

**State of California  
FISH AND GAME COMMISSION**

**Staff Summary, Meeting of November 16, 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 Veteran's Memorial Building Auditorium, 112 West Cabrillo Blvd., Santa Barbara, California on November 16, 2011. The meeting was called to order at 10:04 a.m. by Vice-President Rogers.

**FISH AND GAME COMMISSION**

|                 |                |               |
|-----------------|----------------|---------------|
| Jim Kellogg     | President      | <b>Absent</b> |
| Richard Rogers  | Vice-President | Present       |
| Michael Sutton  | Member         | Present       |
| Daniel Richards | Member         | Present       |
| Jack Baylis     | Member         | Present       |

Persons present:

**COMMISSION STAFF**

|                  |  |
|------------------|--|
| Sonke Mastrup    | Executive Director                     |
| Jon K. Fischer   | Deputy Executive Director              |
| Adrianna Shea    | Deputy Executive Director              |
| Craig Shuman     | Marine Advisor                         |
| Sherrie Fonbuena | Associate Governmental Program Analyst |
| Anita Biedermann | Associate Governmental Program Analyst |
| Mary Brittain    | Administrative Assistant               |

**OFFICE OF THE ATTORNEY GENERAL**

|                 |                         |
|-----------------|-------------------------|
| Rick Thalhammer | Deputy Attorney General |
|-----------------|-------------------------|

**DEPARTMENT OF FISH AND GAME**

|                  |   |
|------------------|---|
| Charlton Bonham  | Director  |
| Dan Yparraguirre | Acting Deputy Director, Wildlife and Fisheries Division         |
| Nancy Foley      | Deputy Director, Law Enforcement Division                       |
| Jordan Traverso  | Deputy Director, Office of Communications, Education & Outreach |
| Marija Vojkovich | Marine Region, Regional Manager                                 |
| Stafford Lehr    | Chief, Fisheries Branch   |
| Eric Loft        | Chief, Wildlife Branch  |
| Mary Larson      | Region 5, South Coast Region                                    |
| Terri Stewart    | Region 5, South Coast Region                                    |
| Mike Stefanak    | Law Enforcement Division  |
| Jim Solis        | Law Enforcement Division  |
| Cindy Wood       | Law Enforcement Division  |
| Martin Wall      | Law Enforcement Division  |
| Gavin Woelfel    | Law Enforcement Division  |

The following persons were present and heard:

| <u>Name</u>      | <u>Organization</u>                         | <u>Agenda Item(s)</u> |
|------------------|---|-----------------------|
| David Couch      | Squid Fisherman                             | 1                     |
| Dennis Fox       | Concerned Citizen                           | 1, 3                  |
| Bill James       | Concerned Citizen                           | 1, 4, 9 B             |
| Paul Weakland    | Commercial Fisherman                        | 1, 9 E1, 11A          |
| Brian Trautwein  | Environmental Defense Center                | 4                     |
| Nica Knite       | California Trout                            | 4                     |
| Tim Bartley      | Southwest Council Federation of Fly Fishers | 4                     |
| Earl Arnold      | Sespe Fly Fishers                           | 4                     |
| John Burk        | Santa Barbara Fly Fishers                   | 4                     |
| Tom Raftican     | The Sportfishing Conservancy                | 4                     |
| Alasdair Coyne   | Keep Sespe Wild                             | 4                     |
| Joseph Narkevitz | Concerned Citizen                           | 4                     |
| Justin Augustine | Center for Biological Diversity             | 5A & B                |
| Rick Holderman   | California Hawking Club                     | 6                     |
| Bill Gaines      | Ca. Outdoor Heritage Alliance               | 6                     |
| Leslie Purcell   | Concerned Citizen                           | 6, 9 E1               |
| Alicia McQuillen | Yurok Tribe                                 | 9 E1, 11 A            |
| Greg Helms       | InterTribal Sinkyone Wilderness Council     | 9 E1                  |
| Harry Liquornik  | Ca. Sea Urchin Commission                   | 11 A                  |
| Jenn Eckerle     | Natural Resources Defense Council           | 11 A                  |
| Kevin Chu        | NOAA Fisheries                              | 13                    |

