Department at Santa Barbara Harbor, 131 undersized red sea urchins were discovered. Mr. Hufft was fined \$250 which was suspended and he was placed on three years probation. Mr. Hufft has no known prior violations. The Commission's authority to take this action is pursuant to Section 120.7(k), Title 14, CCR.

Exhibit No. 16b contains copies of the Commission's December 31, 1992 letter to Mr. Gregory George Hufft, the Department's request dated November 19, 1992, a copy of the citation, the Department's arrest report, as well as the court record.

Suggested Motion

MOVED BY _____ SECONDED BY _____ THAT
THE FISH AND GAME COMMISSION HEREBY (SUSPENDS) (REVOKES) THE
COMMERCIAL SEA URCHIN DIVING PERMIT OF GREGORY GEORGE
HUFFT, SANTA BARBARA, FOR A PERIOD OF _____ OR
UNTIL _____.

WORKSHOP

33. BRIEFING ON THE CALIFORNIA ENDANGERED SPECIES ACT. (NO
PUBLIC TESTIMONY.)

Summary of Issue

This workshop is scheduled at the request of the Commission to receive a briefing on the California Endangered Species Act (CESA). It will be the first in a series of briefings your staff and Department staff wish to provide regarding a review of pertinent laws, requirements placed on the Department and Commission, the results of listing and possible actions both the Commission and the Department could pursue to encourage positive results.

Among other things, the Commission has requested that the

Department provide information on possible changes to the Endangered Species Act, information on the status of the Coachella Valley fringe-toed lizard, as well as information on the success and/or failure of species that have been listed under

the CESA and information on a species that has been listed for a long period of time. All of these issues will be covered during the upcoming briefings.

The Department and your staff's intent is to keep the briefings short but to allow sufficient time for questions and discussion by the Commission. In order to cover all of the potential topics it will, therefore, require a number of briefing sessions.

Exhibit No. 17 contains a copy of the Department's status report for the Coachella Valley fringe-toed lizard.

EXECUTIVE SESSION
(NOT OPEN TO PUBLIC)

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

PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY:

- (A) NATURAL RESOURCE DEFENSE COUNCIL, ET AL., vs. FISH AND GAME COMMISSION RE: CALIFORNIA GNATCATCHER.
- (B) CALIFORNIA NATIVE PLANT SOCIETY vs. FISH AND GAME COMMISSION RE: VAIL LAKE CEANOETHUS.
- (C) SIERRA CLUB vs. FISH AND GAME COMMISSION, ET AL., RE: TULE ELK TRANSLOCATION.
- (D) CALIFORNIA DOMESTIC FERRET ASSOCIATION vs. FISH AND GAME COMMISSION, ET AL., RE: FERRETS.
- (E) PACIFIC LUMBER COMPANY vs. FISH AND GAME COMMISSION, ET AL., RE: MARBLED MURRELET.
- (F) SPORTSMEN'S COUNCIL OF NORTHERN CALIFORNIA vs. FISH AND GAME COMMISSION, ET AL., RE: PRIVATE LANDS WILDLIFE AREA MANAGEMENT PROGRAM.
- (G) FISH AND GAME COMMISSION, ET AL., vs. NEVADA COUNTY, ET AL., RE: COUNTY TRAPPING ORDINANCE.
- (H) COMMERCIAL LOBSTER FISHERMEN vs. FISH AND GAME COMMISSION RE: SPORT LOBSTER SEASON OPENING DATE.

POSSIBLE LITIGATION TO WHICH THE COMMISSION MAY BE A PARTY:

- (A) UNAUTHORIZED COUNTY AND CITY FIREARM ORDINANCES.
- (B) UNAUTHORIZED COUNTY TRAPPING ORDINANCES.

NOTE: THIS IS A SPECIAL HEARING TO BE CONDUCTED BY THE DEPARTMENT OF FISH AND GAME AND WILL IMMEDIATELY FOLLOW THE CONCLUSION OF THE COMMISSION MEETING.

DEPARTMENT OF FISH AND GAME HEARING

A. SCOPING SESSION REGARDING PUBLIC CONCERNS TO BE ADDRESSED IN ENVIRONMENTAL DOCUMENTS FOR SPORT FISHING

REGULATIONS (BOTH FRESHWATER AND MARINE).

Summary of Issue

This scoping session is being held to receive public input concerning issues to be addressed in the environmental documents for sport fishing regulations. This will be a Department held hearing and no Commission action is required.

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

Meeting of
 February 5, 1993 (Friday)
 8:30 a.m.

City Council Chambers
 333 W. Ocean Blvd.
 Long Beach

AGENDA ANALYSIS

DISCUSSION ITEMS (continued)

1. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT LAND AS MITIGATION FROM THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AT THE SANTA ROSA PLATEAU AS AN ADDITION TO THE SANTA ROSA PLATEAU ECOLOGICAL RESERVE.

