

Commissioners
Eric Sklar, President

Saint Helena

Jacque Hostler-Carmesin, Vice President
McKinleyville

Anthony C. Williams, Member

Huntington Beach

Vacant, Member

Vacant, Member

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Mike Yaun, Acting Executive Director
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Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

MEETING OUTCOMES FOR APRIL 13-14, 2016

These meeting outcomes were finalized by staff on June 7, 2016.

The official meeting minutes – video and audio recordings – may be obtained from www.cal-span.org.

Note: The Commission moved agenda item 32 to immediately following lunch on Thursday. The agenda items are summarized in this document in the original order as noticed.

DAY 1 – APRIL 13, 2016

Pursuant to the call of the president, the California Fish and Game Commission (Commission) convened at the Flamingo Conference Resort & Spa, 2777 Fourth Street, Santa Rosa, California on April 13, 2016. The meeting was called to order at 8:33 a.m. by President Eric Sklar.

A quorum was established:

| | | |
|--------------------------------|-----------------------|----------------|
| Eric Sklar | President | Present |
| Jacque Hostler-Carmesin | Vice President | Present |
| Anthony C. Williams | Member | Present |
| Vacant | Member | |
| Vacant | Member | |

President Eric Sklar introduced Acting Executive Director and Legal Counsel Mike Yaun, who introduced Commission staff, legal counsel from the California Attorney General’s Office, and California Department of Fish and Wildlife (Department) staff. President Sklar introduced the Commission members. Mike Yaun shared details about the meeting format and procedures.

1. Approve agenda and order of items

The Commission approved the agenda and order of items as noticed.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

2. Public forum for items not on agenda

No action taken.

CONSENT ITEMS

3. Adopt proposed changes to fishing activity records and logbook regulations (Sections 190 and 195, Title 14, CCR)
4. Adopt proposed changes to commercial sea urchin fishing regulations (Section 120.7, Title 14, CCR)
5. Adopt proposed changes to Pacific halibut sport fishing regulations (Section 28.20, Title 14, CCR)

The Commission removed agenda item 3 from consent for discussion purposes.

The Commission adopted the Consent Calendar, agenda items 4-5.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

The Commission adopted the proposed changes to fishing activity records and logbook regulations as proposed (agenda item 3).

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

6. Marine Resources Committee
 - (A) March 21, 2016 meeting summary
 - I. Receive and adopt recommendations
 - (B) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and approve new topics

The Commission approved the Marine Resources Committee (MRC) recommendations and work plan from the March 2016 MRC meeting:

- **Support Department intent to correct the clamming boundary at Strawberry Creek in Humboldt County as part of the 2016 sport fish rulemaking.**
- **Direct staff to work with the California Ocean Protection Council on the topic of marine debris to possibly form an interagency workgroup to coordinate efforts to address marine debris, and to convene a workshop on multi-jurisdictional and stakeholder efforts to reduce marine debris.**
- **Move the November MRC meeting location from Huntington Beach to Sacramento.**

The Commission identified the week of April 25 as a target for a meeting of the MRC bycatch workgroup and added to the July MRC agenda an update on the pier and jetty project.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

7. Tribal Committee

- (A) April 12, 2016 meeting summary
 - I. Receive and adopt recommendations
- (B) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and approve new topics

The Commission accepted the California Ocean Science Trust staff's offer to provide an overview of state marine protected area (MPA) management and enforcement for the next Tribal Committee meeting in June.

The Commission approved future meeting agenda topics related to defining and advancing co-management and formalizing the Tribal Committee in statute through external tribal support.

The Commission approved recommendations of the Tribal Committee for a work plan that includes (1) create a roundtable after the elk management plan is complete to discuss tribal involvement in take of elk, (2) send a letter to California tribes to further inform them of the MPA process and possible tribal take exemptions, and (3) start a dialogue between tribes, the Department, another Commission member, and interested tribes in Northern California regarding possible co-management structures.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

8. California spiny lobster

- (A) Adopt negative declaration pursuant to California Environmental Quality Act

The Commission adopted the negative declaration pursuant to the California Environmental Quality Act, for the California Spiny Lobster Fishery Management Plan and proposed regulatory amendments for the California spiny lobster fisheries.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

- (B) Adopt fishery management plan

The Commission adopted the California Spiny Lobster Fishery Management Plan as submitted by the Department.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

- (C) Discuss proposed changes to sport and commercial fishing regulations (Section 29.80, et al., and Appendix A, Title 14, CCR)

No action taken.

