



## STAFF SUMMARY FOR APRIL 13-14, 2016

- (B) Non-regulatory: Public requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration. Requests received for a FGC meeting by the late comment deadline or at the meeting during public forum are scheduled for consideration at the next business meeting.

Six non-regulatory requests received in Feb are scheduled for action at this meeting (Exhibit B1).

- (C) Other: This item is an opportunity for staff to provide any follow-up information on items previously before FGC.

### Significant Public Comments

1. Change.org petitions received in support of petition 2015-014 (Low flow)
2. Letter in support of petition 2016-009 (Trapping fees)
3. Petitions received in support of petition 2016-009 (Trapping fees)
4. Coalition letter in support of petition 2016-010 (Night hunting)

### Recommendation

- (A-B) Adopt staff recommendations for the regulatory and non-regulatory requests to either (1) deny the request, (2) grant the request, or (3) refer the request to committee, DFW staff, or FGC staff for further evaluation or information gathering. See exhibits A1 and B1 for specific staff recommendations for each request.

Note that the proposed change in Petition 2015-011 from John Rodrigues concerning off-highway vehicles in the Tehama Wildlife Area is already included for consideration in the Land Pass proposed regulation under agenda item #30.

- (C) N/A

### Exhibits

- A1. [Non-marine regulatory requests received through Feb meeting](#)
- A2. [Sample change.org petition, received Mar 9, 2016](#)
- A3. [Email from Center for Biological Diversity, received Mar 30, 2016](#)
- A4. [Sample petition from Center for Biological Diversity, received Mar 30, 2016](#)
- A5. [Email from Coalition, received Mar 30, 2016](#)
- B1. [Non-marine non-regulatory requests received through Feb meeting](#)

### Motion/Direction

- (A-B) Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on February 2016 regulatory and non-regulatory requests.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on February 2016 regulatory and non-regulatory requests, except for item(s) \_\_\_\_\_ for which the action is \_\_\_\_\_.

**CALIFORNIA FISH AND GAME COMMISSION**  
**DECISION LIST FOR REGULATORY ACTION THROUGH FEB. 11, 2016**  
 Revised 04-07-2016

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

**Grant:** FGC is *willing to consider* the petition through a process **Deny:** 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  
**Lavender cells:** Accepted and moved to a rulemaking



**Blue cells:** Referrals to FGC staff or committee for more information  
**Yellow cells:** Current action items

Tracking No.	Date Received	Response Due (10 work days)	Response letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision	DFW/FGC Staff Response	Final Action, Other Outcomes
2015-008	12/2/2015	12/16/15	12/15/2015	A	Susan Kirks (Paula Lane Action Network (PLAN))	American Badger and Gray Fox	461, T14	Repeal hunting of American badger and gray fox.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Refer to WRC Predator Policy Workgroup.</b>		
2015-009	12/4/2015	12/18/15	12/15/2015	A	Jean Su (Center for Biological Diversity and Project Coyote)	Commerical Trapping License Fees	702, T14	Raise commercial trapping license fees to levels necessary for full recovery of FGC's and DFW's reasonable administrative and implementation costs of trapping program; alternatively, ban commercial trapping of fur-bearing and non-game mammals.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Refer to DFW.</b>		
2015-010	12/4/2015	12/18/15	12/15/2015	A	Jean Su (Center for Biological Diversity and Project Coyote)	Night-time Hunting and Lethal Trapping within the Range of Gray Wolf	465.5(g)(5)(c) and 474(a), T14	Ban night-time hunting and lethal trapping within the range of the gray wolf as currently provided to other CESA-listed canids, the San Joaquin kit fox and the Sierra Nevada red fox.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Refer to DFW.</b>		
2015-011	12/7/2015	12/21/15	12/15/2015	A	John Rodrigues	Tehama Wildlife Area Off-Highway Vehicles	551(k), T14	Add "Tehama Wildlife Area: Off-highway vehicles are allowed only on designated roads." Regional manager was not allowed this authority this past year.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Grant; recommendation included in the DFW Lands Pass rulemaking.</b>		
2015-012	12/11/2015	12/28/15	12/15/2015	A	J..P. Catiuela (Dairy Cares)	Tricolord Blackbird	749.8, T14	Emergency action on Tricolord Blackbird proposed changes in regulations.	Receipt scheduled 2/10-11/16 <b>Action scheduled 2/10-11/16. No action necessary; regulations adopted and effective 3/7/2016.</b>		
2015-013	12/10/2015	12/24/15	12/31/2015	A	Matthew Berkoben	D16 Deer Tags and Transiting San Felipe Wildlife Area	551, T14	Allow a legal D16 deer tag holder to transit the San Felipe Wildlife Area to pursue game on Vulcan Mountain on the BLM lands that can be legally hunted with a D16 tag.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Refer to DFW.</b>		
2015-014	12/15/2015	12/29/15	12/15/2015	A	Patrick Kallerman	Waters with Special Fishing Regulations and Low-Flow Restrictions	7.50(b) and 8.00(b), T14	Multiple proposed amendments to alphabetical list of waters with special fishing regulations and to Section 8.00(b) waters with low-flow restrictions.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Refer to sport fish rulemaking for 2017-18 season.</b>		
2015-015	12/16/2015	12/30/15	12/18/2015	A	Fred Boniello	Russian River Sport Fishing	7.50(b)(155)(A) and 8.00(b)(3), T14	Multiple changes, including Russian River open to sport fishing all year with no minimum flow requirement, catch and release for migratory species, etc.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Refer to DFW (confirm whether it was in the 2015 package as rejected).</b>		
2015-016	12/18/2015	1/4/2016	12/18/2015	A	Preston Taylor	Antlerless Deer Tag	Chapter 3, T14	Proposed options for antlerless deer tags - Archery only either sex deer tag or archery only antlerless deer tag. Addition of a traditional archery deer season (longbows & recurve bows only).	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Grant; refer to mammal hunting rulemaking for 2017-18 season.</b>		
2016-002	1/28/2016	2/11/2016	3/4/2016	A	Mercer Lawing (California Trappers Association)	Bobcat Trapping	478, 479 and 702, T14	Remove the bobcat trapping ban and reinstitute bobcat trapping seasons based on new information.	Receipt scheduled 2/10-11/16 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Reject; no new information provided and inadequate time since adopting the ban to assess its impact.</b>		