Summary of Issue

The Department requests authorization to accept land as mitigation from the Metropolitan Water District of Southern California (MWD) at the Santa Rosa Plateau to be used as an addition to the Santa Rosa Plateau Ecological Reserve. MWD proposes to transfer its trust parcels/mitigation lands at the Santa Rosa Plateau to the Department. MWD participated with the Department, the County of Riverside and the Nature Conservancy in the acquisition of lands for the Santa Rosa Plateau Ecological Reserve and in accordance with the April, 1991 mitigation agreement entered into by MWD, the Department and the U. S. Fish and Wildlife Service, the lands acquired by MWD entitles it to utilize certain quantified "habitat values" at the Plateau in mitigation of some of its projects in western Riverside County. Those lands were placed in trust pending MWD's need to utilize the habitat values. MWD now proposes to terminate the trust, transfer title to the Department and create a resource protection and management endowment in accordance with the mitigation agreement. To help publicize the success of this mitigation bank concept, MWD and the Department will provide press coverage of this transfer of title.

Suggested Motion

MOVED BY SECONDED BY THAT
 THE FISH AND GAME COMMISSION HEREBY AUTHORIZES THE DEPARTMENT OF
 FISH AND GAME TO ACCEPT LAND AS MITIGATION FROM THE
 METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AT THE
 SANTA ROSA PLATEAU TO BE UTILIZED AS AN ADDITION TO THE
 SANTA ROSA PLATEAU ECOLOGICAL RESERVE.

3. RECONSIDERATION OF PETITION TO LIST THE DELTA SMELT (Hypomesus transpacificus) AS A THREATENED SPECIES.

Summary of Issue

Based on the Department's annual report to the Commission regarding the status of the delta smelt (Hypomesus transpacificus) at its December, 1992 meeting in Eureka, the Commission directed its staff to schedule reconsideration of the petition to list the delta smelt as a threatened or endangered species for its February, 1993 meeting in Long Beach. As background, the Commission on August 29, 1989, designated the delta smelt as a candidate for listing as an endangered species pursuant to Section 2074.2 of the Fish and Game Code. At the completion of the twelve month review period in which all available scientific information was reviewed, the Department recommended that the Commission list the delta smelt as a threatened species.

The Commission at its August 30, 1990 meeting determined that listing was not warranted at that time, but directed the Department to enter into studies with the Department of Water Resources and other appropriate agencies to determine the status of the delta smelt. The Commission also directed the Department to annually report to the Commission on the results of its studies and the status of the delta smelt population. The Commission also indicated that if the status of the smelt changed, it could then reconsider the petition.

The issue before the Commission at this meeting is to consider all available scientific information and determine whether or not the petitioned action is warranted and that the delta smelt should be listed as threatened or endangered.

Exhibit No. 19 contains a copy of the Commission's findings from its August 30, 1990 meeting, the Department's report on the status of the delta smelt, a Commission memo to all interested and affected parties indicating that the Commission will be reconsidering the petition on February 5, 1993, as well as two recent newspaper articles on the status of the delta smelt.

Suggested Motion

| | | |
|---|-------------|------|
| MOVED BY | SECONDED BY | THAT |
| THE FISH AND GAME COMMISSION, PURSUANT TO THE PROVISIONS OF SECTION 2075.5 OF THE FISH AND GAME CODE AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC SAID SECTION OF SAID CODE, HEREBY FINDS THAT THE PETITIONED ACTION TO LIST THE DELTA SMELT (<u>Hypomesus transpacificus</u>) WARRANTS LISTING THAT SPECIES AS (THREATENED) (ENDANGERED). FURTHER, THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF ITS INTENT TO AMEND SECTION 670.5, TITLE 14, CCR, TO LIST THE DELTA SMELT AS A (THREATENED) (ENDANGERED) | | |

SPECIES.

OR

MOVED BY SECONDED BY THAT
THE FISH AND GAME COMMISSION, PURSUANT TO THE PROVISIONS OF
SECTION 2075.5 OF THE FISH AND GAME CODE AND TO IMPLEMENT,
INTERPRET AND MAKE SPECIFIC SAID SECTION OF SAID CODE,
HEREBY FINDS THAT THE PETITIONED ACTION TO LIST THE DELTA
SMELT (Hypomesus transpacificus) AS A THREATENED OR
ENDANGERED SPECIES IS NOT WARRANTED. THE COMMISSION
FINDINGS ARE AS FOLLOWS:

(Commission findings will be inserted here)

5. DISCUSSION OF DEPARTMENT'S UPPER SACRAMENTO RIVER MANAGEMENT
PLAN.

Summary of Issue

As a reminder, a toxic spill occurred at the Cantara Loop on the Sacramento River on July 14, 1991 which eliminated all aquatic life in a 23-mile stretch of river from the Cantara Loop to Shasta Lake. The Department has spent a considerable amount of time in developing resource damage assessment plans as required by the Federal government. The Department has also developed recovery plans for all species of fish, wildlife and plants that have been impacted by the toxic spill. As the Commission may recall, at its January 5, 1993 meeting in Palm Springs, the Southern Pacific Transportation Company appeared before the Commission and requested that catchable trout be planted in the Sacramento River in 1993. The Dunsmuir Chamber of Commerce also submitted a letter requesting that catchable trout be stocked in the upper Sacramento River to help restore recreational opportunities to the Dunsmuir area.

At the January 5 meeting, the Department indicated it had held several public hearings in the Redding-Dunsmuir area to receive public comments on management for the upper Sacramento River. The Department also indicated that its 1993 Management Plan would be available for public review by January 20, 1993. The Commission then requested staff to schedule a discussion item for its February meeting in Long Beach.

Exhibit No. 20 contains a copy of the Dunsmuir Chamber of Commerce December 30, 1992 letter as well as the Department's 1993 Management Plan.

