

## STAFF SUMMARY FOR OCTOBER 7-8, 2015

**1. PUBLIC FORUM****Today's Item****Information** **Action** 

Receipt of public comments and requests for regulatory and non-regulatory actions.

**Summary of Previous/Future Actions**

- **Today's receipt of requests and comments** **Oct 7-8, 2015; Los Angeles**
- Direction to grant, deny, or refer requests **Dec 9-10, 2015; San Diego**

**Background**

FGC generally receives three types of correspondence: Requests for regulatory action, requests for non-regulatory action, and informational only. The Administrative Procedure Act (APA) requires action on regulatory requests to be either denied or granted and notice made of that determination. At the end of public forum a motion may be made to provide direction to staff on any items for which FGC wishes to receive additional information or take immediate action. Otherwise, FGC will determine the fate of the regulatory and non-regulatory requests at the next commission meeting to allow staff time to evaluate requests.

**Significant Public Comments**

1. See regulatory requests in Exhibit 1
2. See non-regulatory requests in Exhibit 2

**Recommendation (N/A)****Exhibits**

1. Table containing a summary of new petitions for regulation change received by Sep 24 at 5:00 p.m., the comment deadline for the meeting binder.
2. Table containing a summary of new non-regulatory requests received by Sep 24 at 5:00 p.m., the comment deadline for the meeting binder.
- 3-26. Individual, new petitions and requests that are summarized in the tables.
- 27-33. Informational-only items; staff will not take any action on these unless otherwise directed by FGC.

**Motion/Direction (N/A)**

**CALIFORNIA FISH AND GAME COMMISSION  
RECEIPT LIST FOR REGULATORY REQUESTS THROUGH 9-24-2015**

**FGC** - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

**Grant (previously Accept):** FGC is *willing to consider* the petition through a process      **Deny (previously Reject):** FGC is *not willing to consider* the petition  
**Refer:** FGC *needs more information* before deciding whether to grant or deny the petition

 **Green cells:** Referrals to DFW for more information       **Blue cells:** Referrals to FGC staff or committee for more information  
 **Lavender cells:** Accepted and moved to a rulemaking       **Yellow cells:** Current action items

Date Received	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision	DFW/FGC Staff Response	Final Action, Other Outcomes
8/25/2015 8/30/2015	<a href="#">Julia Fuller</a> <a href="#">Barbara Longmuir</a> <a href="#">Raphael Zandra</a>	Trapping		Requests complete ban on trapping of all furbearing animals because taking animals for profit is unnecessary.	<b>Action scheduled 12/9-10/2015</b>		
9/2/2015	<a href="#">Carol Johnson</a>	Trapping		Requests ballot initiative to ban commercial and recreational trapping of all furbearers.	<b>Action scheduled 12/9-10/2015</b>		
8/27/2015 9/11/2015 9/14/2015	<a href="#">Elaine Trogman</a> <a href="#">Jill Franzke</a> <a href="#">Diane Pease</a>	Drift Gill Nets		Requests ban on drift gill net use in California to curb take of non-target species.	<b>Action scheduled 12/9-10/2015</b>		
8/11/2015	<a href="#">George Burkhardt</a>	Save water		Requests two options to reduce water waste: (1) eliminate fish flow release, and (2) raise the level of all existing reservoir dams	<b>Action scheduled 12/9-10/2015</b>		
7/31/2015	<a href="#">Greg Helms, Ocean Conservancy; Anna Weinstein, Audubon California, and others</a>	Forage species policy		Requests FGC consider planning for a rulemaking process to establish conforming forage regulations such that federal and California actions unfold on roughly parallel timelines.	<b>Action scheduled 12/9-10/2015</b>		
8/10/2015	<a href="#">Jason Robinson</a>	Rock crab transfer process		Requests to amend the south coast rock crab permit process to allow for transfer permits on a first come first serve basis or to give applicants that have been attempting for consecutive years more points in the lottery as is the case with the sea urchin lottery.	<b>Action scheduled 12/9-10/2015</b>		
8/3/2015	<a href="#">Chris Borden</a>	Fishing		Requests to stop fishing because too many whales are dying.	<b>Action scheduled 12/9-10/2015</b>		

Date Received	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision	DFW/FGC Staff Response	Final Action, Other Outcomes
8/21/2015	<a href="#">Greg Ross</a>	Tehama Wildlife Area rules		Requests revocation of the rules banning ATVs in the Tehama Wildlife Area because use does not impact wildlife or plants.	<b>Action scheduled 12/9-10/2015</b>		
8/28/2015	<a href="#">Del Norte County Board of Supervisors</a>	Klamath River --Blue Creek Closure		Requests FGC repeal or amend the closure of Blue Creek to fishing because the decision was made without consideration of science or the impact on residents, including small businesses.	<b>Action scheduled 12/9-10/2015</b>		
9/24/2015	<a href="#">Mercer Lawing, CA Trappers Association</a>	Bobcat trapping		Requests FGC reconsider ban on bobcat trapping because the decision failed to address the biological and economic impacts.	<b>Action scheduled 12/9-10/2015</b>		

**CALIFORNIA FISH AND GAME COMMISSION  
RECEIPT LIST FOR NON-REGULATORY REQUESTS THROUGH 9-24-2015**

**FGC** - California Fish and Game Commission   **DFW** - California Department of Fish and Wildlife   **WRC** - Wildlife Resources Committee   **MRC** - Marine Resources Committee

**Grant (previously Accept):** FGC is *willing to consider* the petition through a process      **Deny (previously Reject):** FGC is *not willing to consider* the petition  
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Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Decision	DFW/FGC Staff Response	Final Action, Other Outcomes
9/24/2015	<a href="#">Sean Brady, Michel &amp; Associates, representing National Rifle Association</a>	Committee Procedures	Requests rules and procedures be established for the WRC through normal regulatory approval process before WRC takes any further action.	<b>Action Scheduled 12/9-10/2015</b>		
8/6/2015	<a href="#">Ilson New representing Dan Yoakum</a>	HEOK Experimental Permit	Requests clarification on the definition of HEOK fishing.	<b>Action Scheduled 12/9-10/2015</b>		
9/10/2015	<a href="#">Michael Flores, Al Taucher Conservation Coalition</a>	Predator Policy Workgroup	Requests clarification of actions the at FGC Aug meeting in Fortuna whereby individuals were publicly appointed to the Predator Policy working group in conflict with the process previously established by the Commission.	<b>Action Scheduled 12/9-10/2015</b>		
8/11/2015	<a href="#">Diane Pleschner-Steele, CA Wetfish Producers Association</a>	WRC Meeting	Request to provide update on squid research at MRC and FGC meetings.	<b>Action Scheduled 12/9-10/2015</b>		
9/11/2015 9/13/2015	<a href="#">Hazel Kimberly Leonard Frances LiBrandi</a>	Urban Coyotes	Request to help control urban coyote problems.	<b>Action Scheduled 12/9-10/2015</b>		
6/18/2015	<a href="#">William Lemos</a>	North Coast Human Waste	Requests something be done to address the human waste problem occurring along the north coast during abalone season.	<b>Action Scheduled 12/9-10/2015</b>		

**From:** [Julia Fuller](#)  
**To:** [FGC](#)  
**Subject:** Stop Trapping All Furbearers  
**Date:** Tuesday, August 25, 2015 9:35:18 AM

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Thank you for your vote to ban the commercial and recreational trapping of bobcats statewide.

I request that you extend this ban to all furbearing animals. Our exposure to the disgusting trophy hunts taking place in Africa by rich people of low character have focused on the need to block all such activities of hunters killing for the thrill of the hunt or the desire to make money by killing beautiful animals for their fur. No animal should be killed solely for profits and an unnecessary luxury item - their fur. We have other ways to keep warm and the animals deserve to keep their coats and live out their lives in the wild.

Our wildlife belongs to all Californians, not just the mercenaries. Please help protect them before we eliminate them from our state. I would love to see funding made available for more Fish and Game agents to deal with all illegal poaching. Much of the poaching is done by people who are not California citizens and I would love to see higher penalties for this horrible and irresponsible practice.

Thank you for considering my position.

Julia Fuller



**From:** [Barbara L](#)  
**To:** [FGC](#)  
**Subject:** Ban!  
**Date:** Tuesday, August 25, 2015 11:41:04 AM

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We MUST ban the commercial and recreational trapping of all furbearers now!

Barb Longmuir

Sent from my iPad

**From:** [Zandra Raphael](#)  
**To:** [FGC](#)  
**Subject:** REQUEST INITIATIVE TO BAN TRAPPING OF ALL FUR BEARING ANIMALS  
**Date:** Sunday, August 30, 2015 5:58:18 PM

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I am writing to request an initiative banning the commercial and recreational trapping of all fur bearers. I have already shown my support for the bobcats at this point. While this is an atrocious practice, inhumane to say the least, the last thing we need to do is send these animals' beautiful pelts to China and Russia for profit. These animals need to be protected - they are part of 'all God's creatures, big and small.'

Shame on members Jim Kellogg and Jacqueline Hostler-Carmesin - BOO to them for voting 'no' on banning the commercial and recreational trapping of bobcats . KUDOS to Jack Baylis, Eric Sidar and Anthony Williams for voting 'yes.'

Thank you,

Zandra Raphael

**From:** [carol\\_johnson](#)  
**To:** [FGC](#)  
**Subject:** initiative to stop trapping all furbearers  
**Date:** Wednesday, September 02, 2015 5:41:50 PM

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At least it was voted 3-2 to ban commercial and recreational trapping of bobcats statewide on Aug.5th. But no animal should be killed solely for profit (pelts). We need a state ballot initiative to ban the commercial and recreational trapping of all furbearers.

Thank you for listening.

Carol Johnson

volunteer at Lindsay Wildlife Experience Rehabilitation Hospital in Walnut Creek, CA

**From:** [Jill Franzke](#)  
**To:** [FGC](#)  
**Subject:** No more longline/gill nets  
**Date:** Friday, September 11, 2015 5:29:38 PM

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Dear Mr. Baylis

Please impose a total ban on all gill net operation in CA ocean waters. It's time to stop the deadly practice of using nylon longline/gill nets in commercial fishing. Every year hundreds of whales, dolphins, sea turtles, sea otters, sea lions, and diving sea birds lose their lives by becoming entangled in these nets. Please make California a safe place for wildlife.

Sincerely,

Jill Franzke



**From:** [diane Pease](#)  
**To:** [FGC](#)  
**Subject:** Gill net fishing  
**Date:** Monday, September 14, 2015 12:25:34 PM

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Please end the practice by the fishing industry of gill net fishing.  
Many wonderful creatures of the sea are sacrificed because of this inhumane, indiscriminant, practice'

Diane Pease  


**From:** [Elaine Trogman](#)  
**To:** [FGC](#)  
**Subject:** Ending Drift Gill Net use in California  
**Date:** Thursday, August 27, 2015 3:55:40 PM

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Dear Sir & Madame,

I was born and raised in California and I feel I am entitled to have some say regarding what goes on along our coastline. I was shocked to learn that nets were placed off our beautiful California coast that were sometimes over a mile long. They not only caught intended fish but they, also, killed marine mammals, turtles, dolphins and other unintended catch. Many species die and they are never used for anything. This is not right and I feel it has got to stop. Other states like Washington and Oregon have banned this gill net practice and we should do the same.

Sincerely,  
Elaine Trogman



**From:** [REDACTED]  
**To:** [FGC](#)  
**Subject:** Ban Drift Gilnets  
**Date:** Wednesday, September 02, 2015 9:36:18 AM

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To: Mr. Jack Baylis, President of the CA Fish and Game Commission

Dear Mr. Baylis,

Please work to ban the use of drift gillnets by commercial fishermen in California waters. At a time when oceans of the world are increasingly polluted and ocean life declining, we must move to save California's fragile marine eco-system.

The use of drift gillnets is intended for the use of one targeted species, such as the thresher shark. All other species are discarded as "takings." Our marine mammals; such as whales and dolphins, become entangled in the nets before downing.

We must move at once to ban this barbaric and wasteful fishing practice and save as much of California's magnificent and diverse ocean-life as we can.

Thank you for your attention.

Joan Jones Holtz

[REDACTED]

[REDACTED]

**From:** [George Burkhardt](#)  
**Subject:** Stop Wasting Our Water  
**Date:** Tuesday, August 11, 2015 5:55:49 PM

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As a responsible official dedicated to the principal of serving/protecting the common good; I implore you to do everything you can to stop wasting our water. Please therefore join other officials in leadership positions such US Representative Tom McClintock to immediately take definitive action to alleviate the state-wide CA water crisis. Although there are a host of actions that could be taken to produce real results, I am suggesting only the following **Top Two** for your consideration:

1. **Eliminate**, (or at the very least **Suspend** and/or **Disregard**) **“fish flow release”** federal regulations that mandate and continue to waste billions of gallons of fresh water annually at an ongoing cost of hundreds of millions of dollars. These perhaps initially well-meaning regulations have since been proven to have been based on bad science, but yet are still blindly followed today even though these regulations continue to cause massive wide-spread harm to a great many ordinary citizens, businesses and wildlife.
  - Fish flow releases are intended to, but perhaps at best only assist few if any native trout or steelhead salmon, and certainly do not measurably increase their survival rate. Fish flow releases not as intended do assist the survival rate of more non-native hatchery-raised fish, but again there is not a measurable result of significance.
  - As all the CA reservoirs are currently being drained to comply with “fish flow releases” into our rivers supposedly to protect native fish, we are at the same time systematically wiping out the entire resident fish populations (trout, kokanee salmon, etc) of these same reservoirs. Additionally the collateral damage done to other wildlife such as bald eagles and ospreys that depend fully on their now exterminated reservoir fish population food source is simply stunning. **FOLLOWING GOVERNMENTAL PROGRAMS INTENDED TO SAVE A FEW NATIVE FISH WHILE THE SAME PROGRAMS ARE DESTROYING UNTOLD NUMBERS OF WILDLIFE IS INSANITY.**
  - Local newspapers and TV stations continue to report on the increasing numbers of ordinary citizens who have had their drinking water supply dry up and are desperately attempting to deal with it.
  - Family farms passed down from one generation to another have either gone out of business or are at the brink of doing so.

Implementing the above change to end “fish flow releases” would be similar to the #1 life-saving practice followed in a hospital emergency room when the trauma surgeon first “stops the bleeding” of the patient in order to save him. Considering what the likely devastation will be on the entire state if we suffer a 5<sup>th</sup> consecutive year of drought in 2016 – this medical analogy may very well come true.

2. **Raise the level of all existing reservoir dams** originally designed to be higher

if needed and raise those that can now be re-designed and re-done at a reasonable cost. Lake Shasta is perhaps the best example of a very large water supply reservoir that has a dam originally designed to be made much higher whenever needed. **IT IS THEREFORE CRITICAL TO RAISE OUR DAM LEVELS NOW!**

- All CA citizens are hoping and praying the predictions of a strong El Nino weather system beginning this fall will deliver higher than normal precipitation.
- Immediate action now will allow existing reservoirs to capture and store the otherwise El Nino excess water that will otherwise be lost when it simply cascades over the spillways and eventually flows out to sea to become more saltwater.
- Individual and/or collective failure by officials such as yourself to act on this urgent need in a timely manner would be irresponsible at least for all, and perhaps even dereliction of duty for some.

*Please step up, do the right thing, and demonstrate your leadership.*

In closing, thank you in advance for responding to this call for action, and please email me to advise specifically what you have done so I can share your good work with other concerned citizens.

George Burkhardt





July 31, 2015

Mr. Jack Baylis, President  
California Fish and Game Commission  
1416 9<sup>th</sup> Street, Suite 1320  
Sacramento, CA 95814

RE: Implementation of the Commission's November 2012 Policy on Forage Species

Dear President Baylis and Commissioners:

We are writing to update you on recent developments in the precautionary management of forage fish species on the West Coast. We believe these developments provide an opportunity to advance implementation of California's landmark forage species policy, and we offer our recommendations in this regard. Forage species such as herring, smelts, and market squid are the lifeblood of our marine ecosystems and coastal communities, supporting the salmon, halibut, tuna, marlin, and other large fish that sustain our commercial and recreational fisheries, as well as the tremendous diversity of seabirds, whales, and pinnipeds that enrich California's economy and quality of life. We thank you for unanimously adopting a forage policy in November 2012<sup>1</sup> to protect this critical prey base, for utilizing and furthering the implementation of that policy in developing a Fishery Management Plan (FMP) for Pacific herring, and for the State's leadership in forage species protection at the Pacific Fishery Management Council (Council).<sup>2</sup>

The 2012 California forage species policy addresses both managed and unmanaged species. The California Fish and Game Commission (Commission) and the California Department of Fish and Wildlife (CDFW) have made considerable strides toward implementation of the forage species policy with regards to managed species, including through the proposed FMP and recent annual specifications packages for the state Pacific herring fishery. This letter and our recommendations address those components of the policy that call for preventing the development of new fisheries on unmanaged/unfished forage species absent rigorous advance analysis, and for which corollary regulations are being finalized for federal waters.

Our recommendation, in summary, is that acting to "conform" to forthcoming federal regulations, on a parallel timeline, is the most straightforward approach available to implementing the unmanaged forage goals in California's forage policy. Our proposed approach

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<sup>1</sup> The Commission's policy on forage fish as adopted in November 2012 is included here as Appendix A, and may also be accessed online at [http://www.fgc.ca.gov/meetings/2012/081012MRCDraft\\_ForagePolicy\\_MRCrec.pdf](http://www.fgc.ca.gov/meetings/2012/081012MRCDraft_ForagePolicy_MRCrec.pdf)

<sup>2</sup> Our appreciation also extends to recently departed Commissioners, and to staff at the California Fish and Game Commission and California Department of Fish and Wildlife.

is to work with CDFW and the National Oceanic and Atmospheric Administration's Fisheries Service (NOAA Fisheries) to make federal regulations conducive to conformance, then to subsequently present the Commission with a request to initiate conformance rulemaking. Below we provide additional background and detail.

### **Background and Context**

Forage species are an indispensable part of the Pacific Ocean's food web, and a key reason the waters off the West Coast are among the most productive in the world. These small, nutrient-rich species serve as the primary food source for a vast array of larger fish and dependent predators, including California's most commercially and recreationally valuable marine species. As global catch of forage species continues to increase, precautionary forage species management has emerged as a core element of an ecosystem-based approach to fisheries management that considers not only particular harvested species but their prey, habitat, and role in the marine environment.

A few West Coast forage species are subject to major active fisheries, such as market squid, sardine, herring, and northern anchovy. Several others, including sand lance, myctophid lanternfish, saury, and certain smelts and pelagic squids, are neither directly targeted for fishing nor actively managed. There are also some small-scale fisheries in California for smelts.

As scientists have increasingly come to understand the critical role of forage species in the health of ocean ecosystems, currently unfished and unmanaged forage species are gaining protections similar to those called for in the California forage species policy, which is designed to ensure that no new fishing takes place on key forage species in state waters without first accounting for the needs of larger fish and other predators. In March 2015, the Council unanimously approved protections in federal waters that will prohibit new directed commercial fishing on seven groups of unmanaged forage species, absent rigorous prior review and analysis. NOAA Fisheries is now working with officials from each West Coast state to develop draft implementing regulations for Council consideration this September. Meanwhile, the State of Oregon is preparing to draft an FMP for unmanaged forage fish species in Oregon, which is expected to essentially apply the federal forage regulations to Oregon's state waters. Oregon anticipates developing its forage FMP during the summer and fall of 2015, with consideration by the Oregon Fish and Wildlife Commission in early 2016. The State of Washington adopted a strong Forage Fish Management Plan<sup>3</sup> in 1998 and already has a regulatory program in place preventing the development of new fisheries for all species, including forage species, until they are approved.

As the Council began developing protections for unmanaged forage species in federal waters, the Commission initiated a process in December 2011 aimed at similar protections. As part of the process, representatives from conservation organizations and the fishing industry were asked to collaboratively develop a guiding policy for forage species in California state waters. The result was a forward-looking, consensus policy adopted unanimously by the Commission in November 2012 (see Appendix A). With respect to currently unfished and unmanaged species, the policy establishes precautionary, science-based management goals parallel to those of the nearly-

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<sup>3</sup> Washington Department of Fish and Wildlife, Forage Fish Management Plan: A plan for managing the forage fish resources of Washington (Sept. 1998), *available at* <http://wdfw.wa.gov/publications/00195/>

completed federal action. However, because the policy is non-regulatory in that Commission policies guide the development of state regulations, further action would be needed by the Commission to align state and federal rules.

Following its adoption, the conservation and fishing industry representatives who crafted the policy began to discuss ways to implement it.<sup>4</sup> Regarding the prevention of new or expanded fisheries on unmanaged forage species, the groups discussed and vetted a number of implementation pathways including the Commission's emerging fisheries policy and other related approaches. Regular consultations with CDFW staff over the ensuing nine months and a key presentation to the Marine Resources Committee (MRC)<sup>5</sup> in March 2014 resulted in a focus on the goal of preventing new unmanaged fisheries on forage species, and a refined approach focused on achieving consistent regulations in state and federal waters. We ultimately determined that the Council would be an efficient forum in which to develop and vet a regulatory package for federal waters that was responsive to state concerns, and that could then be implemented in parallel regulations in state waters.

After several years of diligent work, the Council in March 2015 unanimously adopted amendments to all of its FMPs prohibiting directed fishing on seven groups of forage species as the first initiative of its Fishery Ecosystem Plan (FEP), and NOAA Fisheries is currently drafting implementing regulations in collaboration with the states and the Council.

### **Recommended Path Forward**

Based on this history of careful, stakeholder driven consideration, we now recommend the Commission adopt California regulations consistent with the federal prohibition on new directed forage fisheries, both to protect California fishery and ecosystem resources and to establish similar rules between California and adjacent federal waters. Consistent regulations across jurisdictions will prevent confusion and aid enforcement and compliance. Further, state action to achieve alignment with federal regulations is an approach often utilized by the Commission, and is the most straightforward approach available to implementing the unmanaged forage goals in California's forage policy. We are in agreement with CDFW staff that such action should apply to new directed fisheries and should not affect existing small-scale fisheries for smelts or other small-scale fisheries identified as having comparable relevant characteristics. Based on the current schedule for implementation of federal regulations by NOAA Fisheries, we further believe California's best option is to initiate action by the end of 2015, in order to leverage the current effort being applied to developing West Coast forage regulations by the Council, NOAA Fisheries, Oregon managers and CDFW staff. From conversations with CDFW staff, we understand that internal timelines likely preclude a Commission notice hearing, a key first step, in 2015. We suggest that by the end of 2015, the Commission could still commit to and plan for

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<sup>4</sup> Again, the focus of this letter is the unmanaged species aspects of the policy, but we do want to provide additional information on progress relative to the managed species aspects of the policy as well. To address aspects of the policy related to forage species already actively managed by the Commission, several stakeholders convened with the Department to develop a proposal for a Fishery Management Plan for Pacific Herring. We thank the Commission for its support of this endeavor, including the recent support letter to external funding organizations that are considering funding that process.

<sup>5</sup> See CFGC MRC Meeting Materials for March 24, 2014, "*Report by Oceana [et al.] on Its Implementation of the Commission's Forage Species Policy*," [Oceana Presentation \(PDF\)](#)

the development of consistent regulations, perhaps by calendaring this item. Subsequently, we hope that the Commission could consider a proposed regulatory package and initial statement of reasons, and hold a notice hearing, in early 2016.

CDFW personnel are significantly engaged in ensuring that the forthcoming federal regulations fully support and preserve California's specific management needs and existing fisheries. As conservation organizations, we are also working through the federal rulemaking process to ensure that California's needs and concerns are addressed, so that conforming action can be as streamlined and straightforward as possible. Therefore, we are optimistic that the bulk of the staff time and expense needed to craft forage protection regulations applicable to California will already have been invested by Fall of 2015. We understand that new Commission regulations carry time, resource and opportunity costs. However, acting in concert with federal rulemaking will provide efficiencies less available should California defer action. Our recommendation, therefore, is that the Commission begin work on a process, as described above, by the end of 2015 to effectively synchronize with the expected federal timeline. We understand that the Commission's regulatory calendar and workload are significant factors in this decision that warrant careful consideration and if the Commission were to act on our request, we would look forward to working with you to schedule this in the most efficient way possible.

Thus, our organizations urge the Commission to consider planning for a rulemaking process to establish conforming forage regulations such that federal and California actions unfold on roughly parallel timelines. Once a pre-draft of the federal regulations is available that has CDFW support, our groups anticipate submitting a Petition for Regulatory Change to the Commission to initiate this process. Based on current timelines, we hope that this could take place in October 2015 but we expect to further vet this target date with Commission and CDFW staff to best accommodate the Commission regulatory calendar. Alternatively, because the Commission's process for external regulatory requests entails multiple meetings, there may be valuable time savings available if the Commission itself initiates the process. Either way, our intention is to support federal and state regulations that fully honor California's important existing fisheries and management programs, to minimize time and workload impacts in forage protection, and to harmonize current regulatory requests with important planning priorities for CDFW's Marine Region. We look forward to working with you and Department and Commission staff to calendar, streamline, and minimize workload associated with this process.

In this latter respect, our organizations fully support the emerging effort by CDFW and the Commission to update the MLMA Master Plan for Fisheries. This critical effort will not only modernize and strengthen California's fisheries and marine ecosystem management, but is instrumental in the recommended path we propose. A policy preventing new directed fishing on forage species unless and until determined to be sustainable ultimately needs refined measures to address bycatch of these species, and a procedure for the Commission to consider proposed new directed fisheries on forage, approve or disapprove them, and if approved to set conditions on them. The Commission has already directed staff to convene a Bycatch Working Group to formally review (and potentially revise) bycatch-related components of the Master Plan update, which could address the issue of incidental catch of forage species. Furthermore, revisiting management of emerging fisheries in the Master Plan could provide a method for reviewing proposed new fisheries that is consistent with the goals of the forage policy.

In summary, we believe a two-pronged approach to implementation of the state forage policy provides California with the best option: 1) the near-term state action we describe here to preclude new directed fisheries on forage species by harmonizing state and federal regulations, and 2) careful, inclusive planning for longer range, comprehensive policy refinement to incrementally apply ecosystem-based concepts to management of forage species through actions like the MLMA Master Plan update, development and/or revision of FMPs, or other regulatory vehicles. Finally, we note that the California forage fish policy explicitly calls for the harmonization of state and federal regulations for unmanaged forage species, stating that Commission management goals should “*Facilitate consistency in the management of forage species, integrate with existing Fishery Management Plans, and encourage cooperation and collaboration across jurisdictions and international boundaries in managing forage species.*”<sup>6</sup>

The undersigned organizations reiterate our deep appreciation of the Commission and Department for its leadership in protecting forage as a vital ecosystem resource.

Sincerely,



Anna Weinstein  
Marine Program Director  
Audubon California



Greg Helms  
Manager, Fish Conservation Program  
Ocean Conservancy



Geoffrey Shester, Ph.D.  
California Campaign Director  
Oceana



Paul Shively  
Project Director, U.S. Oceans, Pacific  
The Pew Charitable Trusts

Cc: Chuck Bonham, Director, CDFW  
Craig Shuman, Marine Region Manager, CDFW  
Sonke Mastrup, Executive Director, California Fish and Game Commission

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<sup>6</sup> See Commission forage fish policy, Section III, bullet #4, available in Appendix A and at [http://www.fgc.ca.gov/meetings/2012/081012MRCDraft\\_ForagePolicy\\_MRCrec.pdf](http://www.fgc.ca.gov/meetings/2012/081012MRCDraft_ForagePolicy_MRCrec.pdf)

## **APPENDIX A: Commission Forage Policy as Adopted November 2012**

**DRAFT -- August 10, 2012**

*It is the policy of the Fish and Game Commission that:*

- I. For purposes of California fisheries management, forage species are defined as species that contribute significantly to the diets of larger organisms during some part of their life history, thereby transferring energy and nutrients to higher trophic levels in the ecosystem.
- II. The Commission recognizes the importance of forage species to the marine ecosystem off California's coast and envisions management of forage species that: optimizes their ecological, economic and social values; accounts for the benefits rendered by forage species to other species, fisheries, wildlife, and the overall ecosystem; and considers recreational and commercial fishing interests and other economic sectors.
- III. The Commission intends to provide adequate protection for forage species through management goals that:
  - Are precautionary and utilize the best available science in management decisions using clear and transparent methods;
  - Identify and progressively incorporate Essential Fishery Information (EFI) needed for ecosystem-based management of forage species, including physical factors, oceanographic conditions, the effects of fishing on forage species' dependent predators, the availability of alternative prey, spatio-temporal foraging hotspots for predators, and existing management, including marine protected areas;
  - Prevent the development of new or expanded forage fisheries until EFI is available and applied to ensure the sustainability of target forage species and protection of its benefits as prey; and
  - Facilitate consistency in the management of forage species, integrate with existing Fishery Management Plans, and encourage cooperation and collaboration across jurisdictions and international boundaries in managing forage species.

**END POLICY**

**From:** [Jason Robinson](#)  
**To:** [FGC](#)  
**Subject:** Agenda Item Request for Rock Crab Transfer Process  
**Date:** Monday, August 10, 2015 8:48:03 AM

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Dear Commissioners,

I would like to address the transfer process of the south coast rock crab permit. The current process allows five permits to be transferred each year, if more than five applications have been submitted the license and revenue branch conducts a manual closed door lottery. I have been participating in the process for four consecutive years and have been unsuccessful in getting the permit I have already paid for transferred. My concerns and possible solutions are as follows:

The DFW has created a process which an individual applicant may never be successful in transferring his or her permit.

The current process allows for first time applicants to be successful while applicants that have been applying for years to remain unsuccessful. This is not fair.

The uncertainty of the current process makes it logistically impossible for a business to plan for the future.

The non-transparency of the lottery creates skepticism; every applicant that I've spoken with has concerns about the legitimacy of the lottery. I have requested to be a witness and was denied.

A simple solution that would gain the support of participants and could be accomplished easily would be to transfer permits on a first come first serve basis. For example, if I were applicant number 12 I would know my permit would transfer on year three. With that knowledge I could prepare my business accordingly. Traps would be ready to go in the water, I would be able to secure my markets and have a much better chance of being successful.

A back up solution could be to give applicants that have been attempting for consecutive years more points in the lottery as is the case with the Sea Urchin lottery.

This is my formal request to make this issue an agenda item at Septembers Commission meeting. Please feel free to contact me at any time. I look forward to discussing this matter further.

Sincerely,  
Jason Robinson

**From:** [Chris Borden](#)  
**To:** [FGC](#)  
**Subject:** Stop fishing please  
**Date:** Monday, August 03, 2015 9:16:08 PM

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Too many whales are dying because there's no fish to eat save our whales and stop fishing please  
Sent from my iPad

**From:** [Greg Ross](#)  
**To:** [FGC](#)  
**Subject:** Fwd: Tehama Wildlife Area  
**Date:** Friday, August 21, 2015 2:58:53 PM

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To Whom it may concern,

I sent this email to Andrew Hughan, Public Information Officer for the Department, and he said I should forward it to you. Thank you for your time and I would love to here back from someone there.

----- Forwarded message -----

**From:** **Greg Ross** <[REDACTED]>  
**Date:** Fri, Aug 21, 2015 at 11:34 AM  
**Subject:** Tehama Wildlife Area  
**To:** [REDACTED], [REDACTED]

Andrew,

I am contacting you in regards to the closure of ATV use in the Tehama Wildlife Area. First and foremost, I am 100% opposed to the closure. I have enjoyed the area since a young boy, hunting and fishing with my father, taking my sons up as well, and now introducing my grandson to the beauty of the area. I certainly hope you are familiar with the Wildlife area and what we as sportsman have to deal with when it comes to traveling the roads, which are in my opinion, second to none. It is one big rock. In fact, when talking about going up there we refer to it as, "going up in the rocks." With ATV's being introduced back in the mid-80's early 90's and where they have evolved to too the present, what a breath of fresh air in making a trip up to "the rocks." Now we have Fish and Wildlife banning their use?? For the life of me, I cannot make heads or tails with the reasoning. If the ATV traffic was getting out of hand and riders going off the roads, then that needs to be dealt with, but to ban their use is not the answer. I noticed in the Red Bluff paper recently, Mitch Carlson stated that "it is to protect wildlife as well as ATV traffic can damage the ground and plants." I left a message at the Red Bluff office to contact me because I would like Mitch to explain how, by keeping out ATV's, it is protecting wildlife, the ground, and plants. ATV's are not allowed off the roads. By this analogy, all traffic should be banned from the area.

I have talked local Wardens, Tehama Wildlife Area employee's, and all are opposed to the ruling. Please, please, see if the ruling can be revoked, and let the sportsman of the north state enjoy the area on an ATV once again.

Thanks

--

Greg Ross  
Director of Maintenance, Operations, and Transportation  
Tehama County Department of Education  
1135 Lincoln Street  
[REDACTED]



County of Del Norte County  
Board of Supervisors  
981 "H" Street, Ste. 200  
Crescent City, California 95531

Phone  
(707) 464-7204

Fax  
(707) 464-1165

**Petition to Repeal or in the Alternative Amend Title 14 (b)(91.1)(B)(3) and (4) of Section 7.50 of the California Code of Regulations (Blue Creek Closure)**

California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
FGC@fgc.ca.gov

Requested by:

County of Del Norte  
David Finigan, Chair of the Board of Supervisors  
981 H Street, Suite 210  
Crescent City, CA 95531  
(707) 464-7204

2015 AUG 28 PM 2:06

FISH AND GAME  
COMMISSION

MJS

This is a petition to repeal the regulation adopted by the California Fish and Game Commission (Commission) on April 17, 2015 and effective June 4, 2015 located at Title 14 Section 7.50(b)(91.1)(B)(3) of the California Code of Regulations (CCR). If for any reason this petition is not successful at repealing the aforementioned regulation it shall be interpreted as a petition to amend the stated regulation sections for the following fishing season (2016).

This Petition is based upon the following statutes, background information, and justifications.

**Applicable Statutes:**

Government Code 11340.6 states "Except where the right to petition for adoption of a regulation is restricted by statute to a designated group or where the form of procedure for such a petition is otherwise prescribed by statute, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5."

Fish and Game Code §220 states "(a) Any regulation of the commission added or amended pursuant to this article shall remain in effect for the period specified therein or until superseded by subsequent regulation of the commission or by statute. (b) Notwithstanding this article, the commission may add, amend, or repeal regulations at any regular or special meeting if facts are presented to the commission which were not presented at the time the original regulations were adopted and if the commission

determines that those regulations added, amended, or repealed are necessary to provide proper utilization, protection, or conservation of fish and wildlife species or subspecies.

Fish and Game Code §315 states "The commission may at any time close any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish to protect and properly conserve the fish, except for the taking of fish otherwise permitted by this code under a commercial fishing license, for such time as the commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective."

Fish and Game Code §315.3 states "The commission may, at any time when facts are presented to the commission which were not presented to the commission at the time of its December meeting held pursuant to Section 209, open any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish for the proper utilization of the fish, for such time as the commission may designate or until such time as new legislation thereon enacted by the Legislature may become effective."

Fish and Game Code §703.3 states "It is the policy of the state that the department and commission use ecosystem-based management informed by credible science in all resource management decisions to the extent feasible. It is further the policy of the state that scientific professionals at the department and commission, and all resource management decisions of the department and commission, be governed by a scientific quality assurance and integrity policy, and follow well-established standard protocols of the scientific profession, including, but not limited to, the use of peer review, publication, and science review panels where appropriate. Resource management decisions of the department and commission should also incorporate adaptive management to the extent possible."

Fish and Game Code §703.5 states "It is the policy of the state as follows: (a) That the department and the commission seek to create, foster, and actively participate in effective partnerships and collaborations with other agencies and stakeholders to achieve shared goals and to better integrate fish and wildlife resource conservation and management with the natural resource management responsibilities of other agencies. (b) That the department and commission participate in interagency coordination processes that facilitate consistency and efficiency in review of projects requiring multiple permits, including, but not necessarily limited to, joint state, federal, and local permit review teams that enable early consultation with project applicants, and provide improved sharing of data, information, tools, and science to achieve better alignment of planning, policies, and regulations across agencies."

Fish and Game Code §6920 states "(a) The department shall, with the advice of the Advisory Committee on Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory Committee, prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries. (b) The department shall consult with every public agency whose policies or decisions may affect the goals of this program to determine if there are feasible means for those public agencies to help the department achieve the goals of this program."

## Background Facts:

On April 17, 2015 the Commission voted to close the fishing area of the Klamath River within 500 feet of the mouth of Blue Creek from September 15 to December 31 and to close the area from 500 feet above the mouth of the Blue Creek to ½ mile downstream of the mouth of the Blue Creek June 15 through September 14.

The closure was pursuant to an amendment of Subsections (b)(91.1) and (b)(195) of Section 7.50 Title 14 of the CCR. The amendment was noticed as three Options in the Initial Statement of Reasons for Regulatory Action and in the Final Statement of Reasons for Regulatory Action. Option 1 was the Department proposal. Option 2 was the Yurok Tribe proposal and Option 3 was a “possible combination” of Option 1 and 2.<sup>1</sup> Precipitating the Options was a letter from the Yurok Tribe formally recommending modifications of the regulations. This letter was dated November 19, 2014. The Commission then had a Notice hearing on the proposed amendments on December 3, 2014. The Initial Statement of Reasons was filed on January 12, 2014. A discussion hearing was held on February 12, 2015. The Pre-Adoption Statement of Reasons was filed March 20, 2015. The adoption hearing was held April 17, 2015. The Final Statement of Reasons was filed May 4, 2015. The regulation was approved by the Office of Administrative Law and took effect on June 4, 2015.

The closure was outlined in Options 2 and 3 but was against the recommendation of the Department.<sup>2</sup> Department staff stated “The Department cannot support that as the preferred option.”<sup>3</sup>

The closure was not based on scientific data regarding this specific location. The response to public comment by the Commission states that “The Commission adopted the proposed closure at the mouth of Blue Creek as a precautionary conservation measure” and “Scientific studies are needed to determine if, and under what criteria, alternate or additional closures may be necessary.”<sup>4</sup> The lack of scientific data was discussed by the Commission on April 17, 2015 as well as the need for such scientific data including temperature monitoring.<sup>5</sup>

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<sup>1</sup> Option 1 - No catch and release fishing in Spit Area – Department Proposal: All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area. Option 2- Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding to prior to entering Blue Creek. Option 3- (1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area. (2) Conservation closure below the mouth of Blue Creek to reduce catch and release mortality in a thermal refugia area and protect late-fall Chinook holding prior to entering Blue Creek.

<sup>2</sup> See Memorandum dated April 1, 2015 from Charlton Bonham, Director to Sonke Mastrup, Executive Director

<sup>3</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:01:27: 2:35:50.

<sup>4</sup> <http://www.fgc.ca.gov/regulations/2015/ktcommentsandresponses.pdf>

<sup>5</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:34:00 – 2:34:48

Even without the scientific data supporting a closure of the Blue Creek area, the Commission voted to close the area, as one Commissioner stated at the April 17, 2015, "Why not close it and see what happens?"<sup>6</sup>

### **Justification for Repeal or Amendment**

The closure in question was arbitrary and capricious as it was not done with due regard for science, facts, and circumstances. The regulation was adopted in procedural disarray. It appears from the record several Commissioners wished to find out if, scientifically, there would be a need to close the area through temperature monitoring but could not adopt such a regulation because the noticing had not been done for such an alternative.<sup>7</sup> At the April 17, 2015 meeting, Executive Director Mastrup stated at one point during the motions "this is getting really screwed up quite honestly"<sup>8</sup> referring to the process of passing the motion on the closure of Blue Creek. The Commissioners lack of understanding of the motion they were passing, whether it was a recommendation of the Department or not, and the process needed to amend the regulation is clear from the record.

The Statement of Reasons promulgated by the Commission did not adequately estimate the impact upon County residents including impacts upon small businesses, in particular businesses consisting of sport fishing. Instead the Final Statement of Impacts states that "The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of reasons." The Commission did not adequately consider the economic impact of such actions. Del Norte County had, according to census data, 21.8% of persons living below the poverty level as compared to 15.9% of people statewide.<sup>9</sup> The effect on small businesses is a significant impact on the County.

Under Title 14 CCR 777.8(c), "Any proposed regulations for which significant adverse environmental effects have been identified during the review process shall not be approved or adopted as proposed if there are feasible mitigation measures or feasible alternatives which would avoid or substantially lessen any significant adverse effect which the proposed regulations may have on the environment, in accordance with Public Resources Code section 21081." The method in which the Commission noticed, evaluated, and eventually adopted the regulations at issue was wholly inadequate because there were several options which were evaluated together as one proposal when, in reality, they had different consequences and different significance of effects. The Commission eventually adopted what appears to be a combination of the Options which encompassed the Blue Creek closure. "Option 1 "would have been an alternative which would have lessened the significant impact on the local economy and local businesses. Whether the Options were mutually exclusive is unclear from the documents noticing the hearings on the amended regulations, but it appears that on April 17, 2015 the Commission decided they were not mutually exclusive and appears to have adopted a combination of the Options. In a

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<sup>6</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:03:26.

<sup>7</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:31:00-2:49:22

<sup>8</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:39:46

<sup>9</sup> <http://quickfacts.census.gov/qfd/states/06/06015.html>

response to the comments received by the public, the Department states “the final economic effect related to steelhead fishing will have to be assessed post season due to lack of adequate fishing effort data for this area.”<sup>10</sup> Additionally the possibility of an adverse environmental impact due to fish crowding in the Blue Creek area was not fully vetted in accordance with §777.6 of the Title 14 of the CCR. Overall, the adoption of the combination of the Options does not comport with the procedural regulations for implementation of the California Environmental Quality Act of 1970 (CEQA).

The scientific data needs to be evaluated as to whether such a closure is a necessary conservation measure or is scientifically sound. Department staff representative Stafford Lehr stated “That’s where the Department actually wanted to be with the Yurok. These points that have been raised are extremely valid and...they have expressed a concern, the Department has looked at it and said ‘we really don’t know what is the effort really, right at Blue Creek.’”<sup>11</sup> The Department staff representative went on to state the Department would like to build temperature criteria and address the issue in the coming year when there is scientific data available and explained that the proposal in front of the Commission would close the area regardless of what the temperature conditions were. Anecdotal data has indicated crowding conditions at the mouth of the Blue Creek partially due to fishing restrictions under the new regulations combined with low water levels are resulting in the deadly parasite ich which was responsible for the 2002 fish kill which caused severe damage to tribal trust resources and commercial and sport fisheries for years to come, undermining the regional economy.<sup>12</sup> Scientific data regarding this specific location as well as consequences to local resources and local economy needs to be considered rather than a “why not close it and see what happens” approach based upon political pressures. This is the exact reason why decision making by a California regulatory authority should not be arbitrary.

Through letters dated February 12, 2015 and May 29, 2015, the County via its Board of Supervisors urged the Fish and Game Commission not to adopt such regulation without supporting scientific data but to no avail. County Counsel wrote a letter on June 9, 2015 expressing the disappointment of the Board after the regulation was amended.

The County Board of Supervisors believe the Commission should collaborate with agencies and stakeholders in a meaningful manner according to its own policies and state law and should work toward solutions together rather than unilaterally denying repeated requests from the County that they reassess their decision making process as to this matter.

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<sup>10</sup> <http://www.fgc.ca.gov/regulations/2015/ktcommentsandresponses.pdf>

<sup>11</sup> Teleconference April 17, 2015 available [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG) comment found at 2:33:55

<sup>12</sup> See press release from Jared Huffman <https://huffman.house.gov/media-center/press-releases/rep-jared-huffman-insists-federal-agencies-act-to-prevent-klamath-river>

The County now calls upon the Commission to repeal such regulation or, in the alternative, amend the regulation taking into consideration the impacts on the County and all of its residents. The Commission is required to act within 30 days under Government Code §11340.7. The County looks forward to an official response to this Petition.