9. Recreational Dungeness crab and rock crab fisheries: consideration and re-adoption of emergency regulations regarding emergency closure due to elevated levels of domoic acid (Section 29.85, Title 14, CCR)

The Commission determined that an emergency situation existed and that adoption of the regulation was necessary for the immediate protection of public health from ingesting elevated levels of poisonous domoic acid detected in recent samples of Dungeness and rock crab.

The Commission amended and readopted emergency regulations to retain a partial closure of the recreational Dungeness crab and rock crab fisheries for the immediate preservation of public health:

- 1. For Dungeness crab, all state waters north of the Mendocino/Sonoma county line (near Gualala).**
- 2. For rock crab, all state waters between Santa Cruz and Santa Rosa islands, and north of 35° 40' N. Latitude (near Piedras Blancas Light Station).**

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

The Commission added to its June meeting agenda an update on next steps in addressing harmful algal blooms and planning for future potential health concerns.

10. Adopt proposed final Master Plan for Marine Protected Areas and the Marine Life Protection Program pursuant to the Marine Life Protection Act (Pursuant to Section 2850, et seq., Fish and Game Code)

The Commission (1) closed public comment on the draft final master plan, with the exception of comments on traditional ecological knowledge (TEK); (2) authorized staff to publish notice of the revised document on or around June 1; and (3) continued the decision on the draft final master plan to the Commission's June meeting. The Commission further authorized staff to determine whether the master plan should be presented as a whole for final vote at the June meeting or to notice everything except the portion(s) related to TEK and then continue the TEK portion(s) until some future meeting.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

11. Presentation of north central coast marine protected areas baseline data collection results and five-year management review

No action taken.

12. Tribal take in marine protected areas (MPAs)
(Section 632, Title 14, CCR)

- (A) Presentation by the Santa Ynez Band of Chumash Indians regarding its request for exemptions from take in certain south coast MPAs
- (B) Discussion and direction regarding current tribal requests for changes to specified MPA regulations

The Commission directed staff to:

- **begin working on the regulatory process for tribal take in specified MPAs;**
- **work with the Santa Ynez Band of Chumash Indians to lay out a process by which education about tribal needs, history, traditions, and sites will begin;**
- **send representatives from the Commission and the Department to meet with the Tribal Business Committee and tribal elders;**
- **work with the Santa Ynez Band of Chumash Indians to facilitate site visits to state marine conservation areas in Santa Barbara County and to include stakeholders to the extent possible; and**
- **if possible, return in June to report on progress or postpone the report to August if more time is needed.**

The Commission directed staff to start developing a rulemaking package to add Resighini Rancheria and Cher-Ae Heights Indian Community of the Trinidad Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area and to update regulatory references to Smith River Rancheria to reflect its name change to “Tolowa De Ni’ Nation”.

Ayes: E. Sklar, A. Williams

Noes: None

Abstain: J. Hostler-Carmesin

13. Department presentation concerning Federal regulations to protect unmanaged forage fish species in Federal marine waters

No action taken.

14. Marine items of interest from previous meetings

- (A) Action on petitions for regulation change received at previous meetings
- (B) Action on non-regulatory requests received at previous meetings
- (C) Other

The Commission adopted the staff recommendations for actions on February 2016 regulatory and non-regulatory requests. The Commission further directed staff to work with Commissioner Williams to draft a letter to the California Coastal Commission and other relevant agencies asking that the agencies take into account potential impacts to marine life when making decisions related to desalination, with the letter to be sent as soon as possible with a final signature from President Sklar.

Ayes: *E. Sklar, J. Hostler-Carmesin, A. Williams*

Noes: *None*

15. Announce results from Executive Session

The Commission:

- Clarified the long-standing authority of the executive director to enter into legal documents for pending litigation as he or she deems appropriate.
- Discussed staffing issues and two candidates being considered for the executive director position. The Commission tentatively selected one of the two candidates and will move forward to offer the position to that candidate.

16. Update on and discussion of executive director position recruitment

No action taken.

17. Other informational items

- (A) Staff report
- (B) Legislative update and possible action
- (C) Federal agencies report
- (D) Other

No action taken.