**CALIFORNIA FISH AND GAME COMMISSION  
REQUESTS FOR REGULATORY ACTION  
Revised 04-07-2016**

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

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



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2016-003	2/11/2016	2/25/2016	3/21/2016	A	Dennis Fox	Striped bass	5.75(d)(1)	Permit take of striped bass to 10 per day and no size limit in the San Joaquin River from Friant Dam to Hwy 170.	Received 2/11/2016 <b>Action scheduled 4/13-14/16</b> <b>STAFF RECOMMENDATION: Grant;</b> <b>refer to sport fish rulemaking for 2017-18 season.</b>		

We write in support of proposed changes (Tracking Number 2015-014) to the Special Fishing Regulations and Special Low Flow Conditions Regulations for Mendocino, Sonoma, and Marin County coastal streams. These proposed changes provide additional protections for steelhead and coho salmon while ensuring a balanced approach to angling access and opportunity.

Our proposal is as follows: (1) change the regulations with respect to allowable tackle. Transition the regulations for these fisheries to artificial lures with barbless hooks only, similar to rivers with wild-only populations of salmon and steelhead such as the Mattole; (2) eliminate angling during the summer and fall months when only smolts, juveniles, and kelts are in the system and when they are at their most vulnerable; (3) allow fishing to remain open in the tidally-affected reaches of the Gualala, Garcia, and Navarro rivers below specified landmarks, when low flow conditions are present.

## Background

In December 2013, the California Fish and Game Commission (Commission) adopted modified language to Chapter 3, Section 8.00(b)—Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams: Stream Closures: Special Low Flow Conditions—which provided for new “low flow triggers” that determine if streams in Marin, Sonoma and Mendocino counties are open to fishing. Motivation for these new regulations included a desire to balance protection of steelhead and coho during periods of low winter water conditions with continued opportunity for “fair chase” by anglers.

Public comment for the December 2013 Commission meeting included an informal alternative proposal offered (written testimony) by a long time coastal steelhead fisherman, Mr. Neil Light (copy included). Additionally, a number of other “old timers” in the local angling community co- signed a letter which offered feedback on the proposed regulatory amendment. Now, after two winter seasons of observations by fishermen (winter of 2014/2015 and 2015/2016, which included observations during fishing days as well as during days anglers were unable to fish because of the new regulations), we believe that much of Mr. Light’s proposal and the rationale for it remain viable, and in fact represent a better overall solution for managing angling on these streams. We therefore offer support here for a separate proposal submitted to the Commission—a proposal based on Mr. Light’s suggestions and the real-world observations of the local angling community over the past year—with an explanation for each component of recommended change.

## About Us

We are steelhead and salmon fishermen who have enjoyed and cared for the rivers in Mendocino, Sonoma, and Marin counties for most of our lives. We are concerned

specifically about current angling regulations for the Gualala, Garcia, and Navarro rivers—some of the most famous and historic steelhead streams on the West Coast. We represent anglers of all tackle preferences. Many of us travel great distances to fish these waters. We come from Oakland and Fort Bragg, Salinas and San Rafael, Carmel and Sacramento, Fresno, Chico, and San Jose. Our collective experience spans literally hundreds of years of fishing and observation on these rivers.

