

**Commissioners**  
**Jim Kellogg**, President  
 Discovery Bay  
**Michael Sutton**, Vice President  
 Monterey  
**Daniel W. Richards**, Member  
 Upland  
**Richard Rogers**, Member  
 Santa Barbara  
**Jack Baylis**, Member  
 Los Angeles

STATE OF CALIFORNIA  
 Edmund G. Brown Jr., Governor

**Sonke Mastrup, Executive Director**  
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 www.fgc.ca.gov

## Fish and Game Commission



### Staff Summary, Meeting of October 3, 2012

Following is a summary of the subject meeting. The official record of the meeting may be obtained from the Commission's website or [www.cal-span.org](http://www.cal-span.org).

Pursuant to the call of the President, the Commission met at the Resources Building, First Floor Auditorium, 1416 Ninth Street, Sacramento, California on October 3, 2012. The meeting was called to order at 9:35 a.m. by Vice President Sutton.

### FISH AND GAME COMMISSION

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

Persons present:

### COMMISSION STAFF

Sonke Mastrup	Executive Director
Adrianna Shea	Deputy Executive Director
Craig Shuman	Marine Advisor
Anita Biedermann	Analyst
Mary Brittain	Administrative Assistant

### OFFICE OF THE ATTORNEY GENERAL

Richard Thalhammer	Deputy Attorney General
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### DEPARTMENT OF FISH AND GAME

Chuck Bonham	Director
Dan Yparraguirre	Deputy Director, Wildlife and Fisheries Division
Mike Carion	Deputy Director, Law Enforcement Division
Thomas Gibson	Office of the General Counsel
Mike Taugher	Asst. Deputy Director, Office of Communications, Education & Outreach
Stafford Lehr	Chief, Fisheries Branch
Eric Loft	Chief, Wildlife Branch
Marci Yaremko	Marine Region
Carie Battistone	Wildlife Branch
Sara Holm	North Central Region
Tom Greiner	Marine Region
Tony Warrington	Law Enforcement Division

Bob Farrell Law Enforcement Division  
 Brian Naslund Law Enforcement Division  
 Stacey Lafave Law Enforcement Division

The following persons were present and heard:

<u>Name</u>	<u>Organization</u>	<u>Agenda Item(s)</u>
Randy Miller	Predators in Action	1
Joel Almquist	Predators in Action	1
Kaitilin Gaffney	Ocean Conservancy	1, 3
Tom Pedersen	California Rifle and Pistol Association	1
Geoff Shester	Oceana	1, 3, 5, 9
John Duffy	Concerned Citizen	1
Charles Bucaria	Federation of Fly Fishers	1
Jennifer Fearing	Humane Society of U.S.	1
Paul Weakland	Commercial Fisherman	1, 3
Virginia Handley	PAWPAC	1, 16
Eric Mills	Action for Animals	1, 16
John Menke	Concerned Citizen	1, 16
Monica Engebretson	Born Free USA	2
Marten Benatar	California Hawking Club	2
Jana Barkley	California Hawking Club	2
Kim Mauch	California Hawking Club	2
Bill Gaines	California Outdoor Heritage Alliance	2, 16
Anna Weinstein	Audubon California	3, 5
George Osborn	Coastside Fishing Club/Mt. Lassen Trout Farm	3, 4, 6
Mike Duorak	Commercial Fisherman San Francisco Bay	5
Dennis Fox	Concerned Citizen	7, 16
Barbara West	Center for Biological Diversity	16
Amaroq Weiss	California Wolf Center	16
Ric Costales	Siskiyou County Natural Resource Policy Spec.	16
Joseph Moreo	Ag Commissioner Modoc/Lassen County	16
Sean Curtis	Modoc County Board of Supervisors	16
Sue Stack	Concerned Citizen	16
Dr. Catherine Feher-Elston	Ravensong Group	16
Janis Kelley	Concerned Citizen	16
Camilla Fox	Project Coyote/Animal Welfare Institute	16
Jeanne Wetzal Chinn	Being With Wolves	16
Winston Thomas	Living with Wolves	16
Margo Parks	California Cattlemen's Association	16
Dick O'Sullivan	California Cattlemen's Association	16
Pamela Flick	Defenders of Wildlife	16
Jack Hansen	California Cattlemen's Association	16
Kathleen Newell	Concerned Citizen	16
Billie Ronby	California Cattlemen's Association	16
Chuck Woodson	Willow Creek Ranch	16
Dana Porterfield O'Connor	Porterfield Ranch, Siskiyou County	16
Laurel Wilson	Concerned Citizen	16
Jack Rice	California Farm Bureau Federation	16
Mike Ford	Rocky Mountain Elk Foundation	16
Richard Ross	Concerned Citizen	16
Jerry Springer	California Deer Association	16
Mark Rockwell	Endangered Species Coalition	16
Marilyn Jasper	Public Interest Coalition	16
George Kammerer	Concerned Citizen	16