The Department will be prepared to make a presentation to the Commission at its February 5, 1993 meeting, and in addition, the Southern Pacific Transportation Company has also indicated

it would like to make a presentation at that meeting.

(A suitable motion reflecting any action by the Commission will be inserted here)

7. AMENDMENT OF SECTION 601, TITLE 14, CCR, RE: PRIVATE LANDS
WILDLIFE MANAGEMENT AREAS.

Summary of Issue

The Commission at its December 4, 1992 meeting in Eureka, authorized its staff to publish notice of its intent to amend Section 601, Title 14, CCR, regarding private lands wildlife management areas. That legal notice has been published.

Exhibit No. 21 contains copies of the Department's pre-publication of notice and pre-adoption statements as well as the text of the regulations in strikeout/underline format.

In summary, the Department has proposed regulation changes as follows:

"Current State law and policy calls for the State to actively encourage the propagation, conservation and utilization of fish and wildlife resources on private land. The existing regulation identifies the program associated with this policy as the 'Private Lands Wildlife Management Area Program,' but does not include 'Habitat' in the title of the program. Senate Bill 1964 (Chapter 818, Statutes 1992) changed the title of the program to the 'Wildlife Habitat Enhancement and Management Area Program.' A program title change in Section 601 is required in order for the regulation to conform recent statutory changes.

"The existing regulation uses the possessive pronoun 'his' throughout the document. In order to meet State standards, the term 'their' will be used to replace 'his' when the substitution can be made without changing the meaning or intent of Regulation.

"The regulation currently requires an applicant to prepare a management plan to be licensed in the (Wildlife Habitat Enhancement and Management Area) Program. However this language does not require that the plan be implemented. The proposal requires the addition of language to specifically require that management plans be implemented.

"Currently, regulations require a management plan be submitted for review to the Department. Department administrative procedures currently require three copies of the plan in order to expedite review. Thus some applicants voluntarily provide these copies. In order to reduce Department costs, the proposed change requires all

applicants to provide the Department with three copies of their plan.

"Existing regulations require maps of the management area be provided, but do not specify required information. Consequently, in the past maps have been submitted, with necessary information being omitted. In an effort to better facilitate Department review it is proposed that specific information (boundaries and any adjacent public access lands) be required on each map.

"Existing regulations require only an estimate of the wildlife and habitat present on a Private Lands Wildlife Management Area. Currently only those featured species that might be affected are considered. The focus of the recent statutory changes for the Private Lands Wildlife Management Area Program is habitat management and enhanced for all wildlife species. The proposal clarifies wildlife and habitat information expected, and require reference to and review of information available from the California Wildlife Habitat Relationships Database System.

"Existing regulations refer to proposed management recommendations. This language is ambiguous. The proposed language change clarifies the intent of regulation by requiring a detailed description of proposed management actions.

"Existing language in the regulation requires the County General Plan land use designation be included in the Wildlife Management Plan. However it does not identify the 'land' in question. The proposal would add language that would identify the land within the Private Lands Wildlife Management Area for which the use designation is required.

"Existing regulations allow for individuals who are not fee title owners of the land to apply for a Private Lands Wildlife Management area program license. In order to assure compliance, the Department has determined that the fee title owner must sign a consent form in support of the applicant's proposed management plan. The proposal would implement this change in regulation and require that the fee title owner co-sign the application.

"Currently, an \$800 non-refundable fee is required upon application for the Private Lands Wildlife Management area program. This fee is for a three-year license period to offset cost of administering the program. Recent statutory change extended the length of the license period to five years, and further clarified that application fees in combination with tag fees shall meet the actual costs incurred in administering all aspects of the program. The proposal would increase the fees to meet this legislative

requirement.

"Recent statutory changes amended Section 3402(b) and Section 3407 of the Fish and Game Code to require the Department to collect fees related to the Wildlife Habitat Enhancement and Management Area Program which will meet actual costs in administering all aspects of the program. However, Section 713 of the Fish and Game Code directs the use of changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, as an index to determine annual rate of increase or decrease in the fees for licenses, stamps, permits and tags. By binding Private Wildlife management area administrative and tag fees to the inflationary index, the Department does not have the ability to freely adjust fees to meet costs of the program. The proposed change adds language to regulation which supersedes Section 713 as provided in Section 3404.

"The existing regulation stipulates that the Private Land Wildlife Management Area program license will be valid for a period of three years (Section 3406 of the Fish and Game Code). Recent statutory changes amended Section 3406 to extend the license period to five years beginning January 1, 1993. The proposal will amend the regulation to correspond with Section 3406 and extend the license period to five years.

"The existing regulation wording regarding the application review and appeal process is lengthy and awkward. The proposal clarifies language to describe the process without modifying the intent of the language or the process itself.

"The existing regulation allows the Commission to supersede certain sections of the Fish and Game Code, specifically those relating to the taking of antelope, antlerless, and either sex deer. Currently, even though elk are hunted as part of the Private Lands Management Area Program, Section 332 regarding elk has not been included with the other sections superseded. The proposal includes Section 332 related to elk with other superseded sections.

"Existing regulations contain an unnecessary description of options available to the Commission to supersede the codified 10 year waiting period for an application to hunt antelope. The proposal eliminates that language.