Many of us spent priceless days fishing these rivers in the 1940s, '50s, and '60s—the heyday of California steelhead angling. We understand what it means to see a fishery nearly collapse. We experienced this during the drought years of the 1970's and early 1990's (and flood years when spawning redds were washed out). As a result, we have advocated for and embraced regulatory changes and self-imposed changes in angler behavior, such as catch and release requirements for wild steelhead and barbless hook only practices. All in all, we are conservation-minded sportsmen and women devoted to protecting and restoring native steelhead and salmon, and to sustaining the proud heritage of fishing for them on our beloved Central Coast streams.

### The Proposal

#### 1) Transition these fisheries to artificial lures and barbless hooks only

Numerous studies, many of them peer-reviewed science, have analyzed the relative mortality rates of different types of tackle on fish mortality in a catch-and-release fishery. (See Schisler and Bergersen 1996; Stringer 1967; and Shetter and Allison 1955. These studies found that mortality of rainbow trout caught using flies and artificial lures ranged from four percent to 10 percent and mortality of fish caught using bait ranged from 32 per cent to 64 per cent.) These and other studies have documented that trout often swallow bait hooks deeper than artificial lures, resulting in greater damage to sensitive areas such as gills, gill arches and the throat. While some of us who have signed this letter use bait for angling under some circumstances and for some fish species, in such a limited resource the higher mortality rates resulting from deeply hooked fish when using bait simply cannot be justified. We also, unfortunately, have personally observed the carcasses of hen steelhead that have been caught, gutted and stripped of roe left on riverbanks. The only reason for this behavior is to acquire more bait. We therefore propose that all fishing on the streams affected by the regulations in question should be by artificial lures or flies only, and with barbless hooks only. This is a pragmatic change in management emphasis that is already in effect on many California steelhead streams with wild populations and no hatchery supplementation such as the Mattole River, Redwood Creek, Carmel River, etc., and that was recently put into effect on many streams in Washington State.

## 2) Prohibit angling during the summer and fall months

Current regulations allow fishing during the summer and fall months in these and other Central Coast streams. No “low flow” regulations control this activity during this period of the year. The Department used to plant catchable trout in these streams during the general trout season (April to November), but no longer does so, consistent with management of these streams for wild populations and species recovery. By summer, most of the adult fish in the system have either migrated back downstream and out to sea or have died post-spawn. In essence, then, the only fish available for summertime angling are salmonid smolts, juveniles, and kelts—when low flows and higher water temperatures make them most vulnerable. In our opinion, these streams should be closed to all angling after the winter season concludes (similar to management of angling on South-Central Coastal streams). For streams such as these, which are iconic winter steelhead fisheries, there simply is no justification for reducing angling opportunities for adult fish based on flow triggers in the winter season while then allowing angling with few restrictions during the summer and fall.

## 3) Allow fishing to remain open in the following sections of each river when streamflows drop below the current triggers at the designated gauging stations:

- Gualala River: From the mouth of the river to the confluence with the North Fork Gualala (the Green Bridge);
- Garcia River: From the mouth of the river to the Highway One bridge;
- Navarro River: From the mouth of the river to the North Fork Navarro.

These sections of river have several things in common:

- a. They are predominately tidally influenced.
- b. They are below the well documented spawning reaches.
- c. They are easily patrolled by law enforcement officers.
- d. The upstream limit of open angling is well defined and recognizable.
- e. They are traditionally fished by wading / fording the river to access gravel bars for fishing approach.

Under our proposal, those sections of river upstream of the locations listed in Section 3 will remain governed by the current Low Flow restrictions.

Successful natural resource management requires an adaptive approach that incorporates new science and public opinion data as well as changes in on-the-ground conditions caused by factors such as drought, climate change, and evolution of sportfishing tackle. We wholeheartedly support the goal of restoring steelhead and salmon populations in coastal streams to self-sustaining levels, and are willing to adjust our expectations for angling opportunity where necessary to achieve recovery benchmarks. With respect to the Gualala, Garcia, and Navarro rivers, however, we believe the current regulations needlessly prohibit angling opportunities that are in fact consistent with recovery plans and objectives. Our proposal better honors the renowned legacy of steelhead angling on these streams while ensuring rigorous, even improved, protection of the resource and better accomplishing CDFW's goal of regulatory simplicity and consistency.

We respectfully request that the Commission consider these proposed regulatory changes, with the goal of implementing them for the 2016 winter steelhead angling season on the Central Coast. Amendment of the regulations as we propose is necessary to restore lost angling opportunities on three of California's most iconic steelhead streams while keeping in place the current flow triggers for angling access on most of the waters in question. Our proposed changes will deliver additional benefits to management of salmon and steelhead runs in these rivers, including a likely reduction in catch rate and harm to fish once hooked, a likely reduction in poaching and egg-stripping, and better protection of all age classes of fish during their most vulnerable time of the year.



