

## STAFF SUMMARY FOR JUNE 22-23, 2016

**2. PUBLIC FORUM (DAY 1)****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** **Jun 22-23, 2016; Bakersfield**
- Direction to grant, deny, or refer requests **Aug 24-25, 2016; Folsom**

**Background**

This agenda item is to provide clarity surrounding the process for topics being raised by the public for FGC consideration. Under the Bagley-Keene Open Meeting Act, FGC cannot act on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Public comments on topics not scheduled on the current agenda are generally categorized in three types under public forum: 1) Requests for regulatory action; 2) requests for non-regulatory action; and 3) informational-only topics. Regulatory and non-regulatory requests follow a two-meeting cycle: Items submitted by the late comment deadline or at the meeting are scheduled for receipt at the current meeting, while FGC will determine the fate of the regulatory and non-regulatory requests at the next FGC meeting following staff evaluation.

As required by the Administrative Procedure Act (APA), regulatory requests will be either denied or granted and notice made of that determination. Action on requests received at previous meetings is scheduled under a separate agenda item called "Petitions for regulation change and non-regulatory requests from previous meetings".

**Significant Public Comments**

1. See a summary of regulatory petitions in Exhibit 1
2. See a summary of non-regulatory requests in Exhibit 2

**Recommendation**

Consider whether any new future agenda items are needed to address issues that are raised and within the FGC's authority.

**Exhibits**

1. [Table containing a summary of new petitions for regulation change received by Jun 9 at 5:00 p.m., the comment deadline for meeting binder \(individual petitions listed below\).](#)
2. [Table containing a summary of new non-regulatory requests received by Jun 9 at 5:00 p.m., the comment deadline for the meeting binder.](#)
3. [Petition #2016-006 \(Spearfishing tags\) \(summarized in Exhibit 1\)](#)
4. [Petition #2016-007 \(Display caught fish in tanks\) \(summarized in Exhibit 1\)](#)
5. [Petition #2016-008 \(Legalize Ferrets\) \(summarized in Exhibit 1\)](#)
6. [Petition #2016-010 \(Sage Grouse\) \(summarized in Exhibit 1\)](#)
7. [Petition #2016-011 \(Striped and Black Bass\) \(summarized in Exhibit 1\)](#)
- 8-12 [Individual non-regulatory requests for action that are summarized in Exhibit 2](#)

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

**CALIFORNIA FISH AND GAME COMMISSION  
REQUESTS FOR REGULATORY ACTION  
Revised 06-17-2016**

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

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
<a href="#">2016-006</a>	4/18/2016	5/1/2016	5/31/2016	A	Dennis Haussler	freshwater spearfishing regs same as freshwater bow and arrow regs	200, 202, 205, 210	Amend fresh water spearfishing regulations to be same as fresh water bow and arrow regulations.	<b>Receipt scheduled 6/22-23/16 Action scheduled 8/24-25/16</b>
<a href="#">2016-007</a>	4/29/2016	5/13/2016	5/31/2016	A	Michael Newdow	Permitted to place fish they lawfully catch into tanks for viewing	200, 202, 205 and 210	Permit take of fish for display in personal fish tanks.	<b>Receipt scheduled 6/22-23/16 Action scheduled 8/24-25/16</b>
<a href="#">2016-008</a>	5/26/2016	6/10/2016	5/31/2016	A	Pat Wright	Remove domestic ferrets from the list of prohibited wildlife	2118	Remove domestic ferrets from the list of prohibited species.	<b>Receipt scheduled 6/22-23/16 Action scheduled 8/24-25/16</b>
<a href="#">2016-010</a>	6/8/2016	6/22/2016	6/14/2016	A	J.D. Mostoufi	Sage grouse permits		Proposes Sage grouse permit holders be awarded a preference point similar to Big Game drawings.	<b>Receipt scheduled 6/22-23/16 Action scheduled 8/24-25/16</b>
<a href="#">2016-011</a>	6/10/2016	6/24/2016	6/14/2016	A	Paul Weiland	Black bass and striped bass in Sacramento-San Joaquin Delta	200, 202, 205, 220	Increase the size and bage limits for black bass and striped bass in Sacramento-San Joaquin Delta and rivers tributary to the Delta	<b>Receipt scheduled 6/22-23/16 Action scheduled 8/24-25/16</b>

