

**State of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of June 29-30, 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 University Plaza Waterfront Hotel, 110 W. Fremont Street, Waterfront Ballroom, Stockton, California on June 29, 2011. The meeting was called to order at 10:04 a.m. by President Kellogg.

FISH AND GAME COMMISSION

Jim Kellogg	President	Present
Richard Rogers	Vice-President	Present
Michael Sutton	Member	Present
Daniel Richards	Member	Present
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
Anita Biedermann	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

OFFICE OF THE ATTORNEY GENERAL

Cecilia Dennis	Deputy Attorney General
Sylvia Cates	Deputy Attorney General

DEPARTMENT OF FISH AND GAME

John McCamman	Director
Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Jordan Traverso	Deputy Director, Communications, Education and Outreach
Susan LaGrande	Deputy Director, Office of Legislative Affairs
Tom Gibson	General Counsel
Dr. Eric Loft	Chief, Wildlife Branch
Susan Ashcraft	Marine Region
Melissa Miller-Henson	MLPA Initiative
Becky Ota	Marine Region
Rob Allen	Law Enforcement Division
Tony Warrington	Law Enforcement Division
Lori Oldfather	Law Enforcement Division
Hugh Rutherford	Law Enforcement Division
John Baker	Law Enforcement Division

R. L. Myers II	Yurok Tribe	5
Georgiane Myers	Klamath Justice Coalition	5
Mariah Bowers	Yurok Tribe	5
Mike Dorgan	Yurok Tribe	5
Adam Wagschal	Humboldt Bay Harbor District	5
Jim Martin	County of Mendocino	5
David Gurney	Jugglestone	5
Jay Chamberlin	California State Parks	5
George Osborn	Partnership for Sustainable Oceans	5, 6
Liz Whiteman	Monitoring Enterprise	6
Sarah Sikich	Heal the Bay	6
Dr. Kevin Chu	NOAA Fisheries	7

President Kellogg introduced members of the Commission, its staff, Directorate and Cecilia Dennis of the Attorney General's Office.

1. PUBLIC FORUM.

Received public testimony from the following individuals: William Lemos, Joey Racano, Peter Moyer, April Wakeman, Dennis Fox, Dennis Haussler, and Paul Weakland.

2. PURSUANT TO FISH AND GAME CODE SECTION 2084, CONSIDERATION AND POSSIBLE EMERGENCY ACTION TO RE-ADOPT SECTION 749.6, TITLE 14, CCR, FOR AN ADDITIONAL 90 DAY PERIOD, RE: INCIDENTAL TAKE OF MOUNTAIN YELLOW-LEGGED FROG DURING CANDIDACY PERIOD.

Acting Executive Director Fischer provided background information and reported that the Department's status report would be ready on schedule. Deputy Director Mastrup supported a 90-day extension. Received public testimony.

MOVED BY J. BAYLIS, SECONDED BY R. ROGERS, TO AUTHORIZE EMERGENCY ACTION TO RE-ADOPT SECTION 749.6 REGARDING INCIDENTAL TAKE OF MOUNTAIN YELLOW-LEGGED FROG DURING CANDIDACY PERIOD. AYES: J. BAYLIS, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. PASSED UNANIMOUSLY.

3. DEPARTMENT OF FISH AND GAME UPDATE REGARDING ADDITIONAL INFORMATION SUBMITTED ON MARCH 24, 2011, BY PETITIONERS (CENTER FOR BIOLOGICAL DIVERSITY AND JOHN MUIR PROJECT) REGARDING THE PETITION TO LIST THE BLACK-BACKED WOODPECKER (*Picoides arcticus*) AS THREATENED OR ENDANGERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT.

Acting Executive Director Fischer summarized the item. Received the Department's update from Dr. Eric Loft. He also reported that the Forest Service would probably attend the Commission's August meeting to provide comments. There was a discussion on guidelines/timeframes for petitioners submitting new/additional information. The subject of submission of new information was referred to Deputy Attorney General Thalhammer for his review and recommendations and subsequent discussions at the August meeting. No public testimony.

