

California Fish and Game Commission Wildlife Resources Committee
Predator Policy Workgroup: Preliminary Report and Recommendations
Staff Report – May 6, 2015

I. Executive Summary

The response by the public to the Fish and Game Commission (Commission) Wildlife Resources Committee (WRC) predator policy workgroup (PWG) meeting was overwhelming. Staff was expecting and planned for 12-20 participants at the March 12, 2015 meeting, and instead had 80+ individuals show up, outstripping our capacity to host all this interest. The situation required adjusting plans for the workgroup both in terms of outputs and process. Because of room capacity limitations, we divided staff and public into the two regulation breakout groups, sections 465.5 and 472 of Title 14, California Code of Regulations. The results of both discussion groups revealed numerous areas of concern and the need for further work; discussion notes from the groups are included at the end of this report.

The 465.5 group identified two general areas of concern: non-lethal methods for dealing with depredators not being encouraged, and current regulations limiting property owners' ability to control damage. The 472 group discussed approaches to predator management centered on the role and practice of sport take of predators.

Progress will require significant effort and expertise that the workgroup does not currently possess. The California Department of Fish and Wildlife (Department) hosted a discussion by scientists on predators on April 29 which may provide valuable insight for this committee's work. If WRC is interested in pursuing any of these issues, staff recommends asking the Department to present the results of its effort to the committee at a future meeting.

II. Background and Goals

WRC, at its June 12, 2013, meeting in Oakland directed staff to form a subcommittee to identify regulations for possible reform and policy statements to guide management. PWG discussed the issues and the initial findings were brought to the January 15, 2014, meeting in Van Nuys where it became clear that WRC's work was creating significant interest in the subject. Predator policy was discussed at the next three WRC meetings (July 28, 2014, September 17, 2014, and January 14, 2015). At the January 14, 2015, meeting WRC directed a subcommittee to explore resolving structural issues identified in sections 465.5 and 472 of Title 14.

Section 465.5, Furbearing Animals, Use of Traps

Issues identified as needing resolution included:

- Mixed rules for sport, commerce, and depredation
- Makes depredation in urban settings problematic

- Zones (kit fox range) prohibited gear; problem for depredation control

Discussion topics identified for the workgroup included:

- Should different rules govern sport, commercial, and depredation trapping for furbearing mammals? If so, establish separate subsections for the three types.
- Should licensed commercial animal pest control operators under a contract for pest control services be authorized to place traps within 150 yards of a structure used as a permanent or temporary residence without notification of residents?
- Are gear restriction zones still necessary? Technological advances in gear design may avoid kit fox concerns.

Section 472, Nongame Animals, General Provisions

Issues identified as needing resolution included:

- Inconsistent with other provisions of law where take is limited or authorized only under specified circumstances; permits unlimited take by hunters
- Subsections (b) and (c) includes animals that are not technically nongame mammals, while subsection (a) includes birds already included in Section 3801 of Fish and Game Code
- Fails to appropriately reference Section 4150 of Fish and Game Code

Possible solutions for discussion by the workgroup included:

- Update Title 14, Section 472 to make consistent with statute (Fish and Game Code Section 4152) that establishes limitations on take. Or create permit to set limits on case-by-case basis. Or, delete Title 14, Section 472 and rely on Section 4152.
- Reference proper statutory authority (Section 4150).
- Remove references to English sparrow and starling, as they are already covered by Fish and Game Code Section 3801.

Important Context for Workgroup Discussions

- Section 1801, Fish and Game Code: Commission is mandated by Section 1801(c) “to perpetuate all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to all persons.”
- Realities of wildlife management don’t always align with perceptions. Regulations governing the killing of animals are based on a combination of scientific theory, empirical data, social pressures, politics, and economics.
- Management activity on private property versus public lands. Application of rules on private versus public lands: do we need to more clearly delineate in the rules what types of activity are permitted and under what circumstances, depending on where the activity is occurring? Does intent of the landowner matter and how do we account for that in the rules?

III. Workgroup Methods

In an effort to develop a detailed understanding of the ways sections 465.5 and 472 currently function, the perspectives of Department and Commission staff, the ideas and

opinions from a range of external constituencies, and specific recommendations for regulatory change, PWG was formed to draft possible solutions to the issues identified by WRC.

