

Commissioners

Michael Sutton, President
Monterey
Richard Rogers, Vice President
Santa Barbara
Jim Kellogg, Member
Discovery Bay
Jack Baylis, Member
Los Angeles
Jacque Hostler-Carmesin, Member
McKinleyville

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Sonke Mastrup, Executive Director
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Fish and Game Commission



Staff Summary. Meeting of December 11, 2013

Following is a summary of the subject meeting as prepared by staff. A record of the meeting may be obtained from www.cal-span.org.

Pursuant to the call of the President, the Fish and Game Commission met at the Hilton San Diego Mission Valley, 901 Camino del Rio South, San Diego, California on December 11, 2013. The meeting was called to order at 8:35 a.m. by President Sutton.

FISH AND GAME COMMISSION

| | | |
|-------------------------|----------------|---------------|
| Michael Sutton | President | Present |
| Richard Rogers | Vice President | Present |
| Jim Kellogg | Member | Present |
| Jack Baylis | Member | Absent |
| Jacque Hostler-Carmesin | Member | Present |

Persons present:

COMMISSION STAFF

| | |
|------------------|---------------------------|
| Sonke Mastrup | Executive Director |
| Aдриanna Shea | Deputy Executive Director |
| Mary Brittain | Administrative Assistant |
| Sherrie Fonbuena | Analyst |
| Caren Woodson | Analyst |

OFFICE OF THE ATTORNEY GENERAL

Christopher Ames Senior Assistant Attorney General

DEPARTMENT OF FISH AND WILDLIFE

| | |
|------------------|---|
| Chuck Bonham | Director |
| Dan Yparraguirre | Deputy Director, Wildlife and Fisheries Division |
| Jordan Traverso | Deputy Director, Office of Communications, Education and Outreach |
| Mike Carion | Deputy Director, Law Enforcement Division |
| Thomas Gibson | General Counsel |
| Craig Shuman | Regional Manager, Marine Region |

| | |
|-------------------|--------------------------|
| Eric Loft | Chief, Wildlife Branch |
| Stafford Lehr | Chief, Fisheries Branch |
| Marci Yaremko | Marine Region |
| Briana Brady | Marine Region |
| Barry Miller | Marine Region |
| Tom Mason | Marine Region |
| Kristine Barsky | Marine Region |
| Randy Lovell | Aquaculture Coordinator |
| Paul Hamdorf | Law Enforcement Division |
| Scott Bringman | Law Enforcement Division |
| Dave McNair | Law Enforcement Division |
| Lance Weihe | Law Enforcement Division |
| John Potter | Law Enforcement Division |
| Noel Richards | Law Enforcement Division |
| Mike Ference | Law Enforcement Division |
| Dan Sforza | Law Enforcement Division |
| Wayne Burnett | Law Enforcement Division |
| Ron VanBenthuisen | Law Enforcement Division |
| Travis Vuich | Law Enforcement Division |

The following persons were present and heard:

| <u>Name</u> | <u>Organization</u> | <u>Agenda Item(s)</u> |
|-----------------------|--|-----------------------|
| Gary Gentile | CA Bowmen Hunters | 1 |
| Sam Madamba | Sportsman/Archery Hunter | 1 |
| Joe Exline | Concerned Citizen | 1, 8, 18A/EI |
| Ed Worley | National Rifle Association | 2 |
| Tom Pedersen | CA Rifle and Pistol Association | 2 |
| Janette Vosburg | Grassroots Coalition | 2 |
| Patricia McPherson | Grassroots Coalition/Sierra Club | 2 |
| Florence Sloane | Concerned Citizen | 2 |
| Mark Hennelly | California Waterfowl Association | 2 |
| Bob Smith | San Diego County Wildlife Foundation | 2 |
| Bill Gaines | CA Bowmen Hunters/CA Hawking Club | 2 |
| Don Barthel | German Short-haired Pointer Club of San Diego | 2 |
| Mike Conroy | West Coast Fisheries Coalition/Brail Fishermen | 4 |
| Danny Strunk | San Pedro Bait Company | 4 |
| Phil Schenck | Commercial Fisherman | 4 |
| Jenn Eckerle | Natural Resources Defense Council | 4, 8 |
| Vince Terzoli | Commercial Fisherman | 4 |
| Diane Pleschner Steel | CA Wetfish Producers Association | 4, 8 |
| Steve Huber | Klamath/Trinity Guides | 5 |
| Dana Murray | Heal the Bay | 8 |
| Samatha Murray | Ocean Conservancy | 8 |
| Volker Hoehne | Watermen's Alliance | 8, 18EI, 20 |
| David Pierce | San Diego Council of Divers | 8, 18EI, 20 |
| George Osborn | Coastside Fishing Club | 8, 18EII |