Sincerely,



David Finigan,  
Chairman of the Board  
Del Norte County  
Board of Supervisors

#### **Attachments**

1. Notice of Proposed Changes in Regulations- Jan. 13, 2015
2. Initial Statement of Reasons - January 12, 2015
3. Final Statement of Reasons – May 4, 2015
4. Summary and Response to Public Comments
5. Approved Regulatory Language (page 1)
6. Office of Administrative Law's decision: June 4, 2015
7. Letter from Yurok Tribe Chairman Thomas O'Rourke- November 19, 2014
8. Press Release "Rep. Jared Huffman insists federal agencies act to prevent Klamath River fish kill"  
– August 3, 2015
9. Blue Creek fishing closure: Parties air their grievances–July 16, 2015

# Attachment 1

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 215, 220, 240, 315, and 316.5, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 205, 215, and 316.5 of said Code, proposes to amend subsections (b)(91.1) and (b)(195) of Section 7.50, Title 14, California Code of Regulations, relating to Klamath River sport fishing.

**Informative Digest/Policy Statement Overview**

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service.

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

**Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

**Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

### **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath River Basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

#### SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014 the Department also evaluated restrictive measures for the spit area which included a "no catch and release" regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission that it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

Option 1 - No catch and release fishing in Spit Area - Department Proposal

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon <22 inches) component of their daily bag limit. This regulation also does not preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

Option 2 - All Chinook salmon must be kept in Spit Area with Blue Creek closure - Yurok Proposal

The Yurok tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- 1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in Section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

Option 3 – A possible combination of Options 1 and 2

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure.

- 1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)2. is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road". Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

**Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 202, 205, 315, and 316.5, Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Thursday, February 12, 2015, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Friday, April 17, 2015, at 8:30 a.m., or as soon thereafter as the matter may be heard. Interested persons may also participate at the following locations: Department of Fish and Wildlife, Conference Room, 50 Ericson Court, Arcata, California; Department of Fish and Wildlife, Conference Room, 20 Lower Ragsdale Drive, Suite 100, Monterey, California; Department of Fish and Wildlife, Conference Room, 1933 Cliff Drive, Suite 9, Santa Barbara, California; and Department of Fish and Wildlife, Conference Room, 4665 Lampson Avenue, Los Alamitos, California. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 16, 2015. All comments must be received no later than April 17, 2015, at one of the teleconference hearing locations listed above. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Stafford Lehr, Chief of Fisheries Branch, Department of Fish and Wildlife, (916) 327-8840 or [Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person

interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Analysis**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) **Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:**

The proposed regulations range from no fishing of KRFC salmon in 2015; to a normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not expected to create, eliminate or expand businesses in California. The Commission anticipates impacts on the creation, elimination or expansion of businesses in California ranging from no impact to reduced revenues to approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC salmon is permitted than under the complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Sonke Mastrup  
Executive Director

Dated: January 13, 2015

# Attachment 2

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Subsections (b)(91.1) and (b)(195) of Section 7.50  
Title 14, California Code of Regulations  
Re: Klamath River Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: January 12, 2015
- II. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: December 3, 2014  
Location: Van Nuys
  - (b) Discussion Hearing: Date: February 12, 2015  
Location: Sacramento
  - (c) Adoption Hearing: Date: April 17, 2015  
Location: Teleconference

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

Two tribal entities within the Klamath River System, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for ceremonial,

subsistence and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the Hoopa and Yurok tribes.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

#### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

#### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Lower Klamath River in 2015 and ensuing years by creel survey.

#### **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2015 regulatory cycle.

The Commission may modify the KRFC in-river recreational salmon harvest allocation which is normally 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC in-river harvest allocation is split into 4 geographic areas with subquotas assigned to each. They are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the recreational fishery allocation;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the recreational fishery allocation;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the recreational fishery allocation; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the recreational fishery allocation.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort and ensure equitable harvest of adult KRFC in the upper Klamath River and Trinity River. The subquota system requires the Department to monitor angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2015 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel survey data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the Lower and Upper Klamath River. The HPM will be used by the Department to implement fishing

closures to ensure that anglers do not exceed established subquota targets.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates:

#### **Klamath River**

1. January 1 through August 14 - General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

#### **Trinity River**

1. January 1 through August 31 – General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31

3. Bag Limit - [0-4] Chinook salmon – of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

#### SPIT AREA MANAGEMENT:

Regulations adopted in 2014 specify the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge. At the same time, the Commission removed language (special note in the regulations for the spit fishery) that allowed the Department to keep the spit fishery open if the Department projected the Klamath River Basin adult fall Chinook would not be met.

In 2014 the Department also evaluated restrictive measures for the spit area which included a “no catch and release” regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission that it would consider this change for the 2015 regulatory cycle.

At issue is the perception of mortality associated with Chinook salmon which are caught and released by anglers trying to fill their daily grilse bag limit. Typically the fall Chinook bag limit is composed of an adult portion and grilse portion. In 2014 the daily fall Chinook bag limit was three fish, no more than one adult. Thus, anglers fishing the spit area would often catch and keep their one adult and continue fishing for the grilse portion of their daily bag. Some anglers would catch multiple adult fall Chinook and have to release these fish since they already had retained their one adult. Some released Chinook were observed floating downstream, thus becoming easy prey for the marine mammals that congregate in this area.

The following options are being provided for Commission consideration:

#### Option 1 - No catch and release fishing in Spit Area - Department Proposal

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook salmon spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon <22 inches) component of their daily bag limit. This regulation also does not preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

Option 2 - All Chinook salmon must be kept in Spit Area with Blue Creek closure - Yurok Proposal

The Yurok tribe approached the Commission at the notice hearing for additional proposed modifications to the Klamath River regulations in the spit area and the main Klamath River below the confluence with Blue Creek. The Commission directed the Department to add a regulatory option to allow further consideration of the Yurok proposal:

- 1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding to prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon. This revision would add a new subarea on the spit area by adding a new subsection (b)(91.1)(E) for the spit area.

The difference between the Yurok Tribe's proposed regulation and the Department's proposal is that the Tribal proposal requires the retention of all fish caught, regardless of whether they are caught legally or foul hooked. The proposed regulations therefore provide, in this one instance, an exception from the snagging prohibitions in subsections (b) and (c) of Section 2.00. The rationale for this is that a substantial proportion of fish caught in this area are foul hooked due to the nature of the fishery. Given that these fish are exhausted when released, and there is a relatively large presence of sea lions and seals that feed upon these released fish, the Tribe recommends that all fish caught (even those foul hooked) be retained and counted toward an angler's daily bag limit.

The second modification would expand subsection (b)(91.1)(B)3. to add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

This proposed conservation area has two purposes, depending on the time of year:

- 1) Mid-June to mid-September: The intent of this closure to fishing is to protect the large numbers of adult summer steelhead, as well as spring

and fall-run Chinook salmon (thousands during some years), that are seeking thermal respite from the excessively warm Klamath River main stem temperatures. The intent is to prevent these fish from being caught by anglers, played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes near lethal levels) than the thermal refuge, and then eventually released. Forcing fish to go through such abrupt temperature changes, while putting them through excessive stress, results in physiological trauma that can lead to death.

2) Mid-September through December: The intent of this closure is to protect the genetically unique late-fall run chinook salmon that hold at the mouth of Blue Creek prior migrating upstream to spawn in Blue Creek, similar to the protections that are currently given at the mouths of the Salmon, Scott and Shasta Rivers.

### Option 3 – A possible combination of Options 1 and 2

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure.

- 1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

### ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)2. is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road". Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

*In-River Sport Fishing Economics Technical Report*, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service (NMFS), September 2011.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

The use of more liberal regulations for bag limits, possession limits and fishing methods. For KRFC salmon, more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the KRFC salmon stocks.

- (b) No Change Alternative:

The No Change Alternative would leave the current 2014 regulations in place and would not conform to the PFMC Klamath River Basin quota for 2015. Nor would it address the excessive catch and release mortality within the spit area. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed regulations range from no fishing of KRFC salmon in 2015; to a normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not

expected to create, eliminate or expand businesses in California. The Commission anticipates impacts on the creation, elimination or expansion of businesses in California ranging from no impact to reduced revenues to approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC salmon is permitted than under the complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

VI. Economic Impact Assessment:

The regulatory amendments of subsections of Section 7.50 under consideration will set the 2014 Klamath River Basin salmon sport fishing regulations to conform to Pacific Fishery Management Council (PFMC) Fall Chinook allocation guidelines. The Klamath River Basin is anticipated to be open for sport salmon fishing at levels similar to the 2014 quotas; however the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin sport salmon fishery closures for the take of adult salmon. Adverse or positive impacts to jobs and businesses will depend on the exact regulations ultimately adopted by PFMC and the Fish and Game Commission (Commission).

The Commission is considering proposed changes to Klamath River Fall Chinook (KRFC) quota management and the management of the Klamath River Basin spit area which is the area within 100 yards of the channel through the sand spit formed at the Klamath River mouth:

1) KRFC QUOTA MANAGEMENT

The proposed regulations range from 100% of last year's Klamath River Basin salmon season to 0% or no salmon fishing on adult Chinook salmon (greater than 22 inches) in 2015. Under all scenarios sport fishing will be allowed for grilse fall-run Chinook salmon (2 year-old salmon 22 inches or less) regardless of PFMC regulations, thus any adverse impacts to businesses would be less severe than under a complete closure of fishing.

The projections evaluated here are as follows: 100% of the 2014 Klamath River Basin catch limit; 50% of the 2014 basin catch limit; and 0% of the 2014 basin catch limit.

A. Effects of the Regulation on the Creation or Elimination of Jobs

Projection 1. 100% catch limit: The Commission does not anticipate any adverse impacts on the creation or elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Based on a 2011 NOAA National Marine Fisheries Service (NMFS) report on In-River Sport Fishing Economics of the Klamath River, under a normal season non-resident Klamath River sport salmon anglers contribute about \$2,037,424 (2013\$) in total economic output to California businesses. This revenue supports about 35 jobs in the state.

An assumption of the NMFS report is that increases in expenditures by resident anglers associated with expanded fishing opportunities would be accommodated by reduced expenditures on other locally purchased goods and services – with

no net change in local economic activity. For non-resident anglers, however, increases in local expenditures associated with increases in local fishing opportunities would be accomplished by diverting money that they would otherwise spend outside the local area. Thus the economic impact analysis focuses on non-resident angler expenditures, which represent 'new money' whose injection serves to stimulate the local economy.

The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33% of the Klamath Basin fall-run Chinook salmon total allocation. Using the Trinity allocation as a measure of angler effort, and thus impacts on associated businesses that support anglers, the total non-resident angler contribution to the entire Klamath Basin (including the Trinity River) is estimated to be \$2,709,774 (2013\$) in total economic output. This revenue, again using a 33% increase to account for the Trinity River, provides an estimated total of 47 jobs in the state (assuming that personnel costs also rise with inflation). This is a conservative estimate of total economic impact as it counts only non-resident angler expenditures. Non-resident average expenditures are estimated to be \$106.43 (2013\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees) based on a NMFS sponsored survey. Resident average expenditures per angler day are estimated to be 60% less (markedly reduced lodging, gasoline and food expenditures) which yields an estimate of \$42.60 per angler day. Resident anglers comprise about 36% of Klamath Basin anglers.

Projection 2. 50% catch limit: The Commission anticipates some impact on the creation or elimination of jobs. A 50% catch reduction will likely reduce visitor spending by slightly less than 50%, given price elasticities of demand for salmon fishing activity of less than one. As the "price" of fishing per unit catch increases the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50% reduction in the catch limit are expected to be less than half of the estimated total jobs supported by angler visits (i.e. fewer than 23 jobs).

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission anticipates less than 50% reduction in fishery-related jobs. As mentioned earlier, sport fishing for grilse fall-run Chinook salmon (2-year-old salmon less than 22 inches) will still be allowed, thus lessening any job losses. A closure on the take of adult Chinook salmon was instituted in 2006 and only grilse salmon could be legally harvested that year. The effect of the 2006 closure, as measured by angler days on the Klamath River, resulted in an approximate 50% drop in angler days, compared to the 2000- 2005 average (12,000 angler days vs. 23,300 angler days). Job creation or elimination is assumed to lag in adjustment to changes in consumer demand as is characteristic of the labor market. Thus, the potential impacts of a closure on the take of adult Chinook are estimated to result in the loss of fewer than 23 jobs.

B. Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses

Projection 1: 100% catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50% catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50%. This may result in some decline in business activity and no business creation for businesses directly related to fishing activities. However, with less effort being expended on fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 businesses that serve sport fishing activities. However adverse impacts will be mitigated by the continued opportunity to harvest grilse salmon. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the long-term viability of these same small businesses.

#### C. Effects of the Regulation on the Expansion of Businesses in California

Projection 1. 100% catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50% catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases in local fishing opportunities may result in increases in other expenditures outside the Klamath River basin area.

Projection 3. 0% catch limit: In the event of fisheries closures in some or all Klamath River basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased goods and services as visitors substitute salmon fishing with other recreational pursuits.

#### D. Benefits of the Regulation

##### Concurrence with Federal Law:

California's sport fishing regulations need to conform to the new Federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it

recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and California inland sport salmon fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS and as sport salmon regulations for state marine and inland waters by the Commission.

Promotion of businesses that rely on Klamath River basin sport salmon fishing. Adoption of scientifically-based inland and ocean salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence and future salmon sport fishing opportunities, and subsequently the long-term viability of businesses that rely on Klamath River Basin sport fishing. Under a normal season, Klamath River Basin (including the Trinity River) sport salmon anglers contribute about \$2,709,774 (2013\$) in total economic output to the State's business sector. This is based on a 2011 NOAA National Marine Fisheries Service (NMFS) report on In-River Sport Fishing Economics of the Klamath River Basin. This revenue provides for about 47 jobs in the state.

Benefits to the environment: sustainable management of Klamath River basin salmon resources

Projection 1. 100% catch limit: The Commission anticipates benefits to the environment. It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

Projection 2. The Commission anticipates benefits to the environment similar to as stated in Projection 1.

Projection 3. The Commission anticipates benefits to the environment similar to as stated in Projection 1.

Benefits to the health and welfare of California residents

Projection 1. The Commission anticipates benefits to the health and welfare of California residents through the protection of aquatic and riparian habitats and

the fish and wildlife resources that depend upon them. Providing opportunities for a Klamath River Basin sport salmon fishery encourages consumption of a nutritious food. Salmon sport fishing also contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Salmon sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

Projection 2. The Commission anticipates benefits to the health and welfare of California residents similar to as stated in Projection 1.

Projection 3. The Commission anticipates benefits to the health and welfare of California residents similar to as stated in Projection 1.

#### Benefits to worker safety

Projection 1. The Commission does not anticipate benefits to worker safety because the proposed regulations will not impact worker conditions.

Projection 2. The Commission does not anticipate benefits to worker safety as stated in Projection 1.

Projection 3. The Commission does not anticipate benefits to worker safety as stated in Projection 1.

## **Informative Digest/Policy Statement Overview**

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

### **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath River Basin allocation

will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

### **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

#### SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014 the Department also evaluated restrictive measures for the spit area which included a “no catch and release” regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission that it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

Option 1 - No catch and release fishing in Spit Area - Department Proposal

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon <22 inches) component of their daily bag limit. This regulation also does not preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

Option 2 - All Chinook salmon must be kept in Spit Area with Blue Creek closure - Yurok Proposal

The Yurok tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- 1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in Section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

Option 3 – A possible combination of Options 1 and 2

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure.

- 1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- 2) Conservation closure below the mouth of Blue Creek to reduce catch and release in a thermal refuge area and protect late-fall Chinook holding prior to entering Blue Creek.

### ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)2. is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road". Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (sections 200, 202, 205, 315, and 316.5, Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

# Attachment 3

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsections (b)(91.1) and (b)(195) of Section 7.50  
Title 14, California Code of Regulations  
RE: 2015 Klamath River Basin Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: January 12, 2014
- II. Date of Pre-adoption Statement of Reasons: March 20, 2015
- III. Date of Final Statement of Reasons: May 4, 2015
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: December 3, 2014  
Location: Van Nuys
  - (b) Discussion Hearing: Date: February 12, 2015  
Location: Sacramento
  - (c) Adoption Hearing: Date: April 17, 2015  
Location: Teleconference
- V. Update:

At the April 17, 2015 teleconference, the Fish and Game Commission (Commission) adopted the following Klamath Basin bag and possession limits, adult quota, and conservation measures:

- (1) A daily bag limit of 3 Chinook salmon of which no more than 2 fish greater than 22 inches in length may be taken when the take of adults is allowed.
- (2) A possession limit of 9 Chinook salmon of which no more than 6 fish greater than 22 inches in length may be retained when the take of adults is allowed.
- (3) A basin quota of 14,133 adult Chinook salmon greater than 22 inches in length.
- (4) A closure of the main stem Klamath River near the confluence of Blue Creek between June 15 and December 31. The main stem Klamath River will be closed to sport fishing from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream from the mouth of Blue Creek from June 15 through September 14 and within 500 feet of the Blue Creek confluence from September 15 through December 31.
- (5) A mandatory retention of all legally hooked and landed Chinook salmon in

the spit area (mouth of the Klamath River). Additionally, once anglers have retained the adult component of the daily Chinook bag limit, they must cease fishing in the spit area. Anglers may continue to fish other areas of the Klamath River after leaving the spit if they have not retained their daily bag limit.

Sport fishing seasons for KRFC remain unchanged and are as follows:

- (1) Klamath River - August 15 through December 31
- (2) Trinity River - September 1 through December 31

The Klamath Basin quota of 14,133 adult KRFC aligns with federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.

The Commission adopted non-substantive changes for clarity and consistency.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

See Attachment 1 titled "Summary of Public Comments and Responses."

VII. Location and Index of Rulemaking File: A rulemaking file with attached file index is maintained at:

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, CA 95814

VIII. Location of Department of Fish and Wildlife files:

Department of Fish and Wildlife  
1416 Ninth Street  
Sacramento, CA 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The use of more liberal regulations for bag limits, possession limits, and fishing methods. For KRFC, more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the KRFC stocks.

(b) No Change Alternative:

The No Change Alternative would leave the current 2014 regulations in place and would not conform to the Pacific Fishery Management Council Klamath River Basin quota for 2015, nor would it address the excessive catch and release mortality within the spit area. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

X. Impact of Regulatory Action:

The potential for significant Statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant Statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected to have some impact on the net revenues to local businesses servicing sport fishermen. Visitor spending may be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the **long-term sustainability and success of lower and upper Klamath River Basin businesses that provide goods and services related to fishing.** The proposed changes are necessary for the continued preservation of the resource and, **in the long-term,** prevention of adverse economic impacts.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed regulations range from no fishing of KRFC in 2015 to a

normal Klamath River Basin salmon season. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 23 jobs which are not expected to create, eliminate, or expand businesses in California. The Commission anticipates impacts on the creation, elimination, or expansion of businesses in California ranging from no impact to reduced revenues for approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of grilse KRFC is permitted than under the complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages outdoor recreational activity and consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

The Commission does not anticipate any benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

## **Updated Informative Digest/Policy Statement Overview**

The Klamath River System which consists of the Klamath River and Trinity River basins is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean recreational, ocean commercial, river recreational, and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service.

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational (inside three miles) and the Klamath River System recreational fisheries which are consistent with federal fishery management goals.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook**

Klamath River fall-run Chinook salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2015 KRFC in-river recreational fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook**

The Klamath River System also supports Klamath River spring-run Chinook salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river recreational fishery is managed by general basin seasons, daily bag limit, and possession limit regulations.

## **KRFC Allocation Management**

The PFMC 2014 allocation for the Klamath River System recreational harvest was 4,128 adult KRFC. Preseason stock projections of 2015 adult KRFC abundance will not be available from the PFMC until March 2015. The 2015 Klamath Basin allocation will be recommended by the PFMC in April 2015 and presented to the Commission for adoption prior to its April 2015 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommended the Commission consider an allocation range of 0 - 67,600 adult KRFC in the Klamath River Basin for the river recreational fishery.

## **Current Recreational Fishery Management**

The KRFC in-river recreational harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river recreational harvest is managed by general season, daily bag limit, and possession limit regulations.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

No changes are proposed for the general KRSC opening and closing season dates, and bag, possession, and size limits.

## **Proposed Changes**

The following changes to current regulations are proposed:

### KRFC QUOTA MANAGEMENT: Seasons, Bag, and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2015 Klamath Basin quota is adopted. As in previous years, no retention of adult KRFC is proposed for the following areas once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook salmon of which no more than [0-4] fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook salmon of which [0-12] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

## SPIT AREA MANAGEMENT

Current regulations specify that the spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total adult KRFC quota has been taken downstream of the Highway 101 bridge.

In 2014, the Department also evaluated restrictive measures for the spit area which included a "no catch and release" regulation for Chinook salmon legally caught in the spit area to protect Chinook stocks from excessive catch and release mortality. The regulatory time frame did not allow for sufficient time to promulgate such a regulation change. The Department informed the Commission it would consider this change for the 2015 regulatory cycle.

The following options are being provided for Commission consideration:

### **Option 1: No catch and release fishing in spit area – Department Proposal**

After internal discussion and Yurok Tribal coordination, the Department is proposing the following change to the 2015 fall Chinook spit area regulations:

All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.

This regulatory proposal does not preclude anglers from leaving the spit area and fishing other areas once their adult daily bag has been taken. Anglers may fish other areas outside of the spit to fill the grilse (Chinook salmon  $\leq 22$  inches) component of their daily bag limit. This regulation also **does not** preclude anglers from filling a daily bag composed entirely of grilse salmon while fishing the spit area.

### **Option 2: All Chinook salmon must be kept in spit area with Blue Creek closure – Yurok Tribe Proposal**

The Yurok Tribe is proposing the following modifications to the Klamath River regulations in the spit area and on the main Klamath River below the confluence with Blue Creek:

- (1) No catch and release fishing allowed in the spit area to reduce pinniped predation on released fish, and
- (2) Conservation closure below the mouth of Blue Creek to reduce catch and release **mortality** in a thermal **refugia** area and protect late-fall Chinook holding prior to entering Blue Creek.

The first modification is to the spit area at the mouth of the Klamath River to allow no release of Chinook salmon, regardless of whether they are legally caught or foul hooked. This option provides an exception from the general snagging prohibitions in section 2.00. The second modification would add Blue Creek to the September 15 to December 31 stream mouth closures and add a new Klamath River main stem closure

from June 15 to September 14 from 500 feet above to ½ mile downstream around the mouth of Blue Creek.

### **Option 3: A possible combination of Options 1 and 2**

The Commission may combine Option 1's prohibition on catch and release fishing in the spit area with Option 2's Blue Creek conservation closure:

- (1) All legally caught Chinook salmon must be retained. Once the adult Chinook component of the daily bag has been retained, the angler must cease fishing in the spit area.
- (2) Conservation closure below the mouth of Blue Creek to reduce catch and release **mortality** in a thermal **refugia** area and protect late-fall Chinook holding prior to entering Blue Creek.

### ADDITIONAL PROPOSED CHANGES

The name of the road listed in subsection (b)(91.1)(B)(2) is proposed to be corrected from "Ishi Pishi Falls road" to "Ishi Pishi Road." Cross references are proposed to be corrected in subsection (b)(195) to reduce public confusion. Other changes are proposed for clarity and consistency.

### **Benefits of the Proposed Regulations**

The benefits of the proposed regulations are in conformance with federal law, sustainable management of Klamath River Basin salmon resources, and promotion of businesses that rely on recreational salmon fishing in the Klamath River Basin.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 202, 205, 315, and 316.5 of the Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Chinook salmon in the Lower Klamath River Basin.

**At the April 17, 2015 teleconference the Commission adopted the following Klamath Basin bag and possession limits, adult quota, and conservation measures:**

- (1) A daily bag limit of 3 Chinook salmon of which no more than 2 fish greater than 22 inches in length may be taken when the take of adults is allowed.**
- (2) A possession limit of 9 Chinook salmon of which no more than 6 fish greater than 22 inches in length may be retained when the take of adults is allowed.**
- (3) A basin quota of 14,133 adult Chinook salmon greater than 22 inches in length.**

- (4) A closure of the main stem Klamath River near the confluence of Blue Creek between June 15 and December 31. The main stem Klamath River will be closed to sport fishing from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream from the mouth of Blue Creek from June 15 through September 14 and within 500 feet of the Blue Creek confluence from September 15 through December 31.**
- (5) A mandatory retention of all legally hooked and landed Chinook salmon in the spit area (mouth of the Klamath River). Additionally, once anglers have retained the adult component of the daily Chinook bag they must cease fishing in the spit area. Anglers may continue to fish other areas of the Klamath River after leaving the spit if they have not retained their daily bag limit.**

**Sport fishing seasons for KRFC remain unchanged and are as follows:**

- (1) Klamath River- August 15 through December 31.**
- (2) Trinity River- September 1 through December 31.**

**The Basin quota, 14,133 adult KRFC, aligns with federal regulations which provide guidance on allocations between ocean sport and commercial fisheries, inland sport fisheries, and recognized tribal fisheries.**

**The Commission adopted non-substantive changes for clarity and consistency.**

# Attachment 4

**Attachment 1  
Summary of Public Comments and Responses**

	<b>Name of Commenter</b>	<b>Type/Date</b>	<b>Summary of Comments</b>	<b>Response</b>
1	Jim Newton	Faxed letter received 10/8/14	Requests repeal of the regulation that prohibits filleting of salmonids until at a place of permanent residence (section 1.45).	Reject: Filleting of salmon in the field creates enforcement issues concerning threatened and endangered species in coastal waters including the Klamath River.
2	Xai Her	Email received 10/17/14	Recommends a regulation that only single point barbless hooks be used for salmon in both inland and saltwater.	Reject: The use of barbless hooks is already required when fishing in anadromous waters of the Klamath River system, and further requiring single point hooks will not measurably reduce hooking mortality. The portion of the recommendation regarding other inland waters and ocean waters is outside the scope of this rulemaking.
3	Thomas O'Rourke, Chairman Yurok Tribe	Letter c/o e-mail from Diane Bowers received 11/20/15	<p>a. Letter documenting Yurok Tribe proposals for Klamath river regulations including:</p> <p>b. All Fall Chinook caught in the spit area must be retained (no catch and release fishing of Fall Chinook regardless of whether the fish is legally taken). Once an angler's daily bag limit (regardless of whether it is an adult or jack) is obtained in the spit area, they must stop fishing for the day.</p>	<p>a. The Yurok Tribe's proposed conservation closure and a modified version of the Yurok Tribe's proposal for the spit area were included in the ISOR as potential options for the 2015 sport fishing season.</p> <p>b. Reject: The Commission adopted the Department alternative for the Klamath River mouth that prohibits catch and release fishing of Chinook salmon for all legally hooked fish. Once the adult component of the total daily bag limit has been retained, anglers must cease fishing in the spit area. The Department option was a compromise option to alleviate catch and release concerns while retaining anti-snagging regulations. The Yurok Tribe's proposal to require anglers to fully stop fishing for entire day unnecessarily reduces fishing opportunities in other river areas.</p>

**Attachment 1**  
**Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
4 Mindy Natt Yurok Tribal Council	Verbal comment 12/3/14	c. Sport fishing conservation closure of the main stem Klamath River near Blue Creek. No fishing from June 15 to September 14 from 500 feet upstream of the mouth of Blue Creek to ½ mile downstream of the mouth of Blue Creek, and no fishing from September 15 through December 31 within 500 feet of the mouth of Blue Creek.	c. The Commission adopted the Yurok Tribe's recommended conservation option for a sport fishing closure in the vicinity of Blue Creek.
5 Dave Hillemeier, Fisheries Program Manager, Yurok Tribe	Verbal comment 12/3/14	States that there should be no catch and release fishing in the spit area and that Commission should adopt a conservation closure at the mouth of Blue Creek during mid-June through November for Chinook salmon upstream migration. Notes that Blue Creek and the Klamath River are within reservation boundaries.  a. Stated that given the unique nature of the fishery at the mouth and the severity of seal and sea lion predation, the Yurok Tribe supports the option to require all Chinook salmon caught at the spit, whether foul hooked or not, be retained.	See Responses 3b and 3c.  a. See Response 3b.  b. Comment noted.

**Attachment 1**  
**Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
		<p>important both culturally and biologically.</p> <p>c. States that the late Fall Chinook salmon in Blue Creek are genetically different (a separate evolutionally significant unit) than other Fall Chinook in the Klamath.</p>	<p>c. Comment noted.</p>
		<p>d. States that the Yurok Tribe closes the Klamath River from the third week of September to the end of November from 500' upstream to half a mile below Blue Creek. States that the Yurok Tribe supports a similar closure (500' upstream and downstream) of mouth of Blue Creek (like is in place for the Salmon, Shasta and Scott Rivers) from September 15 through December.</p>	<p>d. See Response 3c.</p>
		<p>e. Supports a conservation closure mid-June through the end of September when Klamath River water temperatures are an issue in order to prevent catching fish in cold water and dragging them into water 6°C warmer which causes extreme stress leading</p>	<p>e. See Response 3c.</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
6	Stephen Rosenberg 2 Emails received 1/29/15	to mortality. a. Does not support the full closure at Blue Creek. b. Recommends a closure in the vicinity of Blue Creek only when undue concentrations of fish occur - and then only in August. c. Recommends artificial flies and lures only for the Blue Creek area.	a. The Commission adopted the proposed closure at the mouth of Blue Creek as a precautionary conservation measure. b. Reject. See Response 6a. Scientific studies are needed to determine if, and under what criteria, alternate or additional closures may be necessary. c. Reject. The recommendation will not reduce the loss of stressed fish released into high water temperatures.
7	Phoebe Lenhart Letter dated 2/7/15 but received 3/10/15	a. Requests no catch and release fishing at all on the Klamath River. b. Requests daily bag of 2 fish per adult. c. Requests no snagging. d. Requests fishing closure	a. Reject. The recommendation to prohibit catch and release fishing on the Klamath River unnecessarily reduces fishing opportunities. Catch and release fishing is an important recreational pursuit on the Klamath and the regulations are promulgated recognizing some amount of catch and release mortality. b. Reject: The Commission adopted a three fish daily bag for Chinook salmon based on quota size and Department's recommendation. It is infeasible and discriminatory to adopt separate bag limit based on the angler's age. c. Sport fishing regulations already prohibit snagging in all waters of the State. d. Reject. See Response 6b.

**Attachment 1  
Summary of Public Comments and Responses**

<b>Name of Commenter</b>	<b>Type/Date</b>	<b>Summary of Comments</b>	<b>Response</b>
		<p>when water temperatures exceed 70 degrees.</p> <p>e. Requests closure of Blue Creek and any other location viable for the preservation of fish stocks.</p> <p>f. Requests all gill net fishing be ruled illegal.</p> <p>g. Requests re-evaluation of hatchery management.</p> <p>h. Provide adequate enforcement of regulations with appropriate penalties.</p>	<p>e. Blue Creek is already closed to fishing. See Response 3c. Commenter did not propose specific closure locations for evaluation.</p> <p>f. Current sport fishing regulations do not allow gill net fishing. The tribal fishery is not regulated by the Commission.</p> <p>g. Hatchery management is outside the scope of the Commission's authority.</p> <p>h. Enforcement and penalties are outside the scope of the Commission's authority. The Klamath River has a high level of enforcement and penalties are set by the county judicial system.</p>
8	Faxed letter received 2/8/15	<p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. Suggests further scientific investigation before a decision is made regarding Blue Creek closure.</p>	<p>a. See Response 6a.</p> <p>b. Reject. See Responses 6a and 6b.</p>
9	E-mail letter received 2/8/15	<p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. Opposes tribal net fishery.</p>	<p>a. See Response 6a.</p> <p>b. Commission does not have regulatory authority</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
		<p>c. States that the economic impact to the area would be disastrous.</p> <p>d. Believes that the Commission's position is that sport fishing is a major decline of a fishery.</p>	<p>over tribal fishery.</p> <p>c. Comment noted. Most of the lower Klamath River (&gt;95%) will remain open to salmon and steelhead fishing which will still provide significant fishing opportunities. The final economic effect related to steelhead fishing will have to be assessed post season due to the lack of adequate fishing effort data for this area.</p> <p>d. The Commission recognizes multiple factors contributing to fishery declines.</p>
10	Email received 2/10/15	<p>a. States that the Klamath River is a navigable waterway.</p> <p>b. States that the purpose of the Commission is to improve and provide for fishing for all or our State residents, native and others.</p> <p>c. Requests opportunity for all stakeholders to participate in the discussion.</p>	<p>a. Comment noted.</p> <p>b. Adoption of sport fishing regulations is one of the many powers and duties of the Commission. One objective of the Commission is the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. The Commission does not have authority over tribal fisheries.</p> <p>c. All proposed Klamath regulatory options were vetted at three publicly accessible Fish and Game Commission meetings. The proposed regulations were made available to the public pursuant to the requirements of Government Code Section 11346.4. The comment period was January 23 to</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
11 David Finigan, Chair, Board of Supervisors Del Norte County	Letter c/o e-mail from Kylie Heriford received 2/10/15, same letter handed in at 2/12/15 meeting, and by U.S. mail on 2/18/15	<p>d. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>e. States that the proposed closure at the mouth of Blue Creek will have adverse economic impacts to the Yurok Tribe.</p> <p>a. Believes that the concept of a Lower Klamath River main stem closure was not vetted with stakeholders.</p> <p>b. States that no information has been made available suggesting Blue Creek Chinook salmon are present in the proposed closure area before September 15.</p> <p>c. Believes the proposed Blue Creek conservation closure is arbitrary and unscientific.</p> <p>d. States that the economic impacts (of the proposed closure at the mouth of Blue Creek) to small businesses was not fully considered.</p> <p>e. Urges the Commission to not</p>	<p>April 17, 2015.</p> <p>d. See Response 6a.</p> <p>e. See Responses 9b and 9c.</p> <p>a. See Response 10c.</p> <p>b. Comment noted. See Response 6a.</p> <p>c. Comment noted. See Response 6a.</p> <p>d. Comment noted. See Response 9c.</p> <p>e. The Commission adopted the Klamath River</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
12 Mike Aughney	Email received 2/11/15	<p>take action on this issue before the 2015 Klamath River Basin allocation is presented to the Commission in April – allowing additional time for public comment and opportunities to develop alternative proposals.</p> <p>f. Requests that the Commission ensure that all new or amended regulation proposals that affect Del Norte County be sent directly to the Del Norte County Board of Supervisors.</p> <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. States closing the waters around Blue Creek to sport fishing does nothing to protect the fishery in low water years unless they were also closed to all netting.</p> <p>c. Supports Department working with tribal biologists and Bureau of Reclamation staff to develop water management strategies beneficial to salmonids.</p>	<p>sport fishing regulations on April 17, 2015 – after receiving the 2015 Klamath River Basin allocation.</p> <p>f. The Commission mails all its notices of proposed changes in regulations to the Del Norte County Board of Supervisors and the Del Norte County Fish and Game Advisory Commission. The Klamath River notice was mailed on January 21, 2015.</p> <p>a. See Response 6a.</p> <p>b. Comment noted. See Response 9b.</p> <p>c. This comment is outside the scope of the proposed regulations. The Department is actively engaged in water management strategies with tribal and federal partners.</p>
13 William Toth	Email received 2/11/15	<p>a. Asks for information about tribal regulations.</p>	<p>a. See Response 9b.</p>

**Attachment 1**  
**Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
14	Craig Bradford Email with letter attachment received 2/11/15	<p>b. Suggests a catch and release tagging study to determine mortality rates.</p> <p>a. Does not support the proposed closure at the mouth of Blue Creek.</p> <p>b. States that non-Native Americans have a prescriptive right to fishing for steelhead and salmon in the proposed closure area.</p> <p>c. States that sport fishermen contribute much to the vitality of the river.</p> <p>d. States that Native Americans abused anadromous and catadromous fish populations via illegal netting practices and snagging.</p> <p>e. States that Department enforcement officials are reluctant to cite Native Americans when fishing regulations are blatantly violated.</p> <p>f. States that steelhead fishermen are not interested in taking salmon and therefore</p>	<p>b. See Response 6b.</p> <p>a. See Response 6a.</p> <p>b. Reject. The ability to fish on public waters depends upon legal access and regulations adopted by the Fish and Game Commission as prescribed in the Fish and Game Code.</p> <p>c. Comment noted.</p> <p>d. See Response 9b.</p> <p>e. See Response 9b.</p> <p>f. Comment noted.</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
		break the tippet for quick disconnection if a salmon grabs one of their flies.	
		g. States that most fly fishermen pursue summer steelhead on a catch and release basis.	g. Comment noted.
		h. States that almost no guided clients or bank fishermen target salmon at the mouth of Blue Creek.	h. Comment noted.
		i. States that closing the mouth of Blue Creek to protect salmon unfairly impacts steelhead fishermen.	i. Reject. Because it is difficult to prevent bycatch of salmon while steelhead fishing, all fishing must be prohibited to protect salmon.
		j. States that steelhead fishermen do not snag steelhead in the Blue Creek area. They use small barbless hooks to assure the steelhead's survival upon release and all fish are returned to the river.	j. Comment noted.
		k. Hopes that all Commissioners conflicted by previous tribal employment or Native American ancestry will recuse themselves from the docketed process.	k. The Commission is guided by Government Code Section 19990 and Sections 81000, et seq., regarding conflicts of interest. Commissioner Hostler-Carmesin is a current employee of the Trinidad Tribe. The Trinidad Rancheria and Commissioner Hostler-Carmesin will not gain financially from the promulgation of the Klamath

**Attachment I**  
**Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
15 Frank Galea, Del Norte County Fish and Game Advisory Commission	Verbal comment 2/12/15	<p>a. States that options concerning a conservation closure at the mouth of Blue Creek exceed original intent of minimizing catch and release mortality.</p> <p>b. States that the concept of a lower Klamath main stem closure was not vetted with sport fishery stakeholders and no information was made available suggesting presence of Blue Creek Chinook salmon in the proposed closure area before September 15.</p> <p>c. States that the proposed Blue Creek conservation closure is arbitrary and unscientific and does not fully take into consideration economic impacts to small business, and does not take into consideration how steelhead fishing fits into any of proposals.</p> <p>d. States that not enough notice or time was given to stakeholders to address</p>	<p>River sport fishing regulations and therefore, appear not to have any conflicts of interest.</p> <p>a. Comment noted. See Response 10c.</p> <p>b. Comment noted. See Responses 6a and 10c.</p> <p>c. Comment noted. See Responses 6a, 9c and 14i.</p> <p>d. See Responses 10c, 11e and 11f.</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
16 Ken Cunningham, resident fishing guide on Klamath River	Verbal comment 2/12/15	<p>proposals. Requests any and all proposed changes to regulations are sent directly to Del Norte County Board of Supervisors so that they may adequately represent their constituents.</p> <p>e. States that early coordination is essential.</p> <p>f. Appreciates the efforts to communicate with the Board of Supervisors and the Del Norte County Fish and Game Advisory Commission.</p>	<p>e. Comment noted. See Response 10c.</p> <p>f. Comment noted.</p>
		<p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. States that the proposed closure at the mouth of Blue Creek will be devastating to people who fish there.</p> <p>c. Opposes snagging.</p> <p>d. States that other river mouths are closed only 500 feet and that it isn't right to close more than that at the mouth of Blue Creek.</p>	<p>a. See Response 6a.</p> <p>b. See Response 14i.</p> <p>c. Sport fishing regulations already prohibit snagging in all waters of the State.</p> <p>d. See Response 6a.</p>

**Attachment 1**  
**Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
17 Dave Hillemeier, Fisheries Program Manager, Yurok Tribe and Thomas O'Rourke, Chairman Yurok Tribe	Verbal comment 2/12/15, email and letter received 2/5/15	<p>a. States that the Yurok Tribe feels these conservation concerns are important to bring forward to the Commission and appreciates that the Yurok Tribe's alternatives made it into the public process.</p> <p>b. States that in the spit fishery, due to presence of sea lions and seals, the Yurok Tribe thinks retaining all fish caught, whether foul hooked or not is very important. States that the Yurok Tribe does not want to close the fishery, but that it doesn't want the released fish wasted.</p> <p>c. States that there is a half mile of thermal refugia against the north bank at the mouth of Blue Creek and that boats are out in the channel. States that during mid-June through the first week in September, water temperatures are 23-24°C. States that catch and release fishing is taking place – fish are played through 18°C water into 23°C water. States that there is excessive mortality when fish are caught and released in those conditions and that is the</p>	<p>a. See Response 3a.</p> <p>b. See Responses 3b and 7a. The released fish are not wasted. If the released fish die or are eaten by seals, they are still an important food source in the ecosystem.</p> <p>c. See Response 3c.</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
18 Thomas Willson, Yurok Tribal Council – Weitchpec District	Verbal comment 2/12/15	Yurok Tribe's greatest concern. States that literature is available that says at 20°C, mortality increases excessively. States that traditionally his people don't play with their fish. States that catch and release fishery is basically playing with your food and if you play with your food, it will leave us. States that we have to look seven generations down.	Comments noted.
19 Ron Britschgi, Rivers West Lodge	Verbal comment 2/12/15	a. Opposes the proposed closure at the mouth of Blue Creek. b. Believes that economy and guides will suffer economic impact from Blue Creek closure.	a. See Response 6a. b. See Response 9c.
20 Richard Arimoto	Verbal comment 2/12/15	a. Supports proposed Option I changes to the spit (mouth of Klamath River). b. Opposes the proposed closure at the mouth of Blue Creek.	a. Support noted. The Commission adopted this option. b. See Response 6a.
21 Dave Axt	Email received 2/8/15	Recommends that the Department conduct fishery research on Blue Creek area of Klamath River prior to any closures.	See Responses 6a and 6b.
22 Andy Pozzi, Sonoma County Fish and	Letter received	Request to abolish Section 1.45, Title 14, CCR, (filleting of	See Response 1.

**Attachment 1  
Summary of Public Comments and Responses**

	<b>Name of Commenter</b>	<b>Type/Date</b>	<b>Summary of Comments</b>	<b>Response</b>
	Wildlife Commission	3/5/15	salmonids)	
23	Thomas O'Rourke, Yurok Tribal Chair	Email with attached letter received 4/13/15	Reiterates support for the Yurok Tribe's proposed sport fishing options (No catch and release fishing at the mouth of the Klamath River and conservation closure near Blue Creek).	See Responses 3a, 3b and 3c.
24	Bill Bowman, Friends of Del Norte	Letter received 4/14/15.	a. Supports the Yurok Tribe's proposal for catch and release at the spit and Tribe's proposed closure at the mouth of Blue Creek.  b. States that recent studies have shown catch and release mortality to be surprisingly high.	a. See Responses 3b and 3c.  b. Comment noted.
25	Dave Hillemeier, Fisheries Program Manager, Yurok Tribe	Verbal comment 04/17/15	a. Presented additional information about thermal refugia and catch and release fishing.  b. Supports the mandatory retention in the spit fishery, but reiterates the foul-hooked option.  c. Suggests consideration of an alternative such as mandatory retention of fish if they are hooked in the head.  d. Supports the proposed Blue	a. Information noted.  b. See Response 3b.  c. Reject. See Response 3b.  d. See Response 3c.

