

**State of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of May 4, 2011

Following is a summary of the subject meeting. The official record of the meeting may be obtained from the commission's website or Cal-span.

Pursuant to the call of the President, the Commission met at the Doubletree Hotel Ontario Airport, 222 North Vineyard Avenue, Lake Arrowhead Room, Ontario, California on May 4, 2011. The meeting was called to order at 10:02 a.m. by Vice-President Rogers.

FISH AND GAME COMMISSION

Jim Kellogg	President	Absent
Richard Rogers	Vice-President	Present
Michael Sutton	Member	Present
Daniel Richards	Member	Absent
Jack Baylis	Member	Present

Persons present:

COMMISSION STAFF

Jon K. Fischer	Acting Executive Director
Adrianna Shea	Deputy Executive Director
Craig Shuman	Marine Advisor
Sherrie Fonbuena	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

OFFICE OF THE ATTORNEY GENERAL

Rick Thalhammer	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Jeff Brandt	Inland Deserts Region
Cherilyn Burton	Ecosystem Conservation Division (Via Skype)

The following persons were present and heard:

<u>Name</u>	<u>Organization</u>	<u>Agenda Item(s)</u>
Raymond Hiemstra	Orange County Coastkeeper	1
Ginger Osborne	Village Laguna	1
Charlotte Masarik	Laguna Bluebelt Coalition	1
Michael Beanan	South Laguna Civic Organization	1
Jinger Wallace	Laguna Bluebelt Coalition	1
Kerrie Morgan	Wildhaven Ranch	1
Eve Lacy	Wildhaven Ranch	1
Diane Dragotto Williams	Executive Director, Wildhaven Ranch	1
Julie Delano	Concerned Citizen	1

Mia Davidson	Concerned Citizen	1
Tom Raftican	The Sportfishing Conservancy	1
Mike James	Concerned Hunter	1
Louise Thornton	Laguna Ocean Foundation	1
George Osborn	Partnerships for Sustainable Oceans/ Coastside Fishing Club	1, 5
Kaitilin Gaffney	Ocean Conservancy	1
Dana Murray	Heal the Bay	1
Paul Weakland	Commercial Fisherman	1, 3, 6, 7
Mark Hennelly	California Outdoor Heritage Alliance	3
Jennifer Savage	Ocean Conservancy	3
Tony Vaught	Proaquaculture Inc.	7
Neal Darby	Mojave National Preserve	9

Vice President Rogers introduced members of the Commission, its staff, Directorate and Rick Thalhammer of the Attorney General's Office.

1. PUBLIC FORUM,
Received public testimony from the following individuals: Raymond Hiemstra, Ginger Osborne, Charlotte Masarik, Michael Beanan, Jinger Wallace, Kerrie Morgan, Eve Lacy, Diane Dragotto Williams, Julie Delano, Mia Davidson, Tom Raftican, Mike James, Louise Thornton, George Osborn, Kaitilin Gaffney, Dana Murray, and Paul Weakland.

2. (A) PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE, CONSIDERATION OF THE DEPARTMENT'S INITIAL REVIEW AND RECOMMENDATION, AND POSSIBLE ACTION ON THE PETITION TO LIST THE CEDARS WILD BUCKWHEAT (*Eriogonum cedrorum*) AS ENDANGERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT.
Acting Executive Director Fischer summarized the item. Received the Department's review and recommendation from Jeff Brandt and Cherylyn Burton via Skype, that the petition did not contain sufficient information to indicate that listing may be warranted. No public testimony.

MOVED BY M. SUTTON, SECONDED BY J. BAYLIS, FINDS THAT THE PETITION TO DESIGNATE THE CEDARS WILD BUCKWHEAT AS AN ENDANGERED SPECIES DOES NOT PROVIDE SUFFICIENT INFORMATION TO INDICATE THAT THE PETITIONED ACTION MAY BE WARRANTED.
AYES: J. BAYLIS, R. ROGERS, M. SUTTON.
ABSENT: J. KELLOGG, D. RICHARDS.
MOTION PASSED.