| | | |
|--------------------------|--|------------|
| Ray Hiemstra | Orange County Coastkeeper | 8, 20 |
| Paul Weakland | Commercial Fisherman | 8, 18G, 20 |
| Rob Diperna | Environmental Protection Information Center (EPIC) | 15A & B |
| Gary Rynearson | Green Diamond Resource Company | 15A & B |
| Tom Engstrom | Sierra Pacific Industries | 15A & B |
| Josh Chatten-Brown | Environmental Protection Information Center (EPIC) | 15B, 20 |
| Noel Cremers | CA Farm Bureau Federation | 15B |
| David Bischel | CA Forestry Association | 15B |
| Jim Salazar | Concerned Citizen | 18E |
| Corey Ridings | Ocean Conservancy | 18E |
| Bruce Campbell | Commercial Lobster Fisherman | 18E |
| Wayne Campbell | Large Boat Operators | 18E |
| Diane Windham | NOAA Fisheries | 18F, 19B |
| Chris Voss | Commercial Lobster Fisherman | 18E, 20 |
| Daniel Mello | Mello Lobster Fishing | 18E |
| Rodger Healy | CA Lobster & Trap Association | 18E |
| Robert Williams | San Diego County Varmint Callers | 20 |
| Cheri Jacobs Aspenleiter | Restore Access to Many People (R.A.M.P.) | 20 |
| Michelle Clemente | OCMPAC | 20 |
| John Leek | Friends of the Children's Pool | 20 |
| Mike McCorkle | So. CA Trawlers Association (SCTA) | 20 |
| Jim Drost | Concerned Citizen | 20 |
| David Johnson | Restore Access to Many People (R.A.M.P.) | 20 |

President Sutton introduced members of the Commission, its staff, Department of Fish and Wildlife Directorate and Christopher Ames of the Attorney General's Office.

ITEMS WERE TAKEN OUT OF ORDER BUT ARE SHOWN IN NUMERICAL ORDER IN THIS SUMMARY.

1. CONSIDERATION AND POSSIBLE ADOPTION OF COMMISSION'S 2014 RULEMAKING CALENDAR

Executive Director Mastrup provided a PowerPoint presentation of the proposed rulemaking calendar. Received public testimony.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE PROPOSED RULEMAKING CALENDAR FOR 2014.

A YES: J. HOSTLER-CARMESIN, J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

2. DISCUSSION OF PROPOSED CHANGES TO DEPARTMENT LANDS REGULATIONS (SECTIONS 550, 550.5, 551, 552, 553, 630, AND 703, TITLE 14, CCR)

Received the Department's update from Eric Loft. Received public testimony.

3. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND MAMMAL HUNTING REGULATIONS (SECTIONS 360, 361, 362, 363, AND 364, TITLE 14, CCR)

Received the Department's review of the mammal hunting proposals from Eric Loft. No public testimony.

MOVED BY J. KELLOGG, SECONDED BY R. ROGERS, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES ITS STAFF TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND THE MAMMAL HUNTING REGULATIONS IN SECTIONS 360, 361, 362, 363 AND 364, TITLE 14, CCR. AYES: J. HOSTLER-CARMESIN, J. KELLOGG, R. ROGERS, M. SUTTON. ABSENT: J. BAYLIS. MOTION PASSED.

4. DISCUSSION OF PROPOSED CHANGES TO COMMERCIAL MARKET SQUID TWO-TON INCIDENTAL TAKE FISHING REGULATIONS (SECTION 149 AND SUBSECTION 149.1(a), TITLE 14, CCR)

Received the Department's PowerPoint presentation from Briana Brady. Marine Regional Manager Shuman provided additional information. Received public testimony.

5. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND KLAMATH RIVER SALMON FISHING REGULATIONS (SUBSECTION 7.50(b)(91.1), TITLE 14, CCR)

Received the Department's PowerPoint presentation from Stafford Lehr. Received public testimony.

MOVED BY R. ROGERS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES STAFF TO PUBLISH NOTICE OF ITS INTENT TO AMEND THE KLAMATH/TRINITY RIVER SPORT FISHING REGULATIONS AS PROPOSED BY THE DEPARTMENT WITH THE ADDITION OF THE FOLLOWING TWO OPTIONS: A YEAR ROUND CLOSURE OF THE SPIT AND CLOSURE OF THE SPIT WHEN 15 PERCENT OF THE LOWER KLAMATH RIVER QUOTA HAS BEEN TAKEN AS PRESENTED BY MR. HUBER.

AYES: J. HOSTLER-CARMESIN, J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

6. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND OCEAN SALMON SPORT FISHING REGULATIONS (SECTION 27.80, TITLE 14, CCR)

- (A) APRIL 2014 AND OCEAN SALMON POSSESSION LIMIT CHANGE (SUBSECTIONS 27.80(c) AND (e), TITLE 14, CCR)

Received the Department's PowerPoint presentation from Barry Miller. No public testimony.

- (B) MAY-NOVEMBER 2014 (SUBSECTION 27.80(d), TITLE 14, CCR)
Received the Department's PowerPoint presentation from Barry Miller.
No public testimony.

MOVED BY J. KELLOGG, SECONDED BY R. ROGERS, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES STAFF TO PUBLISH NOTICES OF ITS INTENT TO AMEND THE OCEAN SALMON SPORT FISHING REGULATIONS.

AYES: J. HOSTLER-CARMESIN, J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

7. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO ESTABLISH PACIFIC HALIBUT AUTO-CONFORMANCE REGULATIONS (SECTION 28.20, TITLE 14, CCR)
Received the Department's PowerPoint presentation from Marci Yaremko.
No public testimony.

MOVED BY R. ROGERS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES STAFF TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND SECTION 28.20, TITLE 14, CCR, REGARDING THE RECREATIONAL PACIFIC HALIBUT FISHERY AUTOCONFORMANCE REGULATIONS.

AYES: J. HOSTLER-CARMESIN, J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

8. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO AMEND MARINE PROTECTED AREAS REGULATIONS – CLEAN-UP PACKAGE (SECTION 632, TITLE 14, CCR)
Received the Department's PowerPoint presentation on proposed amendments and the Master Plan from Tom Mason. Craig Shuman explained that there had been some concerns regarding the Elkhorn Slough SMR changes at Kirby Park and indicated that the item could be withdrawn from the package. Received public testimony.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES STAFF TO PUBLISH NOTICE OF ITS INTENT TO AMEND THE MARINE PROTECTED AREAS REGULATIONS AS PRESENTED BY THE DEPARTMENT INCLUDING THE DISCUSSED CHANGES AS FOLLOWS: WITHDRAW THE REQUEST TO ADJUST THE NORTHERN BOUNDARY OF ELKHORN SLOUGH SMR TO ALLOW SHORE FISHING AT KIRBY PARK AND TO ADD CLARIFYING LANGUAGE FOR TRANSITTING THROUGH MPAS WITH SPEAR FISHING GEAR.

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

ABSENT: J. BAYLIS, J. HOSTLER-CARMESIN.

MOTION PASSED.

CONSENT ITEMS

9. POSSIBLE ADOPTION OF PROPOSED CHANGES TO PRIVATE LANDS MANAGEMENT REGULATIONS (SECTION 601 AND SUBSECTION 702(a), TITLE 14, CCR) AND CONSIDERATION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT ADDENDUM
10. APPROVAL OF THE DEPARTMENT'S REQUEST TO ACQUIRE IN FEE TITLE PROPERTIES TO ADD TO LAKE EARL WILDLIFE AREA
11. ADOPTION OF THE REVISED ARIZONA-CALIFORNIA INTERSTATE AGREEMENT
12. RECEIPT OF ANNUAL ACCOUNTING FOR THE NEARSHORE FISHERY PERMIT FUND
13. ADOPTION/RATIFICATION OF COMMISSION FINDINGS REGARDING ACCEPTANCE OF THE PETITION TO LIST THE TOWNSEND'S BIG-EARED BAT (*Corynorhinus townsendii*) AS A THREATENED OR ENDANGERED SPECIES (PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE)
14. ADOPTION/RATIFICATION OF COMMISSION FINDINGS REGARDING THE REJECTION OF THE PETITION TO LIST THE AMERICAN PIKA (*Ochotona princeps*) AS A THREATENED OR ENDANGERED SPECIES (PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE)

MOVED BY R. ROGERS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE CONSENT CALENDAR, ITEMS 9-14.