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
26	Verbal comment 04/17/15	<p>Creek conservation closure.</p> <p>a. States that the economic impacts are not addressed.</p> <p>b. States that he does not believe the Commission or Department has jurisdiction on U.S. Trust Lands or the Yurok Tribe Reservation.</p> <p>c. States that the Coastal Commission has the right to weigh in on the spit fishery since the proposed regulations make a major change to activities there.</p> <p>d. States that the barbless hook requirements are not enforced on Native American anglers.</p> <p>e. States that people have a right to fish. Quotes Article 1, Section 25, of the California Constitution.</p>	<p>a. See Response 9c.</p> <p>b. Non-tribal anglers fishing the Klamath River within the Yurok Tribe Reservation are regulated by Commission authority (Fish and Game Code Sections 16500-16541)</p> <p>c. The Coastal Commission has no authority over sport fishing regulations, but it had the opportunity to weigh in on the proposed regulations.</p> <p>d. See Response 9b.</p> <p>e. The so-called "right to fish" is neither absolute nor fundamental, but has been characterized by the courts as only a "privilege" or a "qualified right" subject to the Legislature's regulation of fishing. The California Supreme Court has long declared that the power to regulate fishing has always existed as an aspect of the inherent power of the Legislature to regulate the terms under which a public resource may be taken by private citizens (in re Quinn [1973] 35 Cal.App.3d 473; State of California v. San Luis Obispo Sportsman's</p>

**Attachment 1**  
**Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
27 Stephen Rosenberg, fly fisherman	Verbal comment 04/17/15	<p>a. States that he has kept a diary of his fishing activities at Blue Creek since 1978.</p> <p>b. States that he has never seen a constant thermal refugia problem with excessive concentrations of fish but that he has only seen excessive concentrations of fish in 5 years between 1978 – 2014. States that in 1982-83, 1991 and 1994, the excessive concentrations only occurred in mid to late August, and that by Sept 4 the fish were gone upstream; in 1978, the excessive concentration of fish started in mid-July and by Labor Day the fish were gone; in 2000-2002, the excessive concentration of fish started in late July and by Labor Day the problem was over; and in 2014, the excessive concentration of fish started but as soon as water flows were increased, the fish immediately moved upstream.</p>	<p>Association [1978] 22 Cal.3d 440; Paladini v. Superior Court [1918] 178 Cal. 369; California Gilnetters Association v. Department of Fish and Game [1995] 39 Cal.App.4th 1145.”</p> <p>a. Comment noted.</p> <p>b. Comment noted.</p>

**Attachment I  
Summary of Public Comments and Responses**

<b>Name of Commenter</b>	<b>Type/Date</b>	<b>Summary of Comments</b>	<b>Response</b>
		<p>c. States that he has never seen excessive hooking mortality.</p> <p>d. States that the degree to which the thermal refugia occurs depends on the geomorphology of the river at the confluence of Blue Creek and Klamath and that the situation only sets up every 10 years or so.</p> <p>e. Opposes the proposed closure at the mouth of Blue Creek. Questions the tribe's motives.</p>	<p>c. Comment noted.</p> <p>d. Comment noted.</p> <p>e. See Response 6a.</p>
28	John Stokes, recreational fisherman	<p>Verbal comment 04/17/15</p> <p>a. Opposes the proposed closure at the mouth of Blue Creek.</p> <p>b. States that the proposed closure at the mouth of Blue Creek will gut the entire steelhead fishery.</p> <p>c. Supports comments made by Stephen Rosenberg concerning how often excessive concentrations of fish occur.</p> <p>d. States that steelhead are far less impacted by the phenomena than salmon</p>	<p>a. See Response 6a.</p> <p>b. See Response 9c and 14i.</p> <p>c. See Response 27.</p> <p>d. Comment noted.</p>

**Attachment 1  
Summary of Public Comments and Responses**

Name of Commenter	Type/Date	Summary of Comments	Response
29	Eileen Cooper Verbal comment 04/17/15	<p>e. Suggests using a low flow or temperature closure for regulating the Blue Creek area as is in place for many of the other coastal streams.</p> <p>a. Supports no catch and release fishing at all when river temperatures are high.</p> <p>b. Supports the Yurok Tribe's proposed catch and release regulations at spit and Blue creek area.</p>	<p>e. See Response 6b.</p> <p>a. See Response 6b.</p> <p>b. See Responses 3b and 3c.</p>
30	Ted Souza, Friends of Del Norte Verbal comment 04/17/15	<p>States that catch and release fishing is a problem. States that a study by Dr. Bruce Tufts, Queen's University, Canada, shows that 7 out of 10 fish die when out of water more than 30 seconds. States that while he has practiced catch and release fishing in the past, he now believes anglers should keep what they catch or not fish at all in order to protect the fishery.</p>	<p>Comments noted. The Department research does not support this comment.</p>

# Attachment 5

## Regulatory Language

### Subsection (b)(91.1) of Section 7.50 is amended to read:

(91.1) Anadromous Waters of the Klamath River Downstream of Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinneel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(4)).

#### (A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)

2. During closures to the take of adult salmon, anglers shall not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

#### (B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.

2. No fishing is allowed from the Ishi Pishi Falls ~~road~~ Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.

3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.

4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to ½ mile downstream of the mouth of Blue Creek.

#### (C) Klamath River Basin Possession Limits.

##### 1. Trout Possession Limits.

a. The brown trout possession limit is 10 brown trout.

b. The hatchery trout or hatchery steelhead possession limits are as follows:

(i) Klamath River - 4 hatchery trout or hatchery steelhead.

(ii) Trinity River - 4 hatchery trout or hatchery steelhead.

##### 2. Chinook Salmon Possession Limits.

a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to ~~August 31.~~ August 31: 2 Chinook salmon.

~~(i) 2 Chinook salmon.~~

b. Klamath River from August 15 to December 31 and Trinity River from September 1 to ~~December 31.~~ December 31: 9 Chinook salmon. No more than 6 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

~~(i) 9 Chinook salmon. No more than 3 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.~~

#### (D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

##### 1. Quota for Entire Basin.

The ~~20142015~~ Klamath River Basin quota is ~~4,128~~ 14,133 Klamath River fall Chinook salmon over

# Attachment 6

# REGULAR

(See instructions on reverse)

For use by Secretary of State only

20

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-0113-08	REGULATORY ACTION NUMBER 2015-0528-025	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2015 MAY 28 PM 4:19

OFFICE OF ADMINISTRATIVE LAW

**ENDORSED - FILED**  
In the office of the Secretary of State  
of the State of California

JUN -4 2015

2:00 PM

NOTICE		REGULATIONS	
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AGENCY WITH RULEMAKING AUTHORITY  
Fish and Game Commission

AGENCY FILE NUMBER (if any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Klamath River sport fishing		TITLE(S) 14	FIRST SECTION AFFECTED 7.50	2. REQUESTED PUBLICATION DATE January 23, 2015
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Sherrie Fonbuena		TELEPHONE NUMBER (916) 654-9866
FAX NUMBER (Optional) (916) 653-5040		NOTICE REGISTER NUMBER		PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Klamath River sport fishing	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
---	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
		AMEND 7.50
	TITLE(S) 14	REPEAL

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(e))  Effective on filing with Secretary of State  §100 Changes Without Regulatory Effect  Effective other (Specify) 6/4/15 202F&GC, 11343.4(b)(4) Govt Code

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)  Fair Political Practices Commission  State Fire Marshal

Other (Specify)

7. CONTACT PERSON Sherrie Fonbuena	TELEPHONE NUMBER (916) 654-9866	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Sherrie.Fonbuena@fgc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 5/28/15
TYPED NAME AND TITLE OF SIGNATORY Sonke Mastrup, Executive Director	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

JUN 04 2015

Office of Administrative Law

## Regulatory Language

Subsection (b)(91.1) of Section 7.50 is amended to read:

(91.1) Anadromous Waters of the Klamath River Downstream of Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinnel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(4)).

### (A) Hook and Weight Restrictions.

1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)
2. During closures to the take of adult salmon, anglers shall not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

### (B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.
2. No fishing is allowed from the Ishi Pishi Falls Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.
3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.
4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 1/2 mile downstream of the mouth of Blue Creek.

### (C) Klamath River Basin Possession Limits.

1. Trout Possession Limits.
  - a. The brown trout possession limit is 10 brown trout.
  - b. The hatchery trout or hatchery steelhead possession limits are as follows:
    - (i) Klamath River - 4 hatchery trout or hatchery steelhead.
    - (ii) Trinity River - 4 hatchery trout or hatchery steelhead.
2. Chinook Salmon Possession Limits.
  - a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31. August 31: 2 Chinook salmon.
  - ~~(i) 2 Chinook salmon.~~
  - b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31. December 31: 9 Chinook salmon. No more than 6 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.
  - ~~(i) 9 Chinook salmon. No more than 3 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.~~

### (D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

#### 1. Quota for Entire Basin.

The 20142015 Klamath River Basin quota is 4,128-14,133 Klamath River fall Chinook salmon over

22 inches total length. The department shall inform the commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

**2. Subquota Percentages.**

a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.

(iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.

b. The subquota for the Lower Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.

**(E) Klamath River Basin Open Seasons and Bag Limits.**

All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook salmon in combination unless otherwise specified.

<i>Body of Water</i>	<i>Open Season and Special Regulations</i>	<i>Daily Bag Limit</i>
1. Bogus Creek and tributaries.	Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth.		
a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	January 1 to August 14.	0 Chinook salmon 2 hatchery trout or hatchery steelhead**
	Fall Run Quota <u>7022,403</u> Chinook Salmon August 15 to December 31, <u>2014</u> <u>2015</u> .	3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 2 hatchery

		trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception.	
b. Klamath River downstream of the Highway 96 bridge at Weitchpec.	January 1 to August 14.	2 Chinook salmon 2 hatchery trout or hatchery steelhead**
	Fall Run Quota <u>2,0647,067</u> Chinook Salmon August 15 to December 31, <u>20142015</u> .	3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken. <u>All legally caught Chinook salmon must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</u>	
3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork.	November 1 through February 28.	2 hatchery trout or hatchery steelhead**
4. Scott River main stem downstream of the Fort Jones-Greenview bridge to the confluence with the Klamath River.	Fourth Saturday in May through February 28.	2 hatchery trout or hatchery steelhead**
5. Shasta River main stem	Fourth Saturday in May through August	2 hatchery

downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.	31 and November 16 through February 28.	trout or hatchery steelhead**
6. Trinity River and tributaries.		
a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge,	April 1 through September 15. Only artificial flies with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.	January 1 to August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota <del>6842,332</del> Chinook Salmon September 1 through December 31, <del>2014</del> 2015.	3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook salmon apply during this exception.	
c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar.	January 1 through August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	September 1 through December 31.	Closed to all fishing.
d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.	September 15 through November 15. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
e. Trinity River main stem downstream of the Denny Road	January 1 to August 31.	2 Chinook salmon

bridge at Hawkins Bar to the mouth of the South Fork Trinity River.		5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota <del>6842,331</del> Chinook Salmon September 1 through December 31, <del>2014</del> 2015. This is the cumulative quota for subsections 6.e. and 6.f. of this table.	3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the Klamath River.	January 1 to August 31.	0 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota <del>6842,331</del> Chinook Salmon September 1 through December 31, <del>2014</del> 2015. This is the cumulative quota for subsections 6.e. and 6.f. of this table.	3 Chinook salmon - no more than 42 fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or hatchery steelhead**
i. South Fork Trinity River downstream of the South Fork	November 1 through March 31.	0 Chinook salmon

Trinity River bridge at Hyampom to the confluence with the Trinity River.		2 hatchery trout or hatchery steelhead**
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Subsection (b)(195) of Section 7.50 is amended to read:

<u>(195) Trinity River and tributaries downstream of Lewiston Dam.</u>	See Klamath River Regulations subsection <del>(b)(91.1)</del> (F)67.50(b)(91.1).
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- \* Wild Chinook salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.
- \*\* Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, ~~206~~215 and 316.5, Fish and Game Code.

# Attachment 7



angler’s daily bag limit for Chinook (regardless of whether it is an adult or jack) is obtained, they must stop fishing for the day. We propose the following:

Body of Water	Open Season and Special Regulations	Daily Bag Limit
Klamath River Spit (within 100 yards of the channel through the sand spit formed at the Klamath River mouth)	All Chinook salmon (regardless of size) captured must be harvested (i.e. no releasing Chinook salmon). Once the daily bag limit for Chinook is obtained, fishing must stop for the day.	“x” Chinook salmon (regardless of size)

Such a regulation would allow the fishery to continue—which is important for shore-based anglers as well as the local economy—while minimizing excessive mortality associated with releasing fish in the presence of sea lions, such predation is a problem that undeniably needs to be addressed and we hope to work with the Commission in doing so.

Yurok are well aware that many of the fish caught in this fishery are not legally hooked, but snagged outside of the mouth. I appreciate the concern this causes for some regarding the retention of fish that are snagged, because of the perceived precedent this may have to other areas of the state where snagging occurs. However, it’s important to realize the uniqueness of this fishery given the presence of pinnipeds preying upon released fish. It is also important to realize that this fishery takes place within the boundaries of the Yurok Reservation, a sovereign nation and Co-Manager of the resource. The wasting of fish is contrary to our culture and a violation of our own Fishing Rights Ordinance.

**Recommendation 2 *Blue Creek Conservation Closure***

We recommended the Commission adopt a conservation closure at the mouth of Blue Creek. This conservation closure would serve two purposes: 1) it would provide thermal refugia—free of catch-and-release fishing—for adult salmon (spring and fall Chinook) and summer-run steelhead that migrate up the Klamath River during the summer months (mid-June through mid-September) when ambient water temperatures are excessively warm, and 2) during mid-September through November, it would protect late-run fall chinook that are staging to enter Blue Creek, similar to the closures that are currently in place at the mouths of the Salmon, Scott, and Shasta Rivers.

During the summer months, especially during years of low flow, water temperatures in the mainstem Klamath River often reach 73 - 79° F, well above the optimal migration range and near the acute lethal limit for adult Chinook salmon (Bell 1990, Strange 2010<sup>1</sup>). At these times, adult salmon and steelhead will stop migrating and hold in the cold water effluent

<sup>1</sup> Bell, M.C. 1991. Fisheries Handbook of Engineering Requirements and Biological Criteria. Strange, J.S. 2010. *Upper Thermal Limits to Migration in Adult Chinook Salmon: Evidence from the Klamath River Basin*. Transactions of the American Fisheries Society 139: 1091 – 1108.

from the mouth of Blue Creek to approximately half mile downstream. During many low flow years, such as we just experienced in 2014, this area holds up to several thousand adult salmonids (steelhead and Chinook), that are escaping the intolerably warm Klamath River. Video footage of a 100 meter stretch of the 2,000 meters these fish in during August 2014 is available at: <https://www.youtube.com/watch?v=ipX6lCJZeuA>

We believe fish that make it to the thermal refugia should be allowed respite. It is inappropriate to harass (via hook and line) these fish at a time when they are so physiologically vulnerable. Furthermore, often these fish (steelhead and/or salmon) will be hooked while holding in the thermal refugia, then played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes at lethal levels), and then eventually released. Forcing fish to go through such dramatic temperature changes, while putting them through excessive stress, is contrary to fish culture practices associated with rearing and/or releasing fish, and undoubtedly results in excessive stress and mortality. We recommend that this thermal conservation closure extend from the mouth of Blue Creek to half mile downstream of the wetted channel of Blue Creek.

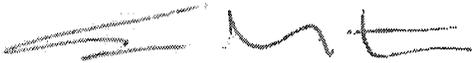
The second reason for the conservation closure at the mouth of Blue Creek is to protect the genetically unique adult late-fall run Chinook salmon that return to spawn from mid-October through December. These fish are known to hold in the confluence pool in the Klamath River until substantial rains stimulate their migration up Blue Creek. Blue Creek late-fall run Chinook are the stronghold of the Lower Klamath and likely the source population for other Lower Klamath Tributaries. We request that fish holding in this area be given protection from harvest pressure similar to what is given to Chinook returning to the Salmon, Scott, and Shasta Rivers. California regulations currently provide the protection for these stocks:

“No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers.” We recommend adding Blue Creek to this provision.

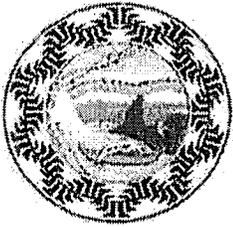
In summary, we recommend the Commission allow the above-mentioned regulatory changes be considered during the upcoming public hearing process for Klamath River sport fishing regulations, and we hope this process results in the adoption of such regulations to conserve the resource that is so important to our people. If you have any questions regarding this letter, or would like to schedule a meeting with our Council, please don't hesitate to contact myself or Dave Hillemeier (Fisheries Program Manager) at the address in the letterhead.

Finally, I would like to reiterate my invitation to the Commission We would welcome the Commission to visit the Yurok Reservation and meet with our Tribal Council. Such a meeting would allow us to discuss issues of mutual concern in regard to the management of the Klamath River fishery and provide you an opportunity to visit the Lower Klamath River via a boat ride if your schedules allow.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. O'Rourke', written over a horizontal line.

Thomas O'Rourke, Chairman



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

April 8, 2014

California Fish and Game Commission  
1416 Ninth St.  
Room 1320  
Sacramento CA, 95814

Re: Klamath River fishing regulations

Dear Commissioners:

I am writing to express concern with proposed sport fishing regulations for the "spit area" in the Lower Klamath River, which is located within the boundaries of the Yurok Reservation. While we support the continuation of the spit fishery (i.e. we oppose the closure of the spit fishery, as proposed in Option #3 that is being considered by the Commission), we believe it is essential that catch and release fishing in this area be prohibited, to minimize the excessive predation upon released fish by marine mammals. We request that the Commission adopt regulations prohibiting catch and release fishing in this area for the upcoming 2014 season.

We typically do not comment on the management of other fisheries, unless we consider an issue to be a conservation concern. The unquantified, but obviously excessive loss of caught and released fish to marine mammal predation in the spit area is a conservation concern. This problem was most pronounced last year, when fish spent an unusual amount of time within the spit area, resulting in some anglers catching and releasing several dozen fish per day. While catch and release fishing in the presence of marine mammals has been a concern of the Tribe for the past couple decades, as noted in a white paper we presented to the Commission in 1996<sup>1</sup>, the problem escalated far beyond acceptable levels during 2013.

As noted in the testimony and handout (attached) that was submitted to you on behalf of the Tribe on February 5, 2014, we are concerned that excessive mortality from marine mammal predation is associated with catch and release fishing in this area. Therefore, we recommend that all fish caught in this area be retained, and that catch and release fishing be prohibited. When our Fisheries Program Manager, Dave Hillemeier, recommended such a regulation at

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<sup>1</sup> The following quote is from an issues paper the Yurok Tribe submitted to the Fish and Game Commission on March 6, 1996: "In addition to hooking mortality, a major concern the Yurok Tribe has with the catch and release fishery in the lower river is the mortality associated with sea lion and seal predation after fish are released. Over 300 seals and several sea lions were seen by Yurok Tribal net harvest monitors in the estuary while fish were being caught and released by sport fishermen..."

*Yurok Tribe Klamath River fishing regulations*

the February 5<sup>th</sup> Commission meeting, it was noted by the Commission, and their attorneys, that such a regulation is within the bounds of the three options currently being considered by the Commission; i.e. such a regulation could be adopted for the 2014 fall season. At a subsequent meeting in Eureka, the Commission's Executive Director noted that the Commission may have been incorrect, however after the meeting he did acknowledge that such a regulation may be possible, but challenging, to implement this year. Our recommendation is that the Commission adopt language similar to the following for 2014 season:

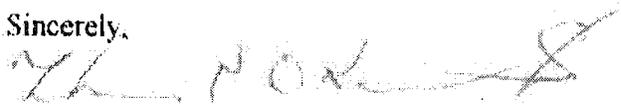
Body of Water	Open Season and Special Regulations	Daily Bag Limit
Klamath River Spit (within 100 yards of the channel through the sand spit formed at the Klamath River mouth)	All Chinook salmon (regardless of size) captured must be harvested (i.e. no releasing Chinook salmon). Once the daily bag limit for Chinook is obtained, fishing must stop for the day.	"x" Chinook salmon (regardless of size)

Such a regulation would allow the fishery to continue, which is important to shore anglers as well as the local economy, while minimizing the excessive mortality associated with releasing fish in the presence of sea lions; a problem that undeniably needs to be addressed.

We had also recommended at your February 5<sup>th</sup> meeting (see attachment) that the Commission adopt a conservation closure at the mouth of Blue Creek, to provide thermal refuge for migrating adult salmon and steelhead, as well as to protect staging late-fall run Chinook salmon returning to Blue Creek. We learned at this meeting that we were making this proposal too late in your process for consideration in the 2014 regulations, and it did not fall within the bounds of other options already being considered. Therefore, we look forward to discussing this issue with the Commission as you are crafting regulations for 2015.

Finally, I would like to take this opportunity to invite the Commission to visit the Yurok Reservation to meet with the Yurok Tribal Council. Such a meeting would allow us to discuss issues of mutual concern in regard to the management of the Klamath River fishery. We would also welcome you for a boat ride on the Lower Klamath River to experience first-hand the beauty of our land, the fishery in progress, the spit area, and the area near Blue Creek where we are proposing a conservation closure. If you have any questions regarding this letter, or would like to schedule a meeting with our Council, please don't hesitate to contact myself or Dave Hillemeier (Fisheries Program Manager) at the address in the letterhead.

Sincerely,



Thomas O'Rourke, Chairman

# Yurok Tribal Comments to the California Fish and Game Commission regarding Lower Klamath River Recreational Fishing Regulations

February 5, 2014

The following recommendations are submitted on behalf of the Yurok Tribe in regard recreational fishing regulations for the Lower Klamath River. We normally do not make recommendations regarding the management of other fisheries, unless there is a conservation concern, which is the basis for these recommendations. We recommend that catch and release fishing in the estuary of the Klamath River be prohibited due to the excessive predation by marine mammals on released fish. We also request that a conservation closure be implemented within the cold water refugia at the confluence and immediately downstream of Blue Creek (river mile 17), to provide thermal refuge for adult salmon and steelhead migrating up the Klamath River when ambient river temperatures are inhospitable; we also recommend a closure during late-September through November, when late-fall chinook are staging to enter Blue Creek, similar to the closures you currently have in place at the mouths of the Salmon, Scott, and Shasta Rivers.

The Yurok reservation is located on the Lower 44 miles of the Klamath River. The fishery resource of the Klamath River is integral to the Yurok way of life for subsistence, cultural, and economic purposes. We go to great lengths to manage our fishery for future generations and request that you do the same when managing Klamath fisheries. Both of these proposed conservation measures we are recommending are for in-river sport fishing that occurs within the boundaries of the Yurok Reservation and is managed under the authority of the California Fish and Wildlife Service.

### ***Catch and Release Fishing in the Estuary of the Klamath River***

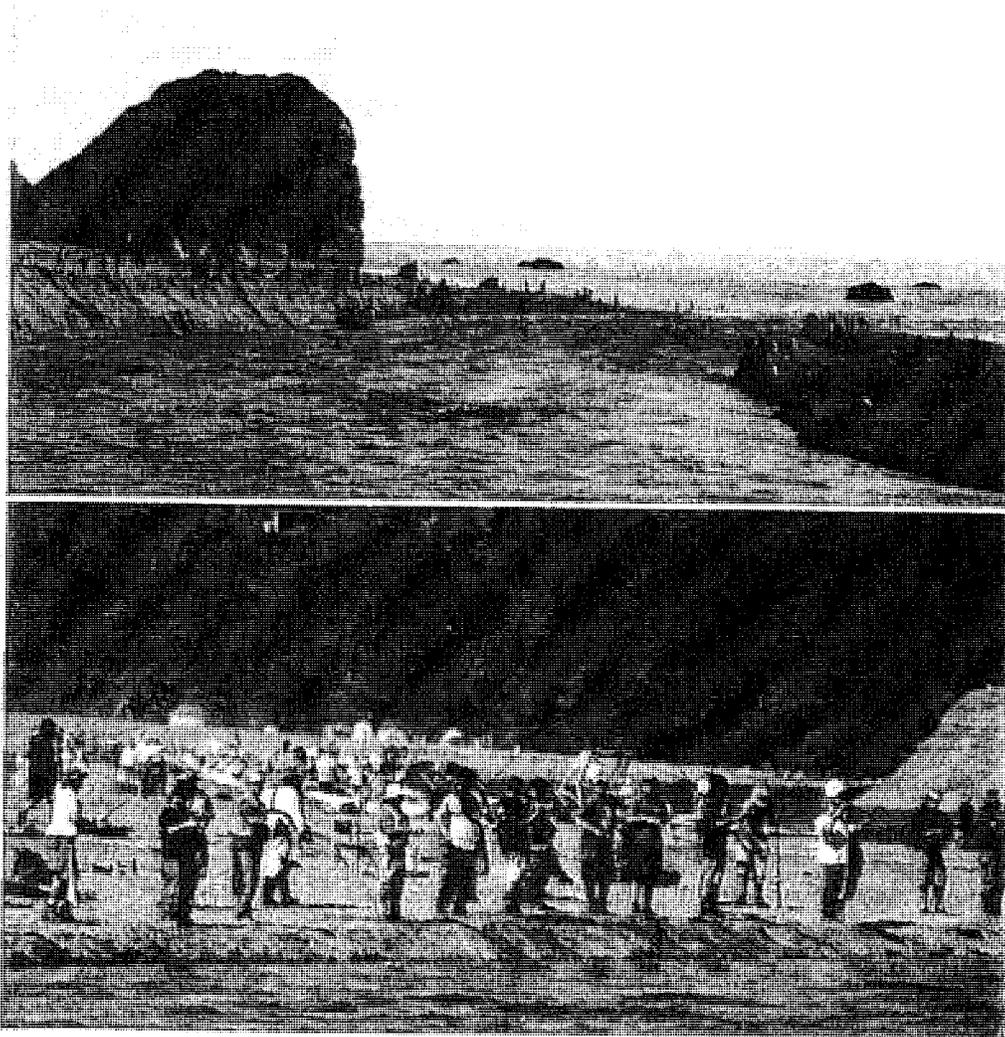
As you may be aware, hook and line fishing at the mouth of the Klamath river, in what is known as the "chute" (where the river meets the ocean), was extraordinary during the late summer of 2013. Due to apparent water quality conditions in the estuary, and the long chute that formed along the spit, the sand bar that separates the river from the ocean, adult salmon spent extended periods of time migrating up and down the chute, rather than entering the estuary. As a result, extremely large numbers of fish were caught by angling (typically by "lining" - a type of "snagging"). There were several problems that arose from this relatively unique situation, such as fish being buried and left in the sand, non-tribal anglers selling fish to Tribal members so they could then be sold in our commercial fishery (against the regulations for both fisheries); however, the worst problem from our perspective was one that has been around for years, fish being caught and released to the waiting sea lions and seals.

While fishermen are notorious for "fish stories", embellishments weren't necessary during the 2013 chute fishery, as catches were off the charts. Some anglers literally caught dozens of fish/day (some more than 60), for many days/weeks during the season. While such fishing is typically considered good, the chute fishery last year was a major conservation concern because most of these fish were released, in an exhausted condition, to a gauntlet of predatory seals and sea lions. Often times sport Fishers would catch their limit of three adults, and then continue fishing under the pretense of fishing for a jack

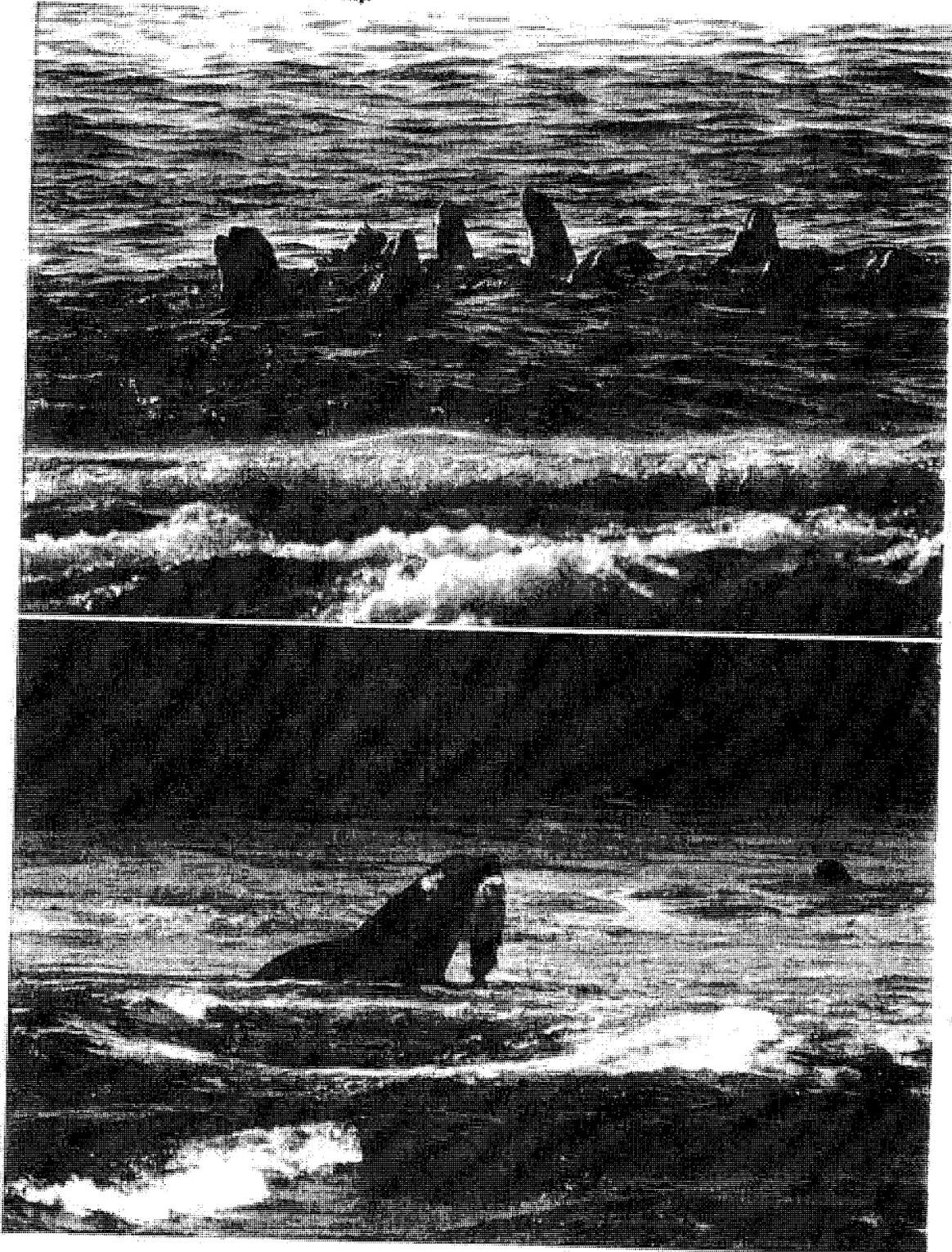
(or steelhead). All the fish that were caught while fishing for this jack had to be released, resulting in many exhausted fish being eaten by the seals and sea lions lined up near the bottom of the chute/surf interface.

We recommend, as we did back in 1996 to the Fish and Game Commission, that catch and release fishing not be allowed in the presence of marine mammals. While the problem was exacerbated in 2013 due to the relatively large number of fish that were caught, it is a problem any time that catch and release fishing occurs in the presence of pinnipeds. Any fish that are caught in the estuary should be harvested, not released to be eaten by sea lions/seals. We recommend that only "catch and keep" fishing occur in the estuary, or at least in the lower portion of the estuary (e.g. downstream of the Requa boat ramp).

**Figures 1 and 2. Pictures of the fishery in the Klamath River "chute" during late summer, 2013 (photos courtesy of Thomas Dunklin).**



**Figures 3 and 4. Pinnipeds at the lower end of the Klamath River "chute" during the 2013 fishery (photos courtesy of Thomas Dunklin).**



### ***Blue Creek Refugia***

The Yurok Tribe recommends the Fish and Game Commission adopt an additional conservation closure at the confluence and immediately downstream of Blue Creek (river mile 17). This conservation closure would serve two purposes: 1) during the summer months (mid-June through mid-September) it would provide thermal refugia for adult salmon (spring and fall Chinook) and steelhead that migrate up the Klamath River when ambient water temperatures are excessively warm, and 2) during mid-September through November, it would protect late-run fall chinook that are staging to enter Blue Creek during the fall months, similar to the closures that are currently in place at the mouths of the Salmon, Scott, and Shasta Rivers.

During the summer months, especially during years of low flow, water temperatures in the mainstem Klamath River often reach 73 - 79° F (Figure 5 – Yurok Tribal Fisheries Program data), well above the optimal migration range and near the acute lethal limit for adult Chinook salmon (Bell 1990, Strange 2010<sup>1</sup>). During these times, adult salmon and steelhead will stop migrating and hold in the cold water effluent from the mouth of Blue Creek to approximately ½ mile downstream, including “Blue Hole” which is along the bedrock outcropping just downstream of the confluence (Figure 7). During many low flow years, this area holds several hundred, up to a couple thousand, adult salmonids (steelhead and Chinook), that are escaping the intolerably warm Klamath River. These fish are basically on thermal life support.

We believe fish that make it to the thermal refugia should be allowed respite. It is inappropriate to harass (via hook and line) these fish at a time when they are so physiologically vulnerable. Furthermore, often these fish (steelhead and/or salmon) will be hooked while holding in the thermal refugia, but then played for an extended period of time in the ambient river conditions that are several degrees warmer (sometimes at lethal levels) to be eventually released. Forcing fish to go through such dramatic temperature changes, while putting them through excessive stress, is contrary to fish culture practices associated with rearing and/or releasing fish, and undoubtedly results in excessive mortality. We recommend that this thermal conservation closure extend from the mouth of Blue Creek to ½ mile downstream of the wetted channel of Blue Creek, the area where we’ve detected thermal refugia.

The second reason for the conservation closure at the mouth of Blue Creek is to protect the genetically unique adult late-fall run Chinook salmon that return to spawn from late October through December. These fish are known to hold in the confluence pool in the Klamath River until substantial rains stimulate their migration up Blue Creek. Blue Creek late-fall run Chinook are the stronghold of the Lower Klamath and likely the source population for other Lower Klamath Tributaries.

Blue Creek and other Lower Klamath (downstream of the Trinity River) late-fall run Chinook are genetically unique from other Klamath Basin stocks. The Klamath Basin chinook population upstream of

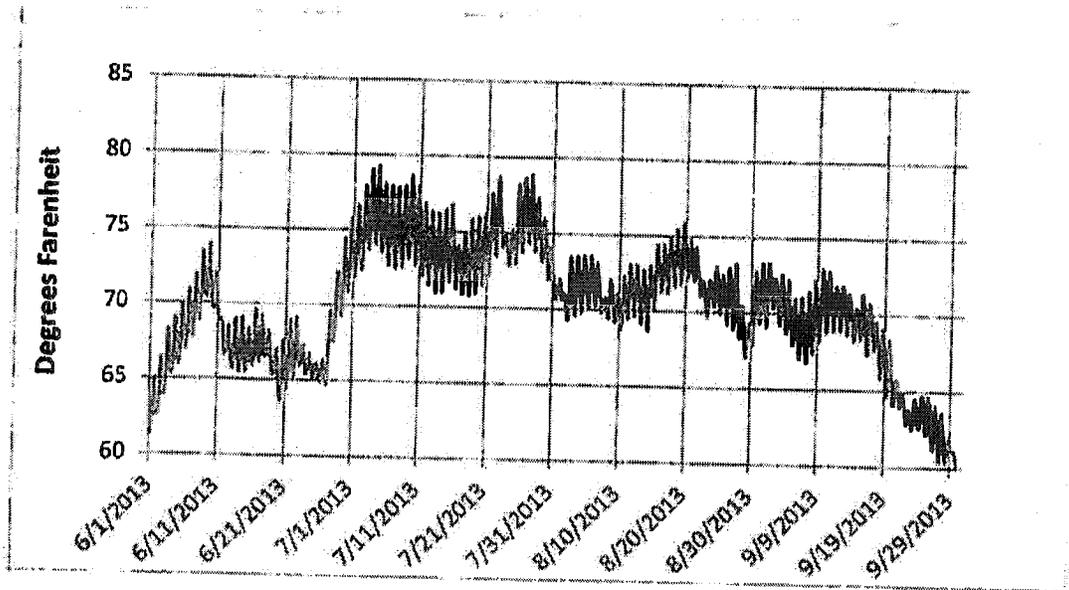
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<sup>1</sup> Bell, M.C. 1991. Fisheries Handbook of Engineering Requirements and Biological Criteria.  
Strange, J.S. 2010. *Upper Thermal Limits to Migration in Adult Chinook Salmon: Evidence from the Klamath River Basin*. Transactions of the American Fisheries Society 139: 1091 – 1108.

the confluence of the Klamath and Trinity Rivers is part of the Upper Klamath-Trinity ESU, while the Lower Klamath River Chinook population, comprised primarily of fish from Blue Creek, is part of the California Coastal Chinook Salmon ESU. We request that fish holding in this area be given protection from harvest pressure similar to what is given to Chinook returning to the Salmon, Scott, and Shasta Rivers. California regulations currently provide the following protection for these stocks:

"No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers."

Figure 5. Water temperature in the mainstem Klamath River above Blue Creek, June 1 – September 30, 2013.



**Figure 6. Blue Creek confluence and area of thermal influence (Google Earth, 7/30/2011)**



FGC

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**From:** Diane Bowers <dbowers@yuroktribe.nsn.us>  
**Sent:** Thursday, November 20, 2014 1:24 PM  
**To:** FGC  
**Cc:** Dave Hillemeier  
**Subject:** Lower Klamath river fishing regulations  
**Attachments:** SKM\_C654e14112014220.pdf

Submitted on behalf of the Yurok Tribe

**From:** [Konica-MinoltaBizhubC-654e@yuroktribe.nsn.us](mailto:Konica-MinoltaBizhubC-654e@yuroktribe.nsn.us) [<mailto:Konica-MinoltaBizhubC-654e@yuroktribe.nsn.us>]  
**Sent:** Wednesday, November 19, 2014 10:23 PM  
**To:** Dave Hillemeier; Diane Bowers  
**Subject:** Message from KM\_C654e

# Attachment 8

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# JARED HUFFMAN

## US CONGRESSMAN

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## Rep. Jared Huffman insists federal agencies act to prevent Klamath River fish kill

Aug 3, 2015 | [Press Release](#)

**Huffman: "The U.S. Bureau of Reclamation must preserve cold water in Trinity Lake to prevent a repeat of the tragic 2002 salmon run."**

WASHINGTON—Congressman Jared Huffman, D-San Rafael, has called on the U.S. Department of the Interior to act quickly to prevent a repeat of a massive fish kill on the lower Klamath River as extreme drought conditions threaten struggling salmon.

The deadly parasite that killed up to 68,000 salmon in 2002, commonly known as ich, is infecting this year's run of salmon as they try to survive hot, warm water by crowding into the lower Klamath tributary Blue Creek. The largest portion of the fall run of salmon is likely to begin within the next two or three weeks, and could drastically increase crowding and the spread of the disease.

**"I have asked Secretary Sally Jewell to work closely with the Yurok and Hoopa tribes and Humboldt County on a plan to release additional water from the Trinity River, which will boost flows on the Klamath," Huffman said. "The U.S. Bureau of Reclamation must preserve cold water in Trinity Lake to**

**prevent a repeat of the tragic 2002 salmon run disaster.”**

The 2002 fish kill caused severe damage to tribal trust resources and commercial and sport fisheries for years to come, undermining the regional economy.

In a letter to Secretary Jewell, Huffman asked for up-to-date information on water diversions, temperature, and the incidence of disease on the Klamath and Trinity rivers. He also asked that the bureau minimize any additional export of water from Trinity Lake and to reexamine its future operations on the rivers in light of the unprecedented California drought. Huffman also asked that Reclamation draw on Humboldt County’s contractual right to 50,000 acre feet of water from the Trinity River as well as additional flows the tribes, county and agencies have requested to improve conditions on the Klamath.

**“Humboldt County’s allocation of 50,000 acre feet should be used to protect the fisheries our region depends on,”** said Humboldt County Fifth District Supervisor Ryan Sundberg. **“We hope the Interior Department recognizes this as an available resource and used that and other sources of water to avoid another horrible fish kill this year.”**

**“We take this threat to our fish very seriously, and we’re looking at every option to protect our fish,”** said Thomas P. O’Rourke, Chairman of the Yurok Tribe. **“We don’t want to go through another catastrophe like the fish kill in 2002, and we will do anything we can to avoid that outcome this year.”**

**“The Hoopa Valley Tribe and North Coast communities remain concerned about the health of Klamath and Trinity rivers,”** said Hoopa Valley Tribe Fisheries Director Mike Orcutt. **“We hope and pray that the Interior Department will take appropriate actions to prevent a fish kill this year.”**

###

**Issues:** Congressional Issues, Energy and Environment, Jobs and the Economy

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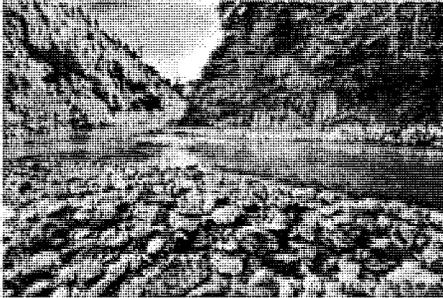
# Attachment 9

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# Blue Creek fishing closure: Parties air their grievances

By Laura Jo Welter, The Triplicate July 16, 2015 03:34 pm



**Yurok Tribe hosts public forum to discuss recent disagreements about Blue Creek**

Another dry year has the lower Klamath River crawling with tepid water and in low supply, putting its fish population in a vulnerable position — this is an issue that should be considered when making fishing policy decisions, people generally agree, but they don't agree on how the matter should be addressed.

**The cooler water from the mouth of Blue Creek enters warmer mainstem Klamath, providing thermal refugia for many fish. Courtesy Dave Jensen**

The Yurok Tribe hosted a public forum in Klamath on Monday evening to discuss these differences of opinion following the California Fish and Game Commission's controversial decision to close the Blue Creek-Klamath confluence to sportfishing, beginning last month. It was a meeting well attended by fishing guides, tribal members, public officials and environmentalists.

## "The process"

Fishers and Del Norte County supervisors criticized the commission for closing the Blue Creek confluence without due notice to make complaints. By the time supervisors Chris Howard and Gerry Hemmingsen marched their board's grievances to a June 10 Fish and Game Commission meeting in Mammoth Lakes, the decision had already been made to establish a no-fishing buffer zone near the mouth of Blue Creek, between a half mile downstream of the creek to 500 feet above it until mid-September. After that, until the end of the year, the restricted area will be reduced to 500 feet above and below.

Hemmingsen maintained Monday that in addition to the potential impacts on the county's economy if guides aren't able to pull out fish where they reside, he also objects to "the process" that led to the closure.

"This was kind of a push-through deal," he said.

In June, the commission advised the Board of Supervisors to follow pertinent issues more closely to avoid being surprised by policy changes. On Monday, Friends of Del Norte Don Gillespie called out the Board of Supervisors for spending taxpayer money on a too-late, 10-hour trek to Mammoth Lakes, when they could have spoken up earlier. Hemmingsen told the Triplicate last month, however, that the supervisors had written letters to the commission on the issue without hearing a response.

Commissioner Jacque Hostler-Carmesin, of McKinleyville, acknowledged that keeping track of Fish and Game's upcoming decisions is a considerable task.

"It's very difficult if you don't keep up with the rule-making calendar that comes out in December," she said,

adding that she only has three days to read 2,000–3,000 pages pertaining to the meeting's agenda, a feat she said was impossible.

Tribal officials were heard by the commission, however, which took their sportfishing regulation recommendations into consideration this year.

### **Supporting science**

Executive Director Troy Fletcher, who facilitated Monday's meeting, said the Yurok Tribe has been striving to address the Klamath's dwindling fishery for years now, and the closure at Blue Creek is, in part, a result of that.

Having recommended to the Fish and Game Commission a policy that disallows catch and release fishing at the mouth of Blue Creek as well as at the mouth of the Klamath, the commission opted to close the creek's confluence completely, since the state requires that all wild steelhead that are caught be released.

It's well documented that anadromous fish don't take kindly to warm water, and this was the basis for the tribe's recommendation.

Throngs of cold-water fish congregate in the thermal refugia at the mouth of Blue Creek, the first cool-water haven salmonids meet, some 17 miles up the main stem, after heading inland from the chilly Pacific Ocean.

That makes for prime fishing at this spot, particularly in exceptionally hot and dry years, and the fact that it's an important refuge for fish is indisputable, Yurok Fisheries Program Manager Dave Hillemeier addressed the group.

"You know that because you know where the fish are," he said.

But once the fish are dragged on a hook into the warmer water, before being released, their chance of survival lessens with every minute of exposure, their mortality rate increasing as temperatures climb above 20 degrees Centigrade, Hillemeier said, citing a 1995 Trinity River study.

Recent main stem temperatures have been hovering around 23.5 degrees centigrade until last week's thunderstorms cooled the river some, Hillemeier said.