18. Department informational items

- (A) Director's report
- (B) Wildlife and Fisheries Division, and Ecosystem Conservation Division
- (C) Law Enforcement Division
- (D) Marine Region
- (E) Other

No action taken.

The Commission recessed at 4:20 p.m. to reconvene on April 14, 2016 at 8:00 a.m.

DAY 2 – APRIL 14, 2016

The meeting was called to order at 8:14 a.m. by President Eric Sklar.

A quorum was established:

| | | |
|-------------------------|----------------|---------|
| Eric Sklar | President | Present |
| Jacque Hostler-Carmesin | Vice-President | Present |
| Anthony C. Williams | Member | Present |
| Vacant | Member | |
| Vacant | Member | |

President Sklar introduced Acting Executive Director and Legal Counsel Mike Yaun, who introduced Commissioners, Commission staff, legal counsel from the California Attorney General’s Office, and Department staff; he also shared details about the meeting format and procedures.

19. Public forum for items not on agenda

No action taken.

CONSENT ITEMS

20. Ratify findings on the petition to list fisher (*Pekania pennanti*) (formerly Pacific fisher (*Martes pennanti*)) as a threatened or endangered species under the California Endangered Species Act
(Pursuant to Section 2075.5, Fish and Game Code)
21. Receive five-year status report for Swainson’s hawk (*Buteo swainsoni*)
(Pursuant to Section 2077, Fish and Game Code)
- NOTE: Correct report needs to be included in June meeting binder to accompany DFW PPT presentation.*
22. Adopt proposed regulations regarding special measures for fisheries at risk
(Section 8.01, Title 14, CCR)
23. Request for authorization to publish notice of intent to amend regulations regarding definitions for tidal waters and finfish gear restrictions in San Francisco and San Pablo bays
(Sections 1.53 and 27.00, and subsection 28.65(a), Title 14, CCR)

The Commission adopted the consent calendar, items 20-23.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

24. Wildlife Resources Committee
- (A) Work plan development
- I. Update on Predator Policy Workgroup

- II. Update on work plan and draft timeline
- III. Discuss and approve new topics

The Commission approved the draft agenda topics for the May 2016 Wildlife Resources Committee meeting and approved a new topic (enhanced penalties for illegal take of game) for referral to the Wildlife Resources Committee, as recommended by Commission and Department staff.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

25. Consider the petition, Department's evaluation report, and comments received to determine whether listing the northern spotted owl (*Strix occidentalis caurina*) as a threatened or endangered species is warranted (Pursuant to Sections 2075 and 2075.5, Fish and Game Code)

The Commission continued the hearing on potential listing of northern spotted owl to the Commission's June 2016 meeting and requested that all written information on this subject be submitted no later than May 2, 2016.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

The Commission took action to move agenda item 32 to immediately after lunch and then continued the regular agenda.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

26. Adopt proposed changes to mammal hunting regulations (Section 265, et al., Title 14, CCR)

The Commission adopted the proposed changes as presented and discussed.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

27. Waterfowl hunting

- (A) Certify California Environmental Quality Act document
- (B) Adopt proposed changes to regulations (Sections 502 and 507, Title 14, CCR)

The Commission certified the final environmental document, adopted the proposed project, and adopted the proposed regulatory changes as presented and discussed, with one change to delay the Northeast Zone opening date from October 1 to October 8.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

28. Request for authorization to publish notice of intent to amend upland game bird regulations
(Section 300, et al., Title 14, CCR)

The Commission authorized publication of a notice.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

29. Nonlead ammunition

- (A) Department update on the implementation of AB 711 (Chap. 742, Stats. 2013)
(B) Request for authorization to publish notice of intent to establish a nonlead ammunition coupon program
(Section 250.2, Title 14, CCR)

The Commission authorized publication of a notice.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

30. Request for authorization to publish notice of intent to amend Department lands pass regulations
(Section 550, et al., Title 14, CCR)

The Commission authorized publication of a notice.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

31. Discussion of proposed changes to Commission meeting procedures regulations
(Section 665, Title 14, CCR)

The Commission authorized publication of a notice amending the proposed regulation to clarify that for emergency meetings, requests for extended time to speak at and submission of audio or video materials must be sent via email to fgc@fgc.ca.gov prior to 5:00 p.m. on the day before the meeting or in person at the meeting location between one and two hours prior to the beginning of the meeting, and that written materials must be received in the Commission office prior to 5:00 p.m. on the day prior to the meeting or in person at the meeting location.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