"Currently Department administrative policy stipulates that antelope and elk may not be taken on Private Wildlife Management Areas during the first year of a license period. In addition, SB 1964 prohibits the taking of deer outside the general season, until a licensee demonstrates habitat enhancement activities acceptable to the Department. These

restrictions are partially due to negative public sentiment towards the taking of game on Private Lands Wildlife Management Areas outside the general seasons without completing the prescribed habitat work. The proposal addresses these concerns and policies by prohibiting the taking of antelope or elk during the first year of the initial license. In addition, it requires that in the initial year of the license all deer hunting must occur

during the general open season, consistent with the bag and possession limits for the deer hunting zone in which the area is located.

"The existing Regulation requires that an application package be submitted to the Department annually. The package must contain a variety of information including management activities, however specific information required is not addressed. In addition, a deadline for the application is prescribed. Consequently, application packages arrive sporadically throughout the year and often contain insufficient information for adequate review. The proposal would require the application package to contain a review of habitat enhancement activities and harvest levels, plus full payment of fees. In addition, this application package will be annually due by January 1.

"Section 601(b)(6)(A) defines the required information in an annual review report; however the language of the subsection is somewhat awkward and restrictive. The proposal modifies the existing language to clarify the subsection and broaden the intent by not limiting the report to "management" activities.

"Currently, the Commission requires that any fish, bird, or mammal taken on a Private Lands Wildlife Management Area be marked with a distinctive tag or seal. Throughout existing regulation the term "tags" is used generically to mean tags and seals. The proposal would add "seals" in the regulation, to accompany tags, wherever applicable, to clarify requirements inclusive to both tags and seals.

"Existing regulation requires every person hunting on a Private Lands Wildlife Management Area to have in their possession a California hunting license and appropriate tag or seal. A literal interpretation of this wording would suggest that the license need not be current or valid. The proposal would add language which would require a valid California hunting license.

"Currently, Section 601(c)(1) requires a punctuation deletion and addition to be accurate. The proposed modification deletes a period (.) and adds a comma (,) to conform with

writing guidelines.

"Existing regulation outlines the procedures required by a hunter in obtaining a Private Lands Wildlife Management Area deer tag. Currently, the regulation is unclear in defining the type of tag received during an exchange of tags. The proposed modification would identify specifically a deer tag as the type received in an exchange.

"Existing regulation requires a hunter upon killing an animal to attach a completed tag to the antler of an antlered deer or ear of any other deer. Procedures for affixing tags to antelope or elk are not included. The proposed change would modify language to apply to all species of game which require a tag affixed to the carcass.

"Existing Regulation provides for Private Lands Wildlife Management Area tag validation, and requires the licensee or his designee to validate both portions of the tag prior to the carcass being transported from the area. Recent statutory changes require that the tags be validated pursuant to section 372, Title 14, CCR. The proposed regulation change would modify Section 601(c)(2) to conform with legislative intent for tag validation procedures. The licensee would no longer be allowed to validate tags and thus would not be required to provide a list of persons authorized to validate tags in their annual renewal application report and management plan.

"Existing regulations requires the report card portion of a deer or other game mammal tag on a Private Lands Wildlife Management Areas be returned by the hunter within 30 days. Currently, some tag report cards are not being returned by Private Lands Wildlife Management Areas hunters. Tag returns on Private Lands Wildlife Management Areas are averaging 88 percent annually (as compared to 74 percent tag return by public hunters) Due to the need for accurate harvest information in the Environmental Document regarding deer hunting, a modification of regulation is proposed which would require the licensee to collect the report card portions of the tags from successful hunters and return those tags to the Department by January 1.

"Current regulations set game tag fees. These fees are established to offset cost of administering the program. Based on an analysis of the cost of the program all tag fees are adjusted to meet those costs.

"Section 601(d)(1) provides guidelines for posting of Private Lands Wildlife Management Areas. Existing regulation requires that a Private Lands Wildlife Management Area be posted and that posting must be completed, seven days prior to hunting either within the area or adjacent public hunting zones. Recent statutory change amends Section 3403 of the Fish and Game Code regarding posting of a Private Lands Wildlife Management Area providing needed flexibility in the posting requirements. In addition, the Department believes that seven days prior to hunting does not allow for adequate review of posting, and that Private Lands Wildlife Management Areas should be identifiable throughout the year, not just during the approved hunting season. The proposal modifies the language in regulation so that

Section 601 conforms with current statutes, lengthens the posting deadline to fourteen days prior to hunting, to allow adequate review of all Private Lands Wildlife Management Areas by Department personnel, and requires that Private Lands Wildlife Management Areas remain posted for the life of the license.

"Existing regulation simply requires signs used in the posting of a Private Lands Wildlife Management Areas to forbid trespass, and to show ingress and egress. In the past, problems with hunter trespass due to unreadable or misposted signs have occurred. The proposed regulation change would require that signs be approved by the Department, and that their placement would clearly mark boundaries so that no public access areas appear closed.

"The existing regulation requires that the licensee return an accurate accounting for authorized tags and seals to the License and Revenue Branch by March 1 of each year. The harvest information is required by January 1 in order to be included in the annual environmental documents regarding mammal hunting, which must be completed by February 15. Therefore, the proposal amends regulation to require tag and seal accounting information be returned by January 1 of each year, with the harvest data.

