

**State of California  
FISH AND GAME COMMISSION**

**Staff Summary, Meeting of February 5, 2009**

This is staff's best effort to summarize the actions of the meeting.  
For more specific information go to [www.Cal-span.org](http://www.Cal-span.org).

Pursuant to the call of the President, the Commission met at the East End Complex Auditorium, 1500 Capitol Mall, Sacramento, California, on February 5, 2009. The meeting was called to order at 9:14 a.m. by President Rogers.

Persons present:

**FISH AND GAME COMMISSION**

Richard Rogers	President
Cindy Gustafson	Vice-President
Jim Kellogg	Member
Michael Sutton	Member
Daniel Richards	Member

**COMMISSION STAFF**

John Carlson, Jr.	Executive Director
Jon K. Fischer	Deputy Executive Director
Adrianna Shea	Deputy Executive Director
Sherrie Fonbuena	Associate Governmental Program Analyst
Anita Biedermann	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

**OFFICE OF THE ATTORNEY GENERAL**

Deborah Barnes	Deputy Attorney General
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**DEPARTMENT OF FISH AND GAME**

Donald Koch	Director
John McCamman	Chief Deputy Director
Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Nancy Foley	Deputy Director, Law Enforcement Division
Susan LaGrande	Deputy Director, Legislative Affairs
Ann Malcolm	General Counsel
Neil Manji	Chief, Fisheries Branch (RMPD)
Marija Vojkovich	Marine Region Manager
Brian Naslund	Law Enforcement Division
Dr. Eric Loft	Chief, Wildlife Branch (RMPD)
Dale Steele	Wildlife Branch (RMPD)
Marty Gingras	Bay Delta Region
Glenn Underwood	License and Revenue Branch

The following persons were present and heard:

Eric Mills	Action For Animals
Harry Liquornik	CFSB, CSUC
Paul Weakland	Commercial Fisherman
Tom Raftican	The Sportfishing Conservancy
Maria Brown	Superintendent, Gulf of the Farallones National Marine Sanctuary
Dr. James Swan	Snow Goose Productions
Vern Goehring	Sea Urchin Commission, California Fisheries Coalition
Bill James	Port San Luis Commercial Fishing Association
Walt Mansell	California Rifle and Pistol Association
Pamela Flick	Defenders of Wildlife
Jeff Miller	Center for Biological Diversity
Dan Taylor	Audubon California
Ed Worley	National Rifle Association
Justin Oldfield	California Cattlemen's Association
Noelle Cremers	California Farm Bureau Federation
Kaitilin Gaffney	Ocean Conservancy
Tom Weseloh	California Trout
Ben Taylor	Concerned Citizen
Charles Bucaria	Federation of Flyfishers
Karen Garrison	Natural Resources Defense Council
Sean White	Concerned Citizen
Tony Morton	NOAA Fisheries
Craig S. Harrison	Endangered Species Recovery Council
Dr. Jon Rosenfield	The Bay Institute
Michele Dias	California Forestry Association
Gary Rynearson	Green Diamond Resource Company
Justin Augustine	Center for Biological Diversity
Steve Self	Sierra Pacific Industries
David Moser	Green Diamond Resource Company
Dennis M. Murphy	Santa Cruz County Fish and Game Advisory Commission

President Rogers introduced members of the Commission, its staff, Directorate and Deborah Barnes of the Attorney General's Office.

1. **ELECTION OF OFFICERS AND POSSIBLE ACTION ON SUBCOMMITTEE ASSIGNMENTS. Commission elected Commissioner Gustafson as President and Commissioner Kellogg as Vice-President for 2009.**

***MOVED BY D. RICHARDS, SECOND BY M. SUTTON, TO ELECT COMMISSIONER GUSTAFSON AS PRESIDENT AND COMMISSIONER KELLOGG AS VICE-PRESIDENT FOR 2009. THE COMMISSION ALSO APPROVED SUBCOMITTEE ASSIGNMENTS AS FOLLOWS: J. KELLOGG AND D. RICHARDS TO THE AL TAUCHER COMMITTEE AND M. SUTTON AND R. ROGERS TO THE MARINE RESOURCES COMMITTEE. AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.***