**CALIFORNIA FISH AND GAME COMMISSION**  
**REQUESTS FOR NON-REGULATORY ACTION 2016**  
**Revised 06-17-2016**

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

Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Decision
4/7/2016	<a href="#">Brandt Stickle</a>	Frolic Cove abalone	Request comprehensive survey of abalone in Frolic Cove in order to reconsider restoring the northern boundary of Point Cabrillo State Marine Reserve to its original 2013 boundary.	<b>Receipt scheduled 6/23/2016</b> <b>Action scheduled 8/24/2016</b>
4/12/2016	<a href="#">Neal Maloney</a> Morro Bay Oyster Co.	Addition of select species to state water bottom lease #M-614-01, Parcel 2	Requests adding: Kumamoto oysters ( <i>Crassostrea sikamea</i> ), Olympic oysters ( <i>Ostrea lurida</i> ) Pismo Clam ( <i>Tivela stultorum</i> ), Seaweed ( <i>Gracilaria andersonii</i> ) and ( <i>Gracilaria pacifica</i> ) to current lease	<b>Receipt scheduled 6/23/2016</b> <b>Action scheduled 8/24/2016</b>
5/12/2016	<a href="#">Harold Johnson</a>	Bobcat trapping	Requests FGC reconsider ban on bobcat trapping.	<b>Receipt scheduled 6/23/2016</b> <b>Action scheduled 8/24/2016</b>
6/1/2016	<a href="#">Gene Carl</a>	Permit to study Coho salmon	Requests a research permit to study Coho salmon to learn the limits and adaptability to future changes in habitat and environment.	<b>Receipt scheduled 6/23/2016</b> <b>Action scheduled 8/24/2016</b>
2/3/2016	<a href="#">Devon Harger</a> Neushul Mariculture	Transfer state water bottom lease #M-654-03	Request to transfer current lease from Neushul Mariculture to Parmasea, LLC, owned by Daniel Marquez	<b>Receipt scheduled 6/23/2016</b> <b>Action scheduled 8/24/2016</b>



2016-006

Tracking Number: (Freshwater spearfishing change)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

### **SECTION I: Required Information.**

*Please be succinct. Responses for Section I should not exceed five pages*

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Dennis Haussler

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game code, sections 200, 202, 205, 210.**

**3. Overview (Required) - Summarize the proposed changes to regulations: Make the freshwater spearfishing regs the same as freshwater bow and arrow regs.**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change: Bow and arrow is allowed all year, and any waters with the exception of designated salmon spawning areas. Freshwater spearfishing is allowed may 1 thru sept 15, valley district only, excepting designated salmon spawning areas. There are a lot of lakes and rivers where we could be hunting invasive species such as suckers, squawfish, carp, if we were allowed the same regs as bow and arrow. We have the ability to take some of the predacious fish out of the systems where they feed on trout, salmon and steelhead. Allowing this opportunity will also decrease the pressure on the saltwater fish, as divers from the valley will use this as an opportunity to hunt without having to travel 5 hrs or more to spear. We also have the opportunity to contribute the take to organic farms to use in composting.**

### **SECTION II: Optional Information**

**5. Date of Petition: 4/15/16**

**6. Category of Proposed Change**

Sport Fishing



- Commercial Fishing
- Hunting
- Other, please specify: Click here to enter text.

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
- Amend Title 14 Section(s):2.30
  - Add New Title 14 Section(s): Click here to enter text.
  - Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.  
 Or  Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.  
 If the proposed change requires immediate implementation, explain the nature of the emergency: 2017
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: none
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
 Click here to enter text.

**SECTION 3: FGC Staff Only**

Date received: Click here to enter text.