Mike Coopman, of Mike Coopman's Guide Service, said he appreciated the open dialogue at the meeting, but he still wanted to see specific numbers pertaining to the mortalities at Blue Creek. It's possible the stress the fish suffered when hooked could be alleviated, he suggested, if they were released in the cooler water.

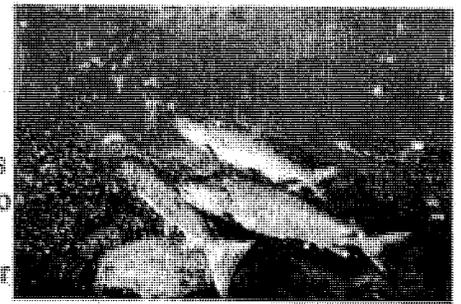
"I'm going to tell you, the mortality rate is not what people were projecting — I can see the bottom of that river just like anybody else. I landed 75 fish a day in my boat alone at Blue Creek last year," Mick Thomas of Lunker Fish Trips attested. "The whole bottom of the river would be lined with fish.

Fisheries biologist Terry Roelofs, a professor emeritus at Humboldt State University, told the Triplicate that the only reason the fish are hunkered down in Blue Creek like that, and seemingly for the picking, is precisely because of the dire conditions of the low-flowing Klamath.

With virtually no snow in the Trinity Alps or the Marble Mountains this winter, Klamath's exceedingly low flows — lower even than they were in 2002, when the Klamath saw the largest fish kill on record — have officials bracing for another die-off.

"That makes perfect sense" that the commission would opt to protect the fish's singular stronghold, Roelofs said, by restricting the fishing there — the closure was warranted years ago.

“The cold water isn’t even flowing at the surface, but through the rocks at Blue Creek. And when the Klamath is almost lethally hot, hundreds and hundreds of fish are packed in there,” Roelofs said.



When fish are crowded at such high concentrations and for extended periods of time, Hellemeier pointed out, the conditions are ripe for the parasite Ich to incubate. An Ich infestation is responsible for the killing of over 68,000 salmon in 2002. By the time Ich is detected, the four days it takes for a water release to reach the lower river is too late to prevent a die-off.

Chinook salmon and other anadromous fish hang out by the thousands at the mouth of Blue Creek, making the area both an attractive fishing hole and an important area to conserve.

**“It’s not our doing”**

Tribal member James Dunlap lamented that inflexible policies don’t address the shifting problems at hand, though in the meantime they manage to affect the livelihood of people who rely on the fisheries for income.

Courtesy Barrie Kovish

“You’re trying to curtail problems with abusers and problems in our fisheries as well with a crapload of laws, but (the abusers are) not here, and they’re not going to follow the policies anyway. It is going to hurt the guys that do follow the rules,” Dunlap said.

Margaret Carlson lives on the river, near the confluence with Blue Creek. She said she had won fishing rights in 1978, along with the Yurok Tribe, and she wasn’t about to let them go.

“I’m getting too old to fish, but I will catch my catch. I will fill my smoke house, and I will see to it that my children are protected because I am an organized tribe. I organized before the Yurok ever was a tribe. And that Blue Creek there, it belongs to us, and it is our prayer ground,” she announced with authority. “I don’t like to see the fish being depleted, but it’s not our doing, and they’re not stopping the people that are farming ahead of us that are poisoning the water.”

Margaret’s grandson Pergish Carlson, of Blue Creek Guide Service, echoed Mick Thomas’ sentiment when he described diving in Blue Creek, and swimming with 500 salmon. He said he was the only Yurok living on tribal land with a guide service, and he did not intend to stop fishing and lose his way of life, though he’d already seen a loss in revenue.

Hearing all of these comments, Commissioner Hostler-Carmesin assured the group that the Fish and Game Commission was not planning an indefinite closure at Blue Creek, as fishing guides feared. It would be reassessed again in the coming year, taking the public’s remarks into consideration.

In the meantime, Yurok Tribe officials are agreeable to more studies that would measure the population of fish hiding out in the cool waters trickling from Blue Creek and the stressors that impact them, which may result in better informed policy decisions in the future.

Regular meetings, involving fishing guides, tribal members and county officials were suggested, too, as a means to keep people in the know, and ensure that everybody has a chance to be heard.

Reach Laura Jo Welter at [lwelter@triplicate.com](mailto:lwelter@triplicate.com).

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# CALIFORNIA TRAPPERS ASSOCIATION

907 Homes flat road Redcrest, Ca. 95569 (707)722-4259



September 24, 2015

The Honorable Jack Baylis, President  
California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814

## **RE: Reconsideration of Bobcat Trapping Regulations**

Dear President Baylis,

The California Trappers Association (CTA) hereby petitions the California Fish and Game Commission (Commission) to reconsider its decision on June 11, 2015 to ban the trapping of bobcats.

In its decision, the Commission failed to fully consider and address the biological and economic impacts of a total ban on the trapping of bobcats in California. The California Department of Fish and Wildlife (Department) indicated very clearly that the trapping of bobcats at current and recent harvest levels presents no harm to the state's bobcat population. In addition, the Commission failed to adequately address a ban's net increase in enforcement costs to the Department as well as the potential for and impact of transference of take of bobcats by methods other than trapping.

Even more alarming is the fact that the Commission failed to meet its responsibilities to adopt regulations in accordance with the California Environmental Quality Act (CEQA), particularly as it relates to the Commission's failure to complete an environmental document pursuant to the Commission's regulatory requirements. The Commission is required to prepare an environmental document for every regulatory change, except in the case of listing a threatened or endangered species. A trapping ban poses numerous potential impacts to the environment, wildlife populations and survivability rates of various species that the Commission failed to address, and its claim that there would be an enhancement of non-consumptive use benefits is a fallacy unless data provided in an environmental document demonstrates the veracity of that assertion. Without an environmental review of the implications of a ban, the Commission cannot adequately assess the potential negative impacts of its action on the environment. In short, the attempt to assert a categorical exemption in the Commission's regulatory action, while expedient, is wholly inappropriate and not provided for by law.

Note that the expectation for adherence to the CEQA framework is not isolated to my organization and our affiliates. In fact, it seems strangely inconsistent that the very organizations (Project Coyote, Center for Biological Diversity, Natural Resources Defense Council, etc.) that advocated for a complete trapping ban of bobcats in California failed to encourage the Commission to complete an environmental document beforehand given the fact that it was these very same groups that initiated legal action against Mendocino County for having failed to develop a CEQA-constrained

environmental document when the County hired the Wildlife Services of the U. S. Department of Agriculture to conduct its predatory animal control program, including the trapping and removal of bobcats.

Thank you for your consideration and timely review of this formal request for reconsideration, which is consistent with the existing process at the time of its submission. It is our fervent desire and preference that we work through this situation with the cooperation of the Commission rather than pursuing action through the alternative options legally available to us. The courtesy of a formal response, addressed to my attention, is kindly requested.

Sincerely,

A handwritten signature in cursive script that reads "Mercer Lawing".

Mercer Lawing  
President, California Trappers Association

cc: Mr. Edmund G. Brown, Jr., Governor, State of California  
Ms. Jacque Hostler-Carmesin, Commissioner, California Fish and Game Commission  
Mr. Jim Kellogg, Commissioner, California Fish and Game Commission  
Mr. Eric Sklar, Commissioner, California Fish and Game Commission  
Mr. Anthony Williams, Commissioner, California Fish and Game Commission  
Mr. Sonke Mastrup, Executive Director, California Fish and Game Commission  
Mr. Charlton Bonham, Director, California Department of Fish and Wildlife  
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September 24, 2015

**VIA ELECTRONIC MAIL & U.S. POST**

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**Re: Comments on Wildlife Resources Committee Procedures**

Dear Mr. Mastrup:

We again write on behalf of our client the National Rifle Association of America to comment on the Wildlife Resources Committee's lack of established procedure and governing rules. Our office sent the Commission's Executive Director a letter on April 14, 2014, raising concerns that the originally proposed rules for the WRC would be improper as "underground regulations" because they had not been adopted pursuant to the proper rulemaking process. That letter also outlined nine other specific issues that are confusing or otherwise unclear as to plans for the future operation of the WRC.<sup>1</sup>

Our office followed up with the Executive Director about that letter. We were informed that the Commission had since addressed our client's concerns. Not seeing any evidence of that, on July 11, 2014, we sent a formal request that this Commission require that rules and procedures be established for the WRC through the normal regulatory approval process before the WRC takes any further

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<sup>1</sup> A copy of the letter is attached as Exhibit 1.

Mr. Sonke Mastrup  
September 24, 2015  
Page 2 of 4

action.<sup>2</sup> Around the same time Safari Club International submitted a letter raising similar concerns, and NSSF attorneys also submitted a letter correctly explaining the legal shortcomings for how the WRC is operated. Due to a lack of response to these correspondence, our office then followed up with an official petition on July 28, 2014, which the Commission accepted and referred it to staff for evaluation and recommendation.<sup>3</sup>

Despite all these efforts, our client's concerns have not been addressed *over a year later*. To date no official procedures for the WRC have been adopted. To the contrary, it seems like how the WRC runs is ever-changing, leaving stakeholders cynical about the process and with many questions that need to be answered, including:

What is the process for arranging a WRC meeting? Who decides the date, location, and format?

Who dictates what items will be discussed at the WRC? How are issues decided to be placed on the agenda for any given meeting? Is there a process for the public to suggest items for consideration by the WRC?

Who decides (or what is the process for deciding) what actions the WRC will take, i.e., whether a recommendation will be made to the full Commission? What happens if one Commissioner disagrees with a recommendation? Is there a record kept of that? Is the Commission or the public informed of the disagreement?

What form does a recommendation take? Who prepared it?

Are any meeting minutes or notes of proposed actions prepared? If so, by whom? Are any meeting minutes or notes kept? If so, are they made available?

Does the WRC comply with the Bagley-Keene Act as it must? If so, does it have established procedures to maintain compliance? Who created those procedures?

Until these (and other) questions are answered and the lack of transparency for what the WRC is doing is addressed, it is inappropriate for the WRC to engage in any more activity related to the Commission's policy making. Yet, the exact opposite seems to be occurring.

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<sup>2</sup> A copy of the letter is attached as Exhibit 2.

<sup>3</sup> A copy of the petition is attached. as Exhibit 3

Mr. Sonke Mastrup  
September 24, 2015  
Page 3 of 4

Not only does the WRC continue to operate without any formal governing procedures in place, but it is *expanding* its operation. The October Commission meeting agenda includes, among other items, "Appointments to predator workgroup." While not entirely clear (which is an additional issue that needs to be addressed), it appears this item means the Commission will be discussing nominations and appointments to the WRC's so-called Predator Policy Workgroup ("PWG"). The propriety of such an expansion is dubious standing alone, but with so many questions remaining about the proper procedure and structure for the WRC itself, doing so is beyond the pale for a public entity.

Moreover, it is unclear whether it is even legal to form the PWG. Nothing in the statute creating the WRC provides for it.<sup>4</sup> Assuming it is legal, it remains unclear whether the Commission or the WRC would be the body responsible for creating it and regulating it. Accordingly, before the WRC expands with subcommittees like the PWG, the following questions should be answered:

What is the source of authority to create the PWG? Assuming there is such authority, why is its creation not subject to the official rulemaking process? Would the Commission be able to create a workgroup under itself without going through the formal rulemaking process?

Who has authority to dictate the criteria or process for nominating PWG members? Are such nominations subject to the official rulemaking process?

Assuming such authority exists in either case, does it reside in the Commission or the WRC?

Will the public have an opportunity to weigh in on the criteria for nominating PWG members?

Of course, the same queries regarding the lack of procedure for the WRC generally apply to the PWG, but addressing those now would be to put the cart before the horse. Our client is not alone in its concerns here. Even WRC staff recently recommended "[t]hat structure, function, and specific tasks for the predator workgroup be clearly identified."<sup>5</sup>

Needless to say, established rules and procedures are needed for the WRC now. Important matters are currently being addressed while many stakeholders remain uncertain about how to participate in the process because of the constantly changing process. The effect is to thwart the original purpose of the WRC, which was to facilitate input from stakeholders on matters of interest

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<sup>4</sup> See Fish and Game Code § 106.

<sup>5</sup> See Item 7 on Page 8 at:  
[http://www.fgc.ca.gov/meetings/2015/Sep/WRC\\_MeetingBinder\\_20150907.pdf](http://www.fgc.ca.gov/meetings/2015/Sep/WRC_MeetingBinder_20150907.pdf)

Mr. Sonke Mastrup  
September 24, 2015  
Page 4 of 4

regarding natural resources that the Commission may want to consider.

For these reasons, we respectfully request that the above questions be answered and that the WRC cease taking any actions until official rules and procedures governing it are adopted following a public comment period. If you have any questions, please feel to contact our office.

Sincerely,  
**Michel & Associates, P.C.**

A handwritten signature in black ink, appearing to read 'Sean A. Brady', with a long horizontal line extending to the right.

Sean A. Brady

cc'd by Email and U.S. Post:  
Thomas Gibson, General Counsel  
Office of the General Counsel  
Department of Fish and Wildlife  
([thomas.gibson@wildlife.ca.gov](mailto:thomas.gibson@wildlife.ca.gov))  
Charlton H. Bonahm, Director  
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# **EXHIBIT 1**

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April 14, 2014

**VIA EMAIL, U.S. POST  
& HAND DELIVERY**

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**Re: Comments on Proposed Regulations and Notice of Improper Wildlife  
Resources Committee Procedures**

Dear Mr. Mastrup:

We write on behalf of our client, the National Rifle Association of America, to comment on proposed policies and to notify you of apparent improprieties in the proposed adoption of policy and procedures related to the Wildlife and Marine Resources Committee (respectively "WRC" and "MRC").

The agenda for the Fish & Game Commission ("Commission") meeting of February 5, 2014, includes the following agenda item: "DISCUSSION OF DRAFT POLICY AND PROCEDURES FOR WILDLIFE AND MARINE RESOURCES COMMITTEES" (the "Draft"). A copy of the Draft is available at [http://www.fgc.ca.gov/meetings/2014/feb/proposed\\_committee\\_procedures.pdf](http://www.fgc.ca.gov/meetings/2014/feb/proposed_committee_procedures.pdf).

The Draft, as written, is a "regulation"<sup>1</sup> under state law. So the Commission appears to be

---

<sup>1</sup> Government Code section 11342.600 states, in its entirety,

'[r]egulation' means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Further, as used in section 11342.600, the term "state agency" includes every state commission. Gov't

improperly attempting to create “underground regulations[,]” i.e., regulations that are not valid because they were not adopted in accordance with the proper procedural guidelines.

***I. The Proposed Procedures Must Be Properly Enacted Before They Can Be Implemented***

California law is clear about the prohibition on the issuance or use of underground regulations:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

Gov’t Code § 11340.5(a).

Case law confirms that the proposed rules in the Draft would be improper “underground regulations” if they arose as part of the implementation of the duties created by Fish and Game Code section 105 and 106, which, respectively, created the MRC and WRC. *See Engelmann v. State Bd. of Educ.*, 2 Cal. App. 4th 47, 62 (1991) (holding Board of Education was required to go through rule making process found in the Administrative Procedures Act when creating the guidelines and manuals for the multi-level review process used for selecting the textbooks that could be used in public schools).

Accordingly, the Commission should follow normal regulatory standards (e.g., a series of three properly noticed Commission meetings used to introduce, discuss, and vote on a proposed regulation that was noticed via publication in the state’s Regulatory Notice Register) to move forward with the creation of the proposed policies/regulations. Once the proper process has been complied with and the regulations have been filed with the Secretary of State, only then can the regulations be relied upon by the WRC.

***II. Substantive Comments Regarding the Proposed Regulations***

1. Based on the lack of notice regarding the formation and dissolution of the Predatory Policy subcommittee, it is clear the WRC needs rules to explain exactly how and when subcommittees will be formed. The Draft should be revised accordingly.
2. Fish & Game Code section 106 does not actually authorize or suggest the WRC is to perform its *own* meetings; the Commission should explain to the public why the Commission is going beyond its statutory mandate.
3. The WRC should have at least two members; there appears to be no difference between

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Code § 11000. Thus, the Commission is clearly a state agency for the purposes of section 11342.600.

a Commissioner's own abilities and a one-person WRC, and having two members will decrease the possibility of hasty or unfairly biased decision making.

4. The Draft should include a provision that, when the Commission makes its yearly appointment to the Committee, it should, to the extent practicable, appoint two WRC members who have differing backgrounds (e.g., a hunter and a member with non-hunting interests) to help ensure that recommendations have been "vetted" as much as possible before they get to the Commission.
5. Because the WRC is required to make recommendations (i.e., take "action[,]") as that term is defined in Government Code section 11122), that means final decisions will need to be made, which could be problematic if there are two Commissioners sitting on the WRC (e.g., a "tie"). The proposed regulations should address how any disputes between WRC members shall be resolved.
6. The WRC is, "to the extent practicable," to "attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant wildlife resource management documents are being developed." Fish & Game Code § 106. Are these meetings all going to be open to the public and publicly noticed? Is there going to be a public record of these meetings occurring? If they are not, and further assuming the department has discretion as to who it meets with in private concerning the development of "significant wildlife resource management documents[,]," there are real transparency and equal access problems here.
7. Because the WRC was created by statute and because it includes more than one member, it is subject to the requirements of the Bagley-Keene Act. Gov't Code §§ 11121, 11123. Regardless, if it is the Commission's position is that the WRC, or any "subcommittees" it produces, will not be treated as if subject to the Bagley-Keene Act, the Commission should explain to the public the considerations that the Commission has found to outweigh the public's interest in open government.
8. Three Commissioners should never participate in any WRC meeting. The Draft obscures, at the least, the limits of Government Code section 11122.5(c)(2)(6). That section states:

[a] majority of the members of a state body [e.g., the Commission] shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body . . . . The prohibitions of this article do not apply to . . . attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, *if* the members of the state body who are not members of the standing committee attend only as observers.

(Emphasis added).

It seems, however, that someone within the Commission or related staff wants to blur the lines about non-committee member Commissioners attending committee meetings. This can be seen via a comparison of the Draft and the prior "approved" MRC rules previously posted on the Commission's website.

Compare the following.

- In the event that another Commissioner wishes to attend a meeting of the MRC, and there are two members of the MRC present at the meeting, that Commissioner may attend the meeting but must recuse himself or herself from any discussions related to Commission business. [<sup>2</sup>]
  
- Non-chair Commissioner [sic] may attend committee meetings.[<sup>3</sup>]

There is no legitimate reason to make this language *less* clear than it was in the prior draft. Further, it is debatable if the passage, as originally stated, is an accurate representation of the limitation stated in section 11122.5(c)(2)(6). Having three Commissioners on the dias during a committee meeting is inappropriate. If the Commission is going to have a meeting, it should be clearly noticed as a *Commission* meeting. History has show that non-committee Commissioners are likely going to speak at committee meetings even though doing so is patently inappropriate, and the rules should be absolutely clear to everyone, *including Commissioners and staff*, that non-committee Commissioners cannot legally speak at committee meetings.

9. WRC meetings should not be video recorded and posted on the internet. It was mentioned at the last WRC meeting that the cost of such service would be a problem. Though no actual cost information was provided, with the availability of YouTube and inexpensive digital cameras (perhaps even state-owned cellular phones), that statement is difficult to accept. Indeed, if the Commissioners and staff are all having travel costs reimbursed, it seems that the cost of video, which would *guarantee public access*, is likely much less than that which is already expended.

During the meeting of February 5, 2014, the Commission discussed the possibility of live-streaming WRC meetings. During that discussion, you mentioned that live-streaming meetings costs approximately six to eight thousand dollars per meeting, and the it was unclear if the Department of Fish and Wildlife had the money in its budget needed to live-stream the meetings. Because of the importance of public participation,

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<sup>2</sup> <http://www.fgc.ca.gov/meetings/committees/MRCrulesandprocedures052213.pdf>.

<sup>3</sup> [http://www.fgc.ca.gov/meetings/2014/feb/proposed\\_committee\\_procedures.pdf](http://www.fgc.ca.gov/meetings/2014/feb/proposed_committee_procedures.pdf).

Mr. Sonke Mastrup  
April 14, 2014  
Page 5 of 5

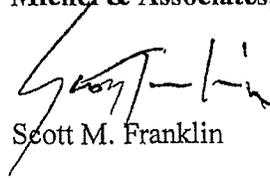
live streaming and later web access should be considered a priority.

10. To the extent that the Draft states committee meetings “may be taped and broadcast on the internet at the discretion of the Commission[,]” this provision should be clarified, as it can reasonably be interpreted as a prohibition on the public recording committee meetings, subject only to express permission of the Commission. *See* Gov’t Code § 11124.1 (members of the public have the right to use a video recording device to record meetings of state bodies).

### *III. Conclusion*

In summary, the Commission should incorporate all of the above comments into a new draft set of regulations that can be considered and adopted through the appropriate procedural mechanisms.

Sincerely,  
**Michel & Associates, P.C.**



Scott M. Franklin

cc'd by Email and U.S. Post:  
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Office of the General Counsel  
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July 11, 2014

**VIA EMAIL & U.S. POST**

President G. Michael Sutton  
Vice President Jack Baylis  
Commissioner Jim Kellogg  
Commissioner Richard B. Rogers  
Commissioner Jacque Hostler-Carmesin  
California Fish & Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

**Re: Request Wildlife Resources Committee Procedure and Meeting Protocols  
Be Put In Place *Before* That Committee Makes Any Recommendations to  
the Fish & Game Commission**

Honorable Commissioners:

We write on behalf of our client the National Rifle Association.

Recently while conducting meetings, the Commission and the WRC have blurred the lines between a true Commission hearing, where policy decisions can legally be made and official actions can be taken, and WRC meetings where apparently the only action possible is the WRC making a recommendation for the Commission to consider. This letter is a formal request that the Fish & Game Commission (Commission) require the Wildlife Resources Committee (WRC) to establish and publicize rules and procedures under which it will operate before the WRC takes any further substantive action, and that such procedural rules be vetted through the normal regulatory approval process before they become effective.

***1. The Commission is Sending Mixed Signals About the Authority of the WRC***

There is confusion about the role and authority of the WRC because at Commission and WRC meetings, the Executive Director, as well as Commissioners Sutton and Baylis, have inaccurately stated that WRC meetings are a form of, or can operate as, official Commission meetings. The Commissioners and Commission staff have also made numerous other confusing and conflicting comments about the role, limitations, and procedural rules of the WRC. Commissioner Sutton said that the WRC meetings are of an "informal nature." But there has been no clarification about whether

the WRC is going to be the only opportunity for public comment on issues raised at WRC meetings, or if the public will have opportunity to comment on all issues agendized for Commission meetings, even if that issue was already discussed (or not) at a WRC meeting. This is compounded by the fact that WRC meeting videos are not available online, notwithstanding multiple requests from various segments of the stakeholder community for that type of access.

If the WRC meeting will provide for a longer format pre-discussion of a discussion that will take place again before the full Commission, then no binding action (other than perhaps a recommendation to the Commission action) takes place at a WRC meeting. If that is the case, then the Commission should say so unequivocally. This clarification would drastically reduce the amount of confusion being created by the uncertain state of the WRC's procedures and its authority.

**2. *The Commission Must Establish Procedural Rules for the WRC Before It Allows the WRC to Address Substantive Issues***

Based on the recently released agenda for the July 28, 2014, WRC meeting, it appears that the Commission is moving forward with potentially substantive decision making at the upcoming next WRC meeting, even though the procedures for how the WRC will operate, and significantly, how the public can participate in WRC meetings, have not been publicized and apparently do not exist. Because there is no system or procedures in place, our clients, other stakeholders, and the interested public are unable to effectively participate in the rule and policy making process.

This office sent the Executive Director of the Commission a letter on April 14, 2014, raising concerns that the previously proposed WRC rules would be improper as "underground regulations." That letter also outlined nine other specific issues that are confusing or otherwise unclear as to plans for the future operation of the WRC. A copy of the letter is attached.

Our office recently followed up with the Executive Director about that letter. We were informed that the Commission has addressed the concerns raised our letter of April 14, 2014. We respectfully disagree. No new proposed procedural rules have been published, nor have we received a response letter addressing the issues noted in the letter of April 14, 2014.

So we now ask the Commission to please tell us; how have our client's concerns as recited in our April 14, 2014 letter, been addressed?

**3. *The Commission Seems Biased, Favoring Participation by Anti-Hunting Groups Over Pro-Hunting Groups***

Holding WRC meetings without established procedures facilitates the impression that different rules apply to different stakeholders. Certain stakeholders appear to have more access and to information about WRC activities and plans. This not only creates an appearance of impropriety and fosters an antagonistic situation, it will result in increased investigations by watchdog associations suspecting bias in the way the Department and Commission are conducting their affairs.

If published rules are put in place, it would not only provide some clarity, it would also help limit unfair treatment, reduce the appearance of bias or conflicts of interest, alleviate concerns of bias,

and facilitate a more productive regulatory process.

**4. *Stakeholder Presentation Materials Should Be Made Publicly Available Well Before WRC Meetings***

Furthermore, it was only because this office asked the Executive Director that we found out that the deadline for making a request to make a presentation at the July 28, 2014, WRC meeting was July 7, 2014. Assuming this was a deadline that was applicable to all who wanted to make a presentation to the WRC, shouldn't it have been publicized? And if that deadline did not apply to every group that wanted to make a presentation, our clients object to any content-based scheduling advantage that is being granted to other stakeholders.

If the purpose of the WRC is to have the most enlightened discussion possible concerning issues headed to the full Commission for consideration, then stakeholders and the public should not be surprised by new information presented for the first time at WRC meetings when there is no opportunity to prepare a rebuttal.

It is our understanding that there is a currently unwritten rule that presenters at WRC meetings are required to give the Executive Director a copy of presentation materials a few weeks prior to the WRC meeting. Though our clients don't necessarily agree with such a rule, if it is going to be enforced, why couldn't that information be circulated publicly beforehand?

**5. *The Commission's Attempt to Create an "Alternate" WRC Member Is Disconcerting***

Another unsettled and troubling issue related to the WRC is the attempt (foiled by a loss of quorum at the June 4, 2014, meeting of the Commission) to create an "alternate" WRC "member" position. By law, the WRC is only required to have one member, so the claim that two members are need for meetings is inaccurate. Fish & Game Code § 106 ("The commission shall form a wildlife resources committee from its membership consisting of at least one commissioner.").

The WRC has *two* committee "members," Commissioners Kellogg and Baylis. If only one of committee "members" is unable to attend a WRC meeting, there is still no quorum or other procedural limitation that prevents a single WRC committee member from going forward with a WRC meeting.

The fact that some Commissioners are pushing very hard to have a third Commissioner appointed as a "member" to the WRC, even though there is no need to do so, raises concerns that by having three Commissioners at WRC meetings, those Commissioners would then attempt to act as the Commission and take a binding vote on Commission business.

At the January 15, 2014, WRC meeting, both the Executive Director and Commissioner Baylis indicated that had the three Commissioners present at that meeting wanted to, they could have acted as the Commission (an assertion we vigorously disagree with). Though the January 15, 2014, meeting was technically a Commission meeting, it was also an illegal meeting because it was not properly noticed as a Commission meeting.

If the Commission tries to use a noticed WRC meeting as an opportunity to take a Commission

Honorable Commissioners  
July 11, 2014  
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vote on a controversial topic, that will result in litigation.

The Commission should consider the implications of the WRC's current methods of operation, and should draft a new set of proposed procedures for the WRC. In doing so, the "alternate" issue should be resolved.

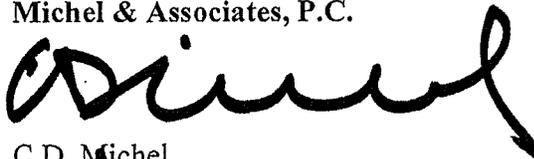
**6. *Reservation of Rights***

Because it is not clear to us what the limitations are about making comments at the upcoming WRC and at later, related Commission meetings, our clients expressly reserve all rights to make a comment/presentation and at the July 28, 2014, WRC meeting and the August 6, 2014 Commission meeting, regardless of whether our client participates in one or both of these meetings.

**7. *Conclusion***

The next WRC meeting should be used to formalize a set of proposed procedural rules that can be reviewed and approved by the Commission through its normal regulatory process. Otherwise the WRC's actions will continue to cause stakeholders and the public to believe that the Commission has lost its objectivity, and that it is now a biased politicized body. This directly conflicts with the reason the Commission was created in the first place. See *Young v. Dep't of Fish & Game*, 124 Cal. App. 3d 257, 273 (1981) (noting that the constitutional amendment that resulted in the Commission being a constitutional body "was to remove the old Fish and Game Commission from political influence").

Sincerely,  
Michel & Associates, P.C.



C.D. Michel

CDM/smf

Enc.: April 14, 2014 Letter

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July 28, 2014

**SENT VIA E-MAIL**  
**& HAND DELIVERED**

California Fish and Game Commission  
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[sonke.mastrup@fgc.ca.gov](mailto:sonke.mastrup@fgc.ca.gov)

**Re: Petition for Rule Making by the Fish & Game Commission Regarding the  
Need for Formal Procedures and Rules for the Proper and Fair Operation  
of the Wildlife Resources Committee**

Dear Mr. Mastrup:

This Petition, submitted by the National Rifle Association of America ("NRA") pursuant to Government Code sections 11340.6 and 11340.7, requests that the California Fish & Game Commission (the "Commission") enact regulations to ensure public participation and fair debate vis-à-vis the Wildlife Resource Committee (the "WRC").

**I. STANDING OF PETITIONERS**

Petitioner NRA is an Internal Revenue Code § 501(c)(4) nonprofit corporation, incorporated in the State of New York in 1871, with principal offices and place of business in Fairfax, Virginia. NRA has approximately five million members, and hundreds of thousands of members in California.

The founders of NRA desired to create an organization dedicated to marksmanship, or, in the parlance of the time, to "promote and encourage rifle shooting on a scientific basis." NRA's bylaws, at Article II, Section 5, state that one of the purposes of NRA is "[t]o promote hunter safety, and to promote and to defend hunting as a shooting sport and as a viable and necessary method of fostering the propagation, growth, conservation, and wise use of our renewable wildlife resources."

NRA has been a party to or supported multiple lawsuits throughout the nation supporting and

defending the right to keep and bear firearms for hunting, sport shooting, and self-defense. Indeed, one of NRA's key functions is to preserve the tradition of hunting, by protecting it from unreasonable and unnecessary restrictions.

NRA has an established record of advocating against restrictions on hunting based on scientifically unsupported claims of alleged environmental harm.

Petitioner David Halbrook resides in Victorville, California, and has been a hunter for basically his entire life. Mr. Halbrook has hunted various big and small game in California in the past, and he intends to hunt in California in the future. Mr. Halbrook is a member of NRA and is the executive director of the Hunt For Truth Association.

Based on the foregoing, the petitioners have standing to make the requested regulatory changes.

## II. REQUESTED REGULATORY CHANGES

Petitioners hereby seek the amendment of California Code of Regulations ("CCR"), title 14, via the addition of a new section dedicated to the procedural aspects of the operation of the WRC, including, but not limited to, public meetings held by the WRC.

The following provisions, based on draft language created by the Commission, should be included in the new section.

- (A) Section 108 of the Fish and Game Code requires the commission to adopt rules to govern the business practices and processes of the Commission. Sections ~~105 and~~<sup>106</sup> of the Fish and Game Code require the commission to establish ~~a minimum of two committees, the Marine Resources Committee and~~<sup>[2]</sup> the Wildlife Resources Committee; respectively.
- (B) A minimum of one, but no more than two members of the Commission will be appointed to the Wildlife Resources Committees at the first Commission meeting of each calendar year. To the extent feasible, the Commission shall place at least one Commissioner with substantial hunting experience on the Wildlife Resources Committee.
- (C) All public are welcome to attend and participate meetings as defined in subsection (a).
- (D) The Commission will establish the meeting schedule for the WRC committees each year

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<sup>1</sup> ~~Strikeout~~ and underline are used herein to reflect deletions and additions, respectively, that Petitioner proposes be made regarding language previously put forth by the Commission in the Draft.

<sup>2</sup> Petitioner is not taking any position on what regulations should or should not be adopted for the operation of the Marine Resources Committee, but reference thereto is omitted herein because this Petition does not concern the operation of the Marine Resources Committee.

as part of the annual rulemaking calendar the prior November and may schedule additional meetings as needed.

- (E) Agenda will be approved at the Commission meeting before the committee meeting. Agendas will be developed by staff and will be comprised of standing items and topics requested by: referred by the Commission, topics requested by the Department, and/or state agencies, and federal agencies, and standing items. Public requests for agenda items must be made to the Commission and subsequently referred to the appropriate committee Wildlife Resources Committee.

Agenda items to be considered for the year will be adjusted based on urgency, need, and interest as determined by the Commission. Findings and recommendations will be made to the Commission for possible action by the two chairs Wildlife Resources Committee. If the Wildlife Resources Committee has two members, any finding or recommendation it makes must be unanimous.

- (F) All Wildlife Resources Committee meetings of committees shall be noticed at least 10 days prior to the meetings. Meeting agendas will be noticed on the Commission's website and distributed electronically.
- (G) Commission staff will secure appropriate meeting venues for Wildlife Resources Committee meetings with preference given to those that are provided free of charge. Meetings will be run by at least one of the Wildlife Resources Committee members or the designee, two chairs and facilitated by Commission staff.
- (H) ~~In general~~ Unless specific conditions dictate otherwise, meetings will be structured to provide participants opportunities to engage in detailed discussions with Commission staff, Department staff, the presenter (if applicable), and stakeholders. Meetings The Wildlife Resources Committee will strive to provide an informal setting at its meetings, where all participants will have an opportunity to provide input into the conversation. However, if required, the ~~chairs~~ Wildlife Resource Committee retains the option to apply a more structured setting whereby discussion and public comment are governed by speaker cards and time limits.
- (I) ~~Non-chair member~~ Commissioners may attend Wildlife Resource Committee meetings, however, they are expressly prohibited from participating in anything other than an observational capacity. Non-member Commissioners shall not make any comment, either directly or indirectly, during a Wildlife Resources Committee meeting.
- (J) Commission staff shall prepare a ~~Meeting~~ Summary following each Wildlife Resources Committee meeting that summarizes the main discussion points and any recommendations developed by the Wildlife Resources Committee ~~committee chairs.~~ Draft meeting summaries shall be provided to the Department and Wildlife Resources Committee ~~committee chairs~~ prior to finalization for review and comment. The final meeting summary shall be posted on the Commission's website and serve as the formal record of the meeting. Any recommendations developed by a committee shall be clearly

identified in the meeting summary and presented to the Commission for consideration at a future Commission meeting.

- (K) Wildlife Resources Committee meetings shall be audio recorded. Wildlife Resource Commission meetings may shall be taped video recorded and broadcast on the internet at the discretion of unless the Commission and available makes a specific finding that, as to a specific fiscal year, funding is not reasonably available for video recording. This provision does not in any way inhibit any right that members of the public have concerning the use of a recording device to record public meetings of a state body.

Furthermore, the following provisions, drafted by the Petitioner, should also be included in the new section requested hereby.

- (L) A meeting is subject to the Bagley-Keene Act if (a) any portion of the meeting relates to one or more matter within the Commission's jurisdiction, and (b) the meeting is attended (whether in person or otherwise) by all of the following: at least one Wildlife Resources Committee member (or a Wildlife Resources Committee designee), at least one Department of Fish & Wildlife (the "Department") employee, and at least one person who is neither a member of the Department nor affiliated with the Commission (e.g., non-committee member Commissioners or Commission Staff). This provision only applies to meetings that concern, at least in part, nonmarine wildlife resource issues.
- (M) The ability of the public to speak at a Wildlife Resources Committee meeting on a particular item does not preclude a member of the public from attending a later Commission meeting and commenting on that item, or a related item, during the Commission meeting but prior to the Commission taking action on the relevant item.
- (N) If the Wildlife Resources Committee has a designee, the name of that designee shall be announced at a Commission meeting prior to that designee acting as the designee of the Wildlife Resources Committee.
- (O) The WRC shall strive to adhere to an "equal time" model to the extent practicable, to prevent an unreasonable disparity of non-public Wildlife Resources Committee meetings being granted to specific parties holding disparate viewpoints.
- (P) The Wildlife Resources Committee shall not create any sub-committee or other entity without express approval by the full Commission after the Commission has taken public comment on the issue. All subcommittees or similar entities created by Wildlife Resources Committee with Commission approval shall meet only as a part of Wildlife Resources Committee meetings, and all communications between members of these entities shall be treated as public records.
- (Q) A log should be kept of all Wildlife Resources Committee-related meetings attended by Wildlife Resources Committee members or the Wildlife Resources Committee designee.

### III. JUSTIFICATION FOR THE REQUESTED REGULATORY CHANGES

#### A. Any Rules Used by and for the WRC Are Regulations, Thus They Must Be Approved through the Proper Regulatory Process

The agenda for the Fish & Game Commission (“Commission”) meeting of February 5, 2014, included the following agenda item: “DISCUSSION OF DRAFT POLICY AND PROCEDURES FOR WILDLIFE AND MARINE RESOURCES COMMITTEES” (the “Draft”). A copy of the Draft is available at [http://www.fgc.ca.gov/meetings/2014/feb/proposed\\_committee\\_procedures.pdf](http://www.fgc.ca.gov/meetings/2014/feb/proposed_committee_procedures.pdf).

The Draft, as written, is a “regulation” under state law. Government Code section 11342.600 states, in its entirety,

‘[r]egulation’ means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

As used in section 11342.600, the term “state agency” includes every state commission. Gov’t Code § 11000. Thus, the Commission is clearly a state agency for the purposes of section 11342.600. Section 11342.600 is in accord with Fish & Game Code section 108, which “requires the commission to adopt rules to govern the business practices and processes of the Commission.”<sup>3</sup>

Should the Commission attempt to utilize any rules regarding the operation of the Wildlife Resources Committee without having them adopted via proper regulatory rulemaking, that would violate Government Code section 11340.5(a). That section states:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

Case law confirms that the Wildlife Resources Committee would be using illegal “underground regulations” if the Commission allowed the Wildlife Resources Committee to operate by a set of rules that were not properly enacted. *See Engelmann v. State Bd. of Educ.*, 2 Cal. App. 4th 47, 62 (1991) (holding Board of Education was required to go through rule making process found in the Administrative Procedures Act when creating guidelines and manuals for a mutli-level review process used for selecting textbooks that could be used in public schools).

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<sup>3</sup> See the Draft, available at [http://www.fgc.ca.gov/meetings/2014/feb/proposed\\_committee\\_procedures.pdf](http://www.fgc.ca.gov/meetings/2014/feb/proposed_committee_procedures.pdf)

**B. Equal Access and Transparency Interests Will Be Served if the Petition Is Granted**

The Petitioner sent a letter to the Commission on April 14, 2014, outlining why the Wildlife Resources Committee needed rules adopted pursuant to the proper regulatory process. A copy of that letter is attached and incorporated by reference. Put simply, that letter outlined the various potential pitfalls related to the draft rules that the Commission circulated earlier this year, rules that, it seemed, the Commission wanted to adopt without adhering to the proper regulatory process. Because three months have passed since that letter and the July 28, 2014, meeting of the Wildlife Resources Committee is being held without any binding rules or regulations, the Petitioner is now forced to make this formal demand that the lack of regulations be addressed.

Indeed, to prevent any possible argument that a Commission decision was made as the result of a fault in the undefined Wildlife Resources Committee public comment process in place as of July 28, 2014, the Petitioner strongly suggests that the Wildlife Resources Committee not make any final decisions or recommendations at that meeting.

**IV. THE COMMISSION HAS THE LEGAL AUTHORITY TO ADOPT THE REQUESTED REGULATORY CHANGES**

Section 108 of the Fish and Game Code requires the commission to adopt rules to govern the business practices and processes of the Commission. Thus, the regulations sought hereby are clearly within the Commission's regulatory authority. *See also* Gov't Code § 11340.6 ("any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation").

**V. CONCLUSION**

For the reasons stated herein, this Petition should be granted.

Sincerely,  
**Michel & Associates, P.C.**



C.D. Michel

cc:  
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enc:  
Letter of April 14, 2014

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Thursday, August 6, 2015

California Fish and Game Commission  
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RE: Daniel Yoakum & HEOK Experimental Seal Exclusion Net

Dear Mr. Mastrup:

This past Tuesday Daniel Yoakum gave a presentation to the Commission on the subject of his request for permission to use an HEOK Experimental Seal Exclusion Net for the upcoming fishing season in the San Francisco Bay. HEOK refers to „herring eggs on kelp“ fishing under Title 14, California Code of Regulations, Section 164.

First, let me say that there is nothing new or experimental about a predator exclusion net. It is a common practice in Canadian HEOK fishing. See the following publication at p. 124 at <http://www.dfo-mpo.gc.ca/Library/351581.pdf>.

Fisheries and Oceans Canada  
Pacific Region Integrated Fisheries Management Plan, Pacific Herring,  
November 7, 2013, to November 6, 2014, at page 124  
Appendix 10 – Commercial Plan for Special Use Herring

„4.4.4 Predator Deterrence

„• The following standards for bird net and predator net systems were piloted during the 2010/11 season and will continue for 2012/13:

„• Impoundments that employ a predator deterrence system must meet the following conditions:

„• A bird net consisting of contiguous netting with a maximum mesh size of 50 mm by 50 mm (2 inch by 2 inch). The bird net must be pulled tight across the frame of the impoundment.

„• A predator net consisting of contiguous netting with a maximum mesh size of 25 mm. The predator net must surround the webbing of the impoundment completely, maintain a space of at least 30 cm (12 inches) between the predator net and the webbing, and maintain a minimum of 3 m (9 feet) above the substrate under the enclosure at all times.

At the Commission meeting there was also discussion of Mr. Yoakum's being the subject of a misdemeanor trial in Marin County Superior Court next month: Case 188636E. In that connection, let me be candid with you, since I am Mr. Yoakum's defense counsel. The Commission has a competitor, and it is not Canada. The Marin County Superior Court has re-

written the Commission's regulations. That is, the Court re-defined HEOK fishing to mean "when the tackle hits the water" [verbatim].<sup>1</sup> Because the court system operates independently of the Commission, the courts are allowed to ignore the Commission's definitions. See, for example, the 1974 Attorney General Opinion at 58 Ops. Cal. Atty. Gen. 311 [Opinion No. CR 74-6].

Mr. Yoakum had raised the question as to when precisely must one post signs and lights and so on during a HEOK fishery. According to the Marin Court, a game warden can make an arrest when the smallest piece of kelp touches the water. The record shows that the DFG officer, Ian Barry, who arrested Mr. Yoakum on February 20, 2014, never used such rules in defining HEOK fishing.

The rules of other jurisdictions do not support „when the tackle hits the water“. Alaska's published rules are the exact opposite of the Marin Court and are in the public domain at <http://www.adfg.alaska.gov/FedAidPDFs/RIR.1J.2013.01.pdf>, as follows:

Regional Information Report No. 1J13-01  
2013 Southeast Alaska Herring Spawn-On-Kelp Pound Fishery Management Plan by  
Dave Gordon, Dave Harris, Troy Thynes, and Scott Walker  
March 2013  
Alaska Department of Fish and Game  
Division of Commercial Fisheries  
Pages 7 - 9  
Units of Gear

„For the purpose of this fishery, a closed pound is considered to be *fishing* once herring have been introduced into the closed pound structure; a closed pound is considered to have *stopped fishing* once all of the herring have been released and all spawn-on-kelp product has been removed from the closed pound structure. For the purpose of this fishery, an open pound is considered to be *fishing* once kelp has been attached to the open pound structure; an open pound is considered to have *stopped fishing* once the entire spawn-on-kelp product has been removed from the open pound structure.“

The regulations for Canada, the Oregon Administrative Rules [§§ 635-004-200 ff.], and the Washington Administrative Code [§§ 220-49-063, 220-49-064] have nothing that supports "when the tackle hits the water".