2. PUBLIC FORUM.  
**Received public testimony from the following: Eric Mills, Harry Liquornik [Item 10(A)], Paul Weakland, Tom Raftican, and Maria Brown [Item 9(A)].**
3. DISCUSSION OF NEW FILM DOCUMENTARY TITLED: "ENDANGERED SPECIES: CALIFORNIA FISH AND GAME WARDENS," BY JAMES A. SWAN, PH.D., C.E.O., SNOW GOOSE PRODUCTIONS.  
**Received video presentation from James Swan. No public testimony.**
4. CONSIDERATION AND POSSIBLE ACTION RELATED TO IMPACTS TO COMMISSION AND DEPARTMENT PROGRAMS AND OPERATIONS DUE TO THE STATE'S FISCAL CRISIS.  
**Received the Department's report from Chief Deputy Director McCamman. Received public testimony.**  
  
***MOVED BY R. ROGERS, SECOND BY J. KELLOGG, TO APPROVE SENDING A LETTER TO THE GOVERNOR REGARDING EXEMPTING WARDENS FROM FURLOUGHS. AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.***
5. CONSIDERATION AND POSSIBLE ACTION ON STAFF RECOMMENDATION TO REDUCE EXPENSES BY MOVING 2009 COMMISSION MEETINGS TO THE SACRAMENTO AREA.  
**Executive Director Carlson reported on the need to change the meeting schedule due to the recent Governor imposed furlough days and state fiscal crisis. Received public testimony.**  
  
***MOVED BY R. ROGERS, SECOND BY J. KELLOGG, TO APPROVE MOVING THE FGC MEETINGS TO A SACRAMENTO AREA LOCATION, CHANGE TO A WEDNESDAY/THURSDAY SCHEDULE OR A ONE DAY MEETING AND GIVE THE FGC DIRECTOR PROXY RIGHTS FOR THE ENTIRE YEAR REGARDING THE MEETING SCHEDULE. AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.***
6. UPDATE ON STATEWIDE LEAD BULLET/SHOT TOXICITY IMPACTS TO WILDLIFE, INCLUDING GAME BIRDS AND RAPTORS, AND COMPLIANCE WITH REGULATIONS CONCERNING THE USE OF NONLEAD BULLETS IN CALIFORNIA CONDOR HABITAT.  
**Received the Department's powerpoint presentation from Dale Steele. Received public testimony.**
7. DEPARTMENT OF FISH AND GAME LEGISLATIVE REPORT UPDATE AND POSSIBLE CONSIDERATION OF COMMISSION POSITIONS ON PROPOSED LEGISLATION.  
**Received the Department's report from Susan LaGrande. Received public testimony.**

8. RECEIPT OF DEPARTMENT OF FISH AND GAME INFORMATIONAL ITEMS.
  - (A) RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.  
**Received report from Director Koch. No public testimony.**
  - (B) UPDATE REGARDING SMITH RIVER.  
**Received update from Neil Manji. Received public testimony.**
  - (C) UPDATE ON HAGFISH FISHERY AND THE EXPERIMENTAL GEAR PERMIT PROCESS.  
**Received update from Marija Vojkovich. No public testimony.**
  - (D) UPDATE ON ENFORCEMENT.  
**Received report from Chief Foley. Received public testimony.**
  - (E) OTHER.  
**Received update from Chief Deputy Director McCamman on ALDS.  
Received update from Deputy Director Mastrup on aquaculture lease template being drafted. No public testimony.**
  
9. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.
  - (A) UPDATE ON MARINE LIFE PROTECTION ACT (MPA) REGULATION TIMELINE FOR NORTH CENTRAL COAST STUDY REGION. (Note: Public testimony will be limited to the regulatory timeline at this meeting. Public testimony regarding proposed regulations related to the North Central Coast MPA's is tentatively scheduled for March 2009.)  
**There was discussion on the timeline and proposed meeting locations.  
Received public testimony.**
  - (B) UPDATE ON WESTERN ASSOCIATION OF FISH AND WILDLIFE AGENCIES.  
**Executive Director Carlson gave an update on the recently attended WAFWA meeting. No public testimony.**
  - (C) REPORT ON COUNTY FISH AND GAME ASSOCIATION CONFERENCE.  
**Assistant Executive Director reported on the conference and Commissioner Rogers requested that the County Association make a presentation to the Fish and Game Commission. No public testimony.**
  
10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.
  - (A) MARINE RESOURCES COMMITTEE (MRC).
    - I. POSSIBLE ADOPTION OF MRC PRIORITIES.  
**Received report from Commissioner Sutton. Received public testimony.**

***MOVED BY M. SUTTON, SECOND BY J. KELLOGG, TO ADOPT REVISED SET OF PRIORITIES FOR MARINE RESOURCES COMMITTEE TO TAKE INTO ACCOUNT MLMA LESSONS LEARNED STUDY.  
AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.  
MOTION PASSED UNANIMOUSLY.***

- (B) AL TAUCHER'S PRESERVING HUNTING AND SPORT FISHING OPPORTUNITIES ADVISORY COMMITTEE.  
**Received report from Assistant Executive Director. No public testimony.**

11. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.  
**Received report from Tony Morton. No public testimony.**
12. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.  
**Received report from Deputy Attorney General Barnes. No public testimony.**
13. NEW BUSINESS.  
**None.**
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EXECUTIVE SESSION  
(NOT OPEN TO PUBLIC)

PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 11126(a)(1) AND (e)(1), AND SECTION 309 OF THE FISH AND GAME CODE, THE COMMISSION WILL MEET IN CLOSED EXECUTIVE SESSION. THE PURPOSE OF THIS EXECUTIVE SESSION IS TO CONSIDER:

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

- I. SAN LUIS AND DELTA-MENDOTA WATER AUTHORITY AND WESTLAND WATER DISTRICT; STATE WATER CONTRACTORS; KERN COUNTY WATER AGENCY; AND (OTHER REAL PARTIES IN INTEREST) vs. CALIFORNIA FISH AND GAME COMMISSION RE: LONGFIN SMELT.
- II. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: TIGER SALAMANDER.
- III. BIG CREEK LUMBER COMPANY AND CENTRAL COAST FOREST ASSOC. vs. CALIFORNIA FISH AND GAME COMMISSION RE: COHO LISTING, SOUTH OF SAN FRANCISCO.
- IV. LINDY O'LEARY vs. CALIFORNIA FISH AND GAME COMMISSION RE: R.R.S.A.C. AND R.R.S.S. PERMIT DENIALS.
- V. ROBERT LARRY EDER, JUSTIN WESLEY YAGER AND BYRAN D. RANDALL vs. CALIFORNIA FISH AND GAME COMMISSION RE: DUNGENESS CRAB VESSEL PERMITS.
- VI. COALITION FOR SUSTAINABLE DELTA, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: SPORTFISH REGULATIONS AND TAKE OF LISTED SPECIES.
- VII. JAMES BUNN AND JOHN GIBBS vs. CALIFORNIA FISH AND GAME COMMISSION RE: SQUID PERMITS.
- VIII. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: AMERICAN PIKA.

B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.

C. STAFF PERFORMANCE AND COMPENSATION.

D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT ITEMS:

- I. HERBERT O'HARA, LATE RENEWAL OF HERRING PERMIT NO. DH-435 SF.

14. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.  
**There was no report.**
15. (A) DISCUSSION AND POSSIBLE ACTION TO SET ASIDE COMMISSION ACTION OF OCTOBER 22, 2004, REJECTING THE PETITION TO LIST THE CALIFORNIA TIGER SALAMANDER (*Amylostoma californiense*) AS AN ENDANGERED SPECIES; THEREBY ACCEPTING THE PETITION, PURSUANT TO JUDICIAL RULINGS IN *Center for Biological Diversity v. California Fish and Game Commission* California Third District Court of Appeal Case No.. C055059, Sacramento Superior Court, Case No. 05CS0233.  
**MOVED BY R. ROGERS, SECOND BY M. SUTTON, TO APPROVE ACTION TO SET ASIDE COMMISSION ACTION OF OCTOBER 22, 2004, REJECTING PETITION TO LIST CALIFORNIA TIGER SALAMANDER AS AN ENDANGERED SPECIES AND TO ACCEPT THE PETITION PURSUANT TO JUDICIAL RULING. THE DEPARTMENT IS TO PROVIDE A STATUS REPORT IN ONE YEAR.**  
**AYES: C. GUSTAFSON, R. ROGERS, M. SUTTON.**  
**NOES: J. KELLOGG, D. RICHARDS.**  
**MOTION PASSED.**
- (B) CONSIDERATION AND POSSIBLE EMERGENCY ACTION TO ADD SECTION 749.4, TITLE 14, CCR, RE: SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF CALIFORNIA TIGER SALAMANDER DURING CANDIDACY PERIOD.  
**Received report from the Department. Received public testimony.**  
**MOVED BY J. KELLOGG, SECOND BY R. ROGERS, TO APPROVE EMERGENCY ACTION TO ADD SECTION 749.4 RE: SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF CALIFORNIA TIGER SALAMANDER DURING CANDIDACY PERIOD.**  
**AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.**  
**MOTION PASSED UNANIMOUSLY.**
16. (A) CONSIDERATION AND POSSIBLE ADOPTION/RATIFICATION OF COMMISSION FINDINGS TO DELIST THE CALIFORNIA BROWN PELICAN (*Pelecanus occidentalis californicus*) AS AN ENDANGERED SPECIES, AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UPDATE.  
**Received Department's report from Dr. Eric Loft. Received public testimony.**  
**MOVED BY R. ROGERS, SECOND BY C. GUSTAFSON, TO RATIFY FINDINGS OF NOVEMBER 14, 2008, THAT THE PETITIONED ACTION TO REMOVE THE CALIFORNIA BROWN PELICAN FROM THE LIST OF ENDANGERED SPECIES IS WARRANTED.**  
**AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.**  
**MOTION PASSED UNANIMOUSLY.**

- (B) CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 670.5, TITLE 14, CCR, TO REMOVE THE CALIFORNIA BROWN PELICAN (*Pelecanus occidentalis californicus*) FROM THE LIST OF ENDANGERED SPECIES.  
**MOVED BY R. ROGERS, SECOND BY M. SUTTON, TO AMEND REGULATIONS TO DELIST BROWN PELICAN FROM ENDANGERED SPECIES STATUS.**  
**AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.**
17. RECEIPT OF DEPARTMENT PROPOSALS FOR TAG QUOTA CHANGES, CLARIFICATIONS AND URGENCY CHANGES FOR THE 2009-2010 MAMMAL HUNTING REGULATIONS AND REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO MAKE TAG QUOTA CHANGES, CLARIFICATIONS AND URGENCY CHANGES. (Note: Discussion hearings are scheduled for March 2009 and April 2009. Public comments and adoption of Department proposals are scheduled for the Commission's May 2009, meeting. Note: No public recommendations will be received this year. Public recommendations for changes in the Mammal Hunting and Trapping Regulations are considered every three years. Any recommendation received after the regulation adoption process in April 2007, will be considered at the Commission's February 2010, meeting.)  
**Received the Department's report from Dr. Eric Loft. Received public testimony.**  
**MOVED BY D. RICHARDS, SECOND BY R. ROGERS, TO AUTHORIZE STAFF TO PUBLISH NOTICE OF INTENT TO MAKE CHANGES TO TAG QUOTAS FOR 2009-2010 MAMMAL HUNTING REGULATIONS, INCLUDING A MODIFIED MOTION FOR CROSSBOW PROCESS FOR MUZZLELOADER.**  
**AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.**
18. PURSUANT TO SECTION 2074.6 OF THE FISH AND GAME CODE, RECEIPT OF THE DEPARTMENT OF FISH AND GAME STATUS REPORT AND RECOMMENDATION ON THE PETITION TO LIST THE LONGFIN SMELT (*Spirinchus thaleichthys*) UNDER THE CALIFORNIA ENDANGERED SPECIES ACT.  
**Received the Department's status report. Received public testimony.**
19. (A) POSSIBLE ACTION TO AFFIRM OR RECONSIDER THE COMMISSION'S PRIOR DECISION REJECTING THE PETITION TO DESIGNATE PACIFIC FISHER (*Martes pennanti*) AS A CANDIDATE SPECIES FOR LISTING UNDER THE CALIFORNIA ENDANGERED SPECIES ACT (CESA).  
**Deputy Attorney General Barnes summarized the item. Received public testimony.**  
**MOVED BY D. RICHARDS, SECOND BY R. ROGERS, TO CONTINUE ITEM TO MARCH 2009 MEETING DECISION ON PETITION TO DESIGNATE PACIFIC FISHER.**  
**AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.**
- (B) POSSIBLE ADOPTION OF FINDINGS. (In the event that the Commission affirms its prior decision of rejecting the petition.)  
**NO COMMISSION ACTION.**

**CONSENT CALENDAR-**

**MOVED BY M. SUTTON, SECOND BY R. ROGERS, TO APPROVE CONSENT CALENDAR ITEMS 20-28, AS RECOMMENDED BY THE DEPARTMENT; PUBLIC TESTIMONY RECEIVED ON ITEMS 22 AND 26.**

**AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.  
MOTION PASSED UNANIMOUSLY.**

20. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SUBSECTION (b)(91.1) OF SECTION 7.50, TITLE 14, CCR, RE: KLAMATH-TRINITY SPORT FISHING REGULATIONS.  
**Approved. No public testimony.**
21. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTIONS 7.00 AND 7.50, TITLE 14, CCR, RE: CENTRAL VALLEY SPORT FISHING REGULATIONS.  
**Approved. No public testimony.**
22. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 27.80, TITLE 14, CCR, RE: OCEAN SALMON SPORT FISHING REGULATIONS.  
**Approved. Received public testimony.**
23. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SUBSECTION (b)(178) OF SECTION 7.50, TITLE 14, CCR, RE: SILVER KING CREEK SPORT FISHING REGULATIONS.  
**Approved. No public testimony.**
24. POSSIBLE CONFIRMATION AND ADOPTION OF COMMISSION'S NOVEMBER 14, 2008, ACTION TO AMEND SECTION 27.20 ET AL, TITLE 14, CCR, RE: 2009-2010 RECREATIONAL GROUND FISH FISHING.  
**Approved. No public testimony.**
25. RECEIPT OF DEPARTMENT'S TENTATIVE RECOMMENDATIONS FOR ANTLERLESS/EITHER-SEX DEER HUNTS FOR 2009.  
**Received Department's recommendations. No public testimony.**
26. PROPOSED 90-DAY EXTENSION OF EXISTING HOG ISLAND MARICULTURE LEASE #M430-12 TO ALLOW DEPARTMENT AND COMMISSION REVIEW OF STANDARD SHELLFISH LEASE LANGUAGE, RENT, AND TERMS.  
**Approved. Received public testimony.**
27. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 124, TITLE 14, CCR, RE: HALIBUT TRAWLING.  
**Approved. No public testimony.**



28. RECEIPT OF ANNUAL REPORTS RE: CAMP ROBERTS, CAMP PENDLETON, AND FORT HUNTER LIGGETT DEER AND ELK HUNTS, UNDER SECTION 640, TITLE 14, CCR, MANAGEMENT OF FISH AND WILDLIFE ON MILITARY LANDS.  
**Received annual reports. No public testimony.**

**OTHER**

29. ANNOUNCEMENT OF FUTURE MEETINGS.

**There being no further business, the Fish and Game Commission meeting was adjourned at 6:15 p.m.**