"Licenses to operate Private Lands Wildlife Management Areas are revocable under Section 3401 of the Fish and Game Code. If a licensee does not comply with the conditions in the management plan, or violates any Commission regulations, their license may be temporarily suspended by the Director and the Department may recommend to the Commission that the license be revoked. Under existing regulation, no intermediate penalties (other than revocation of license) exist to ensure compliance with Department policies, administrative procedures, Commission regulations etc. In the past, with no other option available to the Department or Commission licensees have been ejected from the Private Lands Wildlife Area Program for violations. This extreme action has caused a loss of otherwise successful licenses that provide important wildlife habitat benefits. The proposal would add language to regulation which would provide an array of options available to the Department in cases where a licensee violates Commission regulations."

Suggested Motion

| | | |
|---|-------------|------|
| MOVED BY | SECONDED BY | THAT |
| THE FISH AND GAME COMMISSION, PURSUANT TO THE PROVISIONS OF | | |
| SECTIONS 200, 202, 203, 3404 AND 3406 OF THE FISH AND GAME | | |
| CODE, AND TO IMPLEMENT, INTERPRET AND MAKE SPECIFIC | | |
| SECTIONS 3400-3404, 3406-3409, 4331-4332 AND 4341 OF SAID CODE, | | |
| HEREBY AMENDS SECTION 601, TITLE 14, CCR, REGARDING PRIVATE | | |
| LANDS WILDLIFE MANAGEMENT AREAS AS FOLLOWS: | | |

(Amended regulations will be inserted here)

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

Summary of Issue

The Commission, at its November 6, 1992 meeting in San Diego, authorized its staff to publish notice of its intent to amend Section 630, Title 14, CCR, regarding ecological reserves. That legal notice has been published. **Exhibit No. 22** contains copies of the Department's pre-publication of notice and pre-adoption statements as well as the text of the regulations in strikeout/underline format.

As the Commission may recall, the California Sportsmen's Lobby has expressed concerns regarding access to areas of Lindsay Slough within the proposed Calhoun Cut Ecological Reserve. Therefore, the Commission postponed action on this matter and requested the Department to contact Mr. Mickey Bernstein, President of the California Sportsmen's Lobby, to discuss the matter and report back to the Commission at its February meeting.

In summary, the Department is proposing regulation changes as follows:

"These proposed regulation changes would designate 13 areas as State ecological reserves. They are: Bonny Doon, Marin Islands, Loch Lomond Vernal Pool, Carrizo Plains, Quail Hollow, San Bruno Mountain, Little Red Mountain, Mattole River, Yorkville, Del Monte Dunes, Quail Ridge, Salmon Falls, and Calhoun Cut ecological reserves. At present, these properties, owned by the State, are undesignated. This proposed regulation will provide authority to the Department to protect wildlife habitat values thereon, and will regulate public use and authorize certain departmental management activities.

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

- 1) Carrizo Plains Ecological Reserve: Authorizes the Department to allow regulated public hunting in accordance with general hunting regulations.
- 2) Salmon Falls Ecological Reserve: Authorizes the Department to prohibit entry without prior permission from Department.
- 3) Calhoun Cut Ecological Reserve: Authorizes the Department to allow grazing under permit, to allow fishing and waterfowl hunting from a boat in the main channel of Calhoun Cut (entry from Lindsay Slough only), and to prohibit entry without prior permission from the Department."

This hearing is held by the Commission under the provisions of Section 207 of the Fish and Game Code for the purpose of receiving recommendations from its own officers, the Department, other public agencies, from organized groups and private citizens as to what regulation changes should be made with respect to mammals. Under the provisions of Sections 450-460 of the Fish and Game Code, special deer hunts (antlerless and either-sex) as well as hunts on military installations pursuant to Sections 452 and 3455 of the Fish and Game Code will be considered at the same time and in the same manner as changes in the deer hunting regulations. The Commission is not required to hold hearings on the special deer hunt proposals, however, under the provisions of those statutes, those counties having veto power may hold on their own, a public hearing regarding special antlerless hunts in their counties and by resolution may object to or recommend modification to the Department's proposals. Such hearings must be held no later than February 1, 1993. (Note: Those hunts scheduled for military installations are not subject to county veto).

During the receipt of recommendations the Commission may, if it wishes, receive testimony supporting any of the recommendations.

The Commission ordinarily extends this courtesy, if requested, although it is preferred that persons wait until the second meeting for presentation of arguments in support of or opposition to the proposed regulation changes. After all recommendations are received, they will be compiled by your staff and the written recommendations will be mailed to the Commissioners prior to the March 5, 1993 meeting in Redding. After consideration of written and oral recommendations at the Redding meeting, the Commission will announce those regulations it intends to further consider at its April 2, 1993 meeting in Sacramento with final adoption to be considered at the Commission's April 22, 1993 meeting in Sacramento. All correspondence received by your office postmarked no later than February 5, 1993 will be included in the compilation of recommendations for changes in the 1993-94 Mammal Hunting and Trapping Regulations.

The Department's pre-publication of notice statements and the proposed regulation changes prepared by the Department relative to its proposals will be provided at the meeting. The statements and regulations mentioned above will be available to the public in the Commission office on February 5, 1993. The draft environmental documents relating to the Department's proposals will be available to the public on or before February 12, 1993. Comments on these documents may be submitted to the Commission office until 5 p.m. on March 29, 1993 or testimony may be presented at Commission hearings on mammal regulations on March 5, 1993 in Redding and on April 2, 1993 in Sacramento.