The big question is whether the Commission or Department disagrees with the Marin Court's definition of "when the tackle hit the water" for Title 14, California Code of Regulations, Section 164 and the HEOK Experimental Seal Exclusion Net.

Because Daniel Yoakum and his HEOK Experimental Seal Exclusion Net are under the Commission's review, we are asking that a spokesperson for the Commission or Department

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<sup>1</sup> Please note that in the attachment the Marin County Appellate Division backed off from „tackle hits the water“ and chose softer wording: „when the tackle is placed in the water“: case CV1501504.

Mr. Sonke Mastrup  
August 6, 2015  
Page 3

state simply „yes“ or „no“ as to whether „tackle hits the water“ defines HEOK fishing in California.

Can you do this? If the answer is „no,“ then the HEOK Experimental Seal Exclusion Net is a viable proposal and should be approved as it would be in Canada.

I will be happy to keep you informed about HEOK rulemaking developments in the courts.

Thank you for your early attention to this request.

Respectfully,



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San Francisco, CA 94102-6313  
(T) (415) 567-7595; (F) (415) 775-3082  
ilson@ilsonwnewlaw.com  
Attorney for Dan Yoakum

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**FILED**

MAY 11 2015

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: D. Taylor, Deputy

APPELLATE DIVISION  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF MARIN

DANIEL HUEBURNE YOAKUM,  
Petitioner,  
vs.  
SUPERIOR COURT OF THE  
COUNTY OF MARIN,  
Respondent.

Action No.: CV1501504  
(Reference: CR188636E)

ORDER DENYING PETITION FOR  
WRIT OF MANDATE AND LIFTING  
STAY

Petitioner DANIEL HUELBURNE YOAKUM (hereinafter, "Petitioner") has filed this petition for a writ of mandate, contending that Respondent Court's order of April 23, 2015, denying his motion to dismiss on constitutional grounds, was incorrect.

The factual basis of Petitioner's motion is as follows. Petitioner was charged with a violation of 14 CCR 164(j)(1) (illegal method of take for herring eggs on kelp [line marking requirements]) in a First Amended Complaint which alleges that Petitioner unlawfully took herring eggs on kelp for a commercial purpose with lines that were not marked at the beginning and the end with a light that may be seen for at least a distance of 100 yards, and were not further identified with the herring-eggs-on-kelp permit number in 14 inch high, two inch wide black Roman alphabet letters and Arabic numerals painted on a white background permanently affixed in the line. The First

1 Amended Complaint charges this violation of 14 CCR 164(j)(1) as a misdemeanor  
2 under the authority of Fish and Game Code §12000.

3 On April 20, 2015, Petitioner herein filed a “Constitutional Challenge to 14 CCR  
4 164(j)(1); Violation of Procedural Due Process” in CR 188636E. In that challenge,  
5 Petitioner argued that the statute and regulation are unconstitutionally vague, in that (1)  
6 a person of common intelligence must speculate as to when “fishing” begins within the  
7 meaning of 14 CCR 164(j)(1),<sup>1</sup> and (2) the regulation vests a Fish and Game officer  
8 with arbitrary discretion to determine when “fishing” is taking place in violation of the  
9 regulation.

10 The trial court denied the Petitioner’s motion to dismiss, stating that the  
11 regulation was not vague and that the act of “fishing” begins when the tackle is placed  
12 in the water.

13 This petition followed. In it, for the first time Petitioner elaborates on his  
14 procedural due process argument, apparently arguing that Petitioner had a constitutional  
15 right to a permit revocation hearing before criminal charges could be filed against him.

16 This court agrees with the trial court’s analysis and conclusions. Petitioner has  
17 the burden of proving the unconstitutionality of 14 CCR 164(j)(1) and of Fish and Game  
18 Code §12000 (Brown v. Superior Court (1971) 5 Cal.3<sup>d</sup> 509, 520). He has not  
19 succeeded in doing so.

20 In arguing that Petitioner (and others similarly situated) must guess as his peril as  
21 to what is meant by the term “fishing” in the statutory scheme, Petitioner relies on a  
22 New Jersey case which held that “presence and possession” of an operable firearm is  
23 not “hunting” in New Jersey (State v. Bradley (2004) 375 N.J. Super. 24; 855 A.2<sup>d</sup> 242).  
24 That case does not help Petitioner. The regulation in question does not prohibit  
25 *possession* of fishing equipment; it prohibits *using* the fishing equipment in a fashion  
26 which violates the regulation.

27  
28 <sup>1</sup> The term “fishing” is defined in 14 CCR 164(e)(1) as “the act of suspending giant kelp [*Macrocystis pyrifera*] for the purpose of taking herring eggs, and/or the subsequent act of removing herring eggs on kelp from the water for the purposes of transport or harvest.”



1 STATE OF CALIFORNIA )  
2 COUNTY OF MARIN )

3 Action No. CIV 1501504  
4 Related No. CR188636E

5 (PROOF OF SERVICE BY MAIL - 1013a, 2015.5 C.C.P.)

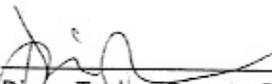
6 I am an employee of the County of Marin and am over the age of eighteen years and not a party to  
7 the within above-entitled action. My business address is Civic Center, Hall of Justice, San Rafael, CA  
8 94903. On May 11, 2015, I served the within ORDER DENYING PETITION FOR WRIT OF MANDATE  
9 AND LIFTING STAY to all interested parties, by placing a true copy thereof enclosed in a sealed  
10 envelope with postage thereon fully prepaid, in the United States Post Office mail box at San Rafael,  
11 CA, addressed as follows:

12 Ilson New (SBN 31983) 13 601 Van Ness Avenue, #E326 14 San Francisco, CA 94102	Luke B. Leichty (SBN 300434) Deputy District Attorney Marin County District Attorney's Office 3501 Civic Center Drive, Room 130 San Rafael, CA 94903
16 Commissioner, California Department of Fish 17 and Game 18 P. O. Box 944209 Sacramento, CA 94244	

19 I certify (or declare), under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct.  
21

22  
23 Dated: May 11, 2015

KIM TURNER  
Court Executive Officer

24 By:   
25 Diane Taylor, Deputy Clerk  
26  
27  
28



September 8, 2015

The Honorable Jack Baylis, President

California Fish and Game Commission

1416 Ninth Street, Suite 1320

Sacramento, CA 95814

**RE: Predator Working Group Participant Selection**

Dear President Baylis:

The United States Sportsmen's Alliance ("USSA") is a national organization dedicated to the protection and promotion of America's sporting pursuits. For nearly forty years, USSA has sought to reinforce the role of hunters, fishermen, and trappers in the furtherance of the North American Wildlife Management model, and partners with the Al Taucher Conservation Coalition ("ATCC") to promote conservation efforts here in California. ATCC is an organization comprised of more than 27 state and national conservation, union, and volunteer organizations, and represents the interests of more than one million Californians who contribute over 3.6 billion dollars to California's growing economy.

ATCC is formally seeking clarification of actions the Commission recently took at the Commission's 5-AUG-15 meeting in Fortuna whereby individuals were publicly appointed to the Predator Policy working group ("PWG"). These appointments appear to be in stark conflict with the protocol the Commission previously set forth whereby parties interested in participating in the PWG could submit their applications in response to the Commission's solicitation, and then be selected according to their qualifications the Commission set forth after an application period of thirty days.

The California Fish and Game Commission is tasked with a very important role in conserving California's natural resources and safeguarding the ability of all Californians to recreate in Nature according to the dictates of their conscience, and as with any action that could potentially impact communities of Californians, our state's flora and fauna, agricultural enterprises, and recreational opportunities, it is



of paramount importance that the Commission establish and adhere to a well-defined process of involving stakeholder and public input. As you know, ATCC has been supportive of the effort to establish policies by which to guide the activities of the Wildlife Resources Committee ("WRC"), so it is concerning to our member organizations that the process has not been observed in this case; doing so only serves to further alienate and disenfranchise public input and invites distrust and antagonism to the governance of our state's natural resources and those tasked with setting forth policy.

I look forward to the Commission's prompt response to my concerns.

Sincerely,

Michael Flores  
Al Taucher Conservation Coalition

**From:** [Diane Pleschner-Steele](#)  
**To:** [Jack Baylis](#)  
**Cc:** [Mastrup, Sonke@FGC](#); [Ashcraft, Susan@FGC](#); [Charlton Bonham](#); [Shuman, Craig@Wildlife](#)  
**Subject:** Fwd: Congratulations!!  
**Date:** Tuesday, August 11, 2015 1:20:16 PM  
**Attachments:** [2013\\_CA\\_Wetfish\\_Statement\\_of\\_Importance.pdf](#)  
[CPS\\_infographic-larger.pdf](#)  
[CA\\_Squid\\_Marketing\\_Summary.pdf](#)  
[SavingSeaFood - D.B. PLE...ifornia Squid Marketing".pdf](#)

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Hi President Baylis (Jack) et al,  
I'm sorry I was unable to attend the Fortuna Commission meeting in person to welcome Commissioners Williams and Sklar, and congratulate them on their appointment to the Marine Resources Committee. I would greatly appreciate it if you and Commission staff can forward this note to them both, as well as Commission members Jacque Hostler-Carmesin and Jim Kellogg.

I did watch the meeting online (at least the parts that I could — due to technical difficulties the feed was interrupted frequently).  
I reviewed the archive this morning, with particular interest in Ken Bates' testimony again on the squid FMP and your comments. The conversation was remarkably similar to earlier discussions, and so I'm forwarding again the email that I sent to you following the February meeting because my comments are still relevant, and this information is important to consider as the Commission moves forward. This information may be particularly useful for the new commissioners, who are new to these issues.

I would greatly appreciate your review of my earlier email, and with particular reference to your comments again about "fresh" squid and the percentage of squid exported. For the benefit of the new commissioners I'm also attaching a backgrounder on California's historic wetfish industry and CWPA, and an info graphic that summarizes the importance of this industry to California.

As you noted in your comments, market squid is among California's largest, most valuable fisheries. Squid is also the economic driver of our wetfish industry, the foundation of California's fishing economy. In the ongoing discussion over how to provide for sustainable fishing communities, it will be critically important to acknowledge and protect the financial investment that the wetfish industry has made already, and the benefits this fishery contributes to California, supporting fishing infrastructure, the economy itself and, through CWPA, collaborative research.

On that topic, as I mentioned in my February email, our squid research program is gaining valuable insight into squid behavior, in cooperation with both the Department and Southwest Fishery Science Center, and we would love the opportunity to present an update to the MRC and Commission at an appropriate time. Please point me in the proper direction re: the process for securing time on the agenda.

I'll look forward to working with you and the Commission, and particularly to meeting the new Commissioners, new members of the MRC, re: further discussion on these issues.

All the best,  
d.



Diane Pleschner-Steele  
Executive Director  
California Wetfish  
Producers Association  
805.693.5430  
Fax: 805.686.9312  
PO Box 1951  
Buellton, CA 93427

[REDACTED]  
[REDACTED]

Begin forwarded message:

**From:** Diane Pleschner-Steele <[REDACTED]>  
**Subject:** Congratulations!!  
**Date:** February 11, 2015 at 6:53:47 PM PST  
**To:** Jack Baylis [REDACTED]

Hi President Baylis (Jack),  
Congratulations on your appointment as new Commission president!!  
Thank you also for your ongoing special interest in the squid fishery.  
I watched the meeting online today and paid close attention to  
Commissioners' comments on your desire to support sustainable harbor  
communities. I also watched the testimony and read the written  
comments from the fishermen who are seeking the three experimental  
squid permits. Their pleas are compelling.

When I was writing features for Pacific Fishing and other magazines  
many years ago (in my earlier life), I spent a lot of time in northern CA. I  
trolled for salmon with my husband out of Noyo Harbor, and we wintered  
over up there one year in the 1980s when he was diving sea urchins, so  
I'm well aware of the harbor culture. That harbor sustained itself on a  
seasonal mix of salmon, Dungeness crab, pink shrimp and groundfish,  
especially blackcod and rockfish, and sea urchins also became an  
important fishery. The cuts in groundfish quotas and buyback of many of  
the dragners in N.CA. really impacted not only Ft. Bragg/Noyo, but also  
Eureka and Crescent City. In those days groundfish was the year-round  
volume fishery complex that really supported the infrastructure, along  
with salmon in summer, Dungeness in winter, and sea urchins.

I think it's safe to say that we all are interested in sustaining vibrant  
harbor communities in California — and that includes Half Moon Bay,  
Monterey, Moss Landing, Ventura, Port Hueneme, San Pedro — all of  
which rely on market squid to maintain infrastructure and economic  
vitality over time. It's important to view the "big picture" in ongoing  
discussions, in my opinion. As you're aware, and as we discussed over  
lunch in the family dining room at State Fish Company in San Pedro in

December 2013 — more than a year ago (good grief! time flies!!), market squid is the economic driver of California's historic wetfish industry, and protecting this fishery is essential too, as it represents the lion's share of California's fishing economy.

I heard two issues emerge from today's discussion: first was the urgency of the fishermen who want experimental squid permits ASAP, soon enough to fish this season. The overarching issue, however, is the big picture look at sustaining fishing communities as a whole.

In that regard, the wetfish fisheries have always relied on a complex of fisheries, with squid the most important when it's available. Wetfish fishermen understand the dynamics of all the coastal pelagic (CPS) stocks — we've had an amazing period of high squid productivity over the past few years, but as our research is now showing, that cycle is changing. We're again facing El Niño conditions in S.CA. this year, which we believe contributed to the superabundance of squid in Monterey and northern CA last season. But when the "real" El Niño hits, still predicted for later this year and into next spring, squid typically take a hike altogether.

Long story short, a sustainable harbor, whether it's Eureka, Noyo, Monterey or San Pedro, needs more than one highly dynamic stock to keep the ice plants and fuel docks open.

I will look forward to further discussion on the big picture issue of sustainable harbor communities. I'll be bringing these issues to the CWPA Board prior to the MRC meeting in March, and I hope we can offer some ideas on how to help achieve long-term goals.

Meantime, I would appreciate the opportunity to talk to you further about a couple of things that I heard you say with regard to marketing local "fresh" squid. You quoted an estimate from some source that more than 90 percent of CA squid is exported. Perhaps you'll recall the presentation that I made when this topic came up at a Commission meeting some time ago — based on a poll of processors at that time, I estimated that close to 30 percent of our squid harvest is consumed here in the domestic market, whether processed here (at double the cost) or exported for cleaning and reimported.

The two key points that I learned in my survey: except for a very small volume that goes to ethnic markets primarily in LA and SF, the overwhelming preference in the local market is for cleaned squid — and because squid's shelf life in fresh state is only a couple of days with impeccable handling, freshness is preserved by flash freezing the squid as quickly as possible. I'm attaching FYI my earlier presentation, along with a piece that we published in response to an op ed in the LA Times by Paul Greenberg, who got a few things wrong...

I also wanted to let you know that our squid research is providing some fascinating insights into squid behavior. We received a small contract from the SW Fisheries Science Center last summer to extend our surveys into Monterey, as far north as Half Moon Bay. We ran two surveys last summer and just completed a third survey in Monterey in January. We will be able to repeat the Monterey cruises again this year, in addition to

our core surveys in the S.C.A. Bight. We would love to present an update to the Commission at an appropriate time later this year (after our summer survey would be best timing for us). Please point me in the proper direction to learn the process for securing time on the agenda.

Thanks again for your dedication to marine resources (all resources) and your interest in the squid fishery. And again, Congratulations!! I'll look forward to working with you and the other Commissioners on emerging fishery issues.

All the best,  
d.



Diane Pleschner-Steele  
Executive Director  
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Buellton, CA 93427



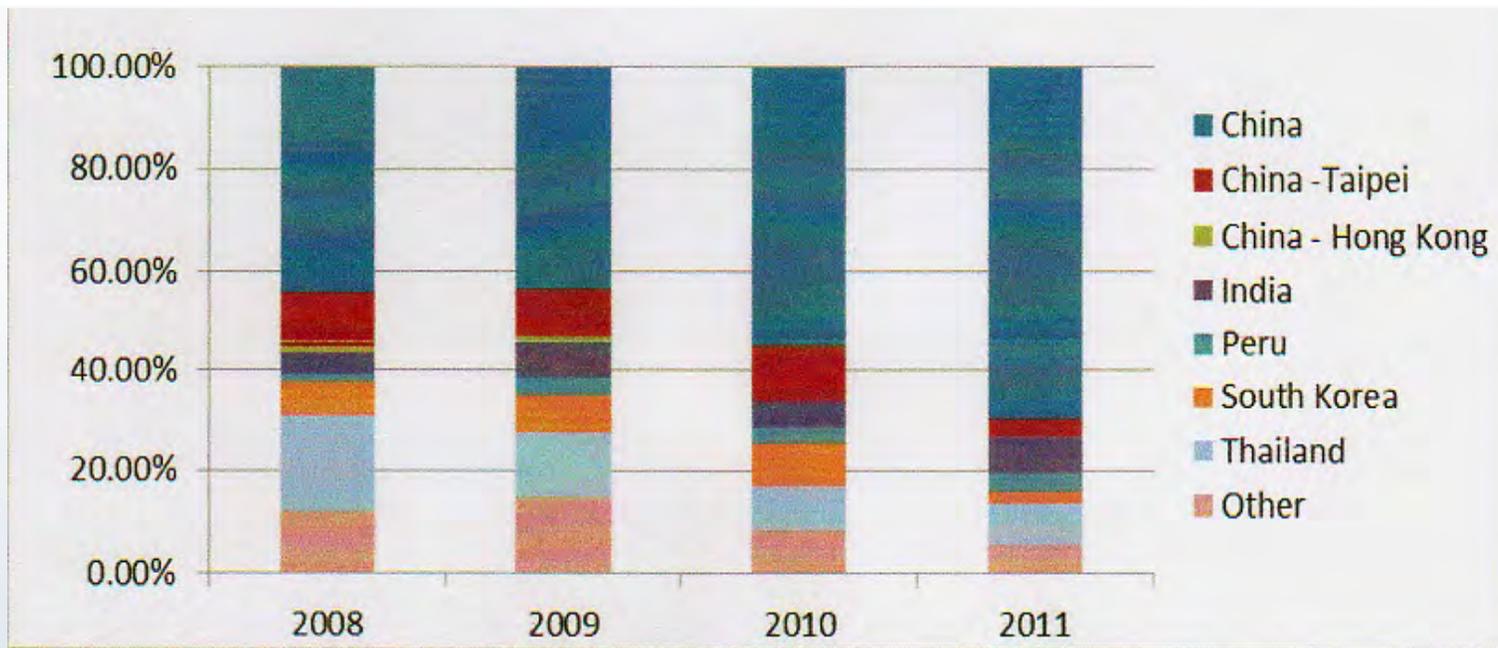
# California Market Squid Marketing 101

A summary of global and domestic  
market data

# CA Squid Market Overview

- CA squid is one of more than 300 known squid species distributed throughout most of the world's oceans
  - Ranked as one of the smaller species
  - Mantle length typically 2/4 inch vs. 3/5, 4/6 or 5/8 etc.
- Compared to other squids, CA squid (*L. opalescens*) is thin-walled: "a smaller squid with smaller diameter rings and thinner walls, it does not have the same 'wow' in fried or antipasto preparations. It does not work as well for stuffed preparations either. Also it does not have the same bite and is more easily over cooked."
- The overall preference in U.S. is NOT for California squid. There are many different types of squid available in the market from East coast / Peru/ Falkland islands/ Asia.
  - ALL have thicker mantles and larger size rings, making them more desirable in the market.
- All that said, CA squid is absolutely wonderful IF prepared properly
- Each species has its own characteristics that different markets favor.

# Squid Imports ... for context



**Figure 4.** U.S. Squid Imports By Country, 2008-2011 (Data from NMFS 2012)

- China accounts for about 25% of global oceanic squid production, and constitutes more than half of U.S. squid imports
- India accounts for about 3% of global squid production (2010) and makes up 5-7% of U.S. squid imports
- Thailand accounts for about 3% of global squid production (2010) and contributes about 8% of U.S. squid imports.

# Volume of imported squids

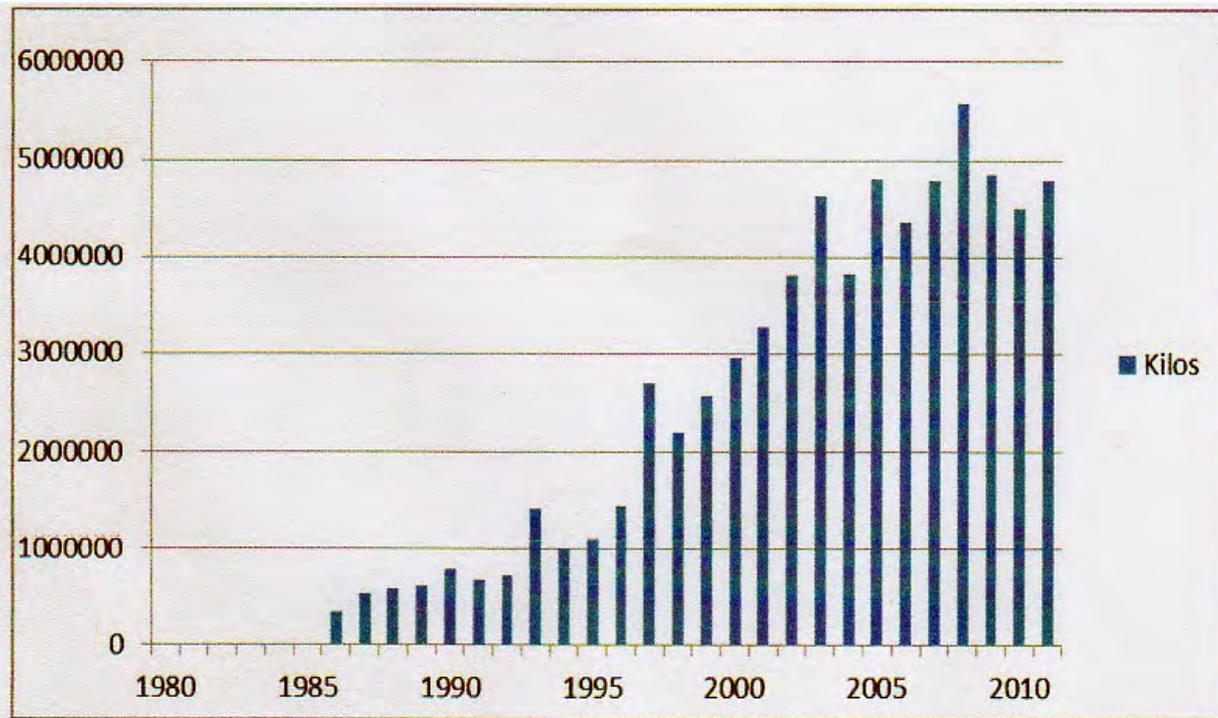


Figure 3. Total U.S. Squid Imports 1980 – 2011 (Data from NMFS 2012)

- Global cephalopod fisheries average about 3 million mt annually (4% of world fish trade)
- In 2013, the U.S. imported 16,583,048 kilos of squids – of which 6,579,403 kilos were *Loligo NSPF* or *L. opalescens* (70% from Asia – 53% from China)

# CA Squid in a Global Market

- CA squid fishery is 5<sup>th</sup> largest in U.S. by weight, also CA's most valuable fishery (in non-El Niño years)
- Average annual landings 2010-13 (prelim): 125,738 st (114,069 mt)
  - Vs. global production of squids (cephalopods) 3,652,632 mt (FAO 2010)
- Exports = @70% of total CA squid landings
  - Example: 2010 exports were 92,559 mt (70.7% of total landings)
  - Valued at \$107 million and reached 42 countries (Sweetnam 2011)
- Domestic market sales generally to restaurants, ethnic (Asian, Mediterranean) fresh fish markets (small volume) or for use as bait (PFMC 2011)

# CA Squid in Domestic Market

- **Fresh sales**
  - Seasonal – squid is typically available fresh in Monterey during summer months (Apr-Nov) and in S.CA. during winter months (Oct-Mar)
  - *Highly unusual* for squid to be available in both areas simultaneously
  - Fresh demand = very small volume (@5 tons/wk total) delivered via truck to Asian and Mediterranean specialty markets primarily in San Francisco and Los Angeles
- Fresh squid is highly perishable!
  - Only approx. 2 day shelf life with perfect handling
- Most restaurant/retail markets prefer FROZEN, CLEANED squid

# CA Squid in Domestic Market – 2

- **Frozen processing**
  - Many CA processors produce consumer packs, i.e. 1 lb, 3 lb, 5 lb, whole frozen squid for domestic market
  - **“Fresher frozen” whole CA squid is available yearlong in domestic markets**
- Most markets prefer FROZEN, CLEANED squid
  - Some CA processors produce cleaned squid for local markets
    - 1) small volume of customers want California
    - 2) processors keep skilled crews working – but all and all – not a moneymaker
  - Some California squid is exported to Asia and reimported as cleaned squid – round trip freight cost around \$0.10 lb labor in Asia \$7./00 per day vs. Californian wages with tax / insurance/health around \$12./+ per hour.

# CA Squid in Domestic Market – 3

- **Competition with Imported Squid**
  - Frozen CLEANED squid imported from China / Asia costs about \$1.60 / \$1.80 per pound (container quantity)
    - Handling through the distribution chain may add to this cost
  - Cost to clean squid in CA
  - Close to \$3/lb. (and squid is still smaller than desired)
    - Example: Sales price of CA squid at \$1,800 per metric ton
      - 50% yield in cleaning process
      - Net cost of squid = \$1.63/lb just for the product BEFORE adding any labor cost at \$12.+ per hour
- Market research has shown that high-end retail / restaurant markets will pay “a little more” for CA seafood
- **But most markets are not willing to pay double!**

# CA Squid Marketing Summary

- CA squid competes in a global marketplace
  - Squid is priced by size and most is 3/5, 5/8 inch. Loligo opalescens (CA squid) are typically smaller, i.e. 2/4.
  - There are also Illex (Atlantic) and Todorodus (Japan) in this market
  - **“Fresher frozen” whole CA squid is available yearlong in domestic markets**
- Most markets prefer FROZEN, CLEANED squid
  - CA processors would produce more cleaned squid IF:
    - Local markets would be willing to pay the added cost
    - More domestic markets would prefer CA squid over larger, meater product (now CA squid is ‘good alternative’ if other squids are not available)

# A final word...

- CA squid is economic driver of wetfish industry and wetfish industry is foundation of CA's fishing economy
  - Volume supports infrastructure in numerous harbor communities
- CA squid seine fleet is among the most efficient in world
  - Produces 2,000 pounds of protein for 6 gallons of diesel
  - Lowest carbon footprint, even exporting squid for cleaning
- Strong La Niña conditions present in past few years have abated
  - In most years the squid fishery does not close.



## CALIFORNIA WETFISH PRODUCERS ASSOCIATION

PO Box 1951 • Buellton, CA 93427 • Office: (805) 693-5430 • Mobile: (805) 350-3231 • Fax: (805) 686-9312 • [www.californiawetfish.org](http://www.californiawetfish.org)

Representing California's Historic Fishery

Visit [www.CaliforniaWetfish.org](http://www.CaliforniaWetfish.org) for more information

### BACKGROUND 2013

#### CALIFORNIA'S WETFISH INDUSTRY

#### A TRADITIONAL INDUSTRY WITH A CONTEMPORARY OUTLOOK

California's fishing industry was built largely on 'wetfish', so called because historically the fish were canned 'wet from the sea', with minimal preprocessing. Sardines, mackerel, anchovy and market squid {now called coastal pelagic species} have contributed the lion's share of California's commercial seafood harvest since before the turn of the 20<sup>th</sup> century. California's wetfish industry was founded by immigrant fishermen, and the enterprise of these fishing families helped to build the ports of Monterey and San Pedro, as well as San Diego and San Francisco. Today's wetfish industry is a traditional industry with a contemporary outlook: streamlined and more efficient but still peopled by fourth and fifth-generation fishing families. Today the sons and daughters continue the enterprise begun by their fathers and grandfathers 100 years ago.

In recent years (2010-2012), landings of **coastal pelagic species** {CPS} represented an average **82 percent of the total statewide commercial seafood harvest by volume**, and approximately **37 percent of the dockside value**. Market squid was California's most valuable fishery in two of the three years, contributing more than \$206 million in ex-vessel value over the time period. Market squid also is the economic driver of the wetfish industry. Due to squid's ultra short shelf life fresh, processors produce mostly "fresher frozen" squid in retail and restaurant packs to serve local and domestic markets, and squid also represents a significant percentage, both by volume and value, of the Golden State's seafood exports.

Coastal pelagic species are among California's most important seafood exports. In a state that imports close to 90 percent of its seafood, California's wetfish complex contributes importantly to the Golden State's fishing economy, and in addition, helps substantially to offset the seafood trade imbalance.

<b>Major Wetfish Exports – 2011</b>	<b>150,202,828 kilos</b>	<b>\$195,418,835</b>
Total CA {2011 export values}	186,859,917 kilos	\$402,700,721
<b>% All Wetfish</b>	<b>80.4%</b>	<b>48.5%</b>
<b>% Squid</b>	<b>69.6% by weight</b>	<b>44.3% by export value</b>

Transformed from its storied beginnings, California's wetfish industry today remains an essential part of California's fishing heritage and culture, as well as a key contributor to California's economy.

#### ECONOMIC IMPORTANCE TO THE STATE OF CALIFORNIA

**Coastal pelagic species comprise the foundation of many harbor communities; the volume crossing the dock is critically important to maintain harbor infrastructure and dockside employment.**

Port	2011 Wetfish % of Total Port Landings	2011 Wetfish % of Total Port XV Value
Monterey Harbor	97.5%	76.3%
Moss Landing	96.2%	66.3%
Ventura	98.7%	82% (squid)
Port Hueneme	99.9%	99.9%
San Pedro	99.6%	93.4%
Terminal Island	97.7%	81.4%
<b>2010-2012 Contribution to Statewide Landings</b>	<b>82%</b>	<b>37%</b>

## Backgrounder – continued 2

The CPS complex represents the lion's share of fishery revenue paid to the Department of Fish and Wildlife. Over the past decade the wetfish industry has contributed close to \$20 million in landing taxes and license fees to harvest coastal pelagic species.

Market squid fishing permit fees are the highest of any fishery in California; transferable vessel and brail permits cost \$2,721 in 2013, while light boat permits cost \$821.50. In 2013 the market squid fleet numbered 152 vessels in all, including 66 transferable vessel permits, 8 non-transferable vessel permits, and 44 brail permits. In addition, there were 31 light boat permits, which assist the fleet in locating and aggregating squid, but are not allowed to catch squid themselves. Not all vessels are active during the fishing season.

### THE WETFISH FLEET:

CPS finfish species are typically harvested with round-haul nets (purse seine, drum seine, lampara). CPS finfish are managed under the federal CPS Fishery Management Plan. California's CPS fleet operates under a federal limited entry program with **65 transferable permits** issued (62 are currently active). Vessels range in size from approximately 30-90 feet in length and 20-140 gross registered tons in capacity. Purse seine vessels require **5-8 crewmen** to operate, including the skipper.

Market squid, a monitored species under the CPS FMP, is actively managed by the State of California under the Market Squid Fishery Management Plan. A state limited entry program was established in 2004, sharply reducing fleet size from more than 160 vessel permits to **77 transferable purse seine vessel permits** (66 purchased permits in 2013).. Approximately **45-50 of the squid vessels also maintain CPS finfish permits** (on the same vessel) and fish for both squid and CPS species, depending on season and availability.

California's wetfish fleet is one of the "greenest" fleets in the world, with one of the lowest CO<sub>2</sub> footprints, according to studies by internationally acclaimed scientists Tyedmers, Hilborn and Parrish. This is due to the fleet's operational profile: the efficiency of harvesting a volume of high-quality seafood close to port. This fleet uses only 6.8 gallons of diesel to produce one ton (2,000 pounds) of protein, on average, based on harvest and fuel consumption data derived from a cross-section of wetfish vessels. Even adding greenhouse gas (GHG) emissions produced by processing / shipping, California's wetfish fleet still excels, as long-haul shipping has the lowest emissions of any mode of transport. Compare this ratio to groundfish trawl at 114 gallons per ton of seafood, or beef at 333.9 gallons per ton. This efficiency will become increasingly important in the future, as the world becomes more aware of the looming crisis caused by climate change and ocean acidification.

### THE MARKETS:

Wetfish processing is concentrated in about **10-12 family-owned companies**, most of whom have operated in Monterey, San Pedro or points in-between for decades, and generations. **Each company employs 30 to more than 450 permanent employees**, who process and pack wetfish in myriad forms for domestic consumption and export to more than 26 countries worldwide.

*Excerpt from SOUTHERN CALIFORNIA CPS PROCESSOR COST-EARNINGS REPORT  
– THE IMPORTANCE OF SARDINES IN THE SOUTHERN CA CPS FISHERY [2004]*

Overall, the S.CA. sardine/wetfish industry employs between 1,400 and 1,500 workers, including seasonal employees, and the maximum packing capacity is estimated between 1,900 and 2,000 tons per 24-hour day, in aggregate.

*Excerpt from MONTEREY REGION CPS PROCESSOR COST-EARNINGS REPORT  
– THE IMPORTANCE OF SARDINES IN THE MONTEREY BAY AREA CPS FISHERY [2005]*

Overall, the Monterey Bay area sardine/wetfish industry employs at least 420 workers, including seasonal employees, and the maximum packing capacity is estimated at approximately 1,100 tons per 24-hour day, in aggregate.

In 2013 the City of Monterey commissioned a Fishing Community Sustainability Plan. An economic assessment of the wetfish industry in the Monterey Bay Area projected 720 jobs, including seasonal workers, and packing capacity of 1,400 tons per day.

The wetfish industry is alive and well, in both Monterey and Southern California. Indeed, California's historic wetfish industry is the foundation of California's commercial fishing economy.

**THE PORTS:**

**Monterey and Moss Landing** in central California, and **Ventura, Port Hueneme and San Pedro** in southern California, are the primary ports of landing for the wetfish industry. Smaller volumes may also be landed in **San Diego** and **San Francisco**. Since 1982, approximately 10-20 percent of landings have been offloaded in Monterey ports, and 80-90 percent of landings are offloaded in southern California ports, with the major share of those landings offloaded in San Pedro and Terminal Island.



*Vessels seine for market squid in Monterey Bay*



*San Pedro wetfish fleet heads out from port*

Wetfish industry leadership established the nonprofit **California Wetfish Producers Association (CWPA)** in 2004. Members include fishermen and processors who produce most of the total statewide wetfish harvest. CWPA's mission includes sponsoring cooperative research to ensure sustainable fisheries and facilitating communications within and outside the wetfish industry.

This industry has heavily invested in research since early times, from the beginnings of the California Cooperative Fishery Investigations (CalCOFI). Today CWPA's cooperative research program continues the tradition, expanding knowledge of market squid and sardine, collaborating with the Department of Fish and Wildlife and Southwest Fishery Science Center.

# CALIFORNIA PORTS RELY ON HEALTHY CPS FISHERIES

**HALF MOON BAY\***  
 85% of port landings  
 33.8% of dockside value

**MOSS LANDING\***  
 94.4% of port landings  
 63.9% of dockside value

**MONTEREY HARBOR\***  
 88.8% of port landings  
 44.4% of dockside value

**VENTURA\***  
 97% of port landings  
 71% of dockside value

**PORT HUENEME\***  
 99.98% of port landings  
 99.8% of dockside value

**SAN PEDRO\***  
 99.6% of port landings  
 94% of dockside value

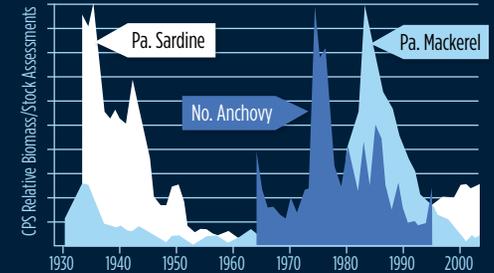
**TERMINAL ISLAND\***  
 97.9% of port landings  
 87.2% of dockside value



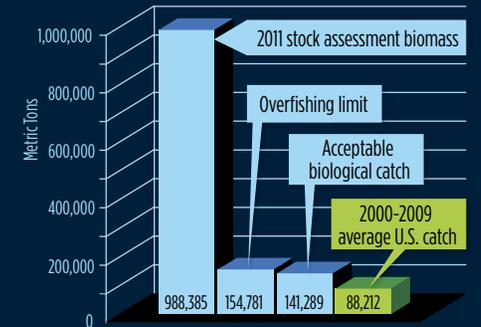
Coastal Pelagic Species fisheries (including sardines, mackerels, anchovy, market squid, coastal tunas) need flexibility in management to account for dynamic ocean cycles and facilitate productive harvest of this complex of species during their unique periods of abundance.

CA CPS fisheries are managed precautionarily with strict quotas/area closures and harvest only a small percentage of the biomass.

## DYNAMIC NATURAL FLUCTUATIONS OF CPS



## STRICT SARDINE QUOTAS



## LOW CARBON FOOTPRINT



To preserve quality, fishing areas for CA CPS are limited to day trips nearby by the ports. This makes CA CPS among the most efficient, "greenest" fisheries in the world - with one of the lowest carbon footprints in the world. For example: CA CPS fisheries on average produce 2,000 pounds of protein for 6 gallons of diesel fuel.

**FISHING AREA**  
**FEDERAL MPA**  
**STATE MPA**  
**NON-FISHING AREA**



## CA CPS FISHERIES PROVIDE

**82%**  
 of all CA port landings\*

**37%**  
 of all CA dockside value\*

**4,000 to 4,500**

workers employed by CA CPS fisheries

**\$325 MILLION**

annual contribution to CA economy\*

\*2012 preliminary data by port

## D.B. PLESCHNER: Some Inconvenient Truths about California Squid Marketing

*Greenberg missed the boat on a number of issues, including the overall carbon footprint of seafood, but equally important, the reasons why most of the squid that California exports is consumed overseas!*

***Read the original Paul Greenberg op-ed in the Los Angeles Times***

August 5, 2014 ([SeafoodNews.com](http://SeafoodNews.com)) -- The following opinion piece appeared today on [SeafoodNews.com](http://SeafoodNews.com):

In his op-ed to the Los Angeles Times last week, author Paul Greenberg could have dodged some critical misstatements and inaccuracies about the marketing of California squid - the state's largest catch.

All he had to do was check with local sources, including the California Wetfish Producers Association, which represents the majority of squid processors and fishermen in the Golden State and promotes California squid.

Instead, Greenberg missed the boat on a number of issues, including the overall carbon footprint of seafood, but equally important, the reasons why most of the squid that California exports is consumed overseas!

To set the record straight, here are some inconvenient truths you wouldn't know about squid by reading last week's op-ed:

First, size matters and price rules when it comes to California market squid, which are one of the smallest of more than 300 squid species found worldwide. The U.S. "local" market really prefers larger, "meatier" squid, notwithstanding Greenberg's 'locavore' movement.

Greenberg acknowledged the labor cost to produce cleaned squid in California adds at least \$1.50 per pound to the end product. In fact, local production costs double the price of cleaned squid, due to both labor (at least \$15 per hour with benefits) and super-sized overhead costs, including workers' comp, electricity, water and myriad other costs of doing business in the Golden State.

Del Mar Seafood is one processor in California that micro-processes cleaned squid at the request of markets like the CSA that Greenberg mentioned. In fact, virtually all California squid processors do the same thing at the request of their customers. But at 1,000 pounds per order, we would need 236,000 CSAs, restaurants or retail markets paying \$1.50 more per pound to account for the total harvest. If the demand were there, we'd be filling it!

Greenberg also misconstrued the issue of food miles. Respected researchers like Dr. Peter Tyedmers, from Dalhousie University in Canada, found that transport makes a minor contribution to overall greenhouse gas (GHG) emissions, when considering the carbon footprint of seafood (or land-based foods). Mode of production is far more important.

Here's another surprise: California squid is one of the most efficient fisheries in the world - because a limited fleet harvests a lot of squid within a short distance of processing plants.

Studies show that the California wetfish fleet, including squid, can produce 2,000 pounds of protein for only 6 gallons of diesel. Squid are then flash frozen to preserve freshness and quality. Keep in mind that even with immaculate handling, fresh squid spoil in a few days.

As counterintuitive as it may seem, even with product block-frozen and ocean-shipped to Asia for processing, California's squid fishery is one of the 'greenest' in the world. One recent survey estimated that about 30 percent of California squid is now either processed here or transshipped to Asia for processing (other Asian countries besides China now do the work) and re-imported.

China, although important, is only one export market that craves California squid. With a growing middle class billions strong, Chinese consumers can now afford California squid themselves. Many countries that import California squid prefer the smaller size, and California squid goes to Mediterranean countries as well. In short, most of the squid that California's fishery exports are consumed overseas. Why? The U.S. palate for squid pales in comparison to Asian and European demand.

Also important to understand: California squid is the economic driver of California's wetfish industry - which produces more than 80 percent of the total seafood volume landed in the Golden State. California squid exports also represent close to 70 percent by weight and 44 percent of value of all California seafood exports. Our squid fishery contributes heavily to the Golden State's fishing economy and also helps to offset a growing seafood trade imbalance.

The sad reality is that price really does matter and most California restaurants and retail markets are not willing to pay double for the same - or similar - small squid that they can purchase for half the price.

Nonetheless, we do appreciate Greenberg's pitch for local seafood. Our local industry would be delighted if, as he suggested, all Californians would be willing to pay \$1.50 a pound more for California squid. We may be biased, but in our opinion California squid really is the best!

*D.B. Pleschner is Executive Director of the California Wetfish Producers Association, a nonprofit designed to promote sustainable wetfish resources.*



[Close Window](#)

**From:** [Hazel](#)  
**To:** [REDACTED] [EGC](#)  
**Subject:** Urban Coyote Problems in California Communities  
**Date:** Friday, September 11, 2015 9:15:32 PM

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Name: Hazel

Email: [REDACTED]

MESSAGE: Please help us make our neighborhoods safe again. The coyotes are out of control coming in our backyards killing our cats attacking our dogs on lease and off. Killing off all the ducks and geese at El Dorado park. Our children need to be safe. We bought out homes in the city so we didn't have to worry about large wild rabid dogs. Please help us take our city back. When I walk my grandkids over to Stearns park and we have kitty heads and paws laying around..Just how do you explain that to little ones? Thank you for your time.

Location (City or Zip Code): Long Beach, Calif 90815

Time: September 12, 2015 at 4:15 am

IP Address: 100.9.199.226

Contact Form URL: [REDACTED]

Sent by an unverified visitor to your site.

**From:** [Kimberly Leonard](#)  
**To:** [REDACTED] [EGC](#)  
**Subject:** Urban Coyote Problems in California Communities  
**Date:** Sunday, September 13, 2015 9:53:17 AM

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Name: Kimberly Leonard

Email: [REDACTED]

MESSAGE: The City of Lakewood won't return calls. We are living as prisoners in our own homes. Our pets cant even go to the restroom outside in our own backyard unless we are carrying a bat or something. There is no going to the restroom for the at all one the sin goes down. Coyotes jump the fences to go into our back yards. My son and I have ran into a pack of 7 one night that were hunting by going onto every porch to see what they had. We cant even enjoy the parks or nature trail without a coyote jumping out or finding cat heads or legs strung out everywhere.

School just started and the second day kids were followed by coyotes while walking to school. I can go on and on with gruesome stories but Ill leave it to this for now

Thank you

Location (City or Zip Code): 90713

Time: September 13, 2015 at 4:53 pm

IP Address: 108.0.217.198

Contact Form URL: [REDACTED]

Sent by an unverified visitor to your site.

**From:** [Frances LiBrandi](#)  
**To:** [REDACTED] [EGC](#)  
**Subject:** Urban Coyote Problems in California Communities  
**Date:** Sunday, September 13, 2015 4:47:21 PM

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Name: Frances LiBrandi

Email: [REDACTED]

MESSAGE: Stop the madness. Long Beach needs to do something to stop the Coyotes before they start to attack its citizens. Where I live it is a major stopover for Coyotes (Lakewood Village by LBCC).  
Location (City or Zip Code): Long Beach, CA 90808

Time: September 13, 2015 at 11:47 pm

IP Address: 108.0.211.84

Contact Form URL: [REDACTED]

Sent by an unverified visitor to your site.