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: May 31, 2016

Meeting date for FGC consideration: June 22-23, 2016

FGC action:

- Denied by FGC
- Denied - same as petition \_\_\_\_\_  
 Tracking Number
- Granted for consideration of regulation change

RECEIVED  
 CALIFORNIA  
 FISH AND GAME  
 COMMISSION  
 2016 MAY 31 AM 8:27



2016-007

Tracking Number: (Aurora-2016-04-29)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

### SECTION I: Required Information.

*Please be succinct. Responses for Section I should not exceed five pages*

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Michael Newdow

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 202, 205 and 210 of the Fish and Game Code.**

**3. Overview (Required) - Summarize the proposed changes to regulations: I would like the public to be permitted to place the fish they lawfully catch into fish tanks for viewing.**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change: The placement of fish in fish tanks (aquaria) is a practice that has been in existence for at least 2,000 years. Being able to view fish provides pleasure, education and an appreciation of nature for millions. It is the reason we have such facilities as the Monterey Bay Aquarium, the Aquarium of the Bay in San Francisco, the Aquarium of the Pacific in Long Beach, and myriad others, not only in California and the entire United States, but throughout the world. In addition to these large municipal institutions, countless individuals are hobbyists who spend extraordinary amounts of time, money and energy in maintaining aquaria. As you likely are aware, there is even a renowned television program, *Tanked*, solely on this activity. Following responsible practices, observing nature's work in a fish tank is a marvelous way to appreciate our environment and educate ourselves as we directly view the beauty of those creatures that live in our lakes, streams and oceans. California actively supports this practice, licensing tropical fish stores, etc., for its citizens to participate in tank-related activities. Unfortunately, through some bizarre logic, it limits the involvement of those who catch fish in its lakes. Fishermen who catch fish can eat those fish, dissect those fish, feed them to their pets, or do just about anything else they wish ... except put those fish into an aquarium so as to relish their magnificence and get a close-up view of their behaviors. Of course, they can go to a local supplier and purchase fish – even**



of the same species – to place in their aquaria. But to view the fish one has herself caught, and to get a specimen far more valuable in terms of size as well as personal connection, is prohibited. This is the case even though – as just noted – that same individual can take the fish out of the lake and kill it. Such a regulation seems utterly inane. Undoubtedly there are some valid reasons for regulating the practice, and no one is objecting to reasonable regulations. Thus, prohibiting the introduction of a fish into another body of water, or somehow placing the same lake or stream at risk of the spread of disease, etc. should certainly be regulated. But having a blanket prohibition against taking a fish and placing it in an aquarium simply makes no sense.

## SECTION II: Optional Information

5. **Date of Petition: April 29, 2016**

6. **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: [Click here to enter text.](#)

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

Amend Title 14 Section(s): Section 1.63

Add New Title 14 Section(s): [Click here to enter text.](#)

Repeal Title 14 Section(s): [Click here to enter text.](#)

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)

Or  Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the

emergency: Desired date: May 1, 2016. There is no emergency, except that the regulations are

currently hindering the enjoyment of the State's residents and visitors with no apparent good reason.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Common sense.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: No significant impact. We are talking about taking fish for which people already have licenses.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

## SECTION 3: FGC Staff Only



Date received: [Click here to enter text.](#)

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: May 31, 2016

Meeting date for FGC consideration: June 22-23, 2016

FGC action:

- Denied by FGC
- Denied - same as petition \_\_\_\_\_

Tracking Number

- Granted for consideration of regulation change

2016 APR 29 PM 2:05

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION



Tracking Number: (2016-008 )

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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### **SECTION I: Required Information.**

*Please be succinct. Responses for Section I should not exceed five pages*

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Pat Wright

Address: [REDACTED]

Telephone number: (916) 557-5100

Email address: [REDACTED]

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code 2118**

**3. Overview (Required) - Summarize the proposed changes to regulations: Remove domestic ferrets from the list of prohibited wildlife**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change: Domestic ferrets are legal in 48 states and the Fish and Game Commission has never been able to document any harm that ferrets have done elsewhere, or even the large number of illegal ferrets already in California has done. Previous requests on my part have resulted in "we don't have time for this" from Commissioners. .**

### **SECTION II: Optional Information**

**5. Date of Petition: 05-26-2016**

**6. Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Fish and Game Code 2118



- 7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
  - Amend Title 14 Section(s):§ 671. Importation, Transportation and Possession of Live Restricted Animals. (2) Class Mammalia-Mammals (K) Order Carnivora-Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.
  - Add New Title 14 Section(s): Click here to enter text.
  - Repeal Title 14 Section(s): Click here to enter text.
- 8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.  
Or  Not applicable.
- 9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text.
- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: **ANALYSIS OF THE POTENTIAL IMPACTS OF DOMESTICATED FERRETS UPON WILDLIFE, AGRICULTURE, AND HUMAN HEALTH IN NORTH AMERICA, WITH A FOCUS UPON CALIFORNIA, BASED UPON LITERATURE REVIEW AND SURVEY OF NORTH AMERICAN GOVERNMENTAL AGENCIES and jCEQA Environmental Checklist**
- 11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Increased economic activity for the pet trade, decrease in Fish and Wildlife enforcement expenses.
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
Click here to enter text.