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

ABSENT: J. BAYLIS, J. HOSTLER-CARMESIN.

MOTION PASSED.

15. (A) ADOPTION/RATIFICATION OF COMMISSION FINDINGS REGARDING THE ACCEPTANCE OF THE PETITION TO LIST THE NORTHERN SPOTTED OWL (*Strix occidentalis caurina*) AS A THREATENED OR ENDANGERED SPECIES (PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE)
Executive Director Mastrup provided a review of the issue. Received public testimony.

MOVED BY R. ROGERS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS FINDINGS REGARDING DECISION ADDING NORTHERN SPOTTED OWL TO THE LIST OF CANDIDATE SPECIES UNDER CESA.

AYES: J. HOSTLER-CARMESIN, R. ROGERS, M. SUTTON.
NOES: J. KELLOGG.
ABSENT: J. BAYLIS.
MOTION PASSED.

- (B) CONSIDERATION AND POSSIBLE ACTION ON REQUEST BY CALIFORNIA FORESTRY ASSOCIATION FOR COMMISSION ADOPTION OF EMERGENCY REGULATION AUTHORIZING INCIDENTAL TAKE OF THE NORTHERN SPOTTED OWL (*Strix occidentalis caurina*) DURING CANDIDACY PERIOD (PURSUANT TO SECTIONS 240 AND 2084 OF THE FISH AND GAME CODE)
Executive Director Mastrup provided a review of the issue. Received public testimony. CA Forestry Association verbally retracted their petition at the meeting.

No further action required by the Commission.

16. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION
Senior Assistant Attorney General Ames reported there was nothing to report. No public testimony.
17. COMMISSION STAFF REPORT FOR CONSIDERATION AND POSSIBLE ACTION
- (A) RECOMMENDATIONS ON ITEMS OF INTEREST FROM PRIOR MEETINGS
There were no recommendations.
- (B) PREVIEW OF FUTURE AGENDA ITEMS AND MEETING LOGISTICS
Executive Director Mastrup reported on the following items to be scheduled for the February meeting. No public testimony.
- **Election of President and Vice President**
 - **Committee Elections**
 - **Receipt of White Shark status report**
 - **Receipt of Gray Wolf Status Report**
 - **Tribal Consultation Informational rollout**
- (C) WILDLIFE RESOURCES COMMITTEE
- I. REVIEW AND DISCUSSION OF DRAFT AGENDA
Executive Director Mastrup reported that the Wildlife Resources Committee meeting was scheduled on January 15, 2014, at Van Nuys State Office Building Auditorium, in Van Nuys. Commission approved the draft agenda as proposed. No public testimony.
- (D) NEW BUSINESS
There was no new business. No public testimony.

18. DEPARTMENT INFORMATIONAL ITEMS

(A) DIRECTOR'S REPORT

Director Bonham reported on the following issues: Strategic Vision recommendations, highlighted the Department's progress of information management and technology, Science Symposium, appointment of a tribal liaison within the Office of the General Counsel, and process of advertising for a full time attorney assigned to the Fish and Game Commission Office. No public testimony.

(B) UPDATE ON CA LAW REVISION PROCESS

Executive Director Mastrup reported that the California Law Revision office would provide an update at the February 5, 2014, Commission meeting. No public testimony.

(C) WILDLIFE AND FISHERIES DIVISION AND ECOSYSTEM CONSERVATION DIVISION

Deputy Director Yparraguirre reported that Bill Clark, a retired Department employee had recently passed away.

I. CALIFORNIA HATCHERY SCIENTIFIC REVIEW PANEL MEETING

Received an update from Stafford Lehr. He reported that a workshop had been scheduled for February 4, 2014, at the Department of Consumer Affairs Building in Sacramento. No public testimony.

