

**State of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of December 15, 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 Hubbs Sea World Research Institute, Shedd Auditorium, 2595 Ingraham Street, San Diego, California on December 15, 2011. The meeting was called to order at 8:45 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	Present
Jack Baylis	Member	Present

Persons present:

COMMISSION STAFF

Sonke Mastrup	Executive Director
Jon K. Fischer	Deputy Executive Director
Aдриanna 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
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DEPARTMENT OF FISH AND GAME

Kevin Hunting	Chief, Deputy Director
Dan Yparraguirre	Acting Deputy Director, Wildlife and Fisheries Division
Tom Gibson	General Counsel
Nancee Murray	Office of the General Counsel
Marija Vojkovich	Marine Region, Regional Manager
Ed Pert	South Coast Region, Regional Manager
Traci Larinto	Marine Region
Stafford Lehr	Chief, Fisheries Branch
Scott Barrow	Fisheries Branch
Brad Burkholder	Wildlife Branch
Tony Warrington	Law Enforcement Division
David Sickels	Law Enforcement Division
Gary Rasse	Law Enforcement Division
Ian Baquirin	Law Enforcement Division
John Potter	Law Enforcement Division

The following persons were present and heard:

<u>Name</u>	<u>Organization</u>	<u>Agenda Item(s)</u>
Mike Gilmour	Concerned Citizen	1
Joe Exline	Oceanside Anglers	1
Gary Gentile	Concerned Citizen	1
Russell Boggs	Concerned Citizen	1, 6B
Captain Ron Baker	Concerned Citizen	1
Florence Sloane	Concerned Citizen	1, 6B
Peter Flournoy	American Fishermen's Research Foundation	1
Rebecca Shepard	LegalizeFerrets.org	1
Paul Weakland	Commercial Fisherman	1, 9, 10, 16
Dr. Chad Hanson	The John Muir Project	2
Karen Garrison	Natural Resources Defense Council	5A
Vince Torre	Tri-Marine Fish Company/CWPA	5A
Dan Williams	Commercial Fisherman	5A
Anna Weinstein	California Audubon	5A
Kaitilin Gaffney	Ocean Conservancy	5A
Geoff Shester	Oceana	5A
Jill Witkowski	San Diego Coastkeeper	5A
Bob Smith	San Diego County Wildlife Federation	6B & E
Senator Tom Harman	Member of the Senate (Spoke under Public Forum)	9
George Osborn	California Association of Recreational Fishing	9
Marie Campbell	Sapphos Environmental, Inc.	9
Damien Schiff	Pacific Legal Foundation	9
Craig Elliott	CARF	9
Noelle Cremers	California Farm Bureau Federation	9
Doug Elliott	Santa Ana River Lakes	9
Gregg Leonard	Freshwater Fish Company	9
Iva Gaglione	California Aquaculture Association	9
Anthonie Schuur	CAA/Aquaculture Development Committee	9
Robert Ledford	Jess Ranch Fish Hatchery	9
Chad Vanderlinden	Silver Cup Fish Feed	9
Peter Struffenegger	Sterling Caviar	9
Tony Vaught	Professional Aquaculture	9
Bruce MacDonald	Pacific Crest Marketing	9
Michael Lee	California Aquaculture Association	9
Dave O'Dell	Rocky Mountain Recreation	9
Carol Belser	Lake Casitas Recreation Area	9
Bill Engler	Pacific Aqua Farms	9
Craig Kessler	So. California Alliance for Golf Association	9
Philip Luong	Concerned Citizen	9
Tim Goodson	Calaveras Trout Farm	9
Rita Costantino	Maurice Sporting Goods	9
Julia Petersen	Maurice Sporting Goods	9
Rob Ross	California Aquaculture Association	9
Cindy Krug	Ship to Shore Aquafarm	9
Bruce Dormody	San Clemente Rancho	9
Nick Mirman	California Association for Recreational Fishing	9
Bryan Friedman	Lip Ripperz, Inc.	9
Doug Rickard	Rocky Mountain Recreation Company	9
Paul Cramer	Star Milling Company	9
Celes King	Congress of Racial Equality of California	9

Louie Zimm	San Diego Yacht Club	9
Robert Ennis	Orange County Water District	9
Mordy Kay	Concerned Citizen	9
Ken Beer	California Association for Recreational Fishing	9
Marko Mlikotin	California Association for Recreational Fishing	9
Pete Halmay	San Diego Fisherman's Working Group (Spoke under Public Forum)	10

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

Items were taken out of order but are shown in numerical order in this summary.