You will note that **Exhibit No. 25b** provides an overview of the scheduling dates which are necessary to meet the requirements of the Administrative Procedures Act and the California Environmental Quality Act. **Exhibit No. 25c** contains the Department's tentative regulations for antlerless or either-

In summary, the Department has proposed regulation changes as follows:

- "The importation and transportation of live exotic aquatic animals into and within California can cause these exotics to be released into waters of the State where they do not already exist. Introduction of new exotic aquatic species risks harm to existing fish and wildlife resources through predation, competition and other ecological interactions.
- "Current regulations provide limited control over importation and transportation activities by requiring that importers of live aquatic animals have approved importation permits. Current regulations, however, are often difficult to prosecute because it is difficult to apprehend unpermitted importers in the act of importation, and laws are not strict for nonprohibited species.
- "The proposed action will facilitate the regulation of importation, transportation and possession of several species, genera, and other taxonomic groups of animals by adding them to Section 671, which specifically prohibits the possession of animals included therein without specific permits issued by the Department of Fish and Game.
- "The proposed action also adds a new section (Section 671.7) which provides for a new permit allowing possession of prohibited animals for aquaculture.
- "The reticulate Gila monster (Heloderma suspectum suspectum) is protected by those states in which it occurs. However, current California regulations allow the possession and sale of the reticulate Gila monster because this subspecies is not indigenous to California.
- "The Arizona Game and Fish Department has notified the Department of Fish and Game that they have identified extensive illicit trade in this animal and that they expect increased take of the animal for export to California where they can now be sold with impunity. This activity has the potential to deplete the reticulate Gila monster in the wild.
- "The Department is proposing to add the reticulate Gila monster to the list of prohibited species in Section 671 to control undesirable trade of this species.
- "The proposed action will prevent the importation, transportation, and possession of reticulate Gila monsters without specific permits issued by the Department of Fish and Game.
- "No modifications were made in the regulation changes as originally proposed."

21.REQUEST TO PUBLISH NOTICE OF INTENT TO AMEND SECTIONS 29.15 AND 100, TITLE 14, CCR, RE: BLACK ABALONE FISHERY CLOSURE.

Summary of Issue

The Department has requested that the Commission authorize its staff to publish notice of its intent to consider proposed changes in Sections 29.15 and 100, Title 14, CCR, regarding black abalone fishery closures. **Exhibit No. 28** contains the Department's pre-publication of notice statement as well as the proposed regulations in strikeout/underline format. Those changes are summarized as follows:

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

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

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

23. REQUEST TO PUBLISH NOTICE OF INTENT TO ADD SECTION 313, TITLE 14, CCR, RE: UPLAND GAME STAMP REQUIREMENTS.

Summary of Issue

The Department has requested that the Commission authorize its staff to publish notice of its intent to consider adding Section 313 to Title 14, CCR, regarding upland game stamp requirements. **Exhibit No. 29** contains the Department's pre-publication of notice statement as well as the proposed regulations in underline format. The proposal can be summarized as follows:

"Existing regulations do not require the use of an upland game bird stamp by adult hunters when hunting resident and migratory game birds (other than waterfowl, coots, moorehens, and American crows). Proposed regulation would require the use of this stamp when hunting resident and migratory game birds (other than waterfowl, coots, moorehens, and American crows) to fund additional resource assessment programs, public education and outreach projects, and secure additional hunting access".

25. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT THE MOTTE RESERVE CONSERVATION EASEMENT (V 100 ACRES),

RIVERSIDE COUNTY, AND THE PRAIRIE CREEK FISH HATCHERY, HUMBOLDT COUNTY.

Summary of Issue

The Department has requested authorization to accept the Motte Reserve Conservation easement (∇ 100 acres), Riverside County. The land contains important native communities including the habitat for the endangered Stephens' Kangaroo Rat, coastal sage scrub favored by California Gnatcatcher and a significant riparian area.

The Department has also requested authorization to accept the Prairie Creek Fish Hatchery, Humboldt County. Humboldt County has notified the Department that as of December 30, 1992, it could no longer fund operation of the hatchery and that title to the hatchery should revert to the Department.

In a memo dated January 5, 1993, the Department provides the following information:

- "(1) Mr. Charles L. and Ms. Ottie Mae Motte, trustees of the Rimrock Trust, have entered into a contract to transfer approximately 100 acres of unimproved land in the City of Perris to the Riverside County Habitat Conservation Agency (RCHCA). The land contains important native communities, including habitat for the endangered Stephens' kangaroo rat (SKR); coastal sage scrub favored by the California gnatcatcher, a species of concern and proposed by the U.S. Fish and Wildlife Service as an endangered species; and a significant riparian area. The majority of the land is within the RCHCA's SKR habitat conservation plan study area. The transfer of the land shall be accomplished as follows: The Rimrock Trust shall deed the property to RCHCA, at which time the Department of Fish and Game will receive a conservation easement on the property. The property will then be deeded to the Regents of the University of California to be managed as part of its reserve system.
- "(2) In 1961 legislation was passed which transferred title for Prairie Creek Hatchery from the Department of Humboldt County with the understanding that the County would continue to operate the hatchery. The title transfer documents contained language that, in the event the County no longer operated the hatchery, the land and hatchery would revert back to the Department. The county has notified the Department that, as of December 30, 1992, they could no longer fund operation of the hatchery and that title to the hatchery should revert to the Department."