*Sent via electronic mail*

March 30, 2016

California Fish and Game Commission (“the Commission”)  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Anthony Williams  
Interim Executive Director Michael Yaun  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
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**Re: Petition on Raising Trapping License Fees (Petition #2015-009), Item #32(A), April 14, 2016  
Commission Meeting**

Dear Director Yaun, President Sklar, Vice President Hostler-Carmesin, and Commissioner Williams:

On behalf of the Center for Biological Diversity and Project Coyote (“Petitioners”) and our over 100,000 members and supporters in California, we urge the Commission to adopt the regulation changes proposed in petition #2015-009 (“Petition”) to raise commercial trapping license fees to the levels necessary for the full recovery of the reasonable administrative and implementation costs of the trapping program incurred by the Commission and Department of Fish and Wildlife (“the Department”) in compliance with section 4006(c) of the California Fish and Game Code (“FGC”) and SB 1148 (Pavley).<sup>1</sup> In the alternative, as also requested in the Petition, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, which we believe is almost certainly the case, we urge the Commission to ban all commercial trapping of fur-bearing and nongame mammals. Implementing a full ban on commercial fur trapping would not only meet the cost recovery mandate and end the illegal subsidization of the trapping program, but it would also be consistent with the values of the overwhelming majority of Californians who appreciate our wildlife alive instead of as commodities to be exploited for private commercial gain.

**I. The Commission must substantially raise license fees in an expeditious manner to comply with cost recovery provisions for the upcoming 2016-2017 trapping season**

As the Commission is well aware, FGC § 4006(c), enacted via SB 1148 (Pavley), mandates that the Commission set trapping license fees to the levels necessary to fully recover the Commission’s and Department’s reasonable administrative and implementation costs of the state trapping program. In spite

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<sup>1</sup> Petitioners seek changes in the trapping license fees only for commercial (*i.e.* “recreational”) fur trapping at this stage. Given the different purposes as well as logistical, administrative, management and enforcement costs between commercial fur trapping and “pest control” trapping, Petitioners believe that setting fees and taking other management actions for these two trapping programs is best done separately. Any trapper intending to engage in both commercial and pest control trapping would be required to pay the higher of the two fees.

of FGC § 4006(c) taking effect in January 2013, the Commission has failed to implement this provision for the past three trapping seasons (seasons 2013-2014, 2014-2015, and 2015-2016), resulting in unlawfully low license fees that have failed to recoup the actual costs of the Department and Commission.<sup>2</sup> The Commission is legally obligated to comply with code requirements for the upcoming 2016-2107 trapping season, and any further noncompliance will not—and *should* not—be countenanced.

***A. A substantial increase of commercial trapping license fees is required to comply with the cost recovery mandate***

While the exact costs of California’s trapping program are not publicly available, the extrapolation of existing data clearly demonstrates that commercial license fees will need to increase substantially in order to meet FGC § 4006(c).

Setting adequate commercial trapping license fees requires dividing the commercial trapping program’s total cost by the number of commercial trappers. As explained in the Petition, a reasonable estimate of the state’s commercial trapping program is at a minimum \$200,000 and more likely substantially greater.<sup>3</sup>

With respect to the number of commercial fur trappers, we estimate that there are likely fewer than 100 (and certainly fewer than 200) trappers who would purchase commercial trapping licenses for the 2016-2017 trapping season. According to the 2015-2016 trapping season data, as updated by the Department on January 31, 2016, the Department sold a total of 716 trapping licenses, with only 108 (15%) licenses for commercial fur trapping, 528 (74%) licenses for pest control purposes, and 80 (11%) for both purposes.<sup>4</sup> As license sales commenced in mid-2015, several months prior to the statewide ban of bobcat trapping taking effect, it can be assumed that a number of bobcat trappers purchased commercial trapping licenses before the finalization of the rule; we expect a further decline in commercial trapping licenses for the 2016-2017 trapping season to account for the absence of trappers explicitly trapping for lucrative bobcat pelts.

In fact, the impact of the bobcat trapping ban on the purchase of commercial trapping licenses is already apparent in the license sales data. Between the 2014-2015 and 2015-2016 trapping seasons, the sale of commercial fur trapping licenses decreased by 23%, while dual licenses for both commercial and depredation licenses experienced a similarly significant 27% drop-off, both likely due to the then-impending 2015 bobcat trapping ban.<sup>5</sup> Given this data, the best estimate of commercial trappers for the 2016-2017 trapping season would likely be significantly fewer than 100 trappers.<sup>6</sup>

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<sup>2</sup> See Petition for further details on evidence of the Commission’s noncompliance with the cost recovery mandate.