4. REVIEW, DISCUSSION, AND POSSIBLE ADOPTION OF STATE WATER BOTTOM LEASE TEMPLATE FOR AQUACULTURE, INCLUDING RENTAL RATE AND TERM CONDITIONS.

Deputy Executive Director Shea summarized the item describing the term conditions and rental rates being considered. Received public testimony.

MOVED BY M. SUTTON, SECONDED BY J. KELLOGG, TO ADOPT THE STATE WATER BOTTOM LEASE TEMPLATE TO INCLUDE A TERM LIMIT OF 15 YEARS, WITH AN OPTION TO RENEW FOR A TERM OF 10 YEARS, AND THE RENTAL RATES AS FOLLOWS: HIGH PRODUCTIVITY LEASES = \$150.00/ACRE, MODERATE PRODUCTIVITY LEASES = \$100.00/ACRE, AND LOW PRODUCTIVITY LEASES - \$50.00/ACRE.

AYES: J. BAYLIS, J. KELLOGG, R. ROGERS, M. SUTTON.

NOES: D. RICHARDS.

MOTION PASSED.

5. RECEIPT OF ALTERNATIVES/OPTIONS ON DEVELOPMENT OF THE INITIAL STATEMENT OF REASONS AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE CONCERNING MARINE PROTECTED AREAS IN THE NORTH COAST STUDY REGION. POSSIBLE IDENTIFICATION OF PROPOSED PROJECT FOR CEQA DOCUMENT AND AUTHORIZATION TO PUBLISH NOTICE OF INTENT TO AMEND SECTION 632, TITLE 14, CCR. (Note: This item will begin at 1:30 p.m. following the Commission's lunch break and Executive Session.)

President Kellogg introduced Secretary for Natural Resources John Laird. Mr. Laird recapped the newly created Strategic Vision Committee and its timelines. Dr. Craig Shuman and Melissa Miller-Henson reviewed the alternatives/options for the North Coast Study Region. Received public testimony.

MOVED BY M. SUTTON, SECONDED BY R. ROGERS, TO AUTHORIZE STAFF TO PUBLISH NOTICE TO AMEND SECTION 632, TITLE 14, CCR, REGARDING THE NORTH COAST STUDY REGION MARINE PROTECTED AREAS AS FOLLOWS:

- **The preferred alternative is based on the Revised Round 3 MLPA North Coast Regional Stakeholder Group "Unified" MPA proposal.**
- **Preferred Tribal Option 1 including the following conditions:**
 - Federally recognized tribes to submit factual record with sufficient documentation confirming current or historical use in specific geographies to DFG within 60 days
 - Any tribal member harvesting would be required to possess:
 - Federally recognized Tribal Identification Card
 - Valid California Fishing License for persons 16 years of age or older
 - All harvest must be consistent with existing regulations of season and take
 - Staff to work with Attorney General for consistency in language with State law
- Notice for APA to be completed in 90 days with an adoption schedule for March 2012
- Retain Tribal Option 3 and no project option as alternatives for CEQA analysis

All options below are as defined in the briefing document, "Options Regarding Marine Protected Areas for the MLPA North Coast Study Region: California Fish and Game Commission June 2011 Meeting" June 9, 2011, corrected June 13, 2011¹.