Exhibit No. 30 contains background information on these two proposals.

27. DESIGNATION OF 160 ∇ ACRES OF DEPARTMENT LANDS AS THE DUTCH FLAT WILDLIFE AREA, MODOC COUNTY.

Summary of Issue

The Department has taken title to Dutch Flat Wildlife Area, Modoc County (V 160 acres). Eventually this area will be added to Section 550 of the Fish and Game Code, however, to enable the Department to begin payment of in lieu fees to Modoc County, the Commission has requested to designate the 160 acres of Department owned lands as the Dutch Flat Wildlife Area.

In a memo dated January 5, 1993, the Department provides the following information:

"(3) The Department has taken title to Dutch Flat Wildlife Area, Modoc County, 160V acres, which we eventually intend to have designated by the Commission as a wildlife area and added to Section 550 of the Fish and Game Code. We are providing notice at this time, pursuant to Commission policy, which will enable the Department to begin payment of in-lieu fees to Modoc County effective the date of this Commission meeting."

Exhibit No. 31 contains the documents and background information concerning this request.

29.REQUEST OF DAVID E. NIX, RARE AND WILD PRESENTATIONS, VALLEY CENTER, FOR AUTHORIZATION TO IMPORT AND POSSESS ONE BLACK VULTURE (Coragyps atratus), ONE KING VULTURE (Sarcoramphus papa), ONE HARRIS HAWK (Parabuteo unicinctus), ONE RED-TAIL HAWK (Buteo jamaicensis), ONE KESTREL (Falco sparuerius), THREE COLLARED PECCARY (Dicotyles tajacu), AND ONE ARMADILLO (Dasybus novemcinctus) FOR EDUCATIONAL PURPOSES.

Summary of Issue

In a letter dated January 5, 1993, Mr. David Nix, Rare & Wild Presentations provides the following information concerning his request to import and possess several exotic animals.

"I am writing to request the addition of several 'detrimental' mammals and raptors to my exhibitors license.

"Deborah Alanis who is involved with prohibited species license issuance for Department of Fish and Game recommended to apply for all projected detrimental species to be acquired for 1993.

"I direct non profit, education organizations 'RARE & WILD PRESENTATIONS, INC.' We bring groups of animals to interested community groups an operate a show at the San Diego Wild Animal Park. I am also a board member of the California Animal Owner Assoc. and have appeared before the Commission on several occasions.

"We are expanding our education programs and changing the show this summer and would like to acquire:

"1 black vulture (Coragyps atratus)
1 king vulture (Sarcoramphus papa)

- 1 Harris hawk (Parabuteo unicinctus)
- 1 red-tail hawk (Buteo jamaicensis)
- 1 kestrel (Falco sparverius)
- 1 armadillo (Dasypus novemcinctus)
- 3 collared peccary (Dicotyles tajacu)

"I have been a licensed falconry since 1975 and have worked around peccaries and skunk in volunteer rehabilitation programs."

It should be noted that in a telephone conversation with the Department's Wildlife Protection Division, Mr. Nix withdrew his request for one stripped skunk.

Department Recommendation

"The Department recommends approval of Mr. Nix's request to include the following species on his current Detrimental Species/Resident Exhibitor permit.

- "black vulture (Coragyps atratus)
- king vulture (Sarcorampus papa)
- Harris hawk (Parabuteo unicinctus)
- red-tail hawk (Buteo jamaicensis)
- kestrel (Falco sparverius)
- armadillo (Dasypus novemcinctus)
- collared peccary (Dicotyles tajacu)

"The addition of these species is necessary for the expansion of Mr. Nix's educational program."

31.REQUEST OF BAY BOTTOM BEDS AND PT. REYES OYSTER COMPANY TO REDEFINE AQUACULTURE LEASE PARCELS IN TOMALES BAY.

Summary of Issue

As the Commission may recall at its December 4, 1992 meeting in Eureka, it approved the request from Shellfish Unlimited to split aquaculture lease parcel M-430-17 in Tomales Bay. The request before the Commission at this time is to authorize a redefinition of lease M-430-17 which was split evenly with half going to Pt. Reyes Oyster Company and the remaining half to Bay Bottom Beds. However, because of certain areas within the lease site containing large amounts of eel grass, these two companies have requested a slight modification of their lease parcel areas. They wish to abandon the eel grass areas and have identified other areas where they can culture oysters successfully.

Exhibit No. 33 contains a letter from the Mr. Martin Strain with a new site map.

33.REQUEST OF CITY OF PALO ALTO, JUNIOR MUSEUM AND ZOO, FOR AUTHORIZATION TO IMPORT AND POSSESS A PAIR OF EAST AFRICAN HEDGEHOGS (Paraechinus sp.) FOR EDUCATIONAL PURPOSES.

Summary of Issue

In a letter dated January 10, 1993, the City of Palo Alto Junior Museum and Zoo provides the following information regarding their request to acquire a pair of East African hedgehogs (Paraechinus sp.):

"We are interested in acquiring a pair of East African Hedgehogs (Paraechinus sp.) for educational purposes including Science Outreach, Zoo Interpretive Programs, and other educational activities that are done on site at the museum and at local elementary schools.