32. Non-marine items of interest from previous meetings

- (A) Action on petitions for regulation change received at previous meetings

- I. Presentation by the California Trappers Association concerning petition to reconsider bobcat trapping regulations
- (B) Action on non-regulatory requests received at previous meetings
- (C) Other

The Commission adopted the staff recommendations for actions on February 2016 regulatory and non-regulatory requests, excluding the request for reconsideration of the ban on bobcat trapping (for a separate vote).

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

The Commission denied the request to reconsider the ban on bobcat trapping.

Ayes: E. Sklar, A. Williams

Noes: J. Hostler-Carmesin

- 33. Receive Department presentation concerning the Conservation Plan for Gray Wolves in California

No action taken.

- 34. Discuss and act on future Commission meeting items

- (A) Next meetings

The Commission approved draft agenda items for the June 22-23, 2016, meeting with the addition of the Point Reyes Oyster Company lease renewal and a potential bat update, and approved moving the November MRC meeting to Sacramento.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

- (B) Rulemaking calendar updates

The Commission approved proposed amendments to the rulemaking calendar.

Ayes: E. Sklar, J. Hostler-Carmesin, A. Williams

Noes: None

- (C) New business

No action taken.

- (D) Other

No action taken.

There being no further business, the Commission adjourned at 5:26 p.m.

EXECUTIVE SESSION

(Not Open to Public)

Pursuant to the authority of Government Code Section 11126(a)(1) and (e)(1), and Section 309 of the Fish and Game Code, the Commission will meet in closed Executive Session. The purpose of this Executive Session is to consider:

(A) Pending litigation to which the Commission is a Party

- I. Central Coast Forest Assoc. v. California Fish and Game Commission (Coho listing, south of San Francisco)
- II. James Bunn and John Gibbs v. California Fish and Game Commission (squid permits)
- III. Center for Biological Diversity and Earth Island Institute v. California Fish and Game Commission (black-backed woodpecker)
- IV. Dennis Sturgell v. California Fish and Game Commission, California Department of Fish and Wildlife, and Office of Administrative Hearings (revocation of Dungeness crab vessel permit No. CT0544-T1)
- V. Kele Young v. California Fish and Game Commission, et al. (restricted species inspection fee waiver and Administrative Procedure Act)

(B) Possible litigation involving the Commission

- I. Listing decisions

(C) Staffing

(D) Receipt of hearing officer recommendations on license and permit items

**FISH AND GAME COMMISSION
2016 MEETING SCHEDULE**
www.fgc.ca.gov

| MEETING DATE | COMMISSION MEETING | COMMITTEE MEETING |
|---------------|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| April 18 | Teleconference — Sacramento, Arcata, Los Alamitos and Napa | |
| May 18 | | Wildlife Resources Department of General Services Ziggurat Building – Auditorium 707 3 rd Street West Sacramento, CA 95605 |
| June 21 | | Tribal Bakersfield |
| June 22-23 | Bakersfield | |
| July 21 | | Marine Resources Petaluma Regional Library 100 Fairgrounds Drive Petaluma, CA 94952 |
| August 24-25 | Lake Natoma Inn Hotel & Conference Center 702 Gold Lake Drive Folsom, CA 95630 | |
| September 21 | | Wildlife Resources Woodland Public Library Leake Center Community Room 250 First Street Woodland, CA 95695 |
| October 18 | | Tribal Eureka |
| October 19-20 | Eureka | |
| November 17 | | Marine Resources Sacramento, CA |
| December 7-8 | Portofino Inn & Suites 3805 Murphy Canyon Road San Diego, CA 92123 | |

OTHER MEETINGS OF INTEREST

Wildlife Conservation Board

- May 26, Sacramento
- August 30, Sacramento
- November 16, Sacramento

Pacific Fishery Management Council

- June 23-28, Tacoma, WA
- September 15-20, Boise, ID
- November 16-21, Garden Grove, CA

Pacific Flyway Council

- September 2016, Date and location TBD

Western Association of Fish and Wildlife Agencies

- July 21-27, 2016, Cody, WY