PWG was formed as an ad-hoc subcommittee of WRC. The workgroup was comprised of stakeholders and representatives from across the spectrum. Participants in the March meeting were self-selected in response to a public announcement at the February 2015 Commission meeting, and by a follow-up electronic invitation on February 18, 2015, which was distributed to 515 individuals signed up to the WRC, trapping and hunting electronic mailing lists.

Key Issues and Staff Recommendations

The significant public interest in this issue coupled with the committee's limited staff capacity has affected the workgroup's ability to fully analyze all the issues identified by stakeholders, evaluate the merits of each recommendation received, and prepare recommendations for discussion at this meeting.

There is value in reviewing the regulations, policies, and science that inform the state's predation management strategies. While PWG was unable to reach a formal agreement on recommendations for change, it did successfully identify serious problems in the structure and practical application of sections 465.5 and 472 which will eventually require interpretation. Future progress on these issues will depend on how the committee decides to resolve the key issues outlined below.

Key Issues:

- The Commission does not have a full-time WRC advisor to manage PWG and related issues.
- PWG has experienced unbalanced, dynamic, and informal participation by key stakeholders.
- Stakeholders disagree on the necessity and objective of PWG.

Staff Recommendations:

- WRC should consider clarifying the necessity, objective, and final expectations of the predator policy review.
- WRC should consider appointing a balanced group of stakeholders to draft and vet policy and/or regulatory options for consideration and discussion at future WRC meetings.
- WRC should consider directing staff to prepare proposals for consideration and discussion at future WRC meetings.

Breakout Session 1: § 465.5. Use of Traps Discussion Notes

Issue: § 465.5 mixes rules for sport, commercial, and depredation.

Proposed regulatory changes:

- Delineate license categories and associated requirements (including continuing education).
- Separate out the depredation requirements versus sport or commercial harvest.
- Specify the categories/"types" that reporting of trap types should include.
- Establish comprehensive (standardized) reporting requirements for all trapped animals under this section (see handout (from Lynn Cullens, Mountain Lion Foundation) titled "Brief for Predatory Policy Workgroup").

Issue: Lethal versus non-lethal methods include ambiguities in terminology, and priority.

Proposed regulatory changes:

- Non-lethal relocation of trapped animals:
 - Clarify non-lethal release elements of regulations, including terms such as "immediately".
 - Non-lethal approaches need to be reasonable/practical
 - Support options for humane exclusion (e.g., trap, plug up hole, release animal).
 - Recommend that the Commission consider adopting a policy on this.
 - Clarify ambiguous regulations for how to handle release of trapped animals
 - Prioritizing exclusion
 - Prioritizing release on site
- Lethal versus non-lethal methods:
 - Needs for lethal versus non-lethal methods varies by species. Don't limit ability to use lethal for the necessary circumstances.
 - Encouraging or requiring non-lethal efforts first –
 - Some support requiring non-lethal attempt first
 - Some considers such a requirement to be an undue burden in many cases.
 - Introduce more options for non-lethal methods that help avoid indiscriminant lethal methods.
 - Recommend **incentive programs** in lieu of requirement (e.g., tax credit program recommendation to legislature)
 - Bifurcate licensed/professional versus home needs (nature of damage, response options, tax status of responder).
 - Explore creating different incentives/disincentives for home/property owners (e.g., urban nuisance animal control) versus commercial operations (e.g., depredation permit needs for damage to agriculture programs).
 - Suggest adding to continuing education training materials.

- Another commenter opposed separating these categories as it could exclude some tools in the toolbox – many private individuals are adept at trapping.

Issue: § 465.5 makes depredation control in urban settings problematic. (Includes current 150 yard rule from occupied dwelling)

Proposed regulatory changes:

- Increase range of tools for managing animal damage control in urban setting.
 - Use live traps only within the 150 yard area. However, this only works for certain animals.
- Some do not think this should apply when on one’s own property. However, property rights issues intersect with this.
- Consider notifying neighbors instead of requiring permission. Requiring that permission be obtained from neighbors is unrealistic. Trade-offs for this.
- Live traps should be exempted from reporting requirements.
- Set professional versus public provisions (poisons, distance, etc). Commercial trappers hired for urban/back yards may need different rules. Set categories of provisions based on who is taking the animals – the amateur, the professional, the home operator.
 - Usable tools and gear selection is needed to help avoid ‘bycatch’ of non-target animals.