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: David Couch, Dennis Fox, Bill James and Paul Weakland. As a result of public testimony, the Commission directed that possible action to re-open the squid fishery be placed on the December agenda.**
2. PRESENTATION OF RESOLUTION RECOGNIZING THE SOCIETY FOR THE CONSERVATION OF BIGHORN SHEEP.  
**The Commission presented a resolution to Steve Marsky and George Kerr. No public testimony.**
3. DEPARTMENT OF FISH AND GAME PRESENTATION REGARDING: EFFORTS TO RESTORE STEELHEAD IN SOUTHERN CALIFORNIA.  
**Received the Department's presentation from Mary Larson. Received public testimony.**
4. CONSIDERATION AND POSSIBLE ACTION ON JUNE 14, 2011 REQUEST FROM ENVIRONMENTAL DEFENSE CENTER FOR THE COMMISSION TO TAKE EMERGENCY ACTION TO CLOSE THE SISQUOC, SESPE CREEK AND NORTH FORK MATILIJA CREEK WATERSHEDS TO FISHING IN ORDER TO COMPLY WITH THE FEDERAL ENDANGERED SPECIES ACT TO PROTECT STEELHEAD.  
**Received the Department's update from Stafford Lehr indicating that the Department supported closing Sisquoc Creek in a standard rulemaking process**

**and did not support closing of the Sespe Creek and North Fork Matilija Creek Watersheds. Received public testimony. No emergency action taken.**

5. CONSIDERATION OF PETITION TO LIST BLACK-BACKED WOODPECKER (*Picoides arcticus*).

- (A) RECEIPT OF DEPARTMENT EVALUATION OF INFORMATION RECEIVED AFTER APRIL 15, 2011, AND RECOMMENDATION REGARDING INCIDENTAL TAKE.

**Received the Department's update from Eric Loft. Department's evaluation remains that there is not sufficient scientific information to indicate that the petitioned action may be warranted. Received public testimony.**

- (B) PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE , CONSIDERATION OF THE DEPARTMENT'S REVIEW AND RECOMMENDATION, AND POSSIBLE ACTION ON THE PETITION TO LIST BLACK-BACKED WOODPECKER AS A THREATENED SPECIES UNDER THE CALIFORNIA ENDANGERED SPECIES ACT. (Note: The Department's Initial Evaluation Report on the Petition was received and made available for public review at the March 2011 Commission meeting. The Department discussed the Petition and the Initial Evaluation Report and its analysis of additional information received from the Petitioners and the public. Opportunities for public comment on the Petition and the Department's Initial Evaluation Report have been provided at the April, June and August 2011 Commission meetings; additionally, written comments regarding this matter were received in the Commission office. At the August 2011 meeting, the Commission voted to continue this item until the October or November meeting and requested that the Department return to the meeting with an evaluation of all additional information received to date (i.e., from April 15, 2011 through August 3, 2011).

**There was no additional information from the Department to report. Received public testimony.**

***MOVED BY D. RICHARDS, SECONDED BY J. BAYLIS, TO CONTINUE THIS ITEM TO THE DECEMBER 15, 2011, MEETING.***

***ROLL CALL VOTE:***

***AYES: J. BAYLIS, D. RICHARDS, R. ROGERS, M. SUTTON.***

***ABSENT: J. KELLOGG.***

***MOTION PASSED.***

- (C) 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 BLACK-BACKED WOODPECKER DURING CANDIDACY PERIOD.

(Note: This item will only be considered if the Commission makes a finding in 5. (B) that listing Black-backed Woodpecker as a threatened species may be warranted.)

**No action taken. No public testimony.**

6. UPDATE ON THE FALCONRY REGULATION PROCESS AND ENVIRONMENTAL DOCUMENT.

**Received the Department's update from Eric Loft. Falconer survey data deadline extended to extended to November 30, 2011. Draft Environmental Document to be submitted to USFWS summer of 2012 and final regulations effective January 2014. Received public testimony.**

7. CONSIDERATION OF 2012 REGULATORY CALENDAR AND POSSIBLE REGULATORY PROPOSALS.  
**Executive Director Mastrup reviewed the proposed 2012 regulatory calendar advising the Commissioners that now would be the time to add or delete any items on this calendar. No public testimony.**
8. DISCUSSION OF COMMISSION POLICY, RE: AGENDA – PART 2. DISCUSSION OF HOW ITEMS ARE PLACED AND REMOVED FROM COMMISSION MEETING AGENDAS.  
**Executive Director Mastrup reviewed the policy indicating that it would be scheduled for adoption at the February 2012 FGC meeting. No public testimony.**
9. RECEIPT OF DEPARTMENT OF FISH AND GAME INFORMATIONAL ITEMS.
  - (A) RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.  
**Received Director Bonham's report regarding the following subjects: acknowledgement of staff on abalone committee, deer season results, pheasant opener, federal grants, trout plants, market squid (Department to report back in December), town hall meetings, recent striped bass public workshop, and 25 year award to Lt. Jim Solis. No public testimony.**
  - (B) NEARSHORE FISHERIES PROGRAMS AND PERMITS.  
**Marija Vojkovich reported that the Department would make a presentation at the Commission's December meeting. Received public testimony.**
  - (C) UPDATE ON PENDING REGULATIONS FOR RESTRICTED SPECIES SECTION 671.1, CCR, RE: INSPECTION AND FEES FOR CAPTIVE ANIMAL FACILITIES.  
**Eric Loft provided a detailed report on the planning stages and key changes being proposed and anticipates a final proposal would be submitted to the Commission in early 2012. No public testimony.**  
  
