

STAFF SUMMARY FOR OCTOBER 19-20, 2016

25. NONGAME**Today's Item**Information Action

Adopt proposed nongame hunting regulations related to domestic pigeons and nonnative deer.

Summary of Previous/Future Actions

- Notice hearing Jun 22-23, 2016; Bakersfield
- **Today's Adoption hearing Oct 19-20, 2016; Eureka**

Background

According to Section 3800, Fish and Game Code (Code), it is unlawful to take nongame birds except as authorized by code or regulation. Unfortunately, the status of domestic pigeons remains uncertain under existing law. The propose regulation aims to clarify their status as nongame birds and the conditions under which they may be taken.

Increasing populations of nonnative species have developed in many areas of California to the detriment of our native wildlife. The proposed regulation will create new hunting opportunities to reduce the populations of nonnative deer species by extending the hunting season beyond the general deer season and permitting take of nonnative deer, of either-sex, on properties where an authorized deer, elk, or pronghorn antelope season is open.

Significant Public Comments

1. Comments from Hearst Ranches expressing strong support for proposed change (exhibits 3 and 4).
2. Concern that banded pigeon program has created a trophy out of banded pigeons and requests FGC make it more burdensome on hunters who take banded racing pigeons (Exhibit 5).

Recommendation

FGC staff: Adopt proposed regulation as recommended by DFW.

DFW: Adopt proposed regulation.

Exhibits

1. [DFW email](#)
2. [ISOR](#)
3. [Email from Hearst Ranches, received Aug 9, 2016](#)
4. [Email from Hearst Ranches, received Oct 3, 2016](#)
5. [Email from John Vance, received Oct 5, 2016](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the proposed changes to Section 472, related to nongame hunting general provisions.

From: [Stowers, Craig@Wildlife](mailto:Stowers.Craig@Wildlife)
To: [Woodson, Caren@FGC](mailto:Woodson.Caren@FGC)
Cc: [Martz, Craig@Wildlife](mailto:Martz.Craig@Wildlife); [Mayfield, Rick@Wildlife](mailto:Mayfield.Rick@Wildlife); [Gardner, Scott@Wildlife](mailto:Gardner.Scott@Wildlife)
Subject: pre-adopt for Section 472
Date: Tuesday, October 11, 2016 11:58:57 AM

Caren –

Following Mr. Martz’s lead on the Upland Game Bird Special Hunt Drawing pre-adopt email, this email will also serve as the Department’s pre-adoption statement regarding proposed modifications to Section 472 – Nongame animals. The Department received a total of 4 comments regarding the proposal; two of them were from Mr. Benjamin Higgins, Director of Agricultural Operations, Hearst Ranch and were in support of the Department’s recommendation to expand the season of take for non-native species of deer.

Two other comments were received regarding regarding the proposal to allow the take of domestic pigeons. The first (Karen Clifton, Executive Director, American Racing Pigeon Union, email dated 10/6/16) recommends imposing additional penalties (undescribed) to deter hunters from specifically targeting racing pigeons; the second (John Vance, email dated 10/5/16) also recommends imposing additional penalties on hunters purposefully taking racing pigeons in the form of a \$10.00 fee and requiring the hunter to report all band data to the Department. Since Section 3680 of the Fish and Game Code (prohibiting the take of racing pigeons unless done by mistake when hunting band-tailed pigeons) is unaffected by this proposal, the Department believes the proposed amendments are unnecessary.

Please let me know if you need anything else.

Craig Stowers
EPM – Game Program
Wildlife Branch
(916) 445-3553

detriment of our native wildlife. Nonnative deer species compete with native species for the limited resources, forage, and habitat necessary for survival. They may also transmit diseases or parasites for which native species have no natural immunity or defenses. (For example, hairless deer syndrome in native deer is associated with lice found naturally on fallow deer).

Current regulation, subsection 472(b), permits the take of nonnative deer [including: fallow (*Dama dama*), sambar (*Rusa unicolor*), sika (*Cervus nippon*), and axis (*Axis axis*) deer] during the general deer season in the deer zone where they are found. This proposed regulation change will extend the hunting season beyond the general deer season by additionally allowing the take of nonnative deer, of either-sex, on any properties enrolled in Private Lands Management Programs where an authorized deer, elk, or pronghorn antelope season is open.