<sup>3</sup> During the administrative rulemaking process for AB 1213, the Department stated that existing enforcement, management, and administrative costs of implementing the bobcat trapping program alone amounted to \$161,000 (See “Initial Statement of Reasons for Regulatory Action re: Implementation of the Bobcat Protection Act of 2013” (herein, “AB 1213 ISOR”), at 16. Available at: <http://www.fgc.ca.gov/regulations/2015/478isor.pdf>.) This total figure included enforcement costs consisting of salaries and vehicle mileage of 12 officers spending approximately 2,000 hours on field patrols over the course of the bobcat trapping season alone. As we demonstrated in the bobcat rulemaking, this cost estimate is unreasonably low. Nevertheless, given bobcats were only one of a dozen species targeted by commercial trappers in California, program costs for the enforcement, management and administration of the overall commercial trapping program likely greatly exceed the figure generated by the Department for just bobcats. A reasonable estimate is likely at least \$200,000, and more likely substantially greater than that.

<sup>4</sup> See Cal. Dep’t of Fish and Wildlife, Special Permits, Items Reported by License Year (Jan. 31, 2016). Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59827&inline>.

<sup>5</sup> In contrast, pest control licenses remained relatively consistent, experiencing only a 13% reduction. According to the Department’s 2014-2015 trapping license data, a total number of 860 trapping licenses were issued, with 609

Assuming a total commercial fur trapping program cost of at least \$200,000 and the number of commercial fur trappers to be less than 100, a resident trapping license fee would need to be raised to at least \$2,000—exponentially higher than the license fees of \$117 for the 2015-2016 trapping season<sup>7</sup>—to meet the cost recovery mandate. Given the projected 17-fold increase in fees, it is clear that setting such fees at the legally required cost-recovering levels would result in a far lower number of trappers (likely approaching zero) willing to pay such fees, leading to a blatant cost-recovery shortfall and inability to comply with the cost recovery mandate. Moreover, even if the Commission somehow concluded that the number of commercial fur trappers for purposes of cost calculations could be set at 200, license fees would still have to be set at \$1,000, an amount that few trappers would likely be willing to pay.

***B. Expedient action to increase 2016-2017 trapping fees is necessary for legal compliance***

The Commission must act expeditiously to raise trapping license fees to comply with the cost recovery mandate for the 2016-2017 trapping season; otherwise, the Commission risks a fourth year of statutory violations.

Given that trapping licenses for a given year typically go on sale at least a month prior to the beginning of the license year starting on July 1, there is only a brief window of time for the Commission to raise fees prior to the commencement of sales of the 2016-2017 trapping licenses. In terms of process, given that the fee-recovery mandatory of FGC § 4006 is a non-discretionary provision of law, we believe the Commission has full discretion to immediately adopt a legally compliant fee increase through internal administrative processes—paralleling the annual license fee adjustments to account for inflation in accordance with FGC §§ 4006(a) and 713—rather than undertake a petition-driven rulemaking process.<sup>8</sup>

However, should the Commission proceed with the rulemaking process to adjust fees, the Commission must act expeditiously pursuant to its emergency rulemaking authorities and implement new license fees by July 1, 2016. In concrete terms, this means that the Commission should at the April 2016 Commission meeting direct its staff and the Department to prepare an emergency rulemaking package to be noticed for adoption at the June 2016 meeting. Absent emergency processing, the legally-required fee increase will not be in effect prior to the July 1 sales deadline. Alternatively, should this time frame prove challenging,

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(71%) licenses obtained for pest control only purposes, 141 (17%) licenses for commercial fur trapping, and 110 (13%) for both purposes. See <https://www.wildlife.ca.gov/Licensing/Statistics>.

<sup>6</sup> Given the expected greatly increased cost of a commercial fur trapping license and the fact that any trapper seeking to engage in both pest control and commercial trapping would have to pay the higher of the two fees, we would expect that the majority of pest control trappers who currently check the application box for both categories would likely only check the pest control box in the future.

<sup>7</sup> We note the discrepancy in fee figures; the Department quoted the figure of \$113.75 in its revenue table (*see supra*, n. 2), while the application for a license cited \$117.16.

<sup>8</sup> Petitioners believe that a petition for rulemaking prior to the Commission implementing this statutory provision should not be required. Petitioners have raised the fee adjustment issue through Petition #2015-009 for two reasons: (1) in order to respond to the verbal recommendation by the Commission's prior executive director to raise the issue via petition (*See* Fish and Game Commission Meeting, Los Angeles, CA (October 8, 2015). Available at: [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG)); and (2) Petitioners submit this petition seeking regulations prohibiting commercial fur trapping, as Petitioners believe that the existing fur trapping program is highly unlikely to be fiscally viable even with a mandated fee increase. By submitting this petition, Petitioners do not waive their right to seek immediate judicial relief to compel compliance with the requirements of FGC § 4006 and other provisions of law.

the Commission should direct the Department to refrain from issuing trapping licenses prior to the completion of the rulemaking.