**Commissioner Richards requested a report on the differences in handling animals in California vs. Ohio. To be scheduled for February 2012 meeting.**
  - (D) WILDLIFE AND FISHERIES/ECOSYSTEM CONSERVATION DIVISION UPDATE.  
**Dan Yparraguirre reported on the following subjects: Areas of Conservation Emphasis, biodiversity, captured fishers, geckos, wells/watering grant at Ash Creek Wildlife Area, trapping of Aleutian geese, solar mitigation project and an elk rescue. No public testimony.**
  - (E) LAW ENFORCEMENT DIVISION UPDATE.  
**Nancy Foley reported on the following subjects: Natural Resource Volunteers anniversary, decoy operations and recognized many law enforcement personnel.**
    - I. UPDATE ON PROGRESS OF TRIBAL IDENTIFICATION CARDS.  
**Nancy Foley reported that there is concurrence with the tribes on what information needs to be on Identification Cards. Received public testimony.**

- (F) OTHER.  
**There were no items to report. No public testimony.**

10. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

- (A) ITEMS THAT DID NOT MAKE AGENDA AND NEED TO BE RESCHEDULED.
  - I. UPDATE ON STATUS OF REGULATORY NOTICE TO AMEND SECTION 238.5, TITLE 14, CCR, PRIVATE STOCKING PERMIT, REGULATORY PROPOSAL AND POSSIBLE COMMISSION ACTION. (Note: This item will be scheduled on the December 2011 meeting agenda.)
  - II. UPDATE ON STATUS OF REGULATORY NOTICE TO AMEND SECTION 550, TITLE 14, CCR, RE: METHODS AUTHORIZED FOR TAKE OF RESIDENT SMALL GAME, BIG GAME, AND NONGAME BIRDS AND MAMMALS ON LANDS ADMINISTERED BY THE DEPARTMENT OF FISH AND GAME. (Note: This item will be scheduled for a meeting in 2012.)
  - III. UPDATE ON STATUS OF REGULATORY NOTICE TO AMEND SECTIONS 401, 472, 475 AND 487, AND ADD SECTION 250.7, TITLE 14, CCR, RE: LEAD PROJECTILES, CONDOR RANGE. (Note: This item will be scheduled for a meeting in 2012.)

**Executive Director Mastrup stated the above items would be scheduled and removed from this list. No public testimony.**

11. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.

- (A) MARINE RESOURCES COMMITTEE.
  - I. REQUEST FOR GUIDANCE ON ISSUES DISCUSSED AT THE OCTOBER 19, 2011 COMMISSION MEETING.
    - a. CALIFORNIA HALIBUT – work in progress.
    - b. REPORT CARDS/ABALONE VIDEO - include in Sport Fish Cycle.
    - c. KELP HARVEST/KELP LEASES - to be scheduled for May meeting.

**Craig Shuman recapped the proposed subcommittee recommendations for the above three subjects and requested the Commission's concurrence to move forward. Commission endorsed the proposed recommendations. Received public testimony.**

- (B) BUDGET COMMITTEE.  
**Executive Director Mastrup reported that he was working with staff and developing programmatic work plans. No public testimony.**

- (C) OTHER.  
**Deputy Executive Director Fischer reported that an AI Taucher subcommittee meeting had been scheduled for December 8 in southern California. No public testimony.**

12. RECEIPT OF LEGISLATIVE REPORTS.

- (A) DEPARTMENT OF FISH AND GAME REPORT. (The Department does not have anything to report this month as the Legislature has adjourned and the Governor has taken his final actions.)  
**There was no report. No public testimony.**

13. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.  
**Received updates from Kevin Chu. No public testimony.**
  14. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.  
**There was no report. No public testimony.**
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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. BIG CREEK LUMBER COMPANY AND CENTRAL COAST FOREST ASSOC. vs. CALIFORNIA FISH AND GAME COMMISSION RE: COHO LISTING, SOUTH OF SAN FRANCISCO.
    - II. JAMES BUNN AND JOHN GIBBS vs. CALIFORNIA FISH AND GAME COMMISSION RE: SQUID PERMITS.
    - III. 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.
    - IV. TACY LEE vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: DENIAL OF TRANSFER OF LOBSTER OPERATOR PERMIT.
    - V. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: PACIFIC FISHER.
    - VI. 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.
    - VII. 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.
  - D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT ITEMS.
    - I. EDWARD SYLVESTER - DENIAL OF REINSTATEMENT OF COMMERCIAL FISHING LICENSE AND PERMITS.
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There being no further business, the Fish and Game Commission meeting recessed at 3:15 p.m. to reconvene on November 17, 2011, at 8:30 a.m.