1. PUBLIC FORUM.

Received public testimony from the following individuals:

Mike Gilmour, Joe Exline, Gary Gentile, Russell Boggs, Captain Ron Baker, Florence Sloane, Peter Flournoy, Rebecca Shepard, Paul Weakland, and Senator Tom Harmon (provided testimony under Public Forum for Agenda Item 9) **and Pete Halmay** (provided testimony under Public Forum for Agenda Item 10).

Commission recessed at 9:25 a.m. for Executive Session and reconvened at approximately 10:40 a.m.

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

(A) 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 at the March 2011 meeting and made available for public review. At the November 2011 meeting, the Department again summarized its Initial Evaluation Report and discussed the supplemental information submitted through August 3, 2011. The Commission voted to continue this item to its December meeting, so that petitioner submittals dated November 10 and 11, 2011 could be evaluated.)
Received the Department's recap from Acting Deputy Director Yparraguirre. Received public testimony.

MOVED BY M. SUTTON, SECONDED BY J. BAYLIS, HEREBY FINDS THAT THE PETITION TO LIST THE BLACK-BACKED WOODPECKER AS A THREATENED OR ENDANGERED SPECIES CONTAINS SUFFICIENT INFORMATION TO INDICATE THAT THE PETITIONED ACTION MAY BE WARRANTED AND DECLARES THE BLACK-BACKED WOODPECKER A CANDIDATE SPECIES, AND DIRECTS THE DEPARTMENT TO PROMPTLY COMMENCE A STATUS REVIEW OF THE SPECIES AND REPORT BACK TO THE COMMISSION WITHIN ONE YEAR FROM THE DATE OF THE COMMISSION'S PUBLISHED FINDINGS WITH A RECOMMENDATION AS TO WHETHER THE SPECIES SHOULD OR SHOULD NOT BE LISTED AS ENDANGERED OR THREATENED.

ROLL CALL VOTE:

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

NOES: D. RICHARDS.

ABSENT: J. KELLOGG.

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 BLACK-BACKED WOODPECKER DURING CANDIDACY PERIOD. (Note: This item will only be considered if the Commission makes a finding in 2. (A) that listing Black-backed Woodpecker as a threatened species may be warranted.)
No public testimony.

***MOVED BY M. SUTTON, SECONDED BY J. BAYLIS, HEREBY TAKES EMERGENCY ACTION TO ADD SECTION 749.7, TITLE 14, CCR, REGARDING SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF BLACK-BACKED WOODPECKER DURING CANDIDACY PERIOD.
AYES: J. BAYLIS, D. RICHARDS, R. ROGERS, M. SUTTON.
ABSENT: J. KELLOGG.
MOTION PASSED.***

3. CONSIDERATION AND ADOPTION OF 2012 REGULATORY CALENDAR.
Executive Director Mastrup summarized the item. There was a discussion. No public testimony.

***MOVED BY M. SUTTON, SECONDED BY D. RICHARDS, TO AMEND THE 2012 REGULATORY CALENDAR TO SPLIT THE RULEMAKINGS FOR SECTION 671, WITH A SEPARATE PACKAGE FOR THE TERMINAL MARKET ISSUE TO BEGIN IN MARCH.
AYES: J. BAYLIS, D. RICHARDS, R. ROGERS, M. SUTTON.
ABSENT: J. KELLOGG.
MOTION PASSED.***

4. DEPARTMENT PRESENTATION ON THE STATUS OF COMMERCIAL NEARSHORE FISHERY PERMITS.
Received the Department's presentation from Traci Larinto. No public testimony.

5. (A) DEPARTMENT PRESENTATION ON THE MARKET SQUID FISHERY MANAGEMENT PLAN.
Received the Department's presentation from Marija Vojkovich. Received public testimony.

(B) POSSIBLE ACTION/COMMISSION DIRECTION TO AMEND THE MARKET SQUID FISHERY MANAGEMENT PLAN.
There was no action on this item.

(C) DISCUSSION AND POSSIBLE EMERGENCY ACTION TO AMEND THE MARKET SQUID REGULATIONS OR PROVIDE DIRECTION FOR A STANDARD RULEMAKING.
There was no action on this item.

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

(A) RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.
On behalf of the Director, Chief Deputy Director Kevin Hunting was present and no report was given. No public testimony.