"All of the animals in our zoo have valid permits from the Fish and Game Department. I understand that in order to add hedgehogs to our collection, we need to apply for a detrimental species permit. In addition to this, Deborah from the Permit Office has informed me that we need approval from the Fish and Game Commission. Please place us on the agenda of the next month's meeting."

Department Recommendation

"The City of Palo Alto Junior Museum and Zoo has asked for approval to acquire and maintain a pair of East African Hedgehogs (Erinaceus albiventris) for educational purposes.

"Palo Alto has consistently maintained their permits and facilities and the Department recommends approval of this request.

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

OTHER

35. RECEIPT OF DEPARTMENT LEGISLATIVE REPORT.

Summary of Issue

This item has been scheduled to afford the Commission an opportunity to receive an update from the Department regarding its proposed legislation for 1993. The Department will be prepared to discuss this item and respond to any questions the Commission may have at the February 5, 1993 meeting.

37. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

A. STATUS REPORT ON THE NATURAL COMMUNITY
CONSERVATION PLANNING PROGRAM (NCCP).

B. REPORT ON DEPARTMENT MEETING WITH INTERESTED PARTIES
RE: ZONAL MANAGEMENT OF SEA OTTERS.

Summary of Issue

This item has been set aside to afford the Department an

opportunity to present the Commission with informational items. The Director, or his representative, will be prepared to make a presentation to the Commission at its February 5 meeting. **Exhibit No. 36** will contain copies of informational items provided to the Commission office prior to the mailing of this folder. **Exhibit No. 36a** contains a copy of the Department's NCCP status report.

Exhibit No. 36b contains the Department's informational item regarding the results of the sea otter meeting it held with commercial, recreational and environmental constituents as requested by the Commission.

Exhibit No. 36c contains copies of memos to the Director from the Commission requesting informational items on the status of Class A and B Pheasant Clubs in California and a response to a letter from the California Sportfishing Protection Alliance regarding the Merced River. That information will be provided to the Commissioners at the February 4-5 meeting.

39. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

A. SUBCOMMITTEE ASSIGNMENTS.

Summary of Issue

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

Exhibit No. 37a contains a listing of the 1992 subcommittee assignments that the Commissioners may wish to consider, changes in committee assignments at this meeting or a future meeting.

41. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.

Summary of Issue

This item is scheduled for the Commission's Legal Advisor to discuss any informational items and certain legal issues or procedures with the Commission. In addition, the Commission may wish to provide its legal counsel with suggested informational item topics for future meetings.

43. ANNOUNCEMENT OF FUTURE MEETINGS.

1993 Fish and Game Commission Meetings

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|----------------------|--|
| March 4 (10:00 a.m.) | Red Lion Inn, Sacramento Rm. 1830 Hilltop Drive <u>Redding, CA</u> |
| 5 (8:30 a.m.) | City Council Chambers 1313 California Street Redding, CA |
| April 1 (10:00 a.m.) | Office Building 8, Auditorium |
| 2 (9:30 a.m.) | 714 P Street |

| | |
|--|---|
| | Sacramento, CA |
| April 22 (Thurs 1:00 p.m.) (Adoption of Mammal Regulations No public testimony) | Office Building 8, Auditorium 714 P Street Sacramento, CA |
| May 13 (10:00 a.m.) 14 (8:30 a.m.) | City Council Chambers 1501 Truxtun Avenue Bakersfield, CA |
| June 17 (10:00 a.m.) 18 (8:30 a.m.) | Memorial Hall Bryant & School Streets Bridgeport, CA |
| August 5 (10:00 a.m.) 6 (8:30 a.m.) | Cultural Center 1001 Front Street Crescent City, CA |
| August 26 (10:00 a.m.) 27 (9:30 a.m.) | Office Building 8, Auditorium 714 P Street Sacramento, CA |
| October 7 (10:00 a.m.) 8 (8:30 a.m.) | State Building, Room 109 1350 Front Street San Diego, CA |
| November 4 (10:00 a.m.) 5 (8:30 a.m.) | Red Lion Inn, Sacramento Rm. 1830 Hilltop Drive Redding, CA |
| December 2 (10:00 a.m.) | Sheraton Hotel Barcelona/Casablanca Room 333 E. Ocean Blvd. Long Beach, CA |
| 3 (8:30 a.m.) | City Council Chambers 333 West Ocean Boulevard Long Beach, CA |
| December 23 (Thurs 1:00 p.m.) Building (Tentative date for adoption of sport fishing regulations) | Auditorium, Resources 1416 Ninth Street Sacramento, CA |

Note: The public is encouraged to comment on any item on the agenda. Written comments received in the Commission office by noon on the Friday preceding the meeting will be forwarded to the Commissioners that same day for their leisurely review. Written comments received after that date will be submitted to the Commission at the meeting.

If you decide to speak at the Commission meeting, please begin by giving your name and affiliation (if any) and the number of people represented by your organization. Then tell the Commission your concerns in 5 minutes or less. The Commission is interested in your views;

don't worry about how to say them. If several people have spoken, try not to be repetitious. If there are several with the same concerns, please try to appoint a spokesperson. The Commission is particularly interested in the specific reasons you are for or against a proposal because the Commission's decision needs to be based on specific reasons.