While we believe the best course for the Commission to take would be to complete the rulemaking prior to any licenses being sold this year, if the Commission fails to implement the necessary increase in the trapping license fee prior to the sale of 2016-2017 season licenses, the Commission may be able to at least partially remedy the situation by setting validation fees for each species subject to commercial trapping prior to the start of the trapping seasons for these animals. Specifically, trapping seasons for the gray fox, badger, muskrat, mink and beaver, as well as in most areas for raccoon, all begin in November. *See* 14 C.C.R. 461, 462, 463, 464. A validation fee for each of these species could be adopted at the August 2016 Commission meeting so as to be implemented prior to the beginning of these trapping seasons. Such an approach would be consistent with the mechanism the Department proposed in 2015 to address the cost recovery mandate with regards to bobcat trapping.<sup>9</sup>

Overall, the Commission should seriously consider adopting these approaches towards implementing the law rather than engage in another year of complete noncompliance with the law.<sup>10</sup> A fourth year of willful noncompliance will not be tolerated.

**II. In the alternative, implementing a statewide ban on all commercial fur trapping meets the cost recovery mandate and is consistent with public values and progressive wildlife policy**

In light of the requirement for the exponential rise in commercial trapping license fees and the practical reality that commercial trappers will unlikely be able to afford such fees, we urge the Commission to instead implement a statewide ban on commercial fur trapping. This choice is legally compliant, fiscally responsible, and honors public values toward wildlife. Specifically, the implementation of a statewide ban on commercial trapping resolves the Commission's continued violation of FGC § 4006(c), as the elimination of the commercial trapping program addresses the inability of the commercial trapping program to be self-financing.

Further, given the substantial administrative and enforcement costs associated with fur trapping, and the relatively low number of commercial trappers operating in the state, such trapping simply cannot continue in California without a substantial subsidy, a subsidy explicitly prohibited by statute. As evidenced by over 25,000 letters of public support advocating for the statewide ban of commercial bobcat trapping in 2015, as well as nearly 5,700 letters sent to the Commission just this week calling for a statewide commercial trapping ban, it is clear that Californians overwhelmingly are opposed to subsidizing commercial fur trapping because it offends the public's value of wildlife as living members of the state's ecosystem rather than commodities benefiting a handful of trappers. The Commission's continued illegal subsidization of commercial trapping in California simply will not be further tolerated.

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<sup>9</sup> Of course the bobcat validation requirement was never implemented as the Commission ultimately voted to prohibit bobcat trapping statewide. Such an option of a complete trapping ban is available for all these species as well.

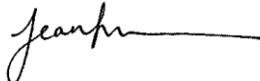
<sup>10</sup> We note, however, that for those species for which the trapping season starts earlier than November (raccoons in parts of the state), or for which trapping is allowed year round (coyotes, weasels, skunks, opossums, moles and rodents), trapping would be allowed to begin prior to the implementation of a validation requirement. *See* 14 C.C.R.464, 472. Nevertheless, given the majority of animals taken by trappers are from species with trapping seasons starting in November, imposing the validation requirement for all species prior to November of this year would likely be sufficient to avoid litigation.

California Fish & Game Commission  
Re: Petition on Raising Trapping Fees  
March 30, 2016

Moreover, a statewide ban on commercial trapping drives California's wildlife management policy into the 21st century and is consistent with a slate of progressive actions taken by the California Legislature, Commission and the Department, such as banning commercial bobcat trapping, halting inhumane wildlife killing methods and renaming the Department to reflect the public's value of wildlife not only as game but living creatures critical to the health of the State's ecosystems. If the Commission were to adopt a statewide ban on commercial fur trapping, it would be fully consistent with the Commission's mandate and the will of the majority of the state's population.

Thank you for your consideration. If you have any questions, please feel free to contact me directly.

Sincerely, on behalf of Petitioners,



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*Sent via electronic mail*

March 30, 2016

California Fish and Game Commission (“the Commission”)  
Interim Executive Director Michael Yaun  
Ms. Caren Woodson

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

**Re: Citizen Letters in Support of Petition on Raising Trapping License Fees (Petition #2015-009), Item #32(A), April 14, 2016 Commission Meeting**

Dear Director Yaun and Ms. Woodson,

Please find attached a total of **5,652 letters** from members of the Center for Biological Diversity in support of petition #2015-009 regarding raising commercial trapping license fees to the levels necessary for the full recovery of California’s trapping program.

We note that the text of the letters is substantially similar. For purposes of the inclusion of the letters in the Commissioners’ briefing binders for the April meeting, we suggest that Commission staff include this cover letter and one sample letter.

Thank you for inclusion of these letters in the briefing binders. Please feel free to reach out to me with any questions.

Sincerely,

Jean Su  
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California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
US

Dear Commissioners,

I am writing to express my support for ending all commercial fur trapping in California. As a taxpayer, I strongly oppose my tax dollars being used to continue illegally subsidizing the commercial fur trapping trade. Commercial fur trapping is an outdated practice that offends my ethics and value of all wildlife as living, critical parts of our ecosystem; these animals belong to the public and are not commodities belonging to a handful of trappers.