William Lemos, PH. D.  
Post Office Box 944  
Mendocino, CA 95460



RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2015 JUN 18 PM 2:23

MLS

15 June 2015

Re: Human Waste and Abalone Collecting

Dear Supporter of a Safe and Healthy Mendocino Coast:

People flock to the North Coast each year during abalone season. They are taking home abalone, urchin, rockfish and kelp, but some are also leaving behind human waste in the form of used toilet paper and feces.

As part of the Mendocino Abalone Watch, I patrol parking lots and coves where abalone divers and rock pickers enter and exit the water. This season I have found widespread evidence of human waste in bushes and trees just beyond the fringes of parking lots.

This disgusting practice must stop.

Obviously, this is a health problem and something needs to be done about it. I suggest initiating the following education and abatement program:

- 1.) Begin educating the public about where restrooms can be found by posting signs at all popular dive and rock picking spots directing people to the available public restrooms;
- 2.) During abalone season (April through June and August through November) portable restrooms need to be placed on State Parks properties in the Mendocino area at Caspar South Headlands, Road 500D, Jack Peters Creek, Mendocino Headlands Arch Rock, and Gordon Lane;
- 3.) Have County deputies, CFW and Parks personnel cite people who are caught contributing to this problem;
- 4.) With the issue of next year's abalone report card, publish a notice that this practice will not be tolerated and there will be a fine if a person is caught doing so.

Red abalone is a tremendously important resource for the North Coast. Unfortunately, the popularity of this recreational sport does come with a price tag. Please, let's do what we can to eliminate this unacceptable bycatch of this ever-increasingly popular sport.

Respectfully,

A handwritten signature in black ink that reads "William Lemos Ph.D." with a stylized flourish at the end.

William Lemos, PH. D.  
Mendocino Abalone Watch

Cc: California Fish and Game Commission  
California Department of Fish and Wildlife  
California Secretary of Natural Resources  
California State Parks  
Mendocino County Board of Supervisors  
Mendocino County Sheriff's Department  
Mendocino County Environmental Health Department  
Elected Officials in U.S Senate, Congress, State Senate, and State Assembly  
Mendocino Beacon  
Fort Bragg Advocate  
Anderson Valley Advertiser  
Santa Rosa Press Democrat  
Tom Stienstra, SF Chronicle  
Mendocino Abalone Watch  
Natural Resources Defense Council  
Ocean Conservancy



**From:** [Richard Fox](#)  
**To:** [FGC](#)  
**Subject:** Fw: blue creek  
**Date:** Monday, August 17, 2015 3:26:39 PM  
**Attachments:** [The Yurok tribe pushed for several closures that only affect sport anglers including the half mile section around Blue Creek and at the mouth of the river but.docx](#)

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On Monday, August 17, 2015 2:58 PM, Richard Fox [REDACTED] wrote:

On Monday, August 17, 2015 2:42 PM, Richard Fox [REDACTED] wrote:

My name is Richard Fox. I am a retired school teacher from Eldorado co. I have fished the Blue creek area the last 15 years and am extremely disappointed in the commissions decision to close this area this year. This is an area that has been fished for over 100 years, and all of a sudden, with no warning, it is closed down. My brothers and I spend close to \$4000 a year coming up from the south. I don't understand how anybody could be so asinine as to close an area like blue creek on the word of any individual or group. especially when they, themselves don't have to abide by the closure. After the rule was put into place, the yurok people have been fishing that very spot. That is like the fox(yurok) being left to guard the hen house(blue creek). I listened to the commission in June make some unbelievable statements. One said " let's close it down, and see what happens". What a ridiculous statement, especially after their own wild life dept. suggested otherwise. One also said, "what difference does that one area make, when you have the whole river to fish". Tell that to the Presidents of the USA that have come there just to fish that area. They also mentioned that if it weren't for the fish, there would be no fisherman. There is one more part of that triangle. If there were no fisherman, there would be no F & G commission. We pay for their Job. This whole matter is just plain unbelievable. How a body of appointed officials could screw something up so badly is beyond me. I hope every business run by the said tribe, closes up shop, do to fisherman like us that will not be patronizing their businesses anymore. It is time to fight this illegal transaction with litigation. It is time to recognize it for what it is, a scam. Please inform me if there is anything going on to reverse this illegal action, Richard Fox

The Yurok tribe pushed for several closures that only affect sport anglers including the half mile section around Blue Creek and at the mouth of the river but none that would hamper their gillnetting. Funny how the biggest harvesters only want to close sport fishing "to protect the fishery" while they do NOTHING to stop the rape of this fishery by their own tribal gillnets. What a crock as gillnets take 1000s of endangered silver salmon and wild steelhead annually and wiped out the entire sturgeon run on this river in the late 1980s with their gillnets.

But "trust us natives "as we have the "best interest of the salmon in mind". It's our religion, our heritage... yadda yadda yadda. I have spent four decades fishing the Klamath and have seen first hand the pillage and rape of this fishery by those who claim they have some heredity right, tradition or religion to destroy this fishery.

Ever since the gillnets have been allowed the local economy has swirled slowly down the drain. Most of the local markets, restaurants, campgrounds and businesses have closed but we now have a Casino, and once again this year a huge pot raid by the feds on tribal land that was tapped into the local watershed depriving salmon of water. Of course the tribe knew nothing of said grows.

Just my .02

August 19, 2015

The Honorable Eric Sklar Commissioner  
California Fish and Game Commission  
1416 9<sup>th</sup> Street, Ste. 1320  
Sacramento, CA 95814

**Re: Fish and Game Commission Meeting on August 5, 2015. Adoption of Option 2 on the Proposed Bobcat Protection Act Regulations [Amend Sections 478, 478 and 702, Title 14, CCR, Implementation of the Bobcat Protection Act of 2013 (Fish and Game Code Section 4155)]**

Dear Commissioner Sklar,

I'm writing this letter in response to your adoption of "Option 2" at the recent Fish and Game Commission meeting in Fortuna on August 5. I had the opportunity to meet you the evening before the meeting at the Eel River Brewing Company Restaurant; I also introduced you to my two oldest children, my 5 year old son and my 3 year old daughter. I was able to speak at the meeting in opposition to options 1 & 2, and I wrote the commission a letter dated July 20, 2015, which became a part of the official packet of the agenda item.

I urge you, and the other commissioners, to reconsider, your adoption of "Option 2". I am most certain the commission can work with the California Trappers Association and Trappers in general, to find a solution to implement AB 1213, which will not result in a statewide ban of bobcat trapping, or an "essential" state wide ban (Option 1). There are several compelling reasons to reconsider your decision, the most compelling being that bobcat trapping is (*was*) a winter recreational sport enjoyed by my young family and may other families such as mine, and a consequence of "Option 2" is the loss of my "*non-consumptive use*" of a training utility and winter recreation in the outdoors with my family?

I became involved in trapping so that I could spend time in the outdoors with my family. The memories my 5 year old son and 3 year old daughter have made while on the trap line, or working in the fur shed, are more meaningful to my wife and I than words can explain. In addition to memories, kids who trap with their families learn so much about the outdoors and the animals that inhabit them. These children learn a great appreciation for our bountiful outdoor resources that the kids from urban areas cannot even come close to grasping. Thirdly; the work ethic instilled while trapping is huge. Locating an appropriate place to set the cage, the work involved in preparing a bed and gathering brush for the cage, the daily visits to the cage. And that's the easy stuff!!! If there was a successful catch my kids would spend countless hours with me in the shop preserving and preparing the pelts of the game we harvested. This opportunity to instill a sense of hard work, and reward for your hard work, is now lost thanks to your decision to ban bobcat trapping. In California, where we embrace diversity and tolerance of differing views, doesn't it seem ironic that a few animal rights activist, from the inner cities, urban areas, and far reaches of southern California are dictating the way I live, and recreate with my family in the great outdoors of Siskiyou County?

At the meeting you mentioned you are a hunter, but you eat what you kill, and this puts you on a different playing field than the trappers. Mr. Sklar, I guarantee you, any funds my family earned from bobcat trapping went towards milk, or other groceries, to be consumed by my young children. I certainly hope you meant it when you said you would consider reinstating trapping given the

appropriate circumstances. If bobcat trapping is reinstated I would like to cordially invite you for a day on the trap line, and in the fur shed. I'm certain the experience would be greatly informative for you, and you would positively walk away with a different view on bobcat trapping, and trapping in general. I honestly want to make myself a benefit to the commission, by being available to answer any questions, and offer information and knowledge to the commission, which would help you make better and more informed decisions in the future, relative to trapping.

Sincerely,



Robert Martin

8-19-15

Date



cc: Mr. Sonke Mastrup, Executive Director, California Fish and Game Commission  
Commissioner Eric Sklar  
Commissioner Jack Bayliss  
Commissioner Jim Kellogg  
Commissioner Jacque Hostler-Carmesin  
Governor Edmund G. Brown, Jr.  
Mr. Charlton Bonham, Director, California Department of Fish and Wildlife

**From:** [CatWoman](#)  
**To:** [FGC](#)  
**Subject:** THANK YOU!  
**Date:** Friday, August 07, 2015 7:30:32 AM

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Thank you so much for the 3 of you who made total prohibition a law. I don't know if this was due to the awareness brought about by the death of Cecil - or if you were already planning to vote this way - but either way, my domestic relatives and I thank you for this prevention of a cruel and un-necessary action.

Diana Gregory  
Belmont, CA

**From:** [Mastrup, Sonke@FGC](mailto:Mastrup_Sonke@FGC)  
**To:** [FGC](#)  
**Subject:** FW: Background info.  
**Date:** Monday, July 13, 2015 8:57:06 PM  
**Attachments:** [ProjectCoyote letter PredatorWorkingGroup Title14 3.5.15.pdf](#)  
[Hopkins Abstract CA F&G Commission 1Apr 15.pdf](#)  
[Hopkins Letters to F&G Comm Banning Trap bobcat 12Feb 15.pdf](#)  
[CAF&GCommission BobcatTrappingPredatorKillingPCSABFeb.215\[1\].pdf](#)  
[CA Predator regs. codes & policies Project Coyote letter WRC .pdf](#)  
[Crabtree coyote letter & summary of effects of predator exploitation Project Coyote 2013.pdf](#)  
[PC\\_WKC Science Letter\\_Final1.17.15.pdf](#)  
[MotherJones\\_WKCs 3.10.15.pdf](#)  
[PC-SLC-Factsheet-Ranching-with-Predators\[3\].pdf](#)  
[Huff\\_Post\\_CA bans contests.pdf](#)  
[~WRD000.jpg](#)

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Public forum

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**From:** Eric Sklar [REDACTED]  
**Sent:** Monday, July 13, 2015 8:26 PM  
**To:** Mastrup, Sonke@FGC  
**Subject:** FW: Background info.

Forwarding this email to make sure it is logged.

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**From:** Camilla Fox, Project Coyote [REDACTED]  
**Sent:** Monday, July 13, 2015 1:31 PM  
**To:** Eric Sklar  
**Subject:** Background info.

Dear Eric,

In advance of our meeting on Wednesday, I want to share some background information about Project Coyote and our areas of interest with regard to the Fish and Game Commission and the Wildlife Resources Committee (WRC).

Based in Marin County, Project Coyote (a national non-profit organization) is a coalition of educators, scientists, predator-friendly ranchers and citizen leaders promoting coexistence between people and wildlife through education, science and advocacy.

Project Coyote has played a lead role in promoting reform of California's predator management policies, regulations and statutes. We successfully pressed that predator management reform be prioritized by the WRC (with Commissioner Baylis' support and leadership) and are hopeful that this will continue to be a priority for both the WRC and the Commission.

One of the first areas that we addressed through this process was predator killing contests. With the support and leadership of Commissioners Sutton, Rogers and Baylis, the Commission closed the loopholes on this practice making it illegal to provide prizes and inducements for the killing of most terrestrial mammals. (Please see attached background.)

We believe the next step in this process is for the WRC and Commission to develop a predator stewardship

and conservation plan that would address issues related to 1) the appropriateness of unlimited killing of predators (including coyotes, foxes and bobcats), 2) how the state can better address conflicts with predators in both urban and agricultural areas, and 3) how the state can collaborate with NGOs like Project Coyote to better educate the public, ranchers and others about coexistence.

With regard to implementation of the Bobcat Protection Act, currently we are supporting Option 2. For reasons outlined in the attached materials, Project Coyote and allied organizations support a statewide ban on bobcat trapping.

As we will explain in greater detail when we meet on Wednesday, we approach wildlife management from the standard of “best available science” (a standard recognized by state and federal wildlife agencies in creating wildlife management regulations and policies). We also believe that ethics plays a key role in wildlife management in addition to science. These points also are outlined in the attached materials.

You can also view several of our related video clips of the Commission meetings that addressed our priority areas of concern w/ regard to predator management reform:

[https://www.youtube.com/watch?v=\\_0v3vo2WGvA](https://www.youtube.com/watch?v=_0v3vo2WGvA)

[https://www.youtube.com/watch?v=\\_Loo2l-vy\\_U](https://www.youtube.com/watch?v=_Loo2l-vy_U)

<https://www.youtube.com/watch?v=l0dLrdCX6KU>

<https://www.youtube.com/watch?v=kxelNObcfXI>

Thank you and Rick, Keli and I are very much looking forward to meeting you on Wednesday.

Camilla

—

**CAMILLA H. FOX | FOUNDER & EXECUTIVE DIRECTOR**  
**PROJECT COYOTE | [www.ProjectCoyote.org](http://www.ProjectCoyote.org)**  
HQ OFFICE: P.O. Box 5007 Larkspur, CA 94977 | 415.945.3232  
FACEBOOK: [ProjectCoyote](https://www.facebook.com/ProjectCoyote) | TWITTER: [@ProjectCoyote](https://twitter.com/ProjectCoyote)



# PROJECT COYOTE

FOSTERING COEXISTENCE



To: Wildlife Resources Committee & Predator Policy Working Group  
From: Camilla Fox & Rick Hopkins  
Re: Comments re: “Proposed options for addressing Structural Issues in Title 14”  
Date: March 5, 2015  
cc: CA Fish & Game Commission; Department of Fish and Wildlife Director Chuck Bonham

On behalf of our California supporters, Project Coyote submits the following initial comments regarding the “Proposed options for addressing Structural Issues in Title 14” put forth by Commission staff at the WRC meeting on January 14, 2015.

Regarding the stated goal for this phase of “reviewing the state of predator management in California” and more specifically addressing “structural concerns” in Title 14, we have the following concerns:

The proposed review of “identifying and addressing inconsistencies” in existing policies and regulations is inadequate in scope, inconsistent, and incomplete in the regulations and policies addressed.

- 1- The proposed changes to the sections of Title 14 have not been fully vetted; they contravene sound science, modern, ethical wildlife management. The proposed changes violate the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA) and both the State and Federal Endangered Species Acts (CESA & FESA).

Our concerns are detailed below.

While we agree that inconsistencies in Title 14 need to be addressed, only some regulations within Title 14 are now being vetted and considered for amendments. Other sections need to be addressed, and Project Coyote’s letter (11/11/13 see Attachment 1) submitted substantive comments on regulations and policies we believe warranted vetting and revisions. Not one of those inconsistencies that we pointed out a year and four months ago have been addressed to date. Why have these regulations and policies been ferreted out for consideration? It appears from the published documents and timeline provided by Commission staff that these are the only structural inconsistencies in Title 14 that Commission and Department staff consider warrant vetting and revisions. If this is not the case, Commission staff needs to make this clear in public documents and inform the public when other inconsistencies will be addressed in this process of reforming California’s policies and regulations pertaining to predator management.

Project Coyote asks that Commission staff clarify this at the upcoming March 12<sup>th</sup> meeting and

in writing so that all interested stakeholders are made aware of this (and for those who cannot attend on March 12<sup>th</sup>). We also ask that Commission staff revisit the documents submitted by Project Coyote, the Humane Society of the United States and others who took the time to reply to the Wildlife Resource Committee and Commission staff's request for input on the subject of necessary revisions to California's policies and regulations related to predator management with the stated goal of modernizing predator management in California and ensuring all policies, regulations and statutes are consistent and reflect best and current science.

It must also be pointed out that the proposed amendments to select regulations were lobbied for by narrow interest groups including the Animal Pest Management Services, the California Farm Bureau Federation and the Shasta County Cattlemen's Association as reflected in the documents associated with this Predator Policy Working Group meeting agenda.

**Comments re: "possible solutions to structural inconsistencies":**

1- Section 460 Fisher, Marten, River Otter, Desert Kit Fox and Red Fox – functionally fully protected species

FROM COMMISSION STAFF REPORT: "Proposed 'possible solutions': Insert language exempting certain permitted activities (depredation, scientific collecting, incidental take permits, etc.) Clarify that 460 only prohibits take for fur (original intent).

Neither CDFW, nor any stakeholder (e.g., California Farm Bureau Federation) has made a cogent argument as to why these five species of predators should be subject to increased human mortality. No evidence has been presented to document substantial levels of damage or cost from these species. Therefore, we find this change unwarranted based on the lack of evidence and the fact that lethal control methods are generally ineffective in appreciably reducing conflicts.

2- Title 14, Ch. 5: Furbearing Mammals Section 465.5. Use of Traps

We are concerned that the proposal to possibly allow "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" could place non-target animals- both domestic (dogs and cats) and wildlife- in danger. Animal pest control operators frequently use snares to capture and kill coyotes, foxes and other species deemed a "nuisance" by some. This regulation was specifically put in place to protect non-target animals and to protect the rights of private property owners. Animal Pest Management Services and other private pest control firms would prefer to not be restricted by the requirement of obtaining landowner permission of residences within 150 yards of a structure. However, doing away with landowner permission completely contravenes the basic premise of why this regulation was put in place to protect non-target animals and property owners.

The proposal to amend the regulations put in place that restrict body-gripping traps (snares and Conibear kill traps) in the San Joaquin kit Fox (SJKF) zones could violate NEPA, CEQA CESA, and FESA requirements governing the protection of listed species.

The SJKF is listed by both the state and federal Endangered Species Acts, and any action that

may result in harassment, harm, injury, or death of a SJKF requires “take” authorization from both CDFW (an Incidental Take Permit) and the U.S. Fish and Wildlife Service (Biological Opinion). The SJKF populations remain at risk with limited reproductive capacity and we find no credible argument to subject this species at risk to additional potential “take”. CDFW and the USFWS have appropriately given great scrutiny to authorizing project related actions that may result in “take”. As with our comments noted above for modifications to Section 460, we find that no credible argument has been made to warrant any change or revisions in Section 465.5.

The stated rationale for amending this regulation is that the current trap restrictions within the SJKF range is “problematic for depredation control.” However, the very traps that some private pest control firms would like to use including snares and kill traps are inherently non-selective. So not only are SJKF and other imperiled (and non-imperiled) species put at risk but even non-offending targeted species may be removed because of the non-selective nature of such traps.

2- Title 14, Ch. 6: Nongame Mammals Section 472. General Provisions

We concur that it is problematic that this regulation is “inconsistent with all other provisions of law where take is limited or authorized only under specified circumstances. Allows unlimited take by hunters.”

We believe that this issue of unlimited take of certain species (for which there is no clear rationale) must be fully vetted. We also believe that recreational/sport hunting and trapping of predators (differentiating from depredation removal) must be fully examined by Department and Commission staff with regard to ethics and modern science and best management practices (see Attachment 2).

Thank you for your consideration.

Respectfully submitted,



Camilla H. Fox  
Founder & Executive Director



Rick Hopkins, PhD  
Science Advisory Board, Project Coyote



# LIVE OAK ASSOCIATES, INC.

an Ecological Consulting Firm

## **Predator Management in the 21<sup>st</sup> Century: Framework for Modernizing Predator Management in California**

**Rick A. Hopkins, Ph.D.**

**Proposed for April 9, 2015 F&G Commission Hearing**

Our relationship with predators, particularly large predators, is driven by a fascination and curiosity that is primal. We fear not those risks that are common and every day occurrences (such as heart disease and automobile accidents), but obsess on events such as attacks by large predators on humans, to the point of advocating remarkable efforts to preemptively eliminate a risk that is barely measurable. While we define human/predator interactions as dramatic, they are nonetheless extremely rare. Some stakeholders also express considerable angst on other types of conflicts such as effects on ungulates (e.g., game species) or depredation of livestock. These conflicts are the major driver for advocating management strategies for predators that focuses almost entirely on reducing conflicts with humans by reducing populations through sport-take or prophylactic control methods – the kill strategy. Nationwide, while conservation is often mentioned or inferred within a statewide program to traditionally manage some predators such as cougars or black bears (others are treated as varmints with no consideration of limit of kill or seasons), explicit strategies to achieve long-term conservation goals for the species are simply not discussed. There appears to be an overly simplistic presumption that as long as sport-take (or other control) efforts are sustainable, then conservation has been achieved. I argue that these “traditional kill strategies” not only do little to reduce conflict, but more importantly do little to conserve the species.

During the last century we have moved from a society that has advocated the eradication of predators to one that has greater tolerance for native carnivores with some segments of society wishing to live in harmony with them. The problem is that we are not completely clear on the concept. For example, as Teddy Roosevelt noted over a century ago, the cougar has long been the subject of “...loose writing or of such wild fables...” and unfortunately, myths about this species and other predators abound. As part of this exercise, I will shift the discussion from untested word or narrative models (We kill predators – there must be less – conflicts must have declined concomitantly) and will review the scientific literature, exploding notions that there is any support in the literature that killing predators accomplishes any long-term goals in reducing conflicts between humans and predators (i.e., attacks on humans, change in prey populations and change in depredations).

The conservation of wide-ranging taxa depends critically on planning efforts that consider both habitat and connectivity needs of the target species – not on the number of individuals killed for recreation or control. Therefore, in an effort to shift the management paradigm toward a

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contemporary set of tools for the management and conservation of predators, I will explore where we have been, learn from the failures of the past, and discuss a framework for modernizing predator management in California.

To that end, I will discuss four myths (or wild fables) that have permeated the public discussion of the cougar throughout its range as a case study that can illustrate the past, present and future of predator management. These are: 1) cougars were near extinction (or declined to very low numbers) throughout much of the western U.S. in the 1960's and 1970's; 2) sport-hunting has been an effective tool for managing the cougar; 3) cougars have been or are increasing over large portions of their range over the last 20 to 30 years; and 4) cougars are losing their fear of humans posing greater risk to us than in previous decades. In the end, we believe that cougars are abundant in the west today, not because of insightful management over the last 30 years, but due more to the fact we failed in our mission to eradicate them in the early to mid-1900s.

We will also expand this discussion to point out there is never a management need to engage in sport-take or control of predators – it is largely a matter of recreation (sport-take) or tradition (e.g., control efforts). Wildlife professionals (Leopold in 1932, Giles 1969, etc.) have long advocated that wildlife management integrates science (informs) and values (direction) in reaching an ultimate management or conservation program. There is absolutely, no such thing as science only management, as science can only address questions related to evidence and ramifications of actions, and is ill equipped to address questions such as should an activity be allowed or not (e.g., recreational sport-take of predators) – the latter is driven by the values integral to the stakeholders. This is the framework by which we hope to advocate for modern predator management in the State of California.



# LIVE OAK ASSOCIATES, INC.

an Ecological Consulting Firm

February 12, 2015

Michael Sutton  
President of the Commission  
California Fish and Game Commission

**Subject: Banning the trapping of bobcat and Predator Management Reform in California.**

Dear Mr. Sutton:

I write as an expert on the ecology and biology of large mammals (particularly large predators) and as co-founder and Principal of Live Oak Associates, Inc., (LOA), an ecological consulting firm based in California. During the last 35 years, I have conducted a number of studies on cougars and have participated in numerous public policy debates as a carnivore expert in several western states. I am experienced and versed in management options and conservation strategies for a variety of carnivores, including coyotes, bobcat, cougar, black bear and the federal and state listed San Joaquin kit fox. Most recently I have been using statistically robust spatial tools as a framework for predicting the effects that large perturbations or modifications of landscapes (e.g., several thousand to tens of thousands of acres) have on the suitable habitats and regional landscape connectivity for a suite of carnivore species.

I really think any discussion regarding predator control programs or killing of predators for sport or commercial venture needs to be framed within the ecological context of “need”. The famous and brilliant population ecologist Graeme Caughley once noted that the term overabundance is not an ecological term, but really a human expression embedded within a values framework. A sheep rancher will likely have a very different perspective (values) regarding the abundance of coyotes in and around his/her ranch than a resource ecologist would have that is in charge of maintaining ecosystem function within a large preserve or National Park. The evidence (or science of population dynamics) is not what is really in question, but instead the values of the individual that is considering the presence, distribution and abundance of the predator. Collecting more empirical evidence on the population dynamics of the coyote is not likely to satisfy rancher. The mere presence of coyote (regardless of its abundance) and the potential or real loss of sheep is all that matters in the rancher’s world.

Thus, in this case, it really boils down to a very simple question, is there a management need to trap or kill bobcats for recreational or commercial ventures in California? While sport hunting or killing of predators is often touted as a management tool, it rarely is; in essence we manage for the sport hunt, not by it. CDFW has what I believe an enlightened view on this matter, as they have noted in the past for example, that sport hunting of black bears is for recreational purposes only and the sport hunt does not in fact function in any measureable way to reduce human-bear conflicts.

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We kill medium and large carnivores through sport take and control efforts (e.g., wildlife services) *not* because hunting has been shown to be an important management tool, but because it is tradition. To argue that hunting is needed for population management is an overly simplistic argument about natural systems - one that is in conflict with both predation theory and evidence.

Wildlife managers typically manage single species of wild animals to establish sustainable yield and a condition of stasis (that is, stability) -- a goal that is neither achievable nor desirable. This concept -- treating wild animals as a harvestable crop -- is inconsistent with modern understanding of population conservation and ecosystem integrity concepts. This is why over the last decade, conservation biologists have tended to shun the North American Conservation Model (the sport hunting paradigm) for predators, in favor of implementing broad conservation measures that preserve and manage functionally intact, interconnected ecosystems (Nelson et al. 2011). Conservation strategies can have as explicit goals the preservation of predators within a functioning ecosystem while simultaneously reducing conflicts with humans. Many conflicts, particularly conflicts with black bears have more to do with human behavior than changes in bear populations (e.g., poor storing of trash, feeding of wildlife, feeding pets outside, bee hives operators not using electric fences to protect hives, etc.). Predator populations are usually limited by the availability of food resources and the spatial extent and connectedness of the landscape (Roemer et al. 2008); that is, their growth rates are determined by the availability of land and food. Given suitable land, as the extent and distribution of food resources decline so do their growth rates.

The notion that predator populations will grow unabated without human intervention (mortality through sport hunting or culling) is simply unfounded and lacks evidentiary support. In 1972 a blue-ribbon panel of experts produced a report on the state of predator control in North America (Cain et al. 1972). This report assailed the industry of predator control, and pointed out the faulty reasoning behind most (if not all) predator control operations, the lack of science supporting the industry and the failure to actually solve or reduce predator conflicts with humans. They concluded:

Our recommendations would change the present federal-state cooperative program drastically by concentrating on animals which cause damage, specifically by using non-chemical methods of control which would curtail the attrition against non-target species of ecological and social value. This remarkable program continues unabated in the face of criticism, largely on a basis of unvalidated assumptions (Cain et al. 1972).

This finding notwithstanding, the traditional predator control approaches championed by the those that mistakenly believe predators “must be controlled” and advocated by many wildlife agencies, including MIFW, still fail to heed this sage advice offered – actually, demanded – by these expert scientists. The traditional approach that relies on management of predators by prophylactic control measures or sport hunting is inconsistent with predation theory or the scientific literature.

Many game agencies and wildlife services engage in management schemes that were assailed by the Cain Report (and more recent analyses) as too costly and ineffective. Furthermore, the attitudes expressed by these agencies fail to recognize that predation is an important and critical ecological process, without which, many systems become unstable. Berger (2006) reported that the massive and expensive control programs (about \$1.6 billion in real dollars

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from 1939 to 1998) aimed at reducing predator populations in and around domestic sheep herds have had little effect on the declining trends in the sheep industry. In fact, Berger found that the decline of the sheep industry was more closely associated with unfavorable market conditions rather than predator losses.

Intact predator populations serve an important role in maintaining full ecosystem function. For example, researchers in Southern California and elsewhere have found that coyotes serve an important function of maintaining the natural bird diversity (Crooks and Soule 1999). Their research demonstrated that coyotes were effective in reducing predation on native populations of birds by small carnivores thereby resulting in a healthier ecosystem (as defined by higher natural biodiversity). In turn, research in Yellowstone on the reintroduction of the wolf has found that restoring wolves has increased the growth rates of pronghorn populations, since wolves suppress their major predator, the coyote (Berger et al. 2001, Berger et al. 2008).

Taylor (1984) provides clarity in how wildlife management agencies tend to oversimplify the ramifications of predation theory. He argues that the wildlife profession largely relies on relatively short-term predator control studies and that while short-term predator removal may change the stability of the prey population, the average equilibrium density remains relatively unchanged. As of 1985, he was unmoved that the literature provided any evidence that predator removal studies demonstrated any long-term benefit.

A similar conclusion was reached a number of years later by the National Research Council (NRC 1997) for the on-going Alaska predator control and sport hunting effort where they reported “...there is no factual basis for the assumption that a period of intensive control for a few years can result in long-term changes in ungulate population densities.”

One of the consistent conclusions of the scientific literature over the last forty years is that efforts to lower carnivore populations to increase ungulate populations or reduce conflicts is not supported by the evidence (Taylor 1984, NRC 1999, Cougar Management Guidelines Working Group 2005). Hurley et al. (2011) provides another recent example as they unequivocally and succinctly conclude:

In conclusion, benefits of predator removal appear to be marginal and short term in southeastern Idaho and likely will not appreciably change long-term dynamics of mule deer populations in the intermountain west.

Their findings were based on an experimental control study that removed a significant number of coyote and cougar between 1997-2003 from large areas in Southeastern Idaho.

A good example of how sport hunting is an ineffective tool to reduce conflict with predators is found with black bears. Garshelis and Noyce (2008) argue that diversity in food resources is an important contributor to stability in bear populations. They caution that poor food years can increase sightings and conflict with bears, giving people the *perception* that bear numbers have increased, when in fact growth rates may have declined. In addition, some nuisance bears (e.g., breaking into cars or homes) are not as vulnerable to hunting as non-nuisance bears – thereby minimizing the effectiveness of hunting in reducing conflicts.

Conflicts with bears are more likely influenced by poor food years and the availability of human foods in or near human habitation. Thus, it is again an unsupported assertion that sport hunting will likely reduce conflicts with bears or as MIFW argues that the need to increase the

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sport kill of bears is critical to maintain conflicts as low levels – an assertion in search of evidence.

### ***California: a living laboratory***

Francis Bacon, the father of modern science noted over 300 years ago, “...that the quilt of the senses is either two sorts, it destitutes us or deceives us.” In other words, our ability to understand natural systems is a constant struggle as we are confronted with biases and perceptions that color our ability to make robust inferences regarding the natural world.

A great example that highlights the failure of perception and bias as the foundation of analysis can be found in California with the cougar. Reliance on evidence dispels the notion that sport hunting is a critical management tool for predators as I will so aptly demonstrate using the cougar in California. Cougars have not been hunted in California since 1971 and California supports the largest amount of high quality cougar habitat in the North America and the greatest number of humans. About 110 to 120 cougars are killed annually in California mostly due to depredation on livestock or pets – a fraction of the kill total for most other smaller Western States (sport take in several of these states exceed 400 to 500 annually). If the assertions that sport hunting were an important “tool” one would assume that California would have substantially greater human-cougar conflict when compared with other western states that support aggressive sport hunt programs. Yet when normalized for the size of the cougar and human population in each state and western Canadian provinces, California does not rank 1<sup>st</sup>, but actually ranks 11<sup>th</sup>. In other words, the risk of an attack by a cougar is greater in ten other Canadian provinces and western states with aggressive sport hunting programs, and fewer humans and cougars.

Additionally, California supports about five million cattle and nearly a million sheep (more than all of western states except Texas), and yet the absolute number of depredation incidences places it about in the middle. If we consider depredation rate, California would rank near the bottom, as it does with attacks on humans. This completely contradicts the argument that sport hunting or predator control is a valuable and necessary management tool. This extensive analysis of attack statistics across North America has caused me to conclude that the intensity of sport-hunting cougars is not at all correlated with a concomitant change in the risk to humans or livestock. Nor has the lack of sport hunting resulting in a constantly increasing cougar population. In fact, by all measures the population of cougars has changed relatively little over the last 20 or so years. If anything, the population continues to loose habitat and its populations are becoming increasingly fragmented, as has been so aptly demonstrated in Southern California and the San Francisco Bay Area.

An interesting piece of research from Northeastern Washington has found that increased killing of cougars, while it has resulted in a short-term decline in the cougar population, also resulted in increasing conflicts with humans, as younger male cougars, which become more prevalent in hunted populations, are more prone to prey on livestock than older male and female cougars (Lambert et al. 2006, Robinson et al. 2008).

### ***Conclusion on the importance and need of killing predators to “manage” them***

While sport-hunting or trapping of predators is often touted as a management tool, it simply has not shown to be. In essence we manage for the sport hunt, not by it. Black bear or cougar hunting programs across North America, indiscriminate killing or aggressive control programs

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for coyotes and other predators do not provide effective means to reduce conflicts between these predators and human interest.

It appears to me, that many state and federal game managers expend considerable energy ignoring the best available science that clearly demonstrates efforts to “manage” predators by broad lethal efforts fails. We have failed to heed the sound evidence- based recommendations of the scientific literature, as was part of the Cain Report and have not shifted our focus away from costly and ineffective programs aimed at killing predators to meet some ill defined objective. Traditionally across North America, policymakers find themselves unwilling to move from severely failed management schemes to more cost-effective and ecologically relevant ones. I believe California is better poised to integrate ecologically sound management of predators and move away from programs like trapping of bobcats that is not supported by the residents of California, nor by the majority of conservation scientists.

Thank you for the opportunity of addressing the Fish and Game Commission.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Hopkins', with a long horizontal line extending to the right.

Rick A. Hopkins, Ph.D.,  
Principal and Senior Conservation Biologist

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## LITERATURE CITED

- Berger, J., P. B. Stacey, L. Bellis, M.P. Johnson. 2001. A mammalian predator-prey imbalance: Grizzly bear and wolf extinction affect avian Neotropical migrants. *Ecological Applications* 11:947-960.
- Berger, K. M., E., M. Gese, J. Berger. 2008. Indirect effects and traditional trophic cascades: A test involving wolves, coyotes, and pronghorn. *Ecology* 89:818-828.
- Berger, K. M. 2006. Carnivore-livestock conflicts: Effects of subsidized predator control and economic correlates on the sheep industry. *Conservation Biology*, 20(3):751-761.
- Cain, S. C., J. A. Kadlec, D. L. Allen, R. A. Cooley, M. G. Hornocker, A. S. Leopold, and F. H. Wagner. 1972. Predator Control – 1971 Report. Council on Environmental Quality and the Department of the Interior, Advisory Committee on Predator Control, Washington D.C.
- Cougar Management Guidelines Working Group. 2005. Cougar Management Guidelines. WildFutures, Bainbridge Island, Washington.
- Crooks, K.R. and M. E. Soule. 1999. Mesopredator release and avifaunal extinctions in a fragmented system. *Nature* 400:563-566.
- Garshelis, D. L. and K.V. Noyce. 2008. Seeing the world through the nose of a bear – diversity of foods fosters behavioral and demographic stability. Eds, T. E. Fulbright and D. G. Hewitt, pages 139 to 163 in *Wildlife Science: Linking Ecological Theory and Management Applications*. CRC Press. NY
- Grigione, M.M., P. Beier, R.A. Hopkins, D. Neal, W.D. Padley, C.M. Schonewald and M. L. Johnson. 2002. Ecological and allometric determinants of home-range size for mountain lions (*Puma concolor*). *Animal Conservation* 5:317-324.
- Hopkins, R. A., M. J. Kutilek, and G. L. Shreve. 1986. The density and home range characteristics of mountain lions in the Diablo Range of California. Pages 223-235 In S. D. Miller and D. Everett eds, *Proc. International Cat symposium*, Kingsville, Texas, October 1982.
- Hopkins, R.A. 1990. Ecology of the Puma in the Diablo Range. Ph.D. Dissertation University of California at Berkeley, California.
- Hurley, M. A., J. W. Unsworth, P. Zager, M. Hebblewhite, E. O. Garton, D. M. Montgomery, J. R. Skalski, C. L. Maycock. 2011. Demographic response to mule deer to experimental reduction of coyotes and mountain lions in southeastern Idaho. *Wildlife Monographs* 178:1-33.
- Lambert, C. M. S., R. B. Wielgus, H. S. Robinson, D. D. Katnik, H. S. Cruickshank, R. Clarke, and J. Almack. 2006. Cougar population dynamics and viability in the Pacific Northwest. *Journal of Wildlife Management* 70(1):246-254.
- Nelson, Michael P., John A. Vucetich, Paul C. Paquet, and Joseph K. Bump. 2011. An inadequate construct? *The Wildlife Professional* 5, no. 2: 58-60.
- NRC 1997: *Wolves, Bears, and Their Prey in Alaska: Biological and Social Changes in Wildlife Management*. Committee on Management of Wolf and Bear Populations in Alaska, Board on Biology, National Research Council, National Academy Press, Washington, D.C.

- 
- Robinson, H. S, R. B. Wielgus, H. S. Cooley, and S. W. Cooley. 2008. Sink populations in carnivore management: Cougar demography and immigration in hunted population. *Ecological Applications*, 18(4):1028-1037.
- Roemer, G. W., M. E. Gompper, and B. Van Valkenburgh. 2008. The ecological role of the mammalian mesocarnivore. *BioScience*: 59:165-173.
- Taylor, R. J. 1984. *Predation. Population and Community Biology*. Chapman and Hall, NY

# PROJECT COYOTE

F O S T E R I N G   C O E X I S T E N C E



February 12, 2015

California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

## **Re: Support for a ban on bobcat trapping in California and prohibitions on trapping and hunting of mammalian carnivores for commercial or recreational purposes**

Dear Commissioners,

On behalf of Project Coyote's Science Advisory Board we express our support for a ban on bobcat trapping in California and prohibitions on trapping and hunting of mammalian carnivores (predators) for commercial or recreational purposes.<sup>1</sup>

The most general reason for such prohibition is that wildlife managers and sportsmen alike believe, as a community, that killing an animal without an adequate reason is unjustified and unsportsmanlike.<sup>2</sup> Predators are not trapped or hunted for their meat. They are often trapped and hunted merely for recreation or for their pelts, which are then kept as a trophy or sold on the international fur market. This market merely serves those with a desire to purchase luxury items.

Sociological surveys show that most Americans believe hunting for meat represents an adequate reason to hunt.<sup>3</sup> However, those same studies indicate that only small minorities of Americans believe hunting animals for the purpose of supplementing one's income or to gain a trophy are adequate reasons to hunt.<sup>4</sup> Likewise, research indicates that most

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<sup>1</sup> This would include, but is not limited to, fur trapping, bounties, sport and trophy hunting, and killing contests, derbies, tournaments, or drives.

<sup>2</sup> This principle is formally and explicitly acknowledged by the North American Model of Wildlife Conservation.

<sup>3</sup> Duda, M. D., and M. Jones. 2014. The North American Model of Wildlife Conservation: Affirming the role, strength, and relevance of hunting in the 21<sup>st</sup> century. [URL: [http://www.responsivemanagement.com/download/reports/NAMWC\\_Public\\_Opinion\\_Hunting.pdf](http://www.responsivemanagement.com/download/reports/NAMWC_Public_Opinion_Hunting.pdf)]

<sup>4</sup> *ibid.*

Americans consider the use of foothold traps to be inhumane<sup>5</sup>, and “a majority of the [U.S.] population disapproves of trapping to make money...and trapping for recreation or sport.”<sup>6</sup> Beyond being widespread, those beliefs are well justified. That is, gaining a trophy and serving a luxury industry are trivial reasons to kill a living creature.<sup>7</sup> These perspectives are reason enough to prohibit killing predators for commercial or recreational purposes.

Furthermore, wildlife professionals understand that wildlife populations are public trust assets.<sup>8</sup> In a judicious democracy all citizens have a stake in the treatment of public trusts. That means, when most citizens have good reason to treat a public trust, such as a predator population, in a particular manner, then the trust should be managed in that way.

What most citizens believe to be adequate and inadequate reasons for killing wildlife is important because participation in hunting has been on the decline for decades, and that decline is worrying to members of the hunting community. Reversing that trend and maintaining the support of the non-hunting community almost certainly requires the hunting community to be sensitive to what most Americans consider to be adequate reasons to kill a living creature.<sup>9</sup>

Some advocates might argue that trapping and hunting predators should be allowed because it is a traditional form of recreation. The shortcoming with this rationale is that “tradition” cannot ever by itself be an adequate justification for any activity. Many traditional activities, once condoned, are now widely acknowledged to be unjustified.<sup>10</sup>

Some proponents might argue that trapping and hunting predators is necessary because without trapping or hunting these species would become overabundant and subsequently reduce the abundance of prey species – prey species that some believe should be managed for maximum abundance for the purpose of maximizing hunter success. A great deal of science indicates that killing predators is not a reliable means of increasing ungulate abundance. The circumstances most likely to result in increased ungulate abundance are also the circumstances most likely to impair important ecosystem benefits and services that predators provide. Even when predators are killed to the point of impairing the ecosystem services, there is still no assurance that ungulate abundance will increase. The

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<sup>5</sup> According to Reiter et al. (1999), 80% of the U.S. public found foothold traps to be inhumane capture devices. Reiter D., Brunson M., Schmidt R.H. 1999 Public attitudes toward wildlife damage management and policy. *Wildlife Society Bulletin* 27, 746-758. This finding was recently replicated by Bruskotter and colleagues (unpublished data).

<sup>6</sup> According Duda and Young (1998) 59% of Americans disapproved of trapping generally. Duda M.D., Young K. (1998) American attitudes toward scientific wildlife management and human use of fish and wildlife: Implications for effective public relations and communications strategies. pp. 589-603. *Transactions of the North American Wildlife and Natural Resources Conference*.

<sup>7</sup> While earning an adequate income is vitally important, fewer than 100 Californians trap bobcat as a means of supplementing their incomes. Trapping predators is unimportant to the economic health of California.

<sup>8</sup> This principle is also formally and explicitly acknowledged by the North American Model of Wildlife Conservation.

<sup>9</sup> This reasoning highlights the imprudence of fear mongers who believe that prohibiting unjustified forms of hunting and trapping is a slippery slope to the prohibition of all forms of hunting.

<sup>10</sup> This includes many forms of sexism and racism.

reason being is that ungulate abundance is frequently limited by factors other than predators – factors such as habitat and climate.

Proponents might also argue that killing predators is an important means for decreasing the loss of livestock to depredation. A great deal of science has been developed on how to effectively manage depredations. Lessons from that science include: In a population of predators, typically only a few individuals are responsible for depredating livestock.<sup>11</sup> For this reason, indiscriminate killing of predators is an ineffective means of reducing depredations because it does not target the offending predator or the time or place where depredation has occurred.<sup>12</sup> Moreover, indiscriminate killing can lead to the disruption of predators' social and foraging ecology in ways that plausibly, and perhaps likely, increase the risk of depredation. Reducing the loss of livestock is a common goal for all stakeholders. The concern is that recreational and commercial killing of predators does not contribute to this goal and may work against it because this kind of killing tends to be indiscriminate with respect to depredating predators.

Some proponents of predator trapping and hunting might highlight that opponents of predator killing are free to refrain from doing so; but being opposed does not justify prohibiting others from doing so. These proponents might further argue for being allowed to hunt and trap predators because – in their view – a sufficiently robust reason to oppose predator killing has not been offered. This laissez faire perspective misconstrues the circumstance. To kill a living creature without an adequate reason violates a fundamental principle of wildlife management and sportsmanship. By that principle particular instances of killing should be prohibited until good reason is offered for why doing so would be justified. To our knowledge, no such reason has been forthcoming. If some purported reason were presented, we would be very interested to evaluate such a reason.