- (B) PURSUANT TO SECTION 2084 OF THE FISH AND GAME CODE, CONSIDERATION AND POSSIBLE EMERGENCY ACTION TO ADD SECTION 749.7, TITLE 14, CCR, RE: SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF THE CEDARS WILD BUCKWHEAT DURING CANDIDACY PERIOD.

OR

RECEIPT OF DEPARTMENT RECOMMENDATION CONCERNING THE ISSUANCE OF INCIDENTAL TAKE PERMITS PURSUANT TO SECTION 2080 OF THE FISH AND GAME CODE.

The Commission rejected the petition during item 2(A); therefore, this item was not considered.

3. RECEIPT OF STAFF PRESENTATION REGARDING OPTIONS/ALTERNATIVES ON THE DEVELOPMENT OF THE INITIAL STATEMENT OF REASONS FOR REGULATIONS CONCERNING MARINE PROTECTED AREAS IN THE NORTH COAST STUDY REGION. (Note: At its June 29-30, 2011 meeting, the Commission is scheduled to authorize publication of a notice of intent to amend the regulations.)

Acting Executive Director introduced the item. Deputy Executive Director Shea reported that there would be a completed staff recommendation, and options/range of alternatives provided to the Commission and published on the Commission's website by the end of May. Received public testimony.

4. (A) DISCUSSION AND POSSIBLE COMMISSION ACTION ON MARCH 31, 2011, LETTER FROM CENTER FOR BIOLOGICAL DIVERSITY (PETITIONER) REGARDING THE PETITION TO LIST THE AMERICAN PIKA (*Ochotona princeps*) UNDER THE CALIFORNIA ENDANGERED SPECIES ACT.
Acting Executive Director Fischer summarized the item. Deputy Attorney General Thalhammer provided his legal review and recommendations to treat the information as an amended petition and return it to DFG for its review and evaluation. No public testimony.

MOVED BY M. SUTTON, SECONDED BY J. BAYLIS, THAT THE MARCH 31, 2011, LETTER FROM THE PETITIONER CONSTITUTES AN AMENDMENT TO THE PETITION AND THE COMMISSION RESUBMITS THE AMENDED PETITION TO THE DEPARTMENT FOR AN ADDITIONAL 90-DAY REVIEW.
AYES: J. BAYLIS, R. ROGERS, M. SUTTON.
ABSENT: J. KELLOGG, D. RICHARDS.
MOTION PASSED.

- (B) RECEIPT AND POSSIBLE ACTION ON DEPARTMENT REQUEST PURSUANT TO SECTION 2073.5 OF THE FISH AND GAME CODE FOR AN EXTENSION OF 30 DAYS TO COMPLETE ITS EVALUATION OF THE AMENDED PETITION TO LIST THE AMERICAN PIKA UNDER CALIFORNIA ENDANGERED SPECIES ACT.
No discussion and no action taken.

5. RECEIPT OF DEPARTMENT OF FISH AND GAME INFORMATIONAL ITEMS.

- (A) RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.
Director McCamman was not present due to the Governor's Executive Order on State travel restrictions. Deputy Director Mastrup gave a brief report regarding the budget. Received public testimony.

- (B) WILDLIFE AND FISHERIES DIVISION UPDATE: STURGEON RESCUE.
This item to be rescheduled for the June 29-30, 2011, Commission meeting in Stockton. No public testimony.