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

1. PUBLIC FORUM.  
**Received public testimony from the following individuals: Randy Miller, Joel Almquist, Kaitilin Gaffney, Tom Pedersen, Geoff Shester, John Duffy, Charles Bucaria, Jennifer Fearing, Paul Weakland, Virginia Handley, Eric Mills, and John Menke.**

***THE FISH AND GAME COMMISSION HEREBY RECOGNIZES THE PUBLIC COMMENTS AND RECOMMENDATIONS REGARDING THE FOLLOWING ITEMS: AGENDIZE HALIBUT AT THE MARINE RESOURCES SUBCOMMITTEE, SCHEDULE SALMON HATCHERIES DISCUSSION, AGENDIZE FROG AND TURTLE REGULATION FOR THE 2013 RULEMAKING CALENDAR.***

2. DISCUSSION AND RECEIPT OF PUBLIC RECOMMENDATIONS ON POSSIBLE 2014 FALCONRY REGULATION CHANGES, SECTION 670, TITLE 14, CCR.  
**Received the Department's PowerPoint presentation from Eric Loft and Carie Battistone. Received public testimony.**

3. RECEIPT AND POSSIBLE ACTION ON COMMISSION BUSINESS.

(A) SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.

I. MARINE RESOURCES COMMITTEE.

- a. DISCUSSION OF DRAFT POLICY ON FORAGE SPECIES. (Possible adoption of the policy is tentatively scheduled for the November 2012 Commission meeting).

**Dr. Craig Shuman provided an update. Received public testimony.**

**There was a summary update of the Diablo Canyon Seismic Imaging Project.**

***MOVED BY R. ROGERS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION HEREBY DIRECTS STAFF TO SCHEDULE POSSIBLE ADOPTION OF THE FORAGE SPECIES POLICY AT THE COMMISSION'S NOVEMBER MEETING AND DIRECTS STAFF TO DEVELOP LOBSTER REPORT CARD REGULATIONS.***

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

***ABSENT: J. KELLOGG, D. RICHARDS.***

***MOTION PASSED.***

(B) NEW BUSINESS/COMMISSION FOLLOW-UP AND STAFF DIRECTION.

**Executive Director Mastrup stated that Friends of Drakes Bay Oyster Company had requested that modification of the Drakes Bay Oyster Company State Water Bottoms lease be agendized for the Commission's November meeting. He also highlighted six legislative bills (AB 880, AB 2609, SB 1148, SB 2402, SB 1221 and SB 1099) which requires some action by the Commission.**

4. RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.  
**Received Director Bonham's report in which he highlighted the following issues: Mike Carion as the new Chief of Law Enforcement Division, 75<sup>th</sup> Anniversary of Pittman-Roberston Act, Diablo Canyon Seismic Imaging Project, delay in Pika petition review, Pescadero Marsh, hatchery litigation, and legislation. Director Bonham presented Richard Callas with his 25 year state service award.**

Received a PowerPoint presentation on the Loyalton-Truckee Deer Herd from Sara Holm.

Received public testimony.

5. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTIONS 163 AND 164, TITLE 14, CCR, RE: HARVEST OF HERRING AND HERRING EGGS. Received the Department's report from Tom Greiner. Received public testimony.