- (B) UPDATE ON STATUS OF PROPOSED CHANGES TO SECTIONS 550, 551, 552, 630, AND 703, ADDITION OF SECTION 550.5, AND REPEAL OF SECTION 553, TITLE 14, CCR, RE: PUBLIC USE OF DEPARTMENT OF FISH AND GAME LANDS.
Received the Department's status update from Brad Burkholder. Received public testimony.
- (C) WILDLIFE AND FISHERIES/ECOSYSTEM CONSERVATION DIVISION UPDATE.
There was no report; due to the late hour. No public testimony.
- (D) LAW ENFORCEMENT DIVISION UPDATE.
Tony Warrington provided updates on warden recruitments, recent citations on a couple of cases, and the January 1, 2012, effective date for the South Coast Marine Protected Area regulations. No public testimony.
- (E) OTHER.
Ed Pert, South Coast Regional Manager, introduced Bob Smith. Bob Smith gave a presentation on the Honey Springs Sporting Dog Training Facility. No public testimony.
7. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.
There was no report. No public testimony.
8. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.
There was no report. No public testimony.
9. STATUS UPDATE AND POSSIBLE COMMISSION GUIDANCE ON AMENDED INITIAL STATEMENT OF REASONS FOR SECTION 238.5, TITLE 14, CCR, PRIVATE STOCKING PERMITS.
Received presentations from Stafford Lehr of the Department and from the aquaculture industry. Received public testimony.
- The Commission chose not to go forward with amending regulations at this time.***
10. DISCUSSION AND POSSIBLE ADOPTION OF PROPOSED ADDITION OF SECTIONS 29.17 AND 127, TITLE 14, CCR, RE: RECREATIONAL AND COMMERCIAL TAKE OF KELLET'S WHELK.
Craig Shuman reviewed the proposed options. Received public testimony (plus one person provided testimony under Public Forum).

MOVED BY M. SUTTON, SECONDED BY D. RICHARDS, THAT THE COMMISSION HEREBY ADDS SECTIONS 29.17 AND 127 REGARDING THE COMMERCIAL AND RECREATIONAL TAKE OF KELLET'S WHELK, SELECTING OPTION 1, (SEASONAL CLOSURE BEGINNING ON THE FIRST WEDNESDAY AFTER MARCH 15 AND ENDING ON JUNE 30), AND OPTION 2, (TOTAL ALLOWABLE CATCH OF 100,000 POUNDS).

AYES: D. RICHARDS, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS, J. KELLOGG.

MOTION PASSED.

11. UPDATE AND POSSIBLE REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 27.80, TITLE 14, CCR, RE: OCEAN SALMON.

Received the Department's update from Marija Vojkovich. No public testimony.

MOVED BY M. SUTTON, SECONDED BY D. RICHARDS, TO AUTHORIZE STAFF TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 27.80 REGARDING OCEAN SALMON SPORT FISHING REGULATIONS.

AYES: D. RICHARDS, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS, J. KELLOGG.

MOTION PASSED.

12. CONSIDERATION OF MAMMAL HUNTING REGULATIONS FOR 2012-2013.

- (A) RECEIPT OF DEPARTMENT PROPOSALS FOR TAG QUOTA CHANGES, CLARIFICATIONS AND URGENCY CHANGES FOR THE 2012-2013 MAMMAL HUNTING REGULATIONS AND REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO MAKE TAG QUOTA CHANGES, CLARIFICATIONS AND URGENCY CHANGES.

Received the Department's proposals from Acting Deputy Director Yparraguirre. No public testimony.

MOVED BY D. RICHARDS, SECONDED BY M. SUTTON, TO AUTHORIZE STAFF TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND THE MAMMAL HUNTING REGULATIONS FOR 2012-2013.

AYES: D. RICHARDS, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS, J. KELLOGG.

MOTION PASSED.

- (B) RECEIPT OF DEPARTMENT'S TENTATIVE RECOMMENDATIONS FOR ANTLERLESS/EITHER SEX DEER HUNTS FOR 2012-2013.

Received the Department's recommendation from Acting Deputy Director Yparraguirre. No public testimony.

13. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.

Deputy Attorney General Thalhammer reported that the Commission met in Executive Session and adopted the proposed decisions for Norman Sween and Guy Ferrari. No other action was taken. No public testimony.

14. RECEIPT AND POSSIBLE ACTION ON COMMISSION INFORMATIONAL ITEMS.

- (A) SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.

- (I) MARINE RESOURCES COMMITTEE.

Commissioner Sutton reported the next Marine Resources Committee meeting was scheduled for January 18, 2012, in Santa Barbara.

- (II) AL TAUCHER COMMITTEE.

Commissioner Richards reported that at the December 8 Al Taucher Committee meeting, the committee took action to review its goals. The next meeting is tentatively scheduled for February 1 in the Sacramento area.

- (III) BUDGET COMMITTEE.
There was no report.
- (B) ITEMS THAT DID NOT MAKE AGENDA AND NEED TO BE RESCHEDULED.
There was no report.
- (C) NEW BUSINESS/COMMISSION FOLLOW-UP, MEETING REVIEW, AND STAFF DIRECTION.
Deputy Executive Director Jon Fischer announced his retirement the end of December.
- (D) ANNOUNCEMENT OF FUTURE MEETINGS.
Executive Director Mastrup stated the next two meetings would be one-day meetings scheduled on February 2 in Sacramento and March 7 in Riverside and all other meetings next year would be two-day meetings. He added that the North Coast MPA may be ready for adoption in early June. There was no public testimony on item 14.

**2012 FISH AND GAME COMMISSION
MEETING SCHEDULE**
www.fgc.ca.gov

February 2 (Thurs).	State of California Resources Agency, Auditorium 1416 Ninth Street Sacramento, CA 95814
March 7 (Wed.)	Mission Inn Hotel & Spa San Diego Room 3649 Mission Inn Avenue Riverside, CA 92501
April 11 (Wed.) April 12 (Thurs.)	Red Lion Inn Redwood Ballroom 1929 4th Street Eureka, CA 95501
April 18 (Wed.) (Teleconference)	Sacramento (Via Telephone)
May 23 (Wed.) May 24(Thurs.)	Beach Resort Monterey La Grande Room 2600 Sand Dunes Drive Monterey, CA 93940
June 20(Wed.) June 21 (Thurs.)	Mammoth
August 8 (Wed.) August 9 (Thurs.)	Ventura
October 3 (Wed.) October 4 (Thurs.)	State of California Resources Agency, Auditorium 1416 Ninth Street Sacramento, CA 95814
November 7(Wed.) November 8 (Thurs.)*	Los Angeles
December 12 (Wed.) December 13 (Thurs.)	San Diego

PFMC Salmon Meeting, April 1-6
Federal Waterfowl Meeting, August 1-2
Summer WAFWA Meeting, July 20-25, Hawaii

PFMC Groundfish Meeting, June 20-25
Winter WAFWA Meeting, January 4-7, San Diego

CONSENT CALENDAR

MOVED BY M. SUTTON, SECONDED BY J. BAYLIS, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES CONSENT CALENDAR ITEM NUMBERS 15-19. AYES: J. BAYLIS, D. RICHARDS, R. ROGERS, M. SUTTON. ABSENT: J. KELLOGG. MOTION PASSED.

15. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTIONS 28.29, 52.10 AND 150.16, TITLE 14, CCR, RE: GREENLING TOTAL ALLOWABLE CATCH, RECREATIONAL SUB-BAG LIMITS, AND CUMULATIVE TRIP LIMITS.
Approved authorization to publish notice. No public testimony.
16. RECEIPT OF DEPARTMENT'S REPORT ON THE PETITION TO LIST THE MOUNTAIN YELLOW-LEGGED FROG (*Rana muscosa* and *Rana sierrae*) AS A THREATENED OR ENDANGERED SPECIES. (Note: Public testimony and possible Fish and Game Commission action is tentatively scheduled for February 2, 2012.)
Received the Department's report. Received public testimony.
17. RECEIPT OF DEPARTMENT'S WRITTEN REPORT REGARDING STRIPED BASS AND POTENTIAL CHANGES TO FISHING REGULATIONS. (Note: This item is scheduled only to receive the Department's written report. Discussion of the Department report is scheduled for February 2, 2012.)
Received the Department's report. No public testimony.
18. APPROVAL OF MR. DANIEL LYNN'S REQUEST FOR REINSTATEMENT OF HIS TRAPPING PERMIT.
Approved request of Mr. Lynn for reinstatement of his trapping permit. No public testimony.
19. RECEIPT OF DEPARTMENT REPORT TO THE FISH AND GAME COMMISSION AND LEGISLATURE ON THE ANNUAL ACCOUNTING OF THE DEPOSITS INTO, AND EXPENDITURES FROM, THE FISH AND GAME PRESERVATION FUND, AS RELATED TO THE REVENUES GENERATED PURSUANT TO SECTION 8587 OF THE FISH AND GAME CODE AND REQUIRED BY SECTION 8589.7 OF THE FISH AND GAME CODE.
Received the Department's report. 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. 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. NORMAN SWEEN – DENIAL TO TRANSFER HIS TRANSFERABLE DUNGENESS CRAB VESSEL PERMIT.
- II. GUY FERRARI – DENIAL TO REINSTATE A PACIFIC RESIDENT HERRING GILL NET PERMIT.

There being no further business, the Fish and Game Commission meeting adjourned at 4:55 p.m.