(D) LAW ENFORCEMENT DIVISION

Lt. Mike Ference reported on the local fishing and hunting seasons and success rates and two significant cases involving failure to complete log books and a commercial fisherman operating with a revoked license. No public testimony.

(E) MARINE

I. RECOMMENDATIONS FROM THE LOBSTER ADVISORY COMMITTEE REGARDING THE LOBSTER FISHERY MANAGEMENT PLAN

Received the Department's PowerPoint update from Kristine Barsky. Received public testimony.

II. UPDATE ON DUNGENESS CRAB PETITION

Received the Department's update from Craig Shuman. He reported a task force meeting was scheduled for April 2014. Received public testimony.

(F) ANNOUNCEMENT OF PUBLIC COMMENT PERIOD FOR PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT – MARINE AQUACULTURE

Received the Department's update from Randy Lovell. No public testimony.

- (G) OTHER
There was no report. No public testimony.

19. OTHER INFORMATIONAL ITEMS

- (A) LEGAL COUNSEL
There was no report. No public testimony.

- (B) FEDERAL AGENCIES

- I. RECEIPT OF PACIFIC FISHERY MANAGEMENT COUNCIL
NOVEMBER 2013 DECISION SUMMARY DOCUMENT

Diane Windham provided information regarding the merger of regions, reorganization updates, and that someone would be designated to attend Commission meetings. No public testimony.

20. PUBLIC FORUM

Received public testimony from the following individuals: Robert Williams, Volker Hoehne, David Pierce, Chris Voss, Cheri Jacobs Aspenleiter, Josh Chatten-Brown, Paul Weakland, Michelle Clemente, Ray Heimstra, John Leek, Mike McCorkle, Jim Drost, and David Johnson.

THE FISH AND GAME COMMISSION HEREBY DEFERS THE FOLLOWING REQUESTS TO THE DEPARTMENT FOR ANALYSIS IN THE NEXT SPORT FISH REGULATORY PACKAGE: ADD THE REQUEST FOR DOUBLE DAILY TAKE FOR FRESHWATER SALMON, REQUEST TO PUNCH CARDS FOR RECREATIONAL TAKE OF DUNGENESS CRAB AND CHINOOK.

THE FISH AND GAME COMMISSIN ALSO REQUESTED TO FOLLOW UP ON THE SCULPIN NEARSHORE BYCATCH PERMIT ISSUE AND CHILDREN'S POOL.

**2014 FISH AND GAME COMMISSION
MEETING SCHEDULE**

www.fgc.ca.gov

| MEETING DATE | COMMISSION MEETING | COMMITTEE MEETING |
|---------------------|--|---|
| Jan. 15 (Wed.) | | Wildlife Resources – Van Nuys State Office Building Auditorium 6150 Van Nuys Boulevard Van Nuys, CA 91401 |
| Feb. 5 (Wed.) | State of California Resources Building 1416 Ninth Street First Floor Auditorium | |

| | | |
|-------------------------|---|--|
| | Sacramento, CA 95814 | |
| Mar. 19 (Wed.) | | Marine Resources – Santa Rosa |
| Apr. 16 (Wed.) | Ventura | |
| May 7 (Wed.) | | Wildlife Resources – San Francisco/Bay Area |
| Jun. 4 (Wed.) | Eureka | |
| Jul. 16 (Wed.) | | Marine Resources – Monterey |
| Aug. 6 (Wed.) | San Diego | |
| Sep. 17 (Wed.) | | Wildlife Resources – Sacramento |
| Oct. 8 (Wed.) Oct. 9 | Yreka <i>Joint meeting with Oregon DFW</i> | |
| Nov. 5 (Wed.) | | Marine Resources – Los Alamitos |
| Dec. 3 (Wed.) | Los Angeles | |

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. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: PACIFIC FISHER.
 - IV. 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 LIFE PROTECTION ACT.
 - V. CENTER FOR BIOLOGICAL DIVERSITY AND EARTH ISLAND INSTITUTE vs. FISH AND GAME COMMISSION ADOPTING EMERGENCY REGULATION TO AUTHORIZE INCIDENTAL TAKE OF THE BLACK-BACKED WOODPECKER DURING CANDIDACY PERIOD.
- 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 Fish and Game Commission meeting adjourned at 4:35 p.m.