Beyond these points and counterpoints, lies a need to better recognize and celebrate predators' valuable contribution to the health and vitality of our ecosystems. For example, predators serve human interests through rodent control, disease prevention, positive and indirect effects on plant communities, soil fertility, and physical processes (e.g., erosion and stream geomorphology). Trapping and hunting predators is antithetical to those valuable contributions.

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<sup>11</sup> For example, see F. F. Knowlton, E. M. Gese, M. M. Jaeger, Coyote depredation control: An interface between biology and management. *Journal of Range Management* 52, 398-412. (1999).

<sup>12</sup> For examples, see M. M. Conner, M. M. Jaeger, T. J. Weller, D. R. McCullough, Effect of coyote removal on sheep depredation in northern California. *J. Wildl. Manage.* 62, 690-699 (1998); B. N. Sacks, M. M. J. K. M. Blejwas, Relative vulnerability of coyotes to removal methods on a northern California ranch. *J. Wildl. Manage.* 63, 939-949. (1999); B. N. Sacks, M. M. Jaeger, J. C. C. Neale, D. R. McCullough, Territoriality and breeding status of coyotes relative to sheep predation. *J. Wildl. Manage.* 63, 593-605. (1999).

Thank you for considering these concerns on this important issue. If the Commission were interested to know about any of the claims or rationale in this letter, we would be honored to share that insight with the Commission.

Respectfully submitted,

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# PROJECT COYOTE

F O S T E R I N G   C O E X I S T E N C E



To: Wildlife Resources Committee Predator Task Force

Re: Initial comments and proposed amendments to the California Fish and Game Code sections and Regulations regarding the State's responsibilities pertaining to predator management, conservation, and stewardship

Date: November 11, 2013

On behalf of our California supporters, Project Coyote submits the following initial comments and proposed amendments to the California Fish and Game Code sections and Regulations regarding the State's responsibilities pertaining to predator management, conservation, and stewardship.

As discussed in detail below, the rationale for our proposed amendments is fourfold:

- (1) to ensure that the California Department of Fish and Wildlife (hereinafter "the Department") and the California Fish and Game Commission (hereinafter "the Commission") abide by their common law and statutory duties to protect and preserve the State's wildlife resources pursuant to the public trust doctrine;
- (2) to ensure that Department regulations are consistent with its existing predator policy which applies to *all* species of wildlife and only authorizes the application of depredation methods towards individual animals which have caused injury or damage to private property, and consistent with sections of the California Fish and Game Code which authorize the same;
- (3) to incorporate ethical standards and economic considerations that reflect the valuable role predators play in maintaining ecosystem functioning, resilience, and health as well as public values/appreciation for wildlife/predators;
- (4) to modernize predator conservation and stewardship throughout the state to reflect current science, conservation biology, and ecological principles utilizing an adaptive management approach.

**I. The Department and the Commission have both common law and statutory duties to protect and preserve all of the State's wildlife resources pursuant to the public trust doctrine.**

All wildlife in the State of California that is not held by private ownership or legally acquired is the property of the people. Pursuant to the public trust doctrine, the State has a common law duty to act as the Trustee to preserve and protect wildlife resources for present and future

generations of Californians. Indeed, the State's duty along these lines has been codified in the California Fish and Game Code §711.7, subdivision (a), which appoints the Department as a trustee over State wildlife resources. Moreover, Fish and Game Code §1801 provides that all wildlife resources under the jurisdiction and influence of the State should be conserved for the benefit of all citizens of California, as well as to maintain their intrinsic and ecological value. The Commission has been granted regulatory and permitting authority to institute changes in the Fish and Game Code and issue permits pursuant to the Code necessary to protect wildlife (CA Fish and Game Code §§ 200 et seq.) **We request that both the Commission and Department abide by their respective duties to protect and conserve all California wildlife species for the benefit of California residents.**

Public surveys indicate that the majority of Californians support protective measures for wildlife – including predators – regardless of how the predator species classified. These protectionist values are evident through California voters' support of public ballot measures to protect predators and restrict take methods deemed cruel and/or indiscriminate Prop. 4 passed in 1998 and Prop. 117 passed in 1990 are examples of citizen desire to preserve and respect wildlife. As shown below, the Department's stated position on predators expressly applies to "all" species of wildlife. In proposing amendments to the Department's predator regulation and code sections, Project Coyote requests that the Commission and Department abide by their duties under the public trust doctrine and conform their existing regulations to the Department's stated predator policy – which applies to all wildlife species, regardless of how the predator species are classified (e.g., nongame, furbearing or game species) – as well as existing Code sections.

**II. The Department's stated predator policy expressly applies to *all* wildlife species, and permits that depredation control methods may be directed only towards those individual animals that have been found to have caused damage to private property or to have presented an immediate threat thereto.**

The Department's existing predator policy states:

*All* wildlife *shall* be maintained in harmony with existing habitat whenever possible. In the event that *some* birds or mammals may cause injury or damage to private property, depredation control methods directed towards the *offending animals* may be implemented.

Under the Department's existing predator policy, the Department has a mandatory duty to maintain *all* species of predators in harmony with existing habitat whenever possible – regardless of how the predator is classified, whether it be a game, nongame or furbearing species. Moreover, depredation efforts may only be applied towards those individual animals that have been found to have caused damage to private property or presented an imminent threat thereto. Project Coyote takes issue with the Department's current stance – as expressed in the current form of its regulations and code that treat predators that are classified as "nongame" or "furbearing" differently than those that are classified as game.

While we applaud many of the recent amendments to the depredation regulations, as codified in §401, Title 14, which went into effect November 1<sup>st</sup> and require issuance of a permit to take elk,

bear, beaver, bobcat, wild pigs, deer, wild turkeys and gray squirrels that are damaging or destroying or immediately threatening to damage or destroy land or property, we have serious concerns regarding the lack of similar measures for other predators based solely on their classification as “nongame” or “furbearing.” As addressed in greater detail in the following section, the current classification of predators as “game,” “nongame,” and “furbearing” has no scientific basis and is outdated under concepts of modern conservation biology and ecological principles. Our proposed amendments address the lack of consistency currently apparent in the Department regulations for predator species, we believe in a reasonable manner, and will help to bring the Department’s regulations in compliance with its obligations under both the public trust doctrine and its stated predator policy. In addition, our proposed amendments will also help to eliminate inconsistencies in the regulations for the existing classifications of predator species. For example, under the current form of the regulations and code, California Fish and Game Regulation § 472(a) authorizes unlimited takes of nongame mammals, while § 4152 of the Code only authorizes the taking of nongame mammals found to be injuring growing crops or other private property. Clearly, the regulation for nongame mammals should be brought in line with the current form of the Code.

**III. The Commission and Department should incorporate ethical standards and economic considerations in the California Fish and Game regulations and code that reflect the valuable role predators play in maintaining ecosystem functioning, resilience, and health as well as the public’s appreciation of predators**

Over the last fifty years, humankind’s understanding of wildlife and ecosystems has expanded and societal attitudes about our relationship with the natural world have shifted. Our scientific understanding of animals – their ecology, physiology, behavior, cognition, sentience, and psychology – is broadening, and we are recognizing that animals have intrinsic value apart from their perceived economic value to humans (Messmer et al. 2001). This evolution in societal beliefs challenges old notions in how we relate to non-human animals. Americans today value the welfare of all beings and believe that the human species has a moral obligation to be compassionate and humane toward the other species and animals which have a right to live their lives on Earth, undisturbed by people, in their natural environments, without abuse or cruelty or the unraveling of their social relationships (Treves et al. 2013). Old fairy tales and fables that demonize certain animals such as wolves and coyotes are being deconstructed. With the ominous consequences of our choices and activities increasingly apparent, humankind is finally coming to understand that our economic and political systems simply cannot operate to keep human societies and civilization disconnected from the Earth’s natural systems and continue to survive.

With this as a backdrop, we believe the Department and the Commission have an opportunity – and an obligation – to modernize predator stewardship and to bring the state’s regulations, policies and codes in line with current science – both biological and social – while incorporating ethical protocols, standards, and criteria in how predators are managed statewide. We strongly encourage the Department and the Commission to undertake scientific review and survey of the people towards predators, current predator management and conservation, and economic value and perception, especially in a state with rapidly changing perception and recreational trends

where fewer than 1% of Californians hunt and a growing number are engaged in a wide range of non-consumptive wildlife uses. Again, there is an extant scientific literature and basis to quantify these issues (USDOJ et al. 2011; <http://www.census.gov/prod/2013pubs/fhw11-ca.pdf>).

**IV. The Commission and Department should modernize its Predator Conservation and Stewardship Regulations, Policies and Code to Reflect Current Science, Conservation Biology, and Ecological Principles in an Adaptive Management Framework.**

The Department and the Commission acknowledge that the State's regulations, policies and codes pertaining to predator management are outdated, fail to incorporate the best available science, are often inconsistent, and create confusion for wildlife managers, enforcement personnel and the general public. We commend the Commission for tasking the newly formed Wildlife Resources Committee (WRC) with a comprehensive review of the State's policies and practices regarding predator management – or more appropriately predator conservation and stewardship. We believe that the Commission has an opportunity to set a trend and to demonstrate that California is a leader in how it manages its predators, and that its policies and practices are based in science, ethics, and economics.

We believe that the attached Carnivore Conservation Act presents a model template for carnivore conservation nationwide and one that can be adapted to the specific conditions in California. We encourage the WRC and the Department to consider the provisions in this Act for California, as the Act represents the best available science regarding the role of predators in maintaining ecosystem functioning and health and shifting public values that reflect an appreciation for predators both for their ecological benefits and intrinsic worth.

In addition, we recommend that the Department's current adaptive management program be augmented to include information on current populations and known anthropogenic and non-anthropogenic impacts on their population and the habitats that sustain them. We further recommend that the Commission sanction an independent, scientific review of the State's predator management policies that includes any and all recommendations made by the WRC.

With the aim of modernizing California's predator conservation and stewardship program, Project Coyote recommends the following changes to the State's predator regulations, policies, and code. Not only will our proposed changes help to bring the State in line with current science and societal beliefs, but they will help to ensure compliance with the Department's obligations under the public trust doctrine and consistency with its stated predator policy. Because of the complexity of the State's predator regulations, policies, and code we also strongly suggest that the Department sanction its own internal review to ensure that inconsistencies are addressed that WRC predator policy task force members may have missed.

**1. The Department's duty to limit take of predators & implement consistent protocols and regulations with regard to mitigating predator conflicts and damage**

Allowing the unlimited take of species such as bobcats, coyotes, and gray fox is counter to current science and ecological thinking. It fails to incorporate any assessment of the ecological

value these animals provide to the ecosystems they inhabit (see Bergstrom et al. 2013 for a partial overview of an extant scientific literature on this subject). Thus, modern science tells us that altering predator prey populations through indiscriminate killing can have cascading and long-term negative impacts to the ecology of a given bioregion (see Crooks and Soule, 2009 for a state example of the extant scientific literature on this subject). We also now know that large carnivores are critical to ecosystem health and resilience (Weaver et al. 2002). Given this knowledge, we believe it is incumbent upon the Department to remove unlimited take provisions in its regulations for all native carnivores in California (see attached proposed Massachusetts Carnivore Conservation Act, hereinafter “Carnivore Conservation Act”). We strongly encourage the Department to rethink its current classifications of predator species that appear to have no scientific basis for separate classifications (e.g. game mammal, nongame, furbearing, etc.) and consider a new classification of “native carnivore” for all predator species that would provide certain provisions and protections for all such species and would only allow takes under narrowly defined terms and conditions. Classifying predators in this manner would ensure that the Department and Commission are meeting their duties to manage all species of wildlife pursuant to its existing predator policy as well as the public trust doctrine.

We also contend that it is the Department’s responsibility to strictly regulate the taking of predators when very little (if any) baseline population data exists for these species in California. In the absence of such critical population data the State should be implementing the Precautionary Principle and limiting the takes of predator species, particularly when they are known to be affected by anthropogenic impacts (e.g., trapping/hunting, habitat restoration, changing land-use activities) and non-anthropogenic impacts (climate change and disturbance events such as drought, fires, and floods).

Again, consistent with its Trustee obligations under the public trust doctrine and its stated predator policy, the Department must limit the take of predator species, regardless of whether the predators are classified as game species, nongame species, or furbearing mammals. As referenced above, the Department’s stated predator policy expressly applies to *all* wildlife species, and authorizes that depredation control methods may be directed only towards those *individual* animals that have been found to have caused damage to private property or to have presented an immediate threat thereto.

Currently, California Fish and Game Code § 4152 allows the taking of nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox and red fox squirrels that are “found to be injuring growing crops or other property.” While this section of the regulations is consistent with the Department’s stated predator policy, reportedly, it is not regularly enforced. Moreover, it is inconsistent with § 472(a) of the California Fish and Game regulations which allows “the following nongame birds and mammals to be taken *at any time of year and in any number... coyotes...*”

Just as the State has recently modernized its protocols with regard to how conflicts with mountain lions are handled, we believe the same detailed protocols, policies and regulations should be applied to other California predator species. As with the new mountain lion protocol, the use of lethal control should be employed against predator species only after nonlethal methods have been fully exhausted and only in response to localized, verified injurious wildlife

problems in which an animal has caused or immediately threatened to cause injury or damage to private property. In general, we strongly recommend that any and all lethal control of any predatory species be justified *a priori* on an ecological, economic, and ethical basis and must use the best science, techniques, and survey methods available. Then, this assessment needs to be fully compared to the increasing development of successful non-lethal methods and programs including those successful in the State (Fox 2008, Fimrite 2012). If justified, any taking methods employed should be target-specific to remove only the offending animal(s). Assuming the Department abides by such criteria and ethical standards, current taking methods and practices directed towards predator species that are arguably inhumane and indiscriminate and/or ecologically unsound would be prohibited. These include but are not limited to: predator/wildlife killing contests, snares, and hounding (for take).

In order for the Department to uphold its responsibilities to protect all wildlife species under the public trust doctrine and its existing predator policy, as well as to maintain consistency with the existing Code section for the taking of nongame mammals, Project Coyote proposes amendments to §§ 472 and 401 of the Fish and Game Regulations and §4152 of the California Fish and Game Code (please see attached).

## **1. Prohibiting wildlife killing contests in California**

In California predators including coyotes and gray fox have been subject to unjustified mass and indiscriminate killings—whether or not private property damage had occurred or even been threatened. These organized killing contests are sometimes organized and conducted under the inducement of prizes or monetary rewards and violate the concept of “fair chase.” Project Coyote believes that by allowing such killing contests to continue, the Department and the Commission are abrogating their duties to California citizens to protect wildlife under both the public trust doctrine and the Department’s stated predator policy—which is expressly applicable to *all* species.

Predator species are generally not taken for consumption. Allowing organized, mass indiscriminate killing of predators is not only cruel to the species involved, but disruptive to California’s native ecosystems by unnaturally altering the balance of predator and prey species. This can result in an overabundance of prey and pest species, which, in turn can damage crops and other types of private property. For example, we know conclusively from studies in Yellowstone and elsewhere (see Estes et al. 2011, Ripple and Beschta 2012, and Ordiz et al. 2013) that large carnivores are vital to maintaining healthy ecosystems and species diversity. Their presence helps to maintain native plant communities by keeping large herbivore populations in check, contributing to the health of forests, streams, fisheries and other wildlife. Their absence leads to ecosystem simplification and a loss of biodiversity. As previously cited above, the effects of lethal control on apex carnivores has been shown to affect numerous species including reduction or increase of smaller carnivores—reverse or standard meso-predator release. Moreover, indiscriminate killing of predators is not only ineffective but is often counterproductive and at odds with the principles of conservation biology, ecosystem based management theory, and population ecology (see attached scientific opinion letter by Crabtree, 2013 which is based on numerous studies, many of which are reviewed in Crabtree and Sheldon,

1999). There is extant scientific literature on these issues and we strongly urge the Commission to support independent scientific evaluation of predator killing and removal.

The coyote-killing contest that took place in Modoc County last February generated tremendous public outcry and national media attention. Project Coyote submitted a letter on behalf of 25 organizations representing more than one million Californians asking that this contest hunt be stopped based on ecological and ethical concerns. In addition, more than 20,000 letters, emails and petition signatures were submitted to the Commission and the Department protesting the contest. The Commission and the Department have yet to respond to the public on this issue.

Project Coyote submits that consistent with its Trustee obligations under the public trust doctrine, the Department's stated predator policy, and § 4152 of the Code, which only authorizes the taking of nongame mammals found to be injuring growing crops or other private property, the Commission and Department must make it unlawful to offer any prize, inducement, or monetary reward for the taking of any gamebirds, mammals—including all species of predators—fish, reptiles or amphibians in an individual contest, tournament or derby pursuant to § 2003 of the California Fish and Game Code. Exceptions may be made for game fish and frog jumping contests pursuant to subsections (b) and (c) of the code. To institute a ban on wildlife killing contests, Project Coyote recommends amending § 2003 of the Code by deleting subsection (d) in its entirety, which currently authorizes wildlife taking contests valued at \$500.00 or less. We believe subsection (d) provides a loophole under which mass, indiscriminate wildlife killing contests for predators and other species are conducted. This loophole should be eliminated.

### **3. Wildlife Trapping**

Through the passage of Proposition 4 (passed in 1998) and AB 789 (signed into law this year) restrictions were made to wildlife trapping and killing practices as reflected in California Fish and Game Code § 3003.1, § 3003.2 and § 12005.5 in 1998 (also known as "Proposition 4") and Code § 4004, earlier this year. The Commission and Department should update sections of the Fish and Game Code relating to trapping and all sections of its rules and regulations adopted under those Codes to reflect these legislative changes and ensure consistency.

California Fish and Game Code § 3003.1 provides a gaping loophole through which snares may be used to take fur-bearing and non-game mammals to protect private property. Public surveys indicate that Californians do not support wildlife-killing methods deemed inhumane and indiscriminate. Moreover, increased media coverage of animals caught and suffering in snares and local efforts to prohibit the use of snares- including a proposal to ban their use in Los Angeles - the use of snares has led to heightened public concerns about their use in California (see attached article - and video link).

Both the code and regulations are presently riddled with inconsistencies regarding trapping, which must be eliminated in order to provide consistent guidance to both enforcement personnel and to the public. For example, Fish and Game Code § 4004, which fails to provide a complete ban on the use of steel-jawed traps must be made consistent with Code § 3003.1-- which clearly provides: "[i]t is unlawful for any person, including an employee of the federal, state, county, or

municipal government, to use or authorize the use of *any* steel-jawed leghold trap, padded or otherwise to capture any game mammal, fur-bearing mammal, nongame mammal, protected mammal, or any dog or cat.” In addition, § 465.5 of the regulations relating to the use of traps-- which was not provided by the Department in its compilation of current policies, code sections and regulations regarding predator management and depredation-- continues to allow certain body-gripping traps and snares to trap furbearing and nongame mammals in situations unrelated to commerce or recreation.

Project Coyote’s Executive Director Camilla Fox and Science Advisory Board member Dr. Paul Paquet served on a national advisory committee to assist the Sierra Club in developing a national policy on the use of traps. The Sierra Club’s national board adopted this policy in 2012:

### **Policy on Trapping of Wildlife**

Use of body-gripping devices\* – including leghold traps, snares, and Conibear® traps – are indiscriminate to age, sex and species and typically result in injury, pain, suffering, and/or death of target and non-target animals.

The Sierra Club considers body-gripping, restraining and killing traps and snares to be ecologically indiscriminate and unnecessarily inhumane and therefore opposes their use. The Sierra Club promotes and supports humane, practical and effective methods of mitigating human-wildlife conflicts and actively discourages the use of inhumane and indiscriminate methods.

Sierra Club recognizes the rights of indigenous peoples under federal laws and treaties granting rights of self-determination and rights to pursue subsistence taking of wildlife.

\*Body gripping device – includes, but is not limited to, any snare (neck, body, or leg), kill-type trap (such as the Conibear®), leghold trap (including steel-jaw, padded, offs et), and any other device designed to grip a body or body part. This definition includes any device that may result in injury or death because of the mechanism of entrapment. Live cage and box traps, and common rat and mousetraps shall not be considered body-gripping devices.

Board of Directors, May 19, 2012.<sup>1</sup>

Project Coyote believes that this policy reflects national and international trends toward banning wildlife traps deemed cruel, non-selective, and ecologically unsound. We encourage the Department and the Commission to consider adopting this policy and banning snares by amending § 465.5 of the regulations and § 3003.1 of the Code. In so doing, California would be joining numerous other states that have outlawed snares including Illinois, Colorado, Washington, Connecticut, New York, New Hampshire, Oklahoma, Rhode Island, Vermont, North Carolina and South Carolina.

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<sup>1</sup> See: <http://www.sierraclub.org/policy/conservation/Trapping-Wildlife.pdf>

#### **4. Use of hounds for taking wildlife**

The use of dogs to hunt mammals, also known as “hounding” often involves the use of high-tech radio collars and GPS devices that allow the hunter to monitor the dogs’ activity from a distance. A pack of technologically outfitted dogs is released to chase a stressed wild animal for long distance, across all types of terrain, even sometimes including private property — with no direct oversight from the hunter. The dogs pursue the animal to the point of exhaustion then the dogs either attack and maul the animal—which may cause a lingering, traumatic and painful death, even resulting in injury to the dogs —or, the animal climbs a tree to escape the chase. Because the hunter is unable to keep up with the dogs and monitor their activity, the use of dogs can result in injury and death of non-target animals, including other wildlife species, pets, and farm animals. It can also result in damage to private property. Hound hunting violates the rules of “fair chase”.

Current law allows the use of hounds for both pursuing and taking a variety of predators and other mammals classified as furbearers and nongame. Under § 1-89.1 of the California Fish and Game Code, the term “take” means to “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill” a species of wildlife. Public opinion polls do not support the use of dogs to “capture” or “kill” wildlife species. Last year the California legislature passed SB 1221, prohibiting the use of hounds for pursuing and taking bears and bobcats and provided limited exemptions now reflected in Section 401. Such a prohibition should be applied equally to all species.

Project Coyote understands that the use of dogs may be justified in limited circumstances for scientific research purposes or to track and tree predators causing injury or damage to private property under a depredation permit issued by the Department. However, allowing the taking/killing of predators/mammals with hounds is ecologically unsound, ethically unjustifiable and counter to public sentiment. Moreover, allowing hounding for some species and not others creates myriad enforcement challenges. Project Coyote urges a ban on the taking of mammals with dogs to ensure consistency in the law and ease of enforcement in the field.

#### **Initial Concluding Remarks**

In closing, Project Coyote has been working to increase the acceptance and tolerance of native carnivores throughout California and is working directly with communities to implement effective strategies that promote coexistence and mitigate conflicts between people, wildlife and domestic animals. A prime example of these coexistence strategies is the Marin County Livestock and Wildlife Protection Program described in the attached summary. It has been our experience that when Californians come to understand 1) the important role native carnivores play in maintaining healthy ecosystems, 2) their intrinsic value, and 3) the inefficiency of lethal control, that they will support predator stewardship and conservation including non-lethal control measures. At the opposite end of this understanding lies unlimited and indiscriminate takings as exemplified by predator killing contests that appear to have no justifiable basis in ecology, ethics, or economics.

Enclosed, please find our initial proposed amendments to the Department's regulations and Code. We stand poised to work with the State to bring California to the forefront of predator stewardship and conservation, as supported by the majority of public opinion polls.

We urge you – as stewards of California's wildlife – to abide by your duty to preserve and protect all wildlife species for the citizens of the State.

Thank you for your consideration.

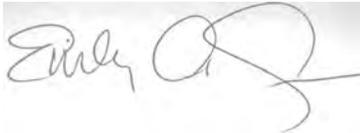
Respectfully submitted,



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## Literature Cited

Bergstrom, B.J., Arias, L.C., Davidson, A.D., Ferguson, A.W., Randa, L.A., and Sheffield, S.R. 2013. License to kill: reforming federal wildlife control to restore biodiversity and ecosystem function. Conservation Letters. DOI: 10.1111/conl.12045.

Crabtree, R.L. and Sheldon, J.W. 1999. Coyotes and Canid Coexistence in Yellowstone National Park. Chapter 6 in Ecosystems: The Yellowstone Experience, T. Clark, P. Curlee, P. Kareiva, and S. Minta, eds. Yale University Press, New Haven, CT.

Crooks, K. , and M. Soule. 1999. Mesopredator release and avifaunal extinctions in a fragmented system. Nature 400:563-566.

Estes JA, Terborgh J, Brashares JS, Power ME, Berger J, Bond WJ, Carpenter SR, Essington TE, Holt RD, Jackson JBC, Marquis RJ, Oksanen L, Oksanen T, Paine RT, Pikitch EK, Ripple WJ, Sandin SA, Scheffer M, Schoener TW, Shurin JB, Sinclair ARE, Soule ME, Virtanen R, Wardle DA. , 2011. [Trophic Downgrading of Planet Earth](#) Science 333: 301-306.

Fox, C. H. 2008. Analysis of the Marin County strategic plan for protection of livestock and wildlife, an alternative to traditional predator control. M.A. thesis, Prescott College, AZ. 120 pp. Larkspur, CA. and:

Fimrite, P. 2012. Ranchers shift from traps to dogs to fight coyotes. *San Francisco Chronicle* (P. 1, April 27, 2012). San Francisco, CA. Available from:  
<http://www.sfgate.com/science/article/Ranchers-shift-from-traps-to-dogs-to-fight-coyotes-3514405.php>

Messmer, T.A., Reiter, D., and West, B.C., 2001, Enhancing Wildlife Sciences' Linkage to Public Policy: Lessons from the Predator-Control Pendulum, *Wildlife Society Bulletin*, v. 29, p. 1255 (advocating that wildlife managers should “institutionalize new approaches to better address information lag time between scientific discovery and policy formation”).

Ordiz, R.B., Bischof, R., and Swenson, J.E. 2013. Saving large carnivores, but losing the apex predator? *Biological Conservation* 168:128-133.

Ripple, W.J. and Beschta, R.L. 2012. [Trophic cascades in Yellowstone: The first 15 years after wolf reintroduction](#). *Biological Conservation* 145: 205-213. doi:10.1016/j.biocon.2011.11.005.

Treves, A., Naughton-Treves, L., Shelley, V. Longitudinal Analysis of Attitudes Towards Wolves. 2013. *Conservation Biology* DOI 10.1111/cobi.12009

U.S. Department of the Interior, U.S. Fish and Wildlife Service, and U.S. Department of Commerce, U.S. Census Bureau. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. <http://www.census.gov/prod/2013pubs/fhw11-ca.pdf>

Weaver, J.L., Paquet, P.C., and Ruggerio, L.F. 2002. Resilience and Conservation of Large Carnivores in the Rocky Mountains. *Conservation Biology* 10:964-976. DOI: 10.1046/j.1523-1739.1996.10040964.x

# PROJECT COYOTE

F O S T E R I N G C O E X I S T E N C E



Dear Interested Person or Party:

The following is a scientific opinion letter requested by Camilla Fox, Executive Director of Project Coyote. This letter outlines a response to the general question "What effect does reduction of coyotes (older than 6 months) have on the remaining population?" This question is central to the repeated claim that reduction (mortality) of adult coyotes from human control practices lessens predation on domestic sheep or game animals such as mule deer or antelope. Before I cover the three basic biological responses by coyote populations to reduction (described below), it is important to understand the type of "predator reduction" or "coyote control" in question. Most reduction programs, often referred to as control practices, are indiscriminate in nature, meaning the individuals removed (coyotes are killed not relocated) are probably not the offending individuals. Research (mostly funded and conducted by USDA Wildlife Services) has shown that offending individuals are most often breeding adults provisioning their pups. Breeding adult coyotes are very difficult to target and can be rapidly replaced (another pack member takes over their role). Even if some offending individuals are removed, there is great likelihood that the responses described below will take place anyway. Although removal of offending individuals may temporarily alleviate predation rates on the protected species, the alleviation is usually short-term and has long-term side-effects that can result in increased predation rates and increasingly ineffective control activities.

It cannot be over-emphasized how powerfully coyote populations compensate for population reductions. Such density dependent responses to exploitation (human-caused mortality) are common in mammals and present in all territorial populations at or near habitat saturation. Both evolutionary biology and the results of research (e.g., recently completed 20 year study in Yellowstone National Park before and after gray wolf reintroduction) indicate that the basis of their *demographic and behavioral* resiliency is embedded in their evolutionary history. Coyotes evolved, and learned to coexist, in the presence of gray wolves—a dominant competitor and natural enemy that overlapped the historic range of coyotes in North America. Prior to widespread human persecution starting in the mid-nineteenth century, wolves have provided a constant selection factor inflicting mortality, competition, and numerous other sub-lethal effects.

Collectively, these intense selective pressures by wolves resulted in a species that exists in a relatively constant state of colonization with many specialized adaptations. These demographic and behavioral adaptations are numerous and diverse and allow coyote populations to easily overcome the relatively mild effects of human control practices which are short-term and intermittent compared to sustained presence of wolves, from every month to many thousands of years.

## **Demographic compensation**

The following demographic responses are based on published research, results of preliminary analysis of coyote study populations subjected to various levels of reduction or exploitation, and the work I have conducted with coyote populations in three study areas over the past 28 years in Washington (an unexploited population, not subject to human control or mortality), California (exploited), and Wyoming (unexploited then wolf mortality after reintroduction).

There is little, if any, scientific basis to justify control (reduction) programs that indiscriminately target adult coyotes. Wildlife Services often points out the lack of academic research demonstrating effectiveness. However, as with any federal action, the burden of proof is upon them to demonstrate both the biological and economical effectiveness of their proposed control activities. In fact, the mechanisms described below suggest that widespread control (even selective control) increases immigration, reproduction, and survival of remaining coyotes. It has been reported that sustained reduction of coyote numbers can only be accomplished if over 70% of the individuals are removed (exploited) on a sustained basis. Review of field research and modeling exercises (including my own) indicates that even with intensive control efforts, this level is rarely, if ever, achieved. A thorough review and synthesis of coyote ecology and demography can be found in a recent book chapter (see Crabtree and Sheldon 1999).

(1) Actual reduction in the density (and number of coyotes) does occur and is primarily a function of lower pack size for one year (betas, yearlings, and 6 month old pups are killed more often than reproducing adults or alphas). However, this reduction is compensated for in a wide variety of ways. First off, immediate immigration occurs in the reduction area by lone animals or from spatial shifts by surrounding social groups. At exploitation rates below 70%, the reproducing alpha males and females are replaced (seldom in the same year but always in the succeeding year). This is the expected response by most territorial species with surplus (non-breeding) adults. Their primary objective is to find a temporal opening, defend and exploit the food resources in that social group, pair-bond and breed.

(2) Human control resulting in density reduction results in a smaller social group size which increases the food per coyote ratio within the territory. The food or prey surplus is biologically transformed into somewhat larger litter sizes and almost always much higher litter survival rates (which are low in unexploited populations). Review of literature indicates that the increase in litter size at birth is not as great as was previously reported by Knowlton (1972). In addition to increased food availability for fast-growing pups, the surplus food improves the nutritional condition of breeding and associate adults, which translates in higher pup birth weights and higher pup survival. Alpha male coyotes and associate adults in the pack help feed the pups.

(3) Density reduction allows the pups that normally die during the summer months in populations with low to no mortality, to survive. Exploitation causing higher pup survival is fundamentally a function of the general mammalian reproductive strategy that delays the majority of reproductive energetic investment beyond the gestation period, the post-partum and neonate state (e.g., young pups). The caloric demand of offspring reaches an apex in May, June, and July when coyote pups grow very fast. Thus, the normal litter of six pups has a good chance of (a) surviving the typically high summer mortality period and, (b) being recruited into the pack

the following winter as adults thereby returning the previously exploited population to normal densities. By contrast, in the two unexploited populations I investigated, the average litter size at birth was 5 or 6, but due to high summer mortality, only an average of 1.5 to 2.5 pups survive. In populations subjected to less than 70% removal annually, there appears to be an ample number of breeding pairs to occupy all available territory openings and litter sizes of 6 to 8 enjoy high survival rates (most pups born survive to adulthood). This results in a doubling or tripling of the number of hungry pups that need to be fed. "Large packages" of prey, (such as sheep, as opposed to the more natural and common prey species of voles, mice, or rabbits) make for more efficient sources of nutrition because hunting adults have to invest less energy per unit of food obtained. Research funded by Wildlife Services clearly indicates that the primary motivation to kill domestic sheep is to provide food for fast-growing pups.

(4) Reductions in coyotes capable of breeding (at 10 months of age) result in smaller pack size which leaves fewer adults to feed pups. This may further add incentive for the remaining adults to kill larger prey as well as putting pressure on the adults to select for the most vulnerable prey and venture close to areas of human activity. Because predators like coyotes also learn what is appropriate food when they are pups, and are reluctant to try 'new' food sources unless under stress (such as having to feed a large litter of pups), reduction programs, in effect, may be forcing coyotes to try new behaviors (eating domestic livestock) which they would otherwise avoid. Research has clearly shown that higher numbers of adult pack members provide more den-guarding time and more food brought to pups. Without pressure to "maximize" efficiency in hunting for food for pups, packs may be able to subsist on larger numbers of smaller prey (e.g., rabbits and small rodents) rather than going for livestock or other, larger prey like antelope and mule deer fawns. Although, coyotes are exposed to significant risk of injury when hunting and killing larger prey, larger litter sizes might 'tip the balance' in favor of selecting larger prey and livestock.

(5) Reductions (non-selective, indiscriminate killing of adults) cause an increase in the percentage of females breeding. Coyote populations are distinctly structured in non-overlapping but contiguous territorial packs. About 95% of the time, only one female (the dominant or alpha) in a pack breeds. Other females, physiologically capable of breeding, are "behaviorally sterile". Exploitation rates of 70% or higher are needed to decrease the number of females breeding in a given area. Either a subordinate female pack member, or an outside, lone female can be quickly recruited to become an alpha or breeding female. My research has shown that light to moderate levels of reduction can cause a slight increase in the number of territories, and hence the number of females breeding.

(6) Reduction or removal of coyotes causes the coyote population structure to be maintained in a colonizing state. For example, the average age of a breeding adult in an unexploited population is 4 years old. By age 6, reproduction begins to decline whereby older, alpha pairs maintain territories but fail to reproduce. This may eliminate the need to kill sheep or fawns in the early summer in order to feed pups. Exploiting or consistently reducing coyote populations keeps the age structure skewed to the younger more productive adults (average age of an alpha is 1 or 2 years). Therefore, the natural limitations seen in older-aged, unexploited populations are absent and the territorial, younger populations produce more pups.

(7) Reductions in adult density of coyotes also cause young adults (otherwise prone to dispersing) to stay and secure breeding positions in the exploited area. This phenomenon is well-

documented by research conducted by Wildlife Services and other researchers. Research also indicates that this is the age class most frequently involved in conflicts.

### **Alternate prey**

An aspect of coyote predation on livestock that is often overlooked is the availability, or dearth of alternate prey. Wildlife Services' research has demonstrated that coyotes will avoid novel prey, such as domestic livestock. In addition, it is risky for coyotes to predate upon domestic livestock because of human control actions associated with this behavior. Related research indicates that predators switch to alternative prey when a preferred prey item is absent or in low numbers. Voles and other rodents like jackrabbits are a preferred major staple of coyotes in the West. These prey species require cover and ample supplies of forage (grass and forbs). On many western rangelands grasses, forbs, and protective cover have been greatly reduced by domestic livestock grazing, leaving predators with fewer preferred prey to utilize. Present or historic grazing impacts should be assessed as a likely means of predicting overall predation rates on other prey species, especially prey like domestic sheep, which are already vulnerable to predators due to their lack of anti-predator behaviors.

### **Accelerated selection pressures and learned behaviors**

A relatively unexplored, but promising avenue of research is the long-term genetic and behavioral changes in coyote populations subjected to decades of exploitation. It seems obvious that the type of selection pressures and selection rates have been greatly changed for coyote populations, after a century of exploitation at 20% to 70% per year. More nocturnal, more wary, more productive, more resilient individuals have probably been intensively selected for. This in turn may cause coyote populations to resist control practices that previously were effective. In addition, the possibility of social facilitation and learning may be altered or reduced. Coyotes, like many mammals, learn to habitually use certain prey or habitats from other individuals in the population, especially from older adults in their social group (if they have one). Coyotes, already a highly social and adaptable species, are held in a younger colonizing state when they are exploited, and learned or traditional behaviors may be lost. Individuals are therefore more susceptible to learning novel prey sources or trying out novel habitat types, and are frequently associated with conflicts such as livestock predation.

There are many questions to be answered such as, "How will coyote populations respond once predator reduction or control programs are terminated?" or "Are there other management alternatives, both lethal and non-lethal, that may be effective in reducing predation on domestic livestock"? "How do economics figure into management options"? This letter and scientific opinion only addresses the narrow, but important topic of the impacts of human-caused reduction or 'control' on coyote demographic parameters. We see little, if any, evidence to justify control practices on an ecological basis. This letter also addresses a long-held belief that human control of coyote populations are 'necessary', similar to 'mowing a lawn' to keep it from growing out of control. This belief has no scientific basis whatsoever. Even research conducted by Wildlife Services reports a variety of factors that keeps the lawn from growing. Their research repeatedly concludes that the primary means of population limitation is territoriality itself, which imposes an upper limit on density (or lawn height). Paradoxically the prevalent use of lethal control by Wildlife Services opens up a 'Pandora's box' of behavioral and demographic responses that negate any long-term effectiveness of control. The predominant responses of coyote populations to lethal control efforts are to: (1) increase the number of pups produced (recruitment), (2)

increase immigration into the conflict area, and (3) increase behaviors that further exacerbate the conflict. Collectively, this results in higher predation rates on domestic livestock and wild ungulates.

Coyotes are still products of their evolutionary past. Biological, economical, and ecological evaluation of control practices should be a requirement undertaken before any public or private effort to reduce losses due to coyotes or any other predator. In conclusion, it is my opinion based on decades of field research that the common practice of reducing adult coyote populations on western rangelands is most likely ineffective and likely causes an increase the number of lambs, fawns, and calves killed by coyotes.

## **A Summary of the Effects of Exploitation on Predator Populations**

The 20 responses listed below are divided into four general categories: (1) demographic compensation, (2) behavioral response, (3) changes in culture/society, and (4) ecosystem impacts. How many of these occur—and their individual magnitudes—will vary by species, the severity and type of control action taken, habitat, season, prey availability, and presence of competing carnivores in the target area. Interactions between the 20 responses listed below can be unpredictable; however, scientific findings and biological common sense both indicate that they ‘amplify’ in a manner that renders indiscriminate killing ineffective and results in a multitude of detrimental effects on individuals, species populations, and the entire predator-prey ecosystem.

*Demographic Compensation:* (this is a particularly strong response for coyote populations because the primary reason they kill ungulate neonates, both domestic and wild, is to feed fast-growing pups)

- Breeding adults produce more pups when there is direct reduction in territorial pack size. There is a weak to negligible effect on litter size at birth; however, the compensatory response of litter survival is remarkable. For example, prior to wolf restoration, adult coyote mortality averaged only 9%, pack size was 6, and litter survival was 28%. After wolf restoration, adult coyote mortality increased to 30% to 50%, pack size fell to 3, and coyote pup survival abruptly rose to 78%—a nearly three-fold increase. Analysis from 20+ field studies indicated a similar response to human exploitation.
- Immigration of breeding adults into the exploited area to fill vacant territories and find available mates. This response can be immediate. I have documented successful coyote litters in territories where the pregnant female was killed one month earlier (ascension by

a pregnant beta female—Wildlife Service’s own research documents this phenomenon—nearly all non-alpha females are pregnant on an annual basis).

- A higher percentage of females breed and produce pups. Two litters per territory can also occur with abundant/available prey.
- The average age of reproductive females is lowered, eliminating older, less productive alpha females. First-time breeders (young alphas) have higher pup survival than older breeding pairs.
- Increased natal philopatry—yearlings and young betas tend to forego dispersal and continue to reside in the exploited area.
- Regardless of the level of exploitation, the number of breeding pairs in a target area is consistent from year to year unless 70% or more of the coyote population is removed annually. This level of control is extremely difficult and costly to achieve let alone document.

#### *Behavioral Responses:*

- Lower pack size results in selection of larger prey items (e.g., ungulate neonates) over more numerous small prey items (e.g., rodents). This is particularly detrimental to livestock when alternate prey abundance is low which is often due to overgrazing practices.
- Adjust vocal communications—less vocal around humans.
- Activity cycles—more nocturnal and less diurnal.
- Denning behavior (guarding and location)—less susceptible to enemies.
- Avoidance of novel stimuli including control techniques. Perceived avoidance of sustained control activities.

#### *Changes in the Culture/Society:*

- Increases in information sharing within and between new territorial pack members; this leads to increased exposure to novel prey (livestock).
- Because there is a strong shift to fewer subordinates—betas are immediately recruited to alpha breeding status—livestock-killing alpha adults are predominant in the population structure.
- Killing the alpha male results in immediate replacement or the remaining pack breaks apart and disperses to form breeding pairs elsewhere.
- Indiscriminate control methods have accelerated and amplified selection pressures to perpetuate a ‘dispersal genotype’ adapted to rapidly colonize and successfully reproduce. Remember that during the predator eradication era (approximately 1860’s to 1960’s), large carnivore populations declined substantially (with regional extirpation) while coyotes tripled their abundance and distribution across North America.
- Their cultural evolution likely interacts with their biological evolution to further accelerate and amplify selection pressures.

*Ecological Impacts:*

- Mesopredator release: Decrease in apex predator populations reduces the competition and/or intraspecific killing rates with other predators or mesopredators (e.g., foxes, raccoons, skunks, feral cats, etc.). This causes an increase in their abundance (i.e., release), which in turn, can have detrimental effects on other species (e.g., ground-nesters, songbirds, amphibians, and rodents) and other unintended ‘ripple’ effects or trophic cascades.
- Loss of ecosystem services: alleviation of control pressures on prey populations (e.g., rodents, large herbivores) can lead to vegetation changes.
- Loss of ecosystem services: Disruption and increase of disease spread.
- Loss of ecosystem services: Loss of subsidies to scavengers (e.g., wolves provides food for many other species).

**Written by Dr. Robert (Bob) L. Crabtree**

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# PROJECT COYOTE

F O S T E R I N G   C O E X I S T E N C E



To Whom It May Concern,

On behalf of Project Coyote’s Science Advisory Board and the undersigned scientists we express our support for the prohibition of wildlife killing contests (WKC), derbies and tournaments, including prohibition of contests targeting coyotes, which are promoted throughout the United States.

The most general reason to prohibit WKC is that hunters and wildlife managers believe, as a community, that killing animals without an adequate reason is unjustified and unsportsmanlike. Killing an animal for a prize or trophy constitutes killing without an adequate reason. Inasmuch as WKC are primarily motivated by killing for a prize or trophy, they are wrong.

Some advocates of WKC argue that they are important for achieving management objectives for other species, especially game species. There is no credible evidence that indiscriminate killing of coyotes or other predators effectively serves any genuine interest in managing other species. If leaders in the hunting and wildlife management community believe that WKC, in general, serve important objectives, then the principles of wildlife management mandate that (1) these objectives be articulated and vetted by the best-available science, and (2) some reasonable, science-based case be made to justify a WKC as an appropriate means for achieving these objectives. In the absence of such an evaluation, WKC should be prohibited.

Advocates of WKC might argue that they – when directed at predators, especially coyotes – are an important means for realizing one or both of these objectives: (1) decrease the loss of livestock to depredation, and (2) increase the abundance of prey species in the interest of maximizing hunting success by humans.

With respect to objective (1), a great deal of science has been developed on how to effectively manage depredations, including both lethal and non-lethal methods. Lessons from that science include:

- (i) Indiscriminate killing is ineffective and it is plausible, perhaps likely, that when associated with a WKC it would lead to increased risk of depredations. A primary reason for this concern is that only some, often only a few, individual predators participate in depredation. Indiscriminate and “pre-emptive” killing of predators

associated with WKC's can lead to the disruption of predators' social structure and foraging ecology in ways that increase the likelihood of depredations. In hunted (exploited) coyote populations, for example, the number of surviving pups that must be fed by the alpha parents and the number of transient individuals may increase. These factors may predispose more coyotes to depredate livestock.