**MOVED BY R. ROGERS, SECONDED BY J. BAYLIS, THAT THE FISH AND GAME COMMISSION HEREBY AMENDS SECTIONS 163 AND 164, TITLE 14, CCR, RE: HARVEST OF HERRING AND HARVEST OF HERRING EGGS AS RECOMMENDED BY THE DEPARTMENT.**

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

**ABSENT: J. KELLOGG, D. RICHARDS.**

**MOTION PASSED.**

6. RECEIPT OF PUBLIC RECOMMENDATIONS, DEPARTMENT UPDATE, AND POSSIBLE ACTION ON DEPARTMENT REQUEST TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 27.25 ET AL., TITLE 14, CCR, RE: 2013-2014 RECREATIONAL GROUND FISH FISHING.

(A) UPDATE ON PFMFC 2012 INSEASON ACTION

Received the Department's update from Marci Yaremko.

(B) GROUND FISH PROPOSAL

Received the Department's proposal from Marci Yaremko. Received public testimony.

**MOVED BY R. ROGERS, SECONDED BY J. BAYLIS, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTIONS 27.25, ET AL, RE: RECREATIONAL GROUND FISH FISHING REGULATIONS AS PROPOSED BY THE DEPARTMENT OF FISH AND GAME FOR 2013-2014.**

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

**ABSENT: J. KELLOGG, D. RICHARDS.**

**MOTION PASSED.**

7. CONSIDERATION AND ADOPTION OF MEETING DATES AND LOCATIONS FOR 2013.

**2013 FISH AND GAME COMMISSION  
MEETING SCHEDULE**

[www.fgc.ca.gov](http://www.fgc.ca.gov)

February 6 (Wed.) February 7 (Thurs.)	Sacramento
March 6 (Wed.) March 7 (Thurs.)	Mt. Shasta Medford, OR (Joint meeting with Oregon Fish and Wildlife Commission)
April 17 (Wed.) April 18 (Thurs.)	Santa Rosa
May 22 (Wed.) May 23 (Thurs.)	San Luis Obispo
June 26 (Wed.) June 27 (Thurs.)	Truckee

August 7 (Wed.) August 8 (Thurs.)	Long Beach
September 4 (Wed.) September 5 (Thurs.)	Mariposa
October 2 (Wed.) October 3 (Thurs.)	Ventura
November 6 (Wed.) November 7 (Thurs.)	Bishop
December 11 (Wed.) December 12 (Thurs.)	San Diego

Winter WAFWA Meeting, January 3-6, Tucson, AZ

Pacific Fishery Management Council Meeting, March 6-11, Tacoma, WA

Pacific Fishery Management Council Meeting, April 6-11, Portland, OR

Pacific Flyway Meeting, March/July

Summer WAFWA Meeting, July, Omaha, NE

**Executive Director Mastrup reviewed the proposed meeting locations for next year and requested that the Commissioners approve the locations so that staff can begin to secure facilities. Received public testimony.**

***MOVED BY R. ROGERS, SECONDED BY J. BAYLIS, THAT THE FISH AND GAME COMMISSION HEREBY APPROVES THE FEBRUARY, MARCH AND APRIL 2013 MEETING DATES AND LOCATIONS AND WILL AGENDIZE THE BALANCE OF THE YEAR'S MEETING SCHEDULE FOR THE COMMISSION'S NOVEMBER MEETING. AYES: J. BAYLIS, R. ROGERS, M. SUTTON. ABSENT: J. KELLOGG, D. RICHARDS. MOTION PASSED.***