Issue: Zones (for Kit Fox range) place limitations on gear types for this range, which is problematic for depredation control.

Proposed regulatory changes:

- New methods/gear types are available that may eliminate or minimize bycatch concerns. Request these to be allowed. Will provide supporting information (USFWS biological opinion).

Rationale:

Ag industry is finding these constraints to be problematic due to damage from coyotes. There are new gripping traps that address bycatch/kit fox concerns.

Other proposals:

- Create list of legislative items to recommend to Legislature. This could be a workgroup product (along with regulatory recommendations).
- Clarify the process for the predator workgroup (workshop? Ongoing workgroup meetings?), including how these workshops will inform the WRC.
 - In order to set clear expectations regarding the potential products and outcomes of this process.
 - Expectation that DFW will provide feedback along the way on feasibility, prospective solutions, and/or non-starters.

Breakout Session 2: § 472. General Provisions Discussion Notes

Unlimited Take Question

1. Problem statement: Need to maintain some form of sport hunting for coyotes
Specific change proposed: Keep 472 or something like it and permit take of coyotes
Justification: No biological basis for prohibiting. Would essentially ban take of non-game on public lands because there is no depredation option. Only having a depredation model in regulation limits the ability to manage the take of non-game species under the authority of sport hunting license on public lands.

2. Problem statement: Section 472 is in conflict with Fish and Game Code Section 4150.
Specific change proposed: Strike 472. If not, then structure similar to furbearers sections.
Justification: T14 Section 472 is inconsistent with code.

3. Problem statement: Under current circumstances there are no limitations, creating unregulated take.
Specific change proposed: Establish season and bag limits.
Justification: Science does not support indiscriminate, unlimited take.

4. Problem statement: FGC position and request for change is not supported by modern science.
Specific change proposed: No change – allow unlimited take.
Justification: Allowable coyote harvest is 70% for the total population. Of the population, sport hunters are taking less than 5%.

5. Problem statement: Coyote is a destructive, non-native species.
Specific change proposed: Change current “non-game” title for Section 472 to include non-native, invasive and other destructive species.
Justification: All species currently listed in Section 472 are either non-native, invasive or a destructive species.

If we were to bifurcate, how would they be different?

Problem statement: Not currently bifurcated.
Specific change proposed: Simply separate the two, but not limit take. Explicitly permit sport take.
Justification:

Problem statement:
Specific change proposed: Clarify under 472 what is authority under sport hunting and authority under depredation.
Justification:

Problem statement: Not clear there is a problem with current regulation and FGC rationale for wanting to address unlimited take.
Specific change proposed: Inventory animal population and document the science; any bag limit should be based on science.
Justification:

Problem statement: FGC is going to take action and we (hunters) need to propose something.
Specific change proposed: Establish a coyote stamp under sport take where monies go toward coyote science and management
Justification:

Problem statement: FGC believes that 472 is inconsistent with other sections of regulation.
Specific change proposed: Establish season and bag limits.
Justification: No justification for unlimited take.

Problem statement: FGC believes that Section 472 is inconsistent with other sections of regulation.
Specific change proposed: Establish in regulation a 365 day season and unlimited bag limited as a placeholder.
Justification: Establishes a season and bag limit consistent with regulations of other species.

Problem statement: Currently lack information about population and tracking take of species in Section 472.
Specific change proposed: Create a voluntary or mandatory online and in-person harvest report for Section 472 critters.
Justification: Helps establish baseline data.

Problem statement: Regulatory language blurs lines between sport hunting and depredation.
Specific change proposed: Make Section 472(a) specific to sport hunting only, then leave depredation alone. "...may be taken for sport at any time of the year...."
Justification: Simplest way to provide clarity for difference between sport hunting and depredation. Need to maintain 472 in response to Code 4150.