

CALIFORNIA FISH AND GAME COMMISSION
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION

Emergency Action to Amend Section 670.5
Title 14, California Code of Regulations
Re: Animals of California Declared to be Endangered or Threatened

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

The population of tricolored blackbirds (*Agelaius tricolor*), which occur mainly in California, is diminishing rapidly and the decline is accelerating due to many factors causing direct mortality and preventing the birds from reproducing successfully.

The Fish and Game Commission (Commission) therefore finds that a biological emergency exists that justifies our immediate action to list the tricolored blackbird as endangered under the California Endangered Species Act.

This action is based on the following findings of fact:

Rapid Population Decline: Recent statewide tricolored blackbird population surveys have documented a steep decline in abundance. The approximately 145,000 birds counted in 2014 represented a 44 percent decline from 2011 and a 64 percent decline from 2008.

Along the coast, the numbers of tricolored blackbirds are down 91 percent in six years, to less than 700 individuals in a six county region stretching from San Francisco to Santa Barbara. The numbers are down 78 percent in six years in the San Joaquin Valley, where the birds used to breed in greatest numbers.

This year, no breeding colonies were found in Colusa County, likely the first time in the species' evolutionary history that no breeding occurred there. As recently as 2008 there were colonies of 80,000 breeding birds in Colusa County, which illustrates just how quickly the birds have declined.

These population declines were documented despite an increase in survey effort in terms of volunteers participating and sites visited this year.

Diminishing Colony Size: The tricolored blackbird has evolved to breed in large colonies for reproductive success but its colony sizes have declined dramatically in the past 10 years. The ten largest colonies now represent a lower proportion of the overall population as a result of this decline.

The species last produced enough young to replace dying adults in 2006, and has experienced far greater mortality than recruitment each year since then. The past three breeding seasons have been the worst for recruitment ever recorded.

Habitat Destruction: The species has declined largely as a result of land conversions to agricultural crops, primarily nut orchards and vineyards in the Central Valley.

Land conversion has reduced and eliminated wetlands habitat the species needs for breeding and foraging, particularly in the San Joaquin Valley, causing widespread, chronic reproductive failures.

In Southern California, the biggest threats are urbanization and alternative energy development. There are no more than a few thousand birds left in Southern California, where the species was reported to be the most abundant bird a century ago.

This year, approximately 40 percent of the State's population of tricolored blackbirds nested in dairy wheat fields (triticale), where nestlings are at risk because harvest can occur before fledging.

Ineffective Voluntary Programs: While voluntary incentive programs have compensated farmers for delaying harvest, not all farmers with tricolored blackbird colonies on their lands elect to participate, resulting in significant mortality of nestlings.

Other Threats: Concerns exist about potential mortality from shooting of depredating blackbirds on rice fields in early fall and the effects of insecticide use on the species' food sources, although these sources of mortality are not yet well documented.

Identification of Reports or Documents Supporting Regulation Change: A petition was submitted by the Center for Biological Diversity and the Wild Nature Institute to take emergency action to list the tricolored blackbird as an endangered species.

Benefits of Listing: CESA listing will provide much needed protections for this declining species and will direct agency focus towards its recovery.

Without protections from harvest-caused mortality the tricolored blackbird could experience declines that further reduce its range in the State, further diminish its abundance, and drop its colony sizes to levels that cannot be successful.

II. Impact of Regulatory Action

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

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

None.

(b) Nondiscretionary Costs/Savings to Local Agencies:

None.

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

None.

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

None.

III. Authority and Reference

The Fish and Game Commission proposes this emergency action pursuant to the authority vested by sections 240, 2070, 2075.5 and 2076.5 of the Fish and Game Code and to implement, interpret, or make specific sections 1755, 2055, 2062, 2067, 2070, 2074.6, 2075.5, 2077, 2080, 2081 and 2835, of said Code.

IV. Section 240 Finding

Pursuant to Section 240 of the Fish and Game Code, the Commission made the finding that the adoption of this regulation is necessary for the immediate conservation, preservation, or protection of birds, mammals, reptiles, or fish, including, but not limited to, any nests or eggs thereof.

Informative Digest (Plain English Overview)

Under existing law Section 670.5, Title 14, CCR, provides a list, established by the Fish and Game Commission (Commission), of animals designated as endangered or threatened in California. The Commission has the authority to add or remove species from the list if it finds, upon the receipt of sufficient scientific information, that the action is warranted. Further, Section 2076.5 of the Fish and Game Code, provides that the Commission may adopt a regulation which adds a species to the list of endangered or threatened species as an emergency regulation if the Commission finds that there is any emergency posing a significant threat to the continued existence of the species.

The proposed regulatory action would add the tricolored blackbird (*Agelaius tricolor*) to the list of endangered species. The California Endangered Species Act defines an “endangered species” as a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes (Fish and Game Code Section 2062).

The population of tricolored blackbirds, which occur mainly in California, is diminishing rapidly and the decline is accelerating due to many factors causing direct mortality and preventing the birds from reproducing successfully.

The Commission therefore finds that a biological emergency exists that justifies our immediate action to list the tricolored blackbird as endangered under the California Endangered Species Act.

This action is based on the following findings of fact:

Rapid Population Decline: Recent statewide tricolored blackbird population surveys have documented a steep decline in abundance. The approximately 145,000 birds counted in 2014 represented a 44 percent decline from 2011 and a 64 percent decline from 2008.

Along the coast, the numbers of tricolored blackbirds are down 91 percent in six years, to less than 700 individuals in a six county region stretching from San Francisco to Santa Barbara. The numbers are down 78 percent in six years in the San Joaquin Valley, where the birds used to breed in greatest numbers.

This year, no breeding colonies were found in Colusa County, likely the first time in the species’ evolutionary history that no breeding occurred there. As recently as 2008 there were colonies of 80,000 breeding birds in Colusa County, which illustrates just how quickly the birds have declined.

These population declines were documented despite an increase in survey effort in terms of volunteers participating and sites visited this year.

Diminishing Colony Size: The tricolored blackbird has evolved to breed in large colonies for reproductive success but its colony sizes have declined dramatically in the

past 10 years. The ten largest colonies now represent a lower proportion of the overall population as a result of this decline.

The species last produced enough young to replace dying adults in 2006, and has experienced far greater mortality than recruitment each year since then. The past three breeding seasons have been the worst for recruitment ever recorded.

Habitat Destruction: The species has declined largely as a result of land conversions to agricultural crops, primarily nut orchards and vineyards in the Central Valley. Land conversion has reduced and eliminated wetlands habitat the species needs for breeding and foraging, particularly in the San Joaquin Valley, causing widespread, chronic reproductive failures.

In Southern California, the biggest threats are urbanization and alternative energy development. There are no more than a few thousand birds left in Southern California, where the species was reported to be the most abundant bird a century ago.

This year, approximately 40 percent of the State's population of tricolored blackbirds nested in dairy wheat fields (triticale), where nestlings are at risk because harvest can occur before fledging.

Ineffective Voluntary Programs: While voluntary incentive programs have compensated farmers for delaying harvest, not all farmers with tricolored blackbird colonies on their lands elect to participate, resulting in significant mortality of nestlings.

Other Threats: Concerns exist about potential mortality from shooting of depredating blackbirds on rice fields in early fall and the effects of insecticide use