CONSENT ITEMS

8. POSSIBLE APPROVAL OF LEASE RATE INCREASE FOR STATE WATER BOTTOM LEASES:
  - (A) TOMALES BAY SHELLFISH FARMS, MARIN COUNTY, STATE WATER BOTTOM LEASE NO. M-430-05.
  - (B) COVE MUSSEL COMPANY, MARIN COUNTY, STATE WATER BOTTOM LEASE NO. M-430-06.
  - (C) HOG ISLAND OYSTER COMPANY, MARIN COUNTY, STATE WATER BOTTOM LEASE NO. M-430-10.
  - (D) NEUSHUL MARICULTURE, INC., SANTA BARBARA COUNTY, STATE WATER BOTTOM LEASE NO. M-654-03.
9. RECEIPT OF PETITION FROM OCEANA, THE CENTER FOR BIOLOGICAL DIVERSITY, AND SHARK STEWARDS TO LIST THE WHITE SHARK (*Carcharodon carcharias*) AS THREATENED OR ENDANGERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT.
10. RECEIPT OF PETITION FROM ENVIRONMENTAL PROTECTION INFORMATION CENTER (EPIC) TO LIST THE NORTHERN SPOTTED OWL (*Strix occidentalis caurina*) AS THREATENED OR ENDANGERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT.
11. APPROVAL OF REQUEST TO TRANSFER TITLE OF TOMALES BAY SHELLFISH FARMS, INC., STATE WATER BOTTOM LEASE M-430-05 TO MR. CHARLES FRIEND, TOMALES BAY OYSTER COMPANY, LLC.
12. APPROVAL OF REQUEST TO TRANSFER TITLE OF TOMALES BAY SHELLFISH FARMS, INC., STATE WATER BOTTOM LEASE M-614-01, PARCEL 2, MORRO BAY, TO MR. NEIL MALONEY, MORRO BAY OYSTER COMPANY, LLC.
13. APPROVAL OF REQUEST BY MR. OLEN F. STUCKEY, JR., TO REINSTATE THE SALMON VESSEL PERMIT FOR F/V *Half Moon Bay Live* (FG42889).
14. APPROVAL OF REQUEST BY MR. CHRISTOPHER CALVI TO REINSTATE THE SALMON VESSEL PERMIT FOR F/V *Magdalena Bay* (FG23574).

Received public testimony on Consent Calendar agenda item number 9.

**MOVED BY R. ROGERS, SECONDED BY J. BAYLIS, THAT THE FISH AND GAME COMMISSION APPROVES CONSENT CALENDAR ITEM NUMBERS 8-14.**

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

**ABSENT: J. KELLOGG, D. RICHARDS.**

**MOTION PASSED.**

15. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.  
**Deputy Attorney General Thalhammer reported that the Commission met in Executive Session and adopted the Administrative Law Judges proposed decisions for Messrs. Randy Miller, Anthony Charles Makul and Michael Ippoliti. The Commission also determined not to appeal the trial court decision in the Pacific Fisher case but to follow the courts direction in its writ to the Commission. The Commission will await the Department's new peer review recommendation before taking any action.**

16. PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE, CONSIDERATION OF THE DEPARTMENT'S INITIAL EVALUATION AND RECOMMENDATION, AND POSSIBLE DECISION AS TO WHETHER OR NOT LISTING THE GRAY WOLF (*Canis lupus*) AS ENDANGERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT MAY BE WARRANTED.

Received the Department's evaluation report from Director Bonham and Eric Loft. Received presentations from Amaroq Weiss and Barbara West. Received public testimony.

**MOVED BY J. BAYLIS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE, HEREBY FINDS THAT THE PETITIONED ACTION TO LIST THE GRAY WOLF (*Canis lupus*) AS AN ENDANGERED SPECIES MAY BE WARRANTED; AND THEREFORE, DESIGNATES THE GRAY WOLF AS A CANDIDATE FOR ENDANGERED SPECIES STATUS. FURTHERMORE, PURSUANT TO SECTION 2074.6 OF THE FISH AND GAME CODE, THE DEPARTMENT IS 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.**

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

**ABSENT: J. KELLOGG, D. RICHARDS.**

**MOTION PASSED.**

17. ANNOUNCEMENT OF FUTURE MEETINGS.

**2012 FISH AND GAME COMMISSION  
MEETING SCHEDULE**  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

<b>November 7</b> (Wed.) <b>November 8</b> (Thurs.)	Radisson Hotel at Los Angeles Airport Laguna Room 6225 West Century Boulevard <b>Los Angeles</b>
<b>December 12</b> (Wed.)	Hilton San Diego Mission Valley 901 Camino del Rio South <b>San Diego</b>

**Executive Director Mastrup indicated that the November meeting would be a one day meeting on Wednesday, November 7.**

There being no further business, the Fish and Game Commission meeting adjourned at 5:00 p.m.

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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. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: PACIFIC FISHER.
- V. 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.

- I. MR. RANDY MILLER – REQUEST FOR 2011 RESTRICTED SPECIES PERMIT AMENDMENT.
  - II. MR. ANTHONY CHARLES MAKUL – PERMANENT REVOCATION OF COMMERCIAL FISHING LICENSE.
  - III. MR. MICHAEL IPPOLITI – DENIAL OF 2012 GUIDE LICENSE.
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