**SECTION 3: FGC Staff Only**

Date received: May 26, 2016

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: May 31, 2016



State of California – Fish and Game Commission

**PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE**

FGC 1 (NEW 10/23/14) Page 3 of 3

Meeting date for FGC consideration: June 22-23, 2016

FGC action:

- Denied by FGC
- Denied - same as petition \_\_\_\_\_  
Tracking Number
- Granted for consideration of regulation change



2016-010

Tracking Number: (Click here to enter text.)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov).

### **SECTION I: Required Information.**

*Please be succinct. Responses for Section I should not exceed five pages*

**1. Person or organization requesting the change (Required)**

Name of primary contact person: J.D. Mostoufi

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game code sections 200, 202, 203, 355**

**3. Overview (Required) - Summarize the proposed changes to regulations: I propose that hunters who apply for a sage grouse permit and are unsuccessful in the drawing be awarded a preference point similar to the CDFW Big Game Drawing, so that unsuccessful hunters will receive preference in future years over hunters who have recently drawn a sage grouse permits.**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change:**  
Currently, sage grouse permits are given away in a random fashion. If approximately 350 hunters put in for 30 sage grouse permits in the North Mono Zone, the odds of drawing a permit would be 1 in 11.67. If the CDFW switched over to a draw system similar to the big game drawing system, then hunters who have been unsuccessful in the sage grouse permit draw over the years would build up preference points which would help the unsuccessful hunter have a better chance at drawing a permit in future years. This system would be fair and equitable to all and it would not be difficult to accomplish, as hunters in California are already using this system to be awarded big game tags. Additionally, hunters are already using the Online Licensing system to apply for sage grouse permits; the change would only be to give unsuccessful applicants a better chance in the future to draw a permit. If approximately 350 hunters applied every year for sage grouse permits, then within 10-11 years, most if not all the applicants would have a chance to draw a sage grouse permit.



## SECTION II: Optional Information

5. **Date of Petition: June 6, 2016**

6. **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Click here to enter text.

7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)

Amend Title 14 Section(s): Amend Title 14, FGC section 300

Add New Title 14 Section(s): Click here to enter text.

Repeal Title 14 Section(s): Click here to enter text.

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.

Or  Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the emergency: I recommend that the desired changes be implemented immediately, as there is a meeting of the FGC on June 22,23 2016 and the next drawing period for sage grouse hunts in California would be in August 2016. The drawing could be accomplished without problem this year, as the preference points would not come into play in the drawing until August 2017, which would allow one year to make changes to track and implement a preference point system for sage grouse permits.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: I do not foresee any economic impacts caused by the proposed change as it has no bearing on the number of permits that are issued or areas where sage grouse hunting is allowed.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

Click here to enter text.

## SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

Accept - complete

Reject - incomplete



State of California – Fish and Game Commission

**PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE**

FGC 1 (NEW 10/23/14) Page 3 of 3

Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: June 14, 2016

Meeting date for FGC consideration: June 22-23, 2016

FGC action:

Denied by FGC

Denied - same as petition \_\_\_\_\_

Tracking Number

Granted for consideration of regulation change

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2016 JUN - 8 PM 1:55



2016-011

Tracking Number: (Click here to enter text.)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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## **SECTION I: Required Information.**

*Please be succinct. Responses for Section I should not exceed five pages*

### **1. Person or organization requesting the change (Required)**

Name of primary contact person: Coalition for a Sustainable Delta, California Chamber of Commerce, California Farm Bureau Federation, Kern County Water Agency, Metropolitan Water District of Southern California, Northern California Water Association, San Joaquin Tributaries Authority, Southern California Water Committee, State Water Contractors, Western Growers  
Address: c/o Paul Weiland Nossaman LLP, 18101 Von Karman Ave., Suite 1800, Irvine, CA, 92612  
Telephone number: (949) 833-7800  
Email address: [pweiland@nossaman.com](mailto:pweiland@nossaman.com)