- (ii) The indiscriminate killing associated with a WKC does not target: (a) the offending predator, (b) the site where depredation has occurred, and (c) the time when depredation has occurred. This renders WKC's ineffective as a means of depredation control.

While managing to reduce the loss of livestock is a common goal for all stakeholders, WKC's do not contribute to this goal and may work against it.

With respect to objective (2), a large body of science indicates that killing predators, especially under circumstances associated with WKC's, is not a reliable means of increasing ungulate abundance. The circumstances most likely to result in increased ungulate abundance are also the circumstances most likely to impair important ecosystem benefits and services that predators provide. Even when predators are killed to the point of impairing the ecosystem services, there is still no assurance that ungulate abundance will increase. The reason being is that ungulate abundance is frequently limited by factors other than predators – factors such as habitat and climate.

Beyond objectives (1) and (2), which focus on affecting game populations and livestock depredations, lies a need to better recognize and celebrate the predators' valuable contribution to the health and vitality of our ecosystems. For example, predators serve human interests through beneficial effects such as rodent control and disease prevention and promoting diverse plant communities and soil fertility. Thus, reduction of the distribution and numbers of apex predators can have detrimental ecological effects.

Some advocates of WKC's might also believe that killing coyotes is vitally important for preventing coyote populations from growing out of control. This concern is unjustified. Science demonstrates that unexploited coyote populations self-regulate their numbers by means of dominant individuals defending non-overlapping territories and suppressing subordinate pack members from breeding.

The Boone and Crockett Club was founded by Theodore Roosevelt in 1887 "over the concerns that we might someday lose our hunting privileges and the wildlife populations for future generations"<sup>1</sup>, is still considered one of the most respected sportsmen's institutions in North America. The Club "does not support programs, contests or competitions that directly place a

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<sup>1</sup> From B&C's website: [http://www.boone-crockett.org/join/associates\\_faq.asp?area=join](http://www.boone-crockett.org/join/associates_faq.asp?area=join)

<sup>2</sup> See: [http://www.boone-crockett.org/bgRecords/position\\_statements.asp?area=bgRecords](http://www.boone-crockett.org/bgRecords/position_statements.asp?area=bgRecords)

bounty on game animals by awarding cash or expensive prizes for the taking of wildlife”<sup>2</sup> because WKC’s contravene the club’s “fair-chase” motto.

Thank you for considering our concerns on this important wildlife conservation issue.

Respectfully submitted,

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<sup>2</sup> See: [http://www.boone-crockett.org/bgRecords/position\\_statements.asp?area=bgRecords](http://www.boone-crockett.org/bgRecords/position_statements.asp?area=bgRecords)

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## **Appendix A. Additional Literature Cited**

Here we provide additional scientific explanation (with citations) for two ideas expressed in this letter.

**(1) Some advocates of wildlife killing contests (WKC) believe they are necessary or beneficial for effective management of livestock depredation.** We indicated that WKC are unlikely to have this effect. The reason why is that most individual predators do not participate in livestock depredations (Gipson 1975; Knowlton et al. 1999; Sacks et al. 1999a, 1999b; Linnell et al. 1999; Stahl and Vandel 2001; Blejwas et al. 2002; Treves et al. 2002; Treves and Naughton-Treves 2005). Consequently, effective management of depredation requires (1) targeting the offending individual(s), and (2) intervening close to the site where the depredations occurred as well as responding in a timely manner (Gipson 1975; Sacks et al. 1999a, 1999b; Smith et al. 2000; Bangs and Shivik 2001). WKC do not represent the kind of targeted effort required for effective management of livestock depredations.

Moreover, indiscriminate killing of predators is likely to exacerbate risks to livestock. The reason is that killing social carnivores like coyotes (and wolves) can lead to the disruption of predators' social and foraging ecology in ways that increase the number of transient individuals

(Bjorge and Gunson 1985; Haber 1996; Treves and Naughton-Treves 2005; Brainerd et al. 2008). These transient individuals that have not been acculturated (aversively conditioned) to living in areas with livestock may be more likely to kill livestock. Studies by USDA's Wildlife Services clearly indicate that many, if not most, depredations are inflicted by the breeders (i.e., alphas) in coyote social groups (Knowlton et al. 1999; Sacks et al. 1999b). Even if the offending individuals are removed, they can be replaced by other members of the social group or from populations outside the area where the WKC is occurring. In some cases, this can also increase reproductive performance in coyotes (Crabtree and Sheldon 1999; Knowlton et al. 1999). Scientific evidence is increasingly suggesting that harvesting predators can exacerbate losses to livestock (Collins et al. 2002; Treves et al. 2010, Peebles et al. 2013, Wielgus and Peebles 2014).

**(2) Some advocates of wildlife killing contests believe they are necessary or beneficial for increasing the abundance of ungulate populations. We had indicated in our letter that WKC are unlikely to have that effect.** The reason why is two fold:

(i) Killing predators cannot result in increased ungulate abundance in cases where the ungulate population is not limited by predators, but is instead limited by other factors, such as climatic conditions or food availability (Sæther 1997; Forchhammer et al. 1998; Coulson et al. 2000; Parker et al 2009). Without careful study, the claim that killing predators will improve wild ungulate populations is simply an unsupported assumption. Moreover, scientists are not good at understanding the conditions that cause a population to be limited by predators as opposed to other factors (Vucetich et al. 2005; Wilmers et al. 2006). For example, an experimental study in Idaho (Hurley et al. 2011) found that annual removal of coyotes was not an effective method to increase mule deer populations because coyote removal increased neonate fawn survival only under particular combinations of prey densities and weather conditions.

(ii) Even in cases where predators do limit prey abundance, human-caused mortality (HCM) could only lead to an increase in prey abundance if the rate of HCM was sufficient to result in a significant reduction in predator abundance. Human-caused mortality is not a reliable means of reducing coyote abundance unless the rate of HCM exceeds 70% (Connolly and Lonhurst 1975). It is difficult to imagine that any set of WKC would be intense enough or frequent enough to result in that rate of HCM.

Finally, the interest of some advocates of WKC (i.e., increased ungulate abundance) is antithetical to good natural resource management practices in cases where increased ungulate abundances present a risk of overbrowsing (e.g., Côté et al. 2004).

Thank you for allowing us to further explain ourselves. If additional explanation on this or any other topic would be of value, please let us know. We would be eager to provide any such explanations.

### **Citations**

Bangs, E., & Shivik, J. A. (2001). Managing wolf conflict with livestock in the northwestern United States. USDA National Wildlife Research Center-Staff Publications, 550.

Blejwas K.M., Sacks B.N., Jaeger M.M., McCullough D.R. (2002). The effectiveness of selective removal of breeding coyotes in reducing sheep predation. *J Wildl Manage* 66, 451-462.

Brainerd, S. M., Andrén, H., Bangs, E. E., Bradley, E. H., Fontaine, J. A., Hall, W. & Wydeven, A. P. (2008). The effects of breeder loss on wolves. *The Journal of Wildlife Management*, 72(1), 89-98.

Bjorge, R. R., and J. R. Gunson. (1985). Evaluation of wolf control to reduce cattle predation in Alberta. *Journal of Range Management* 38:483-486.

Collins, G.H., R. B. Wielgus, And G. M. Koehler. (2002). Effects of sex and age on American black bear conifer damage and control. *Ursus* 13:231–236.

Connolly, G. E., and W. M. Longhurst. (1975). The effects of control on coyote populations: A simulation model. Division Agricultural Science, University of California, Davis, Bulletin 1872.

Côté, S. D., Rooney, T. P., Tremblay, J. P., Dussault, C., & Waller, D. M. (2004). Ecological impacts of deer overabundance. *Annual Review of Ecology, Evolution, and Systematics*, 113-147.

Coulson, T., Milner–Gulland, E. J., & Clutton–Brock, T. (2000). The relative roles of density and climatic variation on population dynamics and fecundity rates in three contrasting ungulate species. *Proceedings of the Royal Society of London. Series B: Biological Sciences*, 267(1454), 1771-1779.

Crabtree, R. L., and J. W. Sheldon. (1999). Coyotes and canid coexistence. In *Carnivores in ecosystems: The Yellowstone experience*, ed. T. W. Clark et al., 127–163. New Haven: Yale University Press.

Forchhammer, M. C., Stenseth, N. C., Post, E., & Landvatn, R. (1998). Population dynamics of Norwegian red deer: density–dependence and climatic variation. *Proceedings of the Royal Society of London. Series B: Biological Sciences*, 265(1393), 341-350.

Gipson P.S. (1975). Efficiency of trapping in capturing offending coyotes. *Wildlife Management* 39, 45-47.

Knowlton F.F., E. M. Gese, Jaeger M.M. (1999). Coyote depredation control: An interface between biology and management. *Journal of Range Management* 52, 398-412.

Haber, G. C. (1996). Biological, conservation, and ethical implications of exploiting and controlling wolves. *Conservation Biology* 10:1068-1081.

Linnell J.D.C., Odden J., Smith M.E., Aanes R., Swenson J.E. (1999). Large carnivores that kill livestock: do problem individuals really exist? *Wildl Soc Bull* 27, 698-705.

Parker, K. L., Barboza, P. S., & Gillingham, M. P. (2009). Nutrition integrates environmental responses of ungulates. *Functional Ecology*, 23(1), 57-69.

Peebles, K. A., R. B. Wielgus, B. T. Maletzke, And M. E. Swanson. (2013). Effects of remedial sport hunting on cougar complaints and livestock depredations. *PloS ONE*. DOI: 10.1371/journal.pone.0079713.

Ritchie EG, Elmhagen B, Glen AS, Letnic M, Ludwig G, McDonald RA. (2012). Ecosystem restoration with teeth: what role for predators? In: *Trends Ecol. Evol.* 27(5):265-271.

Sacks B.N., Blejwas K.M., Jaeger M.M. (1999a). Relative vulnerability of coyotes to removal methods on a northern California ranch. *J Wildl Manage* 63, 939-949;

Sacks, B. N., M. M. Jaeger, J. C. C. Neale, and D. R. McCullough. (1999). Territoriality and breeding status of coyotes relative to sheep predation. *Journal of Wildlife Management* 63:593-605.

Sæther, B. E. (1997). Environmental stochasticity and population dynamics of large herbivores: a search for mechanisms. *Trends in Ecology & Evolution*, 12(4), 143-149.

Smith, M. E., Linnell, J. D., Odden, J., & Swenson, J. E. (2000). Review of methods to reduce livestock depredation II. Aversive conditioning, deterrents and repellents. *Acta Agriculturae Scandinavica, Section A-Animal Science*, 50(4), 304-315

Stahl P., Vandel J.M. (2001). Factors influencing lynx depredation on sheep in France: Problem individuals and habitat. *Carnivore Damage Prevention News* 4, 6-8.

Treves A., Naughton-Treves L. (2005). Evaluating lethal control in the management of human-wildlife conflict. pp. 86-106 in R. Woodroffe, S. Thirgood, A. Rabinowitz editors. *People and Wildlife, Conflict or Coexistence*. Cambridge University Press, Cambridge, UK.

Treves, A., R. L. Jurewicz, L. Naughton-Treves, R. A. Rose, R. C. Willging, and A. P. Wydeven. (2002). Wolf depredation on domestic animals: control and compensation in Wisconsin, 1976-2000. *Wildlife Society Bulletin* 30:231-241.

Treves, A., K. J. Kapp, And D. Macfarland. (2010). American black bear nuisance complaints and hunter take. *Ursus* 21:30–42. doi: 10.2192/09gr012.1

Vucetich, J. A., Smith, D. W., & Stahler, D. R. (2005). Influence of harvest, climate and wolf predation on Yellowstone elk, 1961-2004. *Oikos*, 111(2), 259-270.

Wielgus, R. B. And K. A. Peebles. (2014). Effects of Wolf Mortality on Livestock Depredations. *PLoS ONE* 9(12): e113505. doi:10.1371/journal.pone.0113505.

Wilmers, C. C., Post, E., Peterson, R. O., & Vucetich, J. A. (2006). Predator disease outbreak modulates top-down, bottom-up and climatic effects on herbivore population dynamics. *Ecology Letters*, 9(4), 383-389.

# Mother Jones

By Bridget Huber, FairWarning.org  
Tue Mar. 10, 2015 6:00 AM EDT

From Mother Jones  
(<http://www.motherjones.com/environment/2015/03/killing-coyotes-bobcats-and-foxes-fun-and-profit>)

## These Gory New Hunting Competitions Have Taken the Country by Storm



Photo: Margaret Lloyd

Contestants can earn tens of thousands of dollars for killing coyotes, bobcats, and foxes.

This story was published by FairWarning, a Los Angeles-based news organization focused on public health, safety and environmental issues.

Standing in a West Texas sporting goods store parking lot on a recent Sunday morning, Margaret Lloyd felt like she'd wandered onto the set of a gory movie. The lot was packed with trucks full of dead coyotes, foxes and the occasional bobcat; one pickup had a cage welded to its bed, and it was crammed with carcasses. "It was one wave of fur, tails on top of ears and ears on top of tails," she said. "It was just horrifying."

Around back, participants in the West Texas Big Bobcat Contest were weighing their kill in a competition to see who had shot the biggest bobcat and the most coyotes, gray foxes and bobcats in a 23-hour period. Some \$76,000 in prize money was at stake—more than \$31,000 went to the team that bagged a 32 pound

bobcat. Other jackpot winners were a four-man team that killed 63 foxes, a team that killed 8 bobcats, and another that killed 32 coyotes.

Lloyd, a retired lawyer who lives in Galveston and stopped to take pictures of the bobcat contest while driving from New Mexico back to Texas, grew up in the South among hunters and says she's not opposed to killing animals for food or to protect a herd.

"This is not hunting," she said. "This is a blood sport, plain and simple."

Contests like these—often called coyote calling contests, varmint hunts or predator hunts—have become popular events, especially in the Midwest and West. The website CoyoteContest.com lists 21 states with upcoming or recent killing contests, including Arizona, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, New York, South Dakota and Utah.

The Big Bobcat competition in San Angelo, Texas started in 2008 with just 19 teams, but drew 380 teams to the contest last month. "They're growing exponentially," said Geoff

Nemnich, a champion coyote hunter who is cashing in on the phenomenon. His website, Coyote Craze, exhorts visitors to “Feed Your Addiction” and offers videos of coyotes being dispatched by high-powered weapons, along with t-shirts that read “Coyotes Fear Me,” and depict dead coyotes hanging by their feet. “Almost every weekend you can find [a contest] somewhere within driving distance,” he said.

But as these contests proliferate, efforts to stop them are, too. In December, California Fish and Game Commission outlawed contests that award prizes for killing wildlife (the ban takes effect in April). Legislation to bar such contests passed the New Mexico state senate but died in the house. In Nevada, a petition to prohibit predator-killing contests is pending before the state Board of Wildlife Commissioners. And protesters blasting the events as indiscriminate slaughter have been demonstrating outside of contests and related events, like the Predator Masters convention in Arizona in January.

Wildlife defenders cite research that suggests killing adult coyotes may actually increase the population, since it allows more pups to survive. Predators like coyotes also fill an important role in the ecosystem by helping keep the population of rodents in check.

Jeremy Harrison, a fifth-generation rancher, organized the Big Bobcat contest in Texas. He said coyote contests do a public service by reducing the number of livestock predators and protecting the

public from rabies. “This is not bashing baby seals in the head,” he said.

To those who are offended, he has simple advice: Butt out. “It’s none of their business. It has nothing to do with them,” he said. “It’s one of the best things about this beautiful state of Texas. We have 100 percent support from Texas and from the local people. If they don’t like it, they can just stay away from it.”

Opponents of these events call people like Harrison “thrill killers.” And there is a jarring sort of gleefulness that surrounds the slaughter—one Arizona group holds a Santa Slay hunt in December each year. Nemnich posts excerpts from his videos, which are sold at Cabela’s and similar stores, on YouTube. Set to stirring martial music, one sizzle reel shows coyote after coyote being called and then gunned down.

Nemnich, who said his videos portray hunting “in the best light possible”, encourages others not to post “distasteful” images because it will provoke animal rights groups or turn people who are neutral against hunting. “You don’t go and post a video of a coyote with his guts blown out on Facebook,” he said. “It just fuels the fire.”

Nemnich, who boasts on his website that two of his sons bagged their first coyotes at the age of five, said he gets a steady stream of hate mail. One message said his kids should be “gut shot” like the coyotes in the video. (“And I’m the barbarian?” he



Photo: Margaret Lloyd

said.) He thinks the critics of coyote killing contests have a bigger agenda — to ban hunting altogether. “We’re killing animals for money and prizes. That’s the easiest way for them to get their foot in the door,” he said.

Both Nemnich and Harrison pointed out that the federal government kills thousands of coyotes each year. They said the US Department of Agriculture’s Wildlife Services division uses much less “sportsmanlike” means, such as poisons and leg-hold traps.

Contests are completely legal, Nemnich said. “Some may consider it ethically wrong, but hunting has been around forever, it’s who we are out in this part of the country.”

Myron Levin and Stuart Silverstein contributed to this story.



© Daniel Dietrich Photography.

# Ranching with Predators

***Become a test site for innovative non-lethal predator control devices.***

Project Coyote and the Snow Leopard Conservancy have joined forces to test predator deterrent methods for livestock protection including disruptive stimuli-based deterrents such as Foxlights ([www.foxlights.com](http://www.foxlights.com)).

These products have shown promise across the globe in protecting livestock and crops from species ranging from Snow Leopards in Nepal to Elephants in India.



*Project Coyote and Snow Leopard Conservancy team help install Foxlights on sheep ranch in Tomales, CA © Caroline Kraus.*

We have begun testing these and other new and innovative non-lethal devices in Northern California to protect livestock from coyotes, mountain lions and other predators.

There is no cost to the rancher (although we can sell them at cost to interested ranchers following our agreed to test period). We provide all equipment and help place the lights in areas where they will be most

effective. These lights are easy to install on T-Posts or even trees, depending on their location. They are also easy to move (to minimize habituation) and to take down. They do not disturb livestock or pets, but the lights may be intrusive if placed too close to homes. We may also install camera traps to monitor any predators that may visit or be in area.

Ideal test sites:

- 🐾 Are currently experiencing livestock losses from predators;
- 🐾 Have corrals or smaller pastures to contain livestock at night;
- 🐾 Have little ambient light in areas where lights will be installed.

Testing runs through lambing or calving season, or generally two or three months depending on the test site. Ranchers are only required to keep basic notes recording any predator activity noticed during the testing period. We only need to enter property during set up, and again at the end of testing to retrieve equipment (lights may need to be moved during testing period to minimize the chances of habituation).

For more information about our testing, or to speak to someone about becoming a test site please contact:

Keli Hendricks — Ranching with Predators Coordinator,  
Project Coyote  
707 479-7806  
[darbyhendricks@yahoo.com](mailto:darbyhendricks@yahoo.com)

By Lydia O'Connor

Posted: 12/05/2014 5:26 pm EST

Updated: 12/05/2014 5:59 pm EST

From The Huffington Post

(<http://tinyurl.com/mo6urpw>)



© Perry McKenna Photography

## California First State To Ban Wildlife-Killing Contests, Activists Say

You'll no longer be allowed to kill coyotes, foxes, bobcats and other animals to win a prize in California. The state just became the first to outlaw such hunting competitions, according to conservationists.

The California Fish and Game Commission voted Wednesday to ban predator killing contests for prizes. The events are popular among ranching communities but opposed by conservationists who say the practice is cruel and counterproductive.

"Awarding prizes for wildlife killing contests is both unethical and inconsistent with our current understanding natural systems," commission President Michael Sutton said in a press release. "Such contests are an anachronism and have no place in modern wildlife management."

The ban comes after conservationist group Project Coyote approached the commission with concerns for the safety of California's lone wolf, known as Journey or OR-7, who was moving throughout Modoc County, home of a major predator killing contest called Coyote Drive, earlier this year.

Camilla Fox, Project Coyote founder and executive director, told The Huffington Post the historic ban specifically targets "people who actually enjoy killing for fun and prize," not ranchers who are concerned for the safety of their livestock.

"Because of the random nature of killing contests, you're very often removing non-offending animals who are protecting the area," Fox explained. "Indiscriminate lethal control

can destabilize a family group structure and can lead to increased pup survival."

The San Francisco Chronicle points to studies that have found coyotes breed more often when pack leaders are killed, since those alphas are responsible for mating. When they are killed, underlings take on their role, and the packs grow exponentially.

Fox also calls the contests a safety concern for humans, pointing to a February incident in California's El Dorado County in which a game warden who was patrolling a predator killing contest at night was mistakenly shot.

Steve Gagnon, owner of the Adin Supply Outfitters, which has sponsored the Coyote Drive in Modoc County, told HuffPost he had no reaction to the ban, as he had decided to stop sponsoring the event.

"There was a lot of heat that my employees were getting, and they were having to field some pretty ugly phone calls," Gagnon said. "We've had some death threats."

It is unclear when Gagnon decided to stop sponsoring the annual Coyote Drive contest, as local news surrounding the most recent contest in February named him as an event sponsor and reported on an altercation he had with a 73-year-old opponent to the contests. He could not be reached for comment to clarify.

The effective date of regulation is still pending.

**From:** [Mastrup, Sonke@FGC](mailto:Mastrup.Sonke@FGC)  
**To:** [FGC](#)  
**Subject:** Fwd: Background info.  
**Date:** Thursday, July 16, 2015 10:19:10 AM  
**Attachments:** [Coyote.Peter\\_OpEd\\_SFChronicle.pdf](#)  
[ATT00001.htm](#)  
[SFChronicle\\_Wildly\\_Misjudged\\_City\\_Coyote's\\_Pligh.pdf](#)  
[ATT00002.htm](#)  
[KCET\\_ReWild\\_Losing\\_Big\\_Carnivores.pdf](#)  
[ATT00003.htm](#)

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Materials provided to Eric.

Sent from my iPhone

Begin forwarded message:

**From:** "Eric Sklar" [REDACTED]  
**To:** "Mastrup, Sonke@FGC" <[REDACTED]>  
**Subject:** FW: Background info.

Additional materials sent me by Camilla Fox. She also handed me some materials which I will scan and send.

---

**From:** Camilla Fox, Project Coyote [REDACTED]  
**Sent:** Monday, July 13, 2015 9:43 PM  
**To:** Eric Sklar  
**Subject:** Re: Background info.

Great ~ see you then! Sharing a few more articles as background...

—  
**CAMILLA H. FOX** | FOUNDER & EXECUTIVE DIRECTOR  
**PROJECT COYOTE** | [www.ProjectCoyote.org](http://www.ProjectCoyote.org)  
HQ OFFICE: P.O. Box 5007 Larkspur, CA 94977 | 415.945.3232  
FACEBOOK: [ProjectCoyote](https://www.facebook.com/ProjectCoyote) | TWITTER: [@ProjectCoyote](https://twitter.com/ProjectCoyote)



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**From:** Eric Sklar [REDACTED]  
**Date:** Monday, July 13, 2015 at 7:42 PM  
**To:** Camilla Fox [REDACTED]  
**Subject:** Re: Background info.

Yep, that works!

Eric Sklar

Sent from my iPhone

On Jul 13, 2015, at 6:49 PM, Camilla Fox, Project Coyote [REDACTED] wrote:

Hi Eric- if okay by you we'd prefer to stick with the noon meeting in Napa as Rick and Keli have shifted their schedules to make this work. Please let me know if this still works for you.

Thank you!

Camilla

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**CAMILLA H. FOX** | FOUNDER & EXECUTIVE DIRECTOR  
**PROJECT COYOTE** | [www.ProjectCoyote.org](http://www.ProjectCoyote.org)  
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**From:** Eric Sklar [REDACTED]  
**Date:** Monday, July 13, 2015 at 4:30 PM  
**To:** Camilla Fox [REDACTED]  
**Subject:** RE: Background info.

Hi Camilla,

Thanks for all the info. I just had a cancellation for my morning meeting. I can meet earlier or later if you like in Saint Helena.

Let me know.

Eric

---

**From:** Camilla Fox, Project Coyote [REDACTED]  
**Sent:** Monday, July 13, 2015 1:31 PM  
**To:** Eric Sklar  
**Subject:** Background info.

Dear Eric,

In advance of our meeting on Wednesday, I want to share some background information about Project Coyote and our areas of interest with regard to the Fish and Game Commission and the Wildlife Resources Committee (WRC).

Based in Marin County, Project Coyote (a national non-profit organization) is a coalition of educators, scientists, predator-friendly ranchers and citizen leaders promoting coexistence between people and wildlife through education, science and advocacy.

Project Coyote has played a lead role in promoting reform of California's predator management policies, regulations and statutes. We successfully pressed that predator management reform be prioritized by the WRC (with Commissioner Baylis' support and leadership) and are hopeful that this will continue to be a priority for both the WRC and the Commission.

One of the first areas that we addressed through this process was predator killing contests. With the support and leadership of Commissioners Sutton, Rogers and Baylis, the Commission closed the loopholes on this practice making it illegal to provide prizes and inducements for the killing of most terrestrial mammals. (Please see attached background.)

We believe the next step in this process is for the WRC and Commission to develop a predator stewardship and conservation plan that would address issues related to 1) the appropriateness of unlimited killing of predators (including coyotes, foxes and bobcats), 2) how the state can better address conflicts with predators in both urban and agricultural areas, and 3) how the state can collaborate with NGOs like Project Coyote to better educate the public, ranchers and others about coexistence.

With regard to implementation of the Bobcat Protection Act, currently we are supporting Option 2. For reasons outlined in the attached materials, Project Coyote and allied organizations support a statewide ban on bobcat trapping.

As we will explain in greater detail when we meet on Wednesday, we approach wildlife management from the standard of "best available science" (a standard recognized by state and federal wildlife agencies in creating wildlife management regulations and policies). We also believe that ethics plays a key role in wildlife management in addition to science. These points also are outlined in the attached materials.

You can also view several of our related video clips of the Commission meetings that addressed our priority areas of concern w/ regard to predator management reform:

[https://www.youtube.com/watch?v=\\_0v3vo2WGvA](https://www.youtube.com/watch?v=_0v3vo2WGvA)

[https://www.youtube.com/watch?v=\\_Loo2l-vy\\_U](https://www.youtube.com/watch?v=_Loo2l-vy_U)

<https://www.youtube.com/watch?v=l0dLrdCX6KU>

<https://www.youtube.com/watch?v=kxeLnObcfXI>

Thank you and Rick, Keli and I are very much looking forward to meeting you on Wednesday.

Camilla

—

**CAMILLA H. FOX | FOUNDER & EXECUTIVE DIRECTOR**

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# San Francisco Chronicle

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By Peter Coyote

Published: June 8, 2015

From San Francisco Chronicle  
Open Forum  
(<http://www.sfchronicle.com/opinion/openforum/article/Misguided-federal-policy-ignores-facts-about-6314611.php?t=0a62a6d5b2&cmpid=email-premium#photo-7233010>)

Peter Coyote is an Advisory Board member of Project Coyote.

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## Misguided federal policy ignores facts about coyotes

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I received a letter from a former government trapper in which he attacked an educational film I narrated for Project Coyote, the nonprofit organization featured in the May 31 San Francisco Chronicle article “Wildlife groups take aim at lethal control of predators.” Suggesting that I was being duped and could be held liable for damages if people were hurt because they trusted the film’s assertions, my correspondent challenged Project Coyote’s promotion of nonlethal approaches to living with coyotes and other predators as naive and dangerous.

As an ordained Zen Buddhist priest, a lifelong environmentalist and board member of Project Coyote, I felt it was my duty to respond to this person, which I did privately. However, the larger issues raised in his letter were emblematic of thinking that promotes human life above all other forms, disregards scientific data, and never considers whether the fact that wild creatures are being crowded into smaller habitats by human population growth might be related to negative encounters with people.

The trapper impugns coyotes because “they kill for a living,” failing to recognize how his work as a federal hunter was an identical occupation.

While I do not judge the man, I do judge the federal policy, which hires men like him who have killed over a million coyotes in the West alone since 2000, according to the Sacramento Bee. These efforts by the federal Wildlife Services, an agency of the U.S. Department of Agriculture, have only served to expand the native range of coyotes to every state in the union. My correspondent showed no awareness of these facts well known to biologists: that coyotes raise their breeding rates as their population

diminishes; and that once a resident pack is exterminated, their territory opens up to migrating coyotes — the ones most dedicated to poaching livestock.

In short, the more coyotes are killed, the faster they breed.

Our Marin County pilot project, Project Coyote, demonstrated with empirical evidence (and to the satisfaction of local ranchers) a cheaper more effective way to control predation, saving Marin County hundreds of thousands of dollars, while keeping deadly poisons out of the environment and food chain.

Federal trappers kill in the shadows and most taxpayers have no idea of the scale of the losses inflicted on wildlife in their name. Why do Americans, while proud of our rugged independence, seem to fear wildness and want to eradicate it? Why do we allow our government to ravage populations that do not serve us? Why are we so anxious to “tame” everything?

Millions of different creatures manage to maintain a perfect balance among themselves. Man alone has decided that his interests trump all others, so it seems fair to ask this of those who think that way: “Where would man be in a world overrun with mice and rats, without honey bees and wild creatures?”

I’d rather live with the adjustments required by wild animals over the greed and selfishness of men. Perhaps that’s just me.

*Peter Coyote is an actor, award-winning author and an ordained Buddhist priest.*

---

ProjectCoyote.org

**PROJECT COYOTE**  
P.O. BOX 5007,  
LARKSPUR, CA, 94977



**PROMOTING COEXISTENCE**  
**BETWEEN PEOPLE & WILDLIFE THROUGH**  
**EDUCATION, SCIENCE & ADVOCACY**



# San Francisco Chronicle

## Wildly Misjudged: City Coyote's Plight

By Jill Tucker

Published:  
Sunday, March 23, 2014

Page A1

From SFGate  
(<http://www.sfgate.com/science/article/S-F-s-urban-coyotes-wildly-misjudged-their-5339426.php#page-2>)

Jill Tucker is a San Francisco Chronicle staff writer.  
E-mail: [jtucker@sfgate.com](mailto:jtucker@sfgate.com)



Project Coyote's Camilla Fox totes a coyote puppet used as a teaching aid while on a stroll at Lake Merced. Photo: Carlos Avila Gonzalez, The Chronicle

Camilla Fox is fighting an uphill battle against fairy tales and Saturday morning cartoons.

Children's stories often feature wild canines in unflattering roles - the wolf that eats Grandma and the dim-witted and Acme-loving coyote that can't seem to hit the beep-beeping roadrunner with an anvil.

As one of the top coyote protectors in the country, Fox - yes, that's her real name - gets frustrated by the bad rap the relatively diminutive predators get, even in dog-obsessed San Francisco.

To combat the bias, fear and bad human behavior leveled against coyotes, Fox spent Wednesday and Thursday helping train more than 200 city recreation and park managers and staff members, helping them better understand coyote behavior and how humans can coexist with them in an urban environment.

"Coyotes are the most persecuted native carnivores in the U.S.," said Fox, executive director of the Larkspur-based Project Coyote. "Most of the time, coyotes want to have nothing to do with us."

Until a decade ago, there were few, if any, coyotes in San Francisco. While native to the area, they largely

had been eliminated by trapping and poisoning in the 1950s and 1960s, Fox said.

Then, at least a couple of them trotted across the Golden Gate Bridge and took up residence in city open spaces.

There are at least 20 in city parks and more in the Presidio, although no one is formally tracking them. Coyotes are crepuscular, or typically active at dawn and dusk, although daytime appearances are not considered unusual.

Still, any sighting can startle and intimidate joggers, parents pushing strollers, golfers or dog walkers - who frequently report the encounters or complain to Animal Care and Control or to park workers.

But coyotes, contrary to belief, are not likely to seek out the city's Chihuahuas.

**ProjectCoyote.org**

**PROJECT COYOTE**  
P.O. BOX 5007,  
LARKSPUR, CA, 94977



**PROMOTING COEXISTENCE  
BETWEEN PEOPLE & WILDLIFE THROUGH  
EDUCATION, SCIENCE & ADVOCACY**

“There are certainly people in this city that have more of a fear of these animals,” said Lisa Wayne, the open-space manager for the San Francisco Recreation and Park Department. “There have been no confirmed reports of coyotes preying on domestic cats or dogs in the city.”

Frankly, they don't need to.

### Favored menu items

They'd rather hang out on a golf course where manicured lawns attract not only rodents but also Canada geese, with their eggs and goslings - all preferred coyote cuisine.

“So much of what we have to deal with is people misinterpreting animal behaviors,” Fox said. “We can coexist.”

Increasingly, humans and coyotes are living alongside each other in urban areas. In the six-county Chicago region, there are an estimated 2,000 coyotes, Fox told city staff members in her presentation.

San Francisco needs them, she said.

“Coyotes are a native species,” she added. “As a native species, they play a key ecological role.”

City gardener and pest specialist Matt Pruitt, who went through the four-hour coyote training, agreed.

Coyotes each can eat up to 1,800 rodents per year. Too many rodents, including gophers and rats, are not conducive to good gardens or golf courses.

Without coyotes - a critical carnivore in the local ecology - raccoons, skunks, foxes and feral cats go unchecked.

“They kind of help balance out the whole biodiversity,” said Pruitt, who considers weeds and fungus the real pests in his line of work.

He did note that many gardeners often work in the dark, when seeing coyotes and hearing them howl can be a bit intimidating. During the training, Fox played the 20 coyote vocalizations, which contributed to their status as the state's song dog.

“The more you learn, the more you learn to not be afraid of them,” Pruitt said, adding that it's somewhat awe-inspiring to see one in the city. “You have to stop and kind of look at them for a few minutes. They're amazing to see.”

With spring here, it's the beginning of coyote pupping season, which means the adults can be protective of their dens and territory.

It also means humans - and their dogs - need to give the coyotes an especially wide berth, Fox said. More than 200 city park workers are now armed with the information required to help enforce that.

Frequent park visitor Joe Fuentes, 80, is happy to comply.

As he strolled around Lake Merced on a sunny spring day, he noted that he's a city native, just like the coyotes.

### Sudden return

They had been gone for decades, he said. Then one day, maybe five years back, they were back at the lake.

“They don't bother anybody,” he said. “They keep everything in balance. I like seeing them.”

Fox knows, however, that not everyone feels the same way. Coyotes sound scary, and even though they only weigh 15 to 30 pounds, they look scary, too. In fact, they kind of look like wolves. Nationally, 500,000 coyotes are killed each year by public agencies or individuals.

“Little Red Riding Hood,” she said, sighing. “We're still up against that messaging.”

### Get to know the coyotes

- Coyotes are members of the dog family and are curious, adaptable and quick learners. They often mate for life and are devoted parents.
- Coyotes are not a significant threat to safety. (Lightning, cows and deer pose a greater risk, statistically speaking.)
- Healthy coyotes can come out in the daytime. Do not assume they are sick or have rabies.
- Coyotes are not a significant predator of pets and deer. While they might occasionally take a free-roaming domestic animal or deer, their diet is more likely to consist of rodents, rabbits, insects, fruit and carrion.
- They do not use Acme products or disproportionately dislike roadrunners.

Sources: *Project Coyote and Chronicle staff report*

### Coyote tips

- Do not feed coyotes.
- Walk pets on leash - especially during spring and early summer pupping season.
- Supervise small pets and children and keep cats inside.
- Secure garbage, compost and pet food.
- “Haze” coyotes near homes or community spaces; act big, mean and loud. Don't run if approached. Make noise and walk toward the coyotes until they retreat.
- Protect livestock with guard animals and secure fencing.

Source: *Project Coyote*



# KCET ReWild

## Losing Big Carnivores May Be as Big a Threat as Climate Change

By Chris Clarke

Published: January 10, 2014  
12:31 PM

From KCET: ReWild  
(<http://www.kcet.org/news/define/rewild/mammals/losing-big-carnivores-may-be-as-big-a-threat-as-climate-change.html>)

Chris Clarke is a natural history writer and environmental journalist currently at work on a book about the Joshua tree. He lives in Joshua Tree.



Big predators keep ecosystems stable, and removing them can be catastrophic. | Photo: USFWS/Flickr/Creative Commons License

An epochal study published Friday in the journal *Science* paints a truly frightening picture of a world without large carnivores, and a couple of Californian predators play a leading role.

The study, "Status and Ecological Effects of the World's Largest Carnivores," examined more than 100 recent surveys of the roles that the world's largest predators play in shaping the ecosystems that they live in. They found that removing predators from an ecosystem can cause that ecosystem to unravel, with effects ranging from increase in pest animals to rivers changing course.

The paper is a compelling confirmation of something wildlife biologists have long suspected, and the implications for California, where predators large and small have been systematically removed for more than 150 years, are troubling.

The study surveyed seven of the world's 31 largest predators. Two examples in particular are of immediate interest to fans of Californian wildlife: sea otters, which maintain the health of the state's kelp forests by eating the sea urchins that eat the kelp, and mountain lions, which help maintain the state's forests by eating mule deer and Columbian black-tailed deer, which devastate broadleaved trees and shrubs if left uncontrolled.

Appealingly, the researchers also found that protecting mountain lions help boost populations of butterflies, presumably by limiting browsing pressure on larval food plants. A healthy mountain lion population also helps maintain habitat for frogs, salamanders, lizards, and snakes.

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The other carnivores examined in detail by the survey were lions, leopards, the Eurasian lynx, dingoes, and gray wolves. (Only the last was historically native to California.)

All of the carnivores studied are in trouble, with threats ranging from climate change to trophy hunting to loss of habitat. And all those threats have a common basis: competition from humans.

(As if to underscore the urgency of the topic, an unrelated paper published Wednesday in PLOSOne reveals that West African lions are critically endangered.)

Each of the threatened carnivores turns out to play a startlingly important role in maintaining ecosystem health. Take the previously-mentioned “rivers changing course” issue: when predators are removed from an ecosystem their prey multiply, causing increased damage to streamside vegetation and trampling riverbanks.

Riverside vegetation controls erosion: without it, seasonal floods become more damaging and rivers can actually jump their banks.

And as in the case of the sea otter and sea urchins, losing a predator can mean that an entire ecosystem, which may support hundreds of unique species, can fall apart.

As the plight of the world’s carnivores deepens, such consequences may become more severe. “Globally, the ranges of carnivores are collapsing and many of these species are at risk of either local or complete extinction,” said William J. Ripple, Oregon State University professor and lead author of the paper. “It is ironic that large carnivores are disappearing just as we are learning about their important ecological and economic effects.”

Until the 20th Century California was home to quite a few large carnivores, including what may have been the world’s largest subspecies of grizzly bear. The state was home to both northern and Mexican gray wolves, wolverines, and much larger populations of

the mountain lions and bobcats that wildlife advocates now struggle to protect.

Those two cat species have recently won increased protection in the legislature, with new regulations on puma encounters and limits to bobcat trapping both winning much-lauded signatures from the Governor in 2013. But the state’s most common large predator, the coyote, enjoys almost no protection in the state of California. In fact, the state’s Fish and Game Code classifies the coyote in the same category as invasive pest species such as the starling and European sparrow, which can be shot any time of year in any place where a firearm can be legally discharged, as long as the shooter has a hunting license.

That policy proceeds despite abundant scientific data showing that hunting coyotes actually serves to increase their population, by disrupting family units in which only the parents breed.

Though some people maintain that human hunters can replace large carnivores’ ecological services, Ripple and his colleagues dispute that, pointing out that human hunting, with its seasons and its reliance on road access, cannot duplicate the 24/7, whole-landscape hunting patterns of wild predators:

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***In the end, it is not surprising that various human activities in Australia, North America, and Eurasia have been unsuccessful in substituting for large carnivores to control populations of native and nonnative herbivores and mesopredators. The huge importance of carnivores is exemplified by the fact that humans typically cannot replicate the effects of carnivores on ecosystems.***

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The authors call for a world-wide effort to protect large carnivores based on Europe’s Large Carnivore Initiative, a project of the International Union for the Conservation of Nature (IUCN). The paper ends with a call to action that’s fairly remarkable for a scientific paper in one of the world’s top two peer-reviewed papers:

*[L]arge-carnivore conservation might also be seen as a moral obligation – the recognition of the intrinsic value of all species. A 40-year history of the field of environmental ethics has both rigorous and systematic rationales for valuing species and nature itself. Large carnivore conservation, therefore, might benefit greatly from a more formal relationship with practitioners of environmental ethics. It will probably take a change in both human attitudes and actions to avoid imminent large-carnivore extinctions. A future for these carnivore species and their continued effects on planet Earth’s ecosystems may depend upon it.*

**From:** [Michael Carion](#)  
**To:** [FGC](#)  
**Subject:** Thank you!  
**Date:** Wednesday, August 05, 2015 3:26:27 PM

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I wanted to personally thank President Baylis and the FGC for the support on the Pine Ranch revocation!

I highly appreciate the support!

Mike Carion



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director

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COMMISSION



2015 JUL -6 AM 11:27

MCS

July 3, 2015

Honorable Mr. Thomas O'Rourke, Chairman  
Yurok Tribe  
190 Klamath Boulevard  
P.O. Box 1027  
Klamath, CA 95548

RE: BLUE CREEK ANGLING CLOSURE AND POSSIBLE FISHERIES STUDIES

Dear Chairman O'Rourke:

As you know, on April 17, 2015 the California Fish and Game Commission (Commission) implemented conservation closures in the vicinity of Blue Creek, tributary to the Klamath River. We have also been notified that the Yurok Tribe has implemented an in-season adjustment to the Yurok Tribal Fishing Rights Ordinance that prohibits fishing in the vicinity of Blue Creek through November 30. Due to the decision by the Commission a great deal of concern has been voiced amongst local interest groups, including local government, professional fishing guides, and tribal and non-tribal anglers. This concern stems from the potential negative economic ripple effects to the local economies and a perception by many that there is a lack of supporting data for the closure decision.

In May, 2015, Yurok tribal fisheries staff contacted the California Department of Fish and Wildlife (Department) and inquired whether we had a continued interest in conducting a study to better understand the potential impacts of catch and release mortality of anadromous salmonids near the mouth of Blue Creek. In June, 2015, the Commission requested the Department work with the Yurok Tribe and other local interests to see if any study could be conducted to answer a suite of questions that have resulted from the conservation closure. The Department is interested in understanding the potential impacts to salmon at Blue Creek, and would like to meet with you, Tribal Council representatives and fisheries staff to discuss possible studies in the vicinity of Blue Creek.

Although the Department has a full suite of duties and obligations, and is particularly engaged in drought related responses, we are committed to working with the Yurok Tribe on this issue. We are most interested in collaborating on a study with as high a degree of scientific objectivity as possible. I hope this does not get misinterpreted as unwillingness to support or fund the study. I can assure you that is not the case. Any perceived hesitancy on our part is the result of scientific questions regarding how the study may be conducted. We are most interested in discussing the feasibility of a study with the Yurok Tribe, and we will address the funding questions when we reach consensus on appropriate study questions and design. We sincerely hope you and

*Conserving California's Wildlife Since 1870*

Honorable Mr. O'Rourke  
Yurok Tribe  
June 30, 2015  
Page 2

your Tribe will be interested in pursuing this collaborative approach to better inform the science, and ultimately the condition of this significant Tribal and public trust resource.

Department staff are eager to engage in this matter if you are still interested. Please do not hesitate to contact me at the phone number above or email me at [Stafford.lehr@wildlife.ca.gov](mailto:Stafford.lehr@wildlife.ca.gov).

Sincerely,



Stafford Lehr, Chief

Cc:

Mr. Sonke Mastrup, Executive Director  
California Fish and Game Commission

Mr. Neil Manji, Regional Manager  
Mr. Tony LaBanca, Environmental Program Manager  
California Department of Fish and Wildlife  
Northern Region

Mr. Roger Bloom, Environmental Program Manager  
California Department of Fish and Wildlife  
Fisheries Branch

Mr. Steven Ingram, Tribal Liaison  
Senior Staff Counsel  
California Department of Fish and Wildlife  
Office of General Counsel