¹ <http://www.dfg.ca.gov/mlpa/pdfs/northcoastoptions060911.pdf>

- Remove the name “Skip Wollenberg” and only the geographical references would be retained at the proposed Skip Wollenberg/Ten Mile MPAs.
- Drop the word “Seasonal” from four proposed special closure names.
- **Issue 1:** Preferred option A; keep sub-option B; drop option C
- **Issue 2:** Covered under Tribal Option 1, to include a new sub-option to change the Reading Rock SMR to a SMCA that allows for traditional tribal take, preferred option is original SMR.
- **Issue 3:** Preferred option A, keep Department Revised Proposed Solution (as defined in DFG Revised Supplemental Report on Unresolved Feasibility Issues – June 14, 2011²) as sub-option, drop option B & C
- **Issue 4:** Preferred option A, keep sub-option B
- **Issue 5:** Preferred option B, drop option A
- **Issue 6:** Preferred option C with clarification of “shore-based uses”, keep sub-option A, drop option B
- **Issue 7:** Preferred option A, keep sub-option B
- **Issue 8:** Preferred option B, keep sub-option C, drop option A
- **Issue 9:** Preferred option A, drop option B
- **Issue 10:** Preferred option B, keep sub-option C, drop option A
- **Issue 11:** Preferred modified option B, to change 3 estuarine MPAs to SMCAs that do not prohibit waterfowl hunting (use Morro Bay regulation as sample language) and leave South Humboldt Bay SMRMA
- **Issue 12:** Preferred option A, drop option B
- **Issue 13:** Covered under Tribal Option 1
- **Issue 14:** Covered under Tribal Option 1
- **Issue 15:** Covered under Tribal Option 1
- **Issue 16:** Preferred option C, drop option A & B

AYES: J. BAYLIS, J. KELLOGG, R. ROGERS, M. SUTTON.

NOES: D. RICHARDS

MOTION PASSED.

6. (A) STATUS OF REGULATORY PACKAGE AND REQUEST FOR COMMISSION GUIDANCE ON THE EFFECTIVE DATE OF THE REGULATIONS IMPLEMENTING THE SOUTH COAST STUDY REGION MARINE PROTECTED AREAS (MPAs). **Acting Executive Director Fischer summarized the regulatory package status and timelines. Received public testimony.**

MOVED BY M. SUTTON, SECONDED BY J. BAYLIS, TO DESIGNATE OCTOBER 1, 2011, AS THE EFFECTIVE DATE FOR THE REGULATIONS IMPLEMENTING THE SOUTH COAST STUDY REGION MARINE PROTECTED AREAS.

AYES: J. BAYLIS, J. KELLOGG, R. ROGERS, M. SUTTON.

NOES: D. RICHARDS.

MOTION PASSED.

² <http://www.dfg.ca.gov/mlpa/pdfs/ncmemoreport061411.pdf>

- (B) RECEIPT OF THE SOUTH COAST MPA MONITORING PLAN. (Note: Possible Commission action is scheduled for August 3-4, 2011.)
Deputy Director Mastrup introduced the item. Liz Whiteman from the Monitoring Enterprise team reviewed the monitoring plan. Received public testimony.
7. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.
Received report from Dr. Kevin Chu, NOAA Fisheries. No public testimony.
8. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.
Deputy Attorney General Dennis reminded the public that the public forum agenda item was for receiving testimony on items not on the agenda and that the President of the Commission has the discretion to terminate the speaking time of persons speaking during public forum on an agenda item. No public testimony.
9. NEW BUSINESS.
Acting Executive Director Fischer reported on the new Fish and Wildlife Strategic Vision Committee which was established by Assembly Bill 2376 sponsored last year by Assemblyman Huffman. As a member of the Committee, President Kellogg recapped the meeting process and timeframe. Received 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.
 - IX. MARILLEY vs. FISH AND GAME COMMISSION AND DEPARTMENT OF FISH
AND GAME RE: COMMERCIAL FISHING PERMIT FEES.
 - B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.
 - C. STAFF PERFORMANCE AND COMPENSATION.
 - I. POSSIBLE SELECTION OF THE COMMISSION'S NEW EXECUTIVE
DIRECTOR.
 - D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT
ITEMS.
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There being no further business, the meeting recessed at 5:40 p.m. to reconvene on
June 30, 2011, at 8:30 a.m.