You made the right choice in 2015 by banning the cruel practice of commercial bobcat trapping; now's your chance to end commercial fur trapping of all other species in California, bringing the state into the 21st century of wildlife management. Please do the right thing and ban commercial fur trapping.

Sincerely,

Avilda Kast

[REDACTED]  
[REDACTED]



**NRDC**  
NATURAL RESOURCES  
DEFENSE COUNCIL



California Wolf Center



Conservation, Education, Research



**WILDLIFE RESCUE**  
SONOMA COUNTY



**SCIL**  
Social Compassion  
in Legislation



LETTER IN SUPPORT FOR REGULATIONS TO BAN NIGHT-TIME HUNTING AND LETHAL TRAPPING IN  
GRAY WOLF TERRITORY (PETITION #2015-010)

Item #32(A), April 14, 2016 California Fish & Game Commission Meeting

*Sent via electronic mail*

March 30, 2016

California Fish and Game Commission (“the Commission” or “FGC”)  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Anthony Williams  
Interim Executive Director Michael Yaun

1416 Ninth Street, Room 1320  
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Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

**Re: SUPPORT FOR REGULATIONS TO BAN NIGHT-TIME HUNTING AND LETHAL TRAPPING IN GRAY WOLF TERRITORY (PETITION #2015-010) (Item #32(A), April 14, 2016 FGC Meeting)**

Dear President Sklar, Vice President Hostler-Carmesin, Commissioner Williams, and Director Yaun:

We—Action for Animals, Animal Legal Defense Fund, Apex Protection Project, Battle Creek Alliance, California Wolf Center, Cascadia Wildlands, Center for Biological Diversity, Defenders of Wildlife, Eastern Sierra Wildlife Care, Endangered Species Coalition, Environmental Protection Information Center, International Marine Mammal Project, Klamath Forest Alliance, Los Angeles Wilderness Training, Marin Humane Society, Mountain Lion Foundation, Natural Resources Defense Council, Nevada Wildlife Alliance, Peace 4 Animals, Project Bobcat, Project Coyote, River Otter Ecology Project, Shark Stewards, Sierra Club California, Social Compassion in Legislation, Sonoma County Wildlife Rescue, The Humane Society of the United States, Western Watersheds Project, WildEarth Guardians, and Wildlife Emergency Services, collectively representing over 3,100,000 Californians—write to express our strong support for regulations to ban night-time hunting and lethal trapping of coyotes and other species within the range of the gray wolf in California (Petition #2015-010). We urge the Commission to expeditiously adopt the ban in order to protect the federally and state-listed gray wolf and aid this magnificent species on its critical road to recovery in California.

As the Commission is well aware, the recovery of California’s gray wolf population is precarious in light of only a single pack, the Shasta Pack, currently known to be residing in the state. In recognition of this status, the gray wolf is listed as endangered under both the state and federal Endangered Species Acts (“CESA” and “ESA”). While these regulatory mechanisms render both the intentional and accidental taking of gray wolves in California illegal, specific regulations are necessary to protect wolves in the state from one of the greatest threats to their recovery: the accidental killing of gray wolves mistaken for other species, particularly coyotes, in night-time hunting and lethal trapping currently permitted in occupied and potential wolf territory. We are pleased that the Commission is now, in response to a petition, considering regulations to address this need.

We urge the Commission to take swift action on the requested regulations in order to greatly reduce the risk of future takings of wolves in violation of the ESA and CESA. Well-documented cases across the United States show that wolves have frequently been killed by hunters targeting coyotes as well as having been injured or killed in traps set for other species.<sup>1</sup> The Commission, in your notice of findings for the

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<sup>1</sup> See Petition #2015-010 for further details.

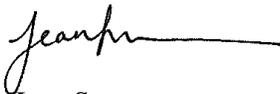
gray wolf CESA listing, confirmed that “dispersing wolves and small wolf populations are inherently at risk due to . . . being killed by hunters that mistake them for coyotes.” Further, the California Department of Fish and Wildlife articulated the accidental killing of wolves “mistak[en] . . . for coyotes” and “by traps or snares” as key sources of wolf mortality in its December 2015 Draft Conservation Plan for Gray Wolves.<sup>2</sup> The risk of mistaken identity is greatest at night, with threats to species that look nothing like the target species, including humans.<sup>3</sup> California’s current regulations which permit night-time hunting and lethal trapping of coyotes and other nongame and furbearer species within the range of the gray wolf will, absent amendment, almost certainly result in the illegal take of the endangered gray wolf. The Commission’s adoption of a ban against such activities serves to greatly reduce the likelihood of ESA and CESA violations by hunters and trappers, as well as the Commission’s and Department’s own potential legal liability under these statutes.

Moreover, the protections we seek for the gray wolf are neither new nor extraordinary; identical protections are already afforded to California’s two other CESA-listed wild canids. Specifically, the Commission previously enacted prohibitions on night-time hunting and the use of lethal traps within the range of the endangered San Joaquin kit fox and Sierra Nevada red fox<sup>4</sup>—protections identical to those we now seek on behalf of the gray wolf. The Commission should afford equal protective treatment to the endangered gray wolf population.