The amendment of subsection 472(b) further clarifies that hunters taking nonnative deer must possess a valid hunting license in accordance with FGC Section 3007. However, no tag, stamp, or additional endorsement of any kind is required and no bag or possession limit applies. While the take and reduction of nonnative deer populations is considered beneficial by the Department, FGC Section 4304 provides that it is unlawful to allow “flesh normally eaten by humans to go to waste.” For the purpose of clarification, the regulatory text is amended stating that the flesh of nonnative deer should not go to waste.

The proposed amendments to subsection 472(b) specifically:

- (b) Extend the season for nonnative deer, of either sex, to include the deer, elk, and antelope seasons on any property authorized for hunting, and add that there is no bag or possession limit for nonnative species.
- (b)(1) Clarify that the possession of a valid CA hunting license is required for taking nonnative species; however, no tag, stamp, or additional endorsement of any kind is required
- (b)(2) Clarify that it is unlawful to needlessly waste the edible flesh of nonnative deer.

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

Authority: Sections 3800 and 4150 Fish and Game Code.

Reference: Sections 2003, 3007, 3680, 3800, 3801, 3801.5, 4150, and 4304, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change: None.

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

A public discussion was held at the Fish and Game Commission's Wildlife Resources Committee meeting held on September 9, 2015 in Fresno, California.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

Regarding the take of domestic pigeons, the no change alternative was considered and rejected because the regulation would continue to be confusing and applied inconsistently on a statewide basis.

For the extended seasons for take of nonnative deer, the no change alternative was considered and rejected because it would not allow for the management of these nonnative species; negative impacts to native species populations and their habitats would continue to occur.

(c) Consideration of Alternatives:

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

V. Mitigation Measures Required by Regulatory Action:

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

VI. Impact of Regulatory Action:

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are unlikely to increase or decrease current levels of hunting effort in California.

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

The Commission anticipates benefits to the health and welfare of California residents. Establishing specific regulations regarding the take of nonnative deer species will create new hunting opportunities and help reduce negative impacts on native species populations and habitats by reducing populations of competing nonnative species.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis and create new hunting opportunities for nonnative deer. Hunting provides opportunities for multi-generational family activities and promotes respect for the continued existence of California's natural resources by the future stewards of the State's resources.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of businesses, or the expansion of businesses in California. The Commission does not anticipate any benefit to worker safety.

- (c) Cost Impacts on Representative Private Persons/Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment.

The proposed amendments will clarify the regulation regarding the take of domestic pigeons, and extend the season for the take of nonnative deer. There are no costs to businesses or persons.

(a) Effects of the regulation on the creation or elimination of jobs within the State:

The regulation will not affect the creation or elimination of jobs because it is unlikely to increase or decrease current levels of hunting effort in California.

(b) Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State:

The regulation will not impact the creation of new businesses or the elimination of businesses because it is unlikely to increase or decrease current levels of hunting effort in California.

(c) Effects of the regulation on the expansion of businesses currently doing business within the State

The regulation will not affect the expansion of businesses currently doing business within the State because it is unlikely to increase or decrease current levels of hunting effort in California.

(d) Benefits of the regulation to the health and welfare of California residents:

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources.

(e) Benefits of the regulation to worker safety.

The proposed regulation will not affect worker safety.

(f) Benefits of the regulation to the State's environment

It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources. The proposed action will further this core objective.

INFORMATIVE DIGEST (Policy Statement Overview)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 3800 and 4150 of the Fish and Game Code and to implement, interpret or make specific Sections 3800 and 4150 of said Code, proposes to amend Section 472, Title 14, California Code of Regulations, relating nongame animals general provisions.

Informative Digest/Policy Statement Overview

The status of domestic pigeons is uncertain under existing law. Fish and Game Code (FGC) Section 3680 implies that the shooting or taking of domestic pigeons is lawful. However, since their status (e.g. as the feral progeny of domestic birds) in the Code is unclear, the actual conditions under which they can be shot or taken is also unclear. FGC Section 3800 makes it unlawful to take nongame birds except as authorized by code or regulation.

Increasing populations of nonnative species have developed in many areas of California to the detriment of our native wildlife. Nonnative deer species compete with native species for the limited resources, forage, and habitat necessary for survival. They may also transmit diseases or parasites for which native species have no natural immunity or defenses. Current regulation permits the take of nonnative deer during the general deer season in the deer zone where they are found.

PROPOSED REGULATION

In order to clarify the status of domestic pigeons, the proposed amendment to subsection 472(a) specifies domestic pigeons are a nongame species which may be taken at any time and in any number except as specified.

In order to extend hunting opportunity and reduce populations of nonnative deer species, the proposed amendments to subsection 472(b) are necessary:

- (b) Extend the season for nonnative deer, of either sex, to include the deer, elk, and antelope seasons on any properties enrolled in Private Lands Management Programs authorized for hunting, and add that there is no bag or possession limit for nonnative species.
- (b)(1) Clarify that the possession of a valid hunting license is required for taking nonnative species; however, no tag, stamp, or additional endorsement of any kind is required.
- (b)(2) Clarify that it is unlawful to needlessly waste the edible flesh of nonnative deer.

BENEFITS OF THE PROPOSED REGULATIONS

The Commission anticipates benefits to the health and welfare of California residents. Establishing specific regulations regarding the take of nonnative deer species will create

new hunting opportunities and help reduce negative impacts on native species populations and habitats by reducing populations of competing nonnative species.

The Commission anticipates benefits to the State's environment in the sustainable management of natural resources. The regulation will clarify the conditions for take of domestic pigeons to provide consistency in application on a statewide basis and create new hunting opportunities for nonnative deer. Hunting provides opportunities for multi-generational family activities and promotes respect for the continued existence of California's natural resources by the future stewards of the State's resources.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the take of nongame birds and mammals (Sections 3800 and 4150, Fish and Game Code). No other State agency has the authority to promulgate nongame hunting regulations. The Commission has searched the California Code of Regulations and has found the proposed changes pertaining to the general provisions of the nongame section consistent with the provisions of Title 14; therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

HEARST RANCHES

Est. 1865

August 9, 2016

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

SENT VIA E-MAIL - fgc@fgc.ca.gov

Dear Commissioners:

I am writing on behalf of the Hearst Corporation to express strong support for amending §472, General Provisions – Nongame, Title 14, California Code of Regulations (CCR) to expand seasons for taking non-native deer on private lands.

The Commission provided authorization for noticing this regulatory change at the June 24-25, 2016 meeting. We encourage the Commission to adopt this proposal expeditiously.

The 82,000-acre Hearst Ranch, located in northern San Luis Obispo County, possesses one of the most remarkable and diverse assemblages of native plants, plant communities and natural habitats in all of California. The property is also inhabited by a large and growing herd of non-native sambar deer (*Rusa unicolor*). These are wild and unmanaged remnants of William Randolph Hearst's mid-20th century outdoor zoo, with a herd size presently estimated at 300+ animals. These non-native species compete with native species for resources and habitat, and may impact sensitive native plant species.

Options to control the population of this non-native species are very limited. Current regulation permits take only during the general deer season (approximately six weeks in August and September). Furthermore, since sambar are considered a nongame species, they may not presently be taken under the auspices of the Private Lands Management (PLM) program, in which the Hearst Ranch is enrolled. Amendment of §472, Title 14, CCR to permit take of non-native deer on properties enrolled in the PLM program when another authorized deer, elk, or pronghorn antelope season is open will expand our ability to control the growing sambar population within this important and protected property.

Again, the Hearst Corporation strongly supports amending §472, Title 14, CCR to expand the seasons for taking non-native deer on private lands. We appreciate your consideration of this matter. Please do not hesitate to contact me should you have questions.

Sincerely,



Benjamin L. Higgins
Director of Agricultural Operations

HEARST RANCHES

Est. 1865

October 3, 2016

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

SENT VIA E-MAIL - fgc@fgc.ca.gov

RE: Support for Amending §472, Title 14, CCR to Expand Seasons for Taking Non-Native Deer (Agenda Item No. 25, October 20, 2016)

Dear Commissioners:

I am writing on behalf of the Hearst Corporation to express strong support for amending §472, General Provisions – Nongame, Title 14, California Code of Regulations (CCR) to expand seasons for taking non-native deer on private lands.

The Commission authorized noticing this regulatory change at the June 24-25, 2016 meeting and adoption is slated to be considered as agenda item no. 25 at the October 20, 2016 meeting.

The 82,000-acre Hearst Ranch located in northern San Luis Obispo County possesses one of the most remarkable and diverse assemblages of native plants, plant communities and natural habitats in all of California. The property is also inhabited by a large and growing herd of non-native sambar deer (*Rusa unicolor*). These are wild free-roaming remnants of William Randolph Hearst's mid-20th century outdoor zoo, with a herd size estimated at 300+ animals. These non-native species compete with native species for resources and habitat and impact sensitive native plant species.

Options to control the population of this non-native species are very limited. Current regulation permits take only during the general deer season (approximately six weeks in August and September). Furthermore, since sambar are considered a nongame species, they cannot be taken under the auspices of the Private Lands Management (PLM) program, in which the Hearst Ranch is currently enrolled. Amendment of §472, Title 14, CCR to permit take of non-native deer on properties enrolled in the PLM program when another authorized deer, elk, or pronghorn antelope season is open will expand our ability to control the growing sambar population within this important and protected property.

Again, the Hearst Corporation strongly supports amending §472, Title 14, CCR to expand the seasons for taking non-native deer on private lands. We appreciate your consideration of this matter. Please do not hesitate to contact me should you have questions.

Sincerely,



Benjamin L. Higgins
Director of Agricultural Operations

SAN SIMEON RANCH
P.O. BOX 66
SAN SIMEON, CA 93452

HEARST CORPORATION
5 THIRD STREET SUITE 200
SAN FRANCISCO, CA 94103

JACK RANCH
76903 CHOLAME VALLEY RD.
CHOLAME, CA 93461

Comments to the CA Fish and Game Commission

Subject: Section 472, Title 14, California Code of Regulations, relating nongame animals general provisions

Submitted by: John Vance, Capistrano Beach, CA 92624

Email: [REDACTED]

It would appear to me after having conversations with Karen Fothergill, from Fish and Wildlife, that many hunters now consider bands collected from pigeon hunts, as trophies. This would make a banded pigeon more valuable to a hunter than a non banded pigeon.

All racing pigeon are registered and banded through the four North American Racing Pigeon governing bodies;

American Racing Pigeon Union

founded in 1902

[REDACTED]

International Federation of American Racing Pigeon Fanciers

Founded / Incorporated -1881

[REDACTED]

Canadian Racing Pigeon Union,

Incorporated 1944

[REDACTED]

Mexican Federation of Racing pigeons

Not able to find contact info at this time

Every racing pigeon has a commercial value of between \$25 and \$400,000. Yes, in 2013 a single racing pigeon in Europe, sold for \$400,000 at auction and the total sale of all 530 pigeons from the same breeder brought in \$5,548,387 (reference <http://www.bbc.com/news/world-europe-22613247>)

Approximately 20 weeks a year, racing pigeons are flying home from release points as near as 100 miles away and as far as 600 miles away. Every racing pigeon has been thoroughly trained at great expense to the owner / trainer.

US fanciers export breeding stock and race winners to mainland China, Taiwan, the Philippines, Mexico, Canada, and other countries around the world. The highest price ever paid for a racing pigeon in the United States, was \$100,000 (reference <http://www.ganusfamilyloft.com/>). It is estimated that 1 to 2 million dollars in USA racing pigeons are exported annually.

One USDA approved export facility, ships at least 1000 racing pigeons a year, to China, Japan, Malaysia,

Taiwan, Saipan, (and most other locations in Asia), Australia, Mexico, Europe and Canada. (reference: <http://www.okpigeon.com/id5.htm>)

We racing pigeon fanciers understand, that it is difficult to tell a banded pigeon from a unbanded pigeon however, we also realize that the banding program of the Fish and Game has created a trophy out of pigeon bands, including our registered banded racing pigeons.

What I propose, is that Fish and Game make it more burdensome on a hunter to shoot banded racing pigeons. Possibly ideas are:

1. A self reporting \$10.00 fee for every banded racing pigeon taken
2. Write down the complete band information off the band and report it to Fish and Game.

We just want the hunters to know, that each banded racing pigeon has a home, and has a commercial value to the family that raised it. This commercial value might be \$25.00 for a young unproven bird to over \$1000 for a seasoned race bird with a good record over several years.

We also want the hunters to know that in some cases, there are children in that family that have their pet pigeons (usually the pretty ones) and they are heartbroken when their pet does not return from the races, or worse makes it home only to die at the loft from wounds.

I have visited hunting websites that boast of the # of banded racing pigeons they take, it is even suggested that they visit the racing pigeon club's websites to find out the location of where the next race will be released and at what time. They then set up to ambush the race birds on their way home. I guess, to these hunters, it is sport to shoot at 1000+ birds flying down the valley, even though they know these birds are the property of others who are also enjoying their own sport and who earn money in sales when they are successful.

In California, there are racing pigeon organizations that release between 2000 – 4000 birds for a single race. These people should not be intentionally targeted by hunters and the only way that I can see to discourage targeting racing pigeons is to inconvenience the hunter when they shoot racing pigeons.

We in the racing pigeon sport can create facsimiles of what racing pigeon bands look like and what information on the bands the hunter would have to record and report to Fish and Game.

Sample pigeon band (laid flat) —▶ AU 2016 AUB 650

“AU” designates the national organization in this case the American Racing Pigeon Union (10,000+ members)

“2016” is the year the band was issued

“AUB” is the club code in this case, Auburn Racing Pigeon Club

“650” is the assigned registration number of the bird

If one wants to contact the owner they can look up the band number on the American Racing Pigeon Union website (<http://pigeon.org/>) under “band listings” choose the 2016 band list and search for AUB. You will get the following information:

Club Name	: AUBURN RPC
Club Code	: AUB
Club Secretary	: JOYCE STIERLIN
City	: PENRYN
State	: CA
Phone No.	: 916-847-9988
Email Address	: JOYCE.STIERLIN5@GMAIL.COM

Call to action:

I recommend that you implement policies that make it burdensome for hunters to shoot racing pigeons. I have given some suggestions about how to do this, in my comments above.

I recommend that you put off the proposed changes to Section 472, Title 14, California Code of Regulations, concerning domestic pigeons, until you have implemented policies that offer some protection to racing pigeons and their owners.

Historical Information:

Racing Pigeons are brave animals that have served and died in our armed services during two World Wars and have saved thousands of US soldiers lives

From Wikipedia, the free encyclopedia [begin]

Pigeons have long played an important role in war. Due to their homing ability, speed, and altitude, they were often used as military messengers. Carrier pigeons of the Racing Homer breed were used to carry messages in World War I and World War II, and 32 such pigeons were presented with the Dickin Medal. They ceased being used as of 1957.

During the First and Second World Wars, carrier pigeons were used to transport messages back to their home coop behind the lines. When they landed, wires in the coop would sound a bell or buzzer and a soldier of the Signal Corps would know a message had arrived. He would go to the coop, remove the message from the canister, and send it to its destination by telegraph, field phone, or personal messenger.

A carrier pigeon's job was dangerous. Nearby enemy soldiers often tried to shoot down pigeons, knowing that released birds were carrying important messages. Some of these pigeons became quite famous among the infantrymen they worked for. One pigeon, named "The Mocker," flew 52 missions before he was wounded. Another, named "Cher Ami," lost her foot and one eye, but her message got through, saving a large group of surrounded American infantrymen. [end]

Many Allied bombardiers had their planes go down in the North Sea, from anti aircraft fire, they received during bombing runs on German military and industrial targets. These bombardiers were found and rescued because their carrier pigeon crew members, flew across many miles of open sea with messages containing the location coordinates of the downed airmen. These coordinates were used to dispatch ships to pick up these downed airmen who otherwise would surely have perished in the cold and stormy North Seas. Some of these birds flew 100+ miles across open seas before the reached the shores of Scotland or England where they delivered their messages at their home lofts.

The racing pigeons of today, are the direct descendents of these war birds, and deserve to be treated better than as refuse. For so long as we honor these soldiers, we should honor their animal companions and sometimes saviors.

DEFENCE OF THE REALM

Regulation 21A.

SHOOTING HOMING PIGEONS.

Killing, Wounding or Molesting Homing Pigeons

is punishable under the Defence of the Realm Regulations by

SIX MONTHS IMPRISONMENT OR £100 FINE.

The Public are reminded that Homing Pigeons are doing valuable work for the Government, and are requested to assist in the suppression of the shooting of these birds.

£5 REWARD

will be paid by the **NATIONAL HOMING UNION** for information leading to the conviction of any person **SHOOTING HOMING PIGEONS** the property of its Members.

Information should be given to the Police, Military Post, or to the Secretary of the Union, **C. C. PLACKETT,**
14. EAST PARADE, LEEDS.
