November 20, 2014

Mr. Sonke Mastrup, Executive Director
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

RE: Gamebird and Mammal Termination of Possession/SB 392 (Berryhill) Implementation

Dear Director Mastrup:

The California Waterfowl Association (CWA) would like to take this opportunity to provide input on the implementation of SB 392 (Chapter 346, Statutes of 2013), which requires that the Commission adopt regulations or recommend legislation to clarify when legally taken gamebirds and mammals no longer count toward a possession limit by processing into food.

CWA supports regulatory efforts to clarify when the processing of game into food results in the termination of possession, and helped sponsor SB 392 when it was debated in the Legislature. We believe such legal clarification will both reduce potential enforcement issues and rightfully promote the consumption of game meat. Currently, some hunters assume that when game has been taken to a residence or processed into food that the possession limit no longer applies. However, because of the particular way the California Fish and Game Code (Section 19) defines "possession limit", any part of legally taken game may still technically count towards one's possession limit.

This expanded definition of the possession limit does not exist in all other states. Washington, for example, defines the possession limit only as "the number of daily limits allowed to be kept in the field or in transit." Texas takes a similar approach: "For all wildlife resources taken for personal consumption and for which there is a possession limit, the possession limit shall not apply after the wildlife resource has reached the possessor's permanent residence and has been finally processed."

It should be noted that, similar to other Fish and Game Code violations, possession limit violations in California are generally prosecuted as misdemeanors. In addition, the Fish and Game Code (Chapter 290, Statutes of 2009) was recently amended to provide for severe penalties for certain possession limit violations. By clarifying when the possession limit is terminated, the Commission can help ensure that hunters do not unwittingly expose themselves to significant legal liability.

Specifically, CWA recommends that the Commission adopt a possession limit cessation regulation (and, if needed, recommend legislation to amend the Fish and Game Code) that includes all of the following elements:

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1. It applies only to the edible parts of legally taken game meat that have been separated from the carcass;

2. It applies only after the game meat has been brought first to a personal abode; and

3. It does not apply to gamebirds or mammals for which there is a season limit.

Since a state possession limit cessation regulation cannot supersede federal migratory bird regulations, CWA would also request that once the regulation is finalized by the Commission (and the Fish and Game Code is amended, if needed), that the Commission send a letter to the Pacific Flyway Council or U.S. Fish and Wildlife Service requesting federal adoption of a similar rule over the possession of migratory birds, particularly waterfowl. While current federal regulations define a "field possession limit" and provide for the "termination of possession", they do not yet specifically and directly address whether or not an individual at his personal abode who has processed legally taken migratory birds into food has terminated his possession.

Thank you for your efforts on this important issue. Should you need further information or have questions about CWA's comments, please contact me at 916-648-1406 x105 or mhennelly@calwaterfowl.org.

Sincerely,

Mark Hennelly, Vice President of Legislative Affairs and Public Policy
California Waterfowl Association

Cc: Mr. Mike Sutton, President, California Fish and Game Commission
Mr. Jack Baylis, Vice President, California Fish and Game Commission
Mr. Richard Rogers, Member, California Fish and Game Commission
Mr. Jim Kellogg, Member, California Fish and Game Commission
Ms. Jackie Hostler-Carmesin, Member, California Fish and Game Commission
Mr. Chuck Bonham, Director, California Department of Fish and Wildlife
The Honorable Tom Berryhill, California State Senate, 14th District