While we recognize that wolf recovery and management in California will be a multifaceted and long-term endeavor engaging myriad stakeholders, the most immediate risks to the species can and must be addressed by the Commission. As the current California gray wolf population consists of only seven known wolves, it is indisputable that the wolves’ very survival in the state is precarious, thus warranting expeditious action to minimize risks of their illegal take. The requested regulations are an essential step in this effort.

Thank you for your consideration of these comments. We look forward to the Commission’s swift action on this matter.

Sincerely,



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<sup>2</sup> California Fish and Wildlife Department, Draft Conservation Plan for Gray Wolves in California Part II, p. 13 (December 2015), <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=112630&inline>.

<sup>3</sup> Exemplifying this in California in 2014, Department Warden Bob Perra suffered near-fatal neck injuries from night-time shots taken by a contestant of a coyote-killing contest in El Dorado County. *See* Locke, Cathy, El Dorado County man charged in 2014 wounding of game warden (Feb. 25, 2015), <http://www.sacbee.com/news/local/crime/article11171996.html>. *See* Petition for further analysis.

<sup>4</sup> *See* 14 CCR § 465.5(g)(5)(c), 466 and 474(a).



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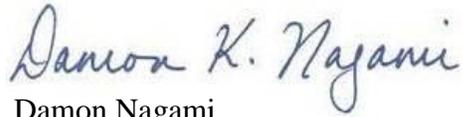
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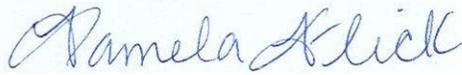
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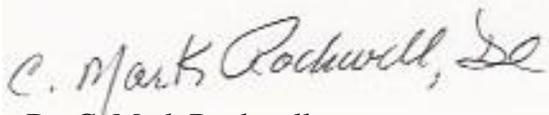
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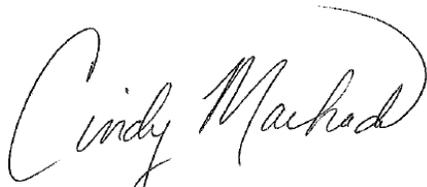
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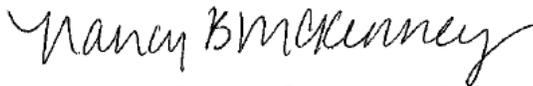


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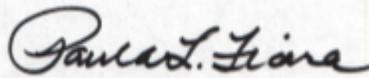
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**CALIFORNIA FISH AND GAME COMMISSION  
DECISION LIST FOR NON-REGULATORY ACTION THROUGH FEB. 11, 2016**

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

**Grant:** FGC is *willing to consider* the petition through a process   **Deny:** 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	Short Description	FGC Decision	DFW/FGC Staff Response	Final Action, Other Outcomes
2/10/2016	Eric Mills, Action for Animals	Live animal importation	Request FGC agendaize for discussion the live animal importation issue to stop the importation of live frogs and turtles for human consumption.	Action scheduled 4/14/2016 STAFF RECOMMENDATION: DENY; previously denied and no new information provided.		
2/10/2016	Kathy Lynch, National Shooting Sports Foundation, California Trappers Assoc., Outdoor Sportsmen's Coalition of CA	Contributions of sportsmen	Requests DFW and FGC work together to acknowledge on the record at an FGC meeting the economic contributions of sportsmen.	Action scheduled 4/14/2016 STAFF RECOMMENDATION: Grant; request DFW provide once per year an update on fiscal contributions of sportsmen to the state.		
2/11/2016	Kimberly Richards, Democrats of Napa County	Sage grouse	Requests update from DFW on plans to move/transplant portions of the sage grouse population.	Action scheduled 4/14/2016 STAFF RECOMMENDATION: No action necessary; DFW Director Bonham provided update and response on 2/11/2016.		
2/11/2016	Marilyn Jasper	Meeting document and agenda organization	Requests that meeting documents and public comments be organized in accordance with agenda topics.	Action scheduled 4/14/2016 STAFF RECOMMENDATION:		
2/11/2016	Fauna Tomlinson, Project Coyote	Invitation	Invitation to wildlife friendly ranching workshop.	Action scheduled 4/14/2016 STAFF RECOMMENDATION: Grant for 4/12/2016		Grant; field trip scheduled on 4/12/2016
2/9/2016	Laura Dax Honda and 15 students, Manor School	Bullfrogs	Requests FGC do whatever it can to help protect native frogs from non-native imported bullfrogs intended for human consumption.	Receipt scheduled 4/14/2016 Action scheduled 6/23/2016 STAFF RECOMMENDATION: Refer; under review by DFW (Lehr thinks DFW sent a letter and will let us know).		