### **2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code sections 200, 202, 205, and 220.**

### **3. Overview (Required) - Summarize the proposed changes to regulations: The proposed changes would increase the size and bag limits for black bass and striped bass in the Sacramento-San Joaquin Delta and rivers tributary to the Delta. In section 5.00(a)(1), with respect to black bass, the size limit would be decreased from 12 inches to 8 inches and the daily bag limit would be increased from 5 fish to 10 fish. In section 5.75, with respect to striped bass, the bag limit in subsection (b) would be increased from 2 fish to 6 fish and the size limit in subsection (c) would be decreased from 18 inches to 12 inches.**

### **4. Rationale (Required) - Describe the problem and the reason for the proposed change: The purpose of the proposed changes is to reduce predation by non-native black bass and striped bass on fish that are native to the Sacramento-San Joaquin Delta and listed as threatened or endangered under the federal or California Endangered Species Act. The fact that predation is a major source of mortality of listed fish including Central Valley spring-run Chinook salmon, Central Valley steelhead, Delta smelt, and Sacramento River winter-run Chinook salmon is well documented. For example, in a 2011 report to this Commission, the then Department of Fish and Game concluded "studies of striped bass feeding habits indicate they consume an enormous volume of fish, overlap in their geographic range with the listed species, and have historically consumed listed species, at times in very substantial quantities." [5]**



More recently, in its 2014 Recovery Plan for Central Valley Salmonids, the National Marine Fisheries Service ranked predation in the highest stressor category in its threat assessments for Central Valley spring-run Chinook salmon, Central Valley steelhead, and Sacramento River winter-run Chinook salmon. [7]

These reports from the state and federal agencies entrusted to manage fish populations within California are reinforced by outside experts. For example, in a 2008 report on the Central Valley Project Improvement Act fisheries program, a blue-ribbon panel of scientists characterized predation as a “key limiting factor” on Central Valley salmonids and concluded that predation reduction efforts are among those actions that have the “greatest ability to improve anadromous fish populations in the near term.” [3] Furthermore, the populations of a number of these fish are at or near historic lows. For example, the four major indices of Delta smelt abundance – the spring Kodiak trawl, the 20mm survey, the summer townet survey, and fall midwater trawl – all indicate the species is at the lowest point on record. The population of winter-run Chinook salmon is also severely depressed, which led this Commission at its February 2016 meeting at the urging of the Department of Fish and Wildlife to close a reach of the Sacramento River downstream of Keswick dam to recreational fishing.

There is ample precedent for regulatory action to address impacts of predators on native fish. For example, in the Columbia River system, resource managers have taken steps to control predation by birds, marine mammals, and fish on salmonids. [1] There, the effort to address northern pikeminnow predation on young salmon was initiated in 1990 and is credited with reducing predation on outmigrants by more than 35 percent. [1] Washington also has removed size and bag limits on warm-water fishes above the McNary Dam on the Columbia River to reduce predation on native fish. [12] Utah has mandated that on Green River tributaries anglers harvest four nonnative predators – burbot, northern Pike, smallmouth bass, and walleye – in order to protect native species including the endangered Bonytail chub, Colorado pikeminnow, razorback sucker and humpback chub. [11] Similarly, in its 2016 sport fishing regulations, Oregon removed bag limits for warm-water fish in the Columbia River and for smallmouth bass in the John Day and Umpqua Rivers to reduce predation on salmonids. [8,9]

The regulatory change sought will advance the co-equal goals (Cal. Water Code, § 85054) of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem, because the change will reduce the adverse effects of predation by non-native fish on fish species that are native to the Delta ecosystem and in danger of extinction or likely to become in danger of extinction in the foreseeable future. By contributing to the conservation of native species, the regulatory change will allow for more water management flexibility and reduce the need to address this significant stressor on native species through other actions, including imposition of limits on water supplies. This regulatory change will also help realize the full benefits of various upstream actions that have and will continue to be taken to help recover native salmon and steelhead species.

We encourage the Commission to work in cooperation with the Department to implement this regulatory change in a manner that allows for adaptation in response to information regarding the effects of the change on both predator and prey populations. This can occur consistent with the Commission’s past practices, which provide for annual review of and adjustment to sport fishing regulations and, in unusual circumstances, in-season changes to such regulations where warranted. An adaptive approach to implementation of regulatory changes is based on the acknowledgement that any regulatory rule-set implemented in a complex ecosystem may have unanticipated effects. While active adaptive management is not feasible in this circumstance, data collection, analysis, and learning is both feasible and necessary in order to achieve sensible resource management.



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## SECTION II: Optional Information

5. **Date of Petition:** Click here to enter text.
6. **Category of Proposed Change**
- Sport Fishing
  - Commercial Fishing
  - Hunting
  - Other, please specify: Click here to enter text.
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
- Amend Title 14 Section(s):5.0, 5.75
  - Add New Title 14 Section(s): Click here to enter text.
  - Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.  
Or  Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.  
If the proposed change requires immediate implementation, explain the nature of the emergency: Immediately upon approval by the Commission consistent with legal requirements.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:
1. Bonneville Power Administration, Predator Control Helps Salmon (available at <http://www.salmonrecovery.gov/Files/Fact%20sheets/Predator%20control%20-%20Sept%202010.pdf>).
  2. California Department of Fish and Wildlife, Delta Science Program, National Marine Fisheries Service, Annotated Bibliography, Predation Workshop July 22-23, 2013.
  3. Cummins, Ken et al., Listen to the River: An Independent Review of the CVPIA Fisheries Program, December 2008.
  4. Department of Fish and Game, Striped Bass Sport Fishing Regulation Amendment Proposal, dated Dec. 5, 2011.
  5. Department of Fish and Game, Report and Recommendation to the Fish and Game Commission in Support of a Proposal to Revise Sportfishing Regulations for Striped Bass, dated Dec. 2011.
  6. Grossman, Gary et al., Effects of Fish Predation on Salmonids in the Sacramento River – San Joaquin Delta and Associated Ecosystems, dated Sept. 25, 2013.
  7. National Marine Fisheries Service, Recovery Plan for Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and Central Valley steelhead, dated July 2014.
  8. Oregon Fish and Game Commission, Oregon Sport Fishing Regulations 2016 (<http://www.eregulations.com/oregon/fishing/pageFlip/>).
  9. Oregon Fish and Game Commission, September 3-4, 2015 Commission Agenda, Exhibit B, Attachment 1 (available at [http://www.dfw.state.or.us/agency/commission/minutes/15/09\\_september/Exhibit\\_B\\_Attachment\\_1\\_Ag](http://www.dfw.state.or.us/agency/commission/minutes/15/09_september/Exhibit_B_Attachment_1_Ag)



enda\_Item\_Summary.pdf).

10. U.S. House of Representatives, Committee on Natural Resources, Subcommittee on Water, Power, and Oceans, Hearing Memo re Oversight Hearing on “The Costly Impacts of Predation and Conflicting Federal Statutes on Native and Endangered Fish Species,” dated Feb. 8, 2016.

11. Utah Fishing Guidebook 2015 (available at [http://wildlife.utah.gov/guidebooks/2015\\_pdfs/2015\\_fishing\\_low.pdf](http://wildlife.utah.gov/guidebooks/2015_pdfs/2015_fishing_low.pdf)).

12. Washington Sport Fishing Rules 2015-16 (available at <http://wdfw.wa.gov/publications/01726/wdfw01726.pdf>).

**11. Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: The proposed change in regulation is likely to have positive short-term impacts on a very narrow segment of the State’s economy by contributing to an increase in sport fishing, which may be expected to increase license revenue to the Department of Fish and Wildlife as well as the revenues of certain businesses that support recreational fishing. In addition, the proposed change in regulation is likely to have on-going and increasing positive impacts on a broad base of the State’s economy by contributing to the conservation of populations of multiple native fish species, which will both allow regulators to reduce limits on commercial harvest of Chinook salmon (benefitting the industry that relies on such harvest) and also lead to increased operational flexibility of the Central Valley Project and State Water Project that provide water for tens of millions of agricultural, industrial, and municipal water users across the State, fueling the economy.

**12. Forms:** If applicable, list any forms to be created, amended or repealed:

Click here to enter text.

**SECTION 3: FGC Staff Only**

Date received: Click here to enter text.

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: June 14, 2016

Meeting date for FGC consideration: June 22-23, 2016

FGC action:

- Denied by FGC
- Denied - same as petition \_\_\_\_\_
- Granted for consideration of regulation change

Tracking Number

LAW OFFICES OF  
**HOGAN & STICKEL, INC.**  
811 NORTH MAIN STREET  
P.O. BOX 1286  
FORT BRAGG, CALIFORNIA 95437  
(707) 961-4400  
FAX (707) 961-4410

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2016 APR 18 PM 3:55

MLS

BRANDT R. STICKEL, JD, LLM

LARRY FLORES, CPA

April 7, 2016

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

Dear Sir:

I am writing to request that the Department of Fish and Wildlife re-survey Frolic Cove and restore the northern boundary of Point Cabrillo State Marine Reserve to its original boundaries prior to 2013.

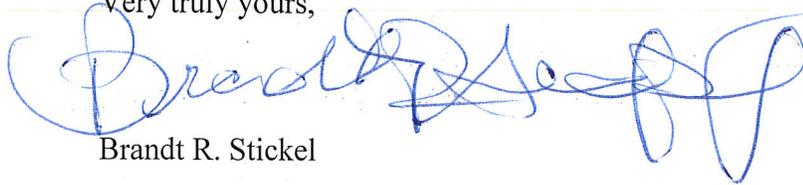
It is not clear to me why the Department determined the abalone fishery in Frolic Cove to be endangered. I live in the residential community of Caspar South, which borders Point Cabrillo Light Station Park. I have dived Frolic Cove regularly for ten years. In the year before the closure, I counted 40 abalone in the course of swimming across the Cove. The abalone were accessible, although you certainly had to search for them.

Now that MPA's and MMA's have been opened to transit for access to open areas, I resumed swimming in Frolic Cove to access the otherwise inaccessible cove directly north of Frolic Cove. I did so this last weekend, and observed abalone are flourishing in Frolic Cove. Within ten feet of the north tideline I observed six full-size abalone in three to four feet of water, and many more beyond. Obviously, the abalone did not reproduce overnight to grow to life size. Last year, I observed a full-size abalone clinging to the end of a kelp stock several feet from the bottom! They have been there all along, but now have spread out.

It is hard for me to understand how a comprehensive survey of Frolic Cove could have suggested that resident abalone population was threatened. The simple fact of the matter is Frolic Cove never was heavily dived by abalone divers.

In sum, I would request Frolic Cove be re-surveyed. I am sure it will lead to the same observations I have made and that the Cove be restored for taking abalone.

Very truly yours,



Brandt R. Stickel

cc: Dept. of Fish & Wildlife (Fort Bragg)

**From:** [REDACTED]  
**To:** [FGC](#)  
**Cc:** [Ramey\\_Kirsten@Wildlife](mailto:Ramey_Kirsten@Wildlife)  
**Subject:** Consideration for the addition of species to DFW Lease M-614-01 Parcel 2  
**Date:** Tuesday, April 12, 2016 12:54:46 PM  
**Attachments:** [SpeciesRequest2016.docx](#)

---

Executive Director,

I am sending the attached letter as a formal request to add the various species that I have listed. I currently farm Pacific Oysters (*C. gigas*), however, I have a desire to add these species so that we can have more viable options for the success of our business. Thank you for your time and concern on this matter and would love to discuss this further with you at your convenience.

Neal Maloney  
Morro Bay Oyster Company



Executive Director  
Fish and Game Commission  
PO Box 944209  
Sacramento, CA 94244-2090  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

April 12th, 2016

RE: Addition of selected species to Morro Bay Oyster Company's Lease M-614-01, #2.

This is a request that the following species be added to our lease:

**Oysters**

--Kumamoto oysters (*Crassostrea Sikamea*)

--Olympic oysters (*Ostrea Lurida*) – Indigenous

Growing methods will be a combination of the same ones we currently use; long line, floating culture, bottom culture and modified self tipping rack and back.

**Clams**

--Pismo Clam (*Tivela Stultorum*) – Indigenous

Growing method: No plans for planting yet, growing methods would need more research but most likely planted in sediment and covered with mesh to keep predation out.

**Seaweed**

--*Gracilaria Andersonii* - Indigenous

--*Gracilaria Pacifica* – Indigenous

Growing methods: Harvest of wild stock on the lease, additional grow out in above ground tanks at our land based facility, 1287 Embarcadero. Morro Bay CA 93442. Possible sea pens at our Land based facility that would allow natural flow of seawater through mesh.

If you have any questions or need additional information, please let us know.

Regards,

Neal Maloney

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Harold Johnson

2016 MAY 12 PM 2:06

MLS

California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

Dear Sir,

I have been reading with some consternation about you Bobcat Trapping Ban. I am against banning activities such as these that have been put in place due to animal rights activists.

The Bobcat trapping ban may only affect a small portion of the California population, but those affected have lost their means of making a living.

As I understand it, bobcat trapping is only allowed in California with the use of box traps. This allows the trapper to release the animal or other animals caught in the trap. Although foothold traps are more affective and by no means any less humane than bobcat box traps, your state has outlawed these due to emotional issues brought forth by people who do not understand trapping. Regardless, the statewide banning of trapping of bobcats is honestly ridiculous and brought on by emotion, not science.

Almost the entire state of California is prime bobcat habitat. The number caught by hard working trappers is insignificant compared to the number found in you state. You are depriving your residents the opportunity for another outdoor activity. I have researched the reasons for you ban and find nothing of science significance that shows a ban will benefit bobcats. Apparently your commission has be infiltrated with people who do not understand wildlife issues. Your own fish and game department was against the ban, yet you allow emotion to rule the day.

I have trapped for many years and supplemented by income with trapping. Most of the animals I harvest are causing problems for landowners. I do this at no charge to the landowner and use the most humane methods available to dispatch animals. Here in Montana we have regulations that licensed trappers follow and we have ample populations of all furbearers. Yet we still trap. Why is it that California would ban trapping when in many areas bobcats are abundant?

As representatives of the people in California, you have an obligation to ALL people in California, and that includes trappers. Please consider removing the bobcat trap ban.

Sincerely,



Harold Johnson

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2016 JUN -1 PM 3: 14

May 25, '16

Valerie Termini Dir.  
Fish & Game Commission  
1416 Ninth Street  
Sacramento, Ca. 95814

Thank you for this opportunity to ask the commission for a research permit to study Coho salmon in our fish hatchery. The need to study the short life cycle of the Coho Salmon is to learn the limits and adaptability to future changes in the ever changing habitats and environment factors.

Respecting the Department Fish and Wildlife charge to protect the Coho Salmon, there seems to be confusion and a great disparity between the spirit of good faith of research and the interpretation of protection with the department's policies.

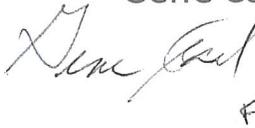
Our hatchery is only for research of adaptability in a artificial closed water recirculation system, with the tail waters are used in our Phormium nursery. We have accomplished multiple studies with rainbow trout including a artificial creek for a likeness for spawning for over 14 years.

I'm asking you for your consideration to issue me a permit to research Coho Salmon for the understanding of our future needs and potential augmentation in<sup>an</sup> artificial environment. Upon receiving a permit from the commission, we would like to extend in good faith the opportunity for a joint study with the DF&W for mutual benefits.

Thank you again for your consideration of our request.

Respectfully,

Gene Carl



January, 2016

Fish and Game Commission

P. O. Box 944209

Sacramento, CA 94244-2090

Cc: [Kirsten.ramey@wildlife.ca.gov](mailto:Kirsten.ramey@wildlife.ca.gov)

RE: Neushul Mariculture, Inc. Lease site M-654-03

Dear Fish and Game Commission,

I would like to transfer Lease site M-654-3 to Daniel Marquez's company, Pharmasea, LLC. Would you please add this item to the agenda for consideration at the next Commission meeting.

Sincerely,

Devon Harger

Neushul Mariculture, Inc.

[REDACTED]

[REDACTED]

[REDACTED]