- (C) OFFICE OF COMMUNICATIONS, EDUCATION AND OUTREACH: EDUCATION PRESENTATION.
This item to be rescheduled for the June 29-30, 2011, Commission meeting in Stockton. No public testimony.
 - (D) LAW ENFORCEMENT DIVISION UPDATE.
There was no report; no public testimony.
 - (E) OTHER.
There was no report; no public testimony.
6. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.
Acting Executive Director Fischer indicated that there were no informational items. Received public testimony from Paul Weakland regarding the commercial sea urchin fishery.
7. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.
- (A) MARINE RESOURCES COMMITTEE.
Dr. Craig Shuman reported that the next MRC meeting currently scheduled for May 25 may need to be rescheduled to allow Department representation at the meeting. He reported on an upcoming OPC meeting and a presentation that he and Commissioner Rogers attended at UCSB. Received public testimony.
 - (B) AL TAUCHER'S PRESERVING HUNTING AND SPORT FISHING OPPORTUNITIES ADVISORY COMMITTEE.
Acting Executive Director Fischer reported that there has not been a date set for the next Al Taucher meeting. No public testimony.
 - (C) AQUACULTURE COMMITTEE.
Commissioner Rogers reported that the committee had not met. Received public testimony.
 - (D) OTHER.
There was no report; no public testimony.
8. RECEIPT OF LEGISLATIVE REPORTS.
- (A) DEPARTMENT OF FISH AND GAME REPORT.
Acting Executive Director Fischer reported that the Department's report was in the meeting binder. No public testimony.
 - (B) POSSIBLE CONSIDERATION OF COMMISSION POSITIONS ON PROPOSED LEGISLATION.
Acting Executive Director Fischer reported that this item would be discussed under item 10 (A). No public testimony.
9. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.
There was no report. Received public testimony from Neal Darby regarding upland game hunting at the Mojave National Preserve.

10. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.

(A) RECOMMENDATIONS TO CLARIFY PROCEDURES FOR CONSIDERING COMMISSION POSITIONS ON PROPOSED LEGISLATION.

Deputy Attorney General Thalhammer provided legal counsel regarding compliance with the Bagley-Keene Open Meeting Act that any item that requires action by the Commission must be on the agenda. Specifically, he spoke about the Commission taking positions on legislative bills and the need to avoid any spontaneous action by the Commission at a meeting.

Deputy Executive Director Shea added that there were a few pieces of legislation that would be agendized for possible Commission action at the June 29-30, 2011, meeting. No public testimony.

(B) OTHER

There was no report; no public testimony.

11. NEW BUSINESS.

Acting Executive Director Fischer reported there was no new business. No public testimony.

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. BIG CREEK LUMBER COMPANY AND CENTRAL COAST FOREST ASSOC. vs. CALIFORNIA FISH AND GAME COMMISSION RE: COHO LISTING, SOUTH OF SAN FRANCISCO.
- II. LINDY O'LEARY vs. CALIFORNIA FISH AND GAME COMMISSION RE: R.R.S.A.C. AND R.R.S.S. PERMIT DENIALS.
- III. JAMES BUNN AND JOHN GIBBS vs. CALIFORNIA FISH AND GAME COMMISSION RE: SQUID PERMITS.
- IV. KERN COUNTY WATER AGENCY vs. CALIFORNIA FISH AND GAME COMMISSION, DEPARTMENT OF FISH AND GAME, DEPARTMENT OF WATER RESOURCES RE: STATE WATER PROJECT AND CALIFORNIA ENDANGERED SPECIES ACT.
- V. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: AMERICAN PIKA.
- VI. TACY LEE vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: DENIAL OF TRANSFER OF LOBSTER OPERATOR PERMIT.
- VII. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: PACIFIC FISHER.
- VIII. UNITED ANGLERS OF SOUTHERN CALIFORNIA; COASTSIDE FISHING CLUB; AND ROBERT C. FLETCHER vs. CALIFORNIA FISH AND GAME COMMISSION RE: SOUTH COAST STUDY REGION AND NORTH CENTRAL COAST STUDY REGION MARINE PROTECTED AREAS UNDER THE MARINE PROTECTION ACT.

B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.

C. STAFF PERFORMANCE AND COMPENSATION.

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

There being no further business, the meeting recessed at 12:25 p.m. to meet in Executive Session and to reconvene on May 5, 2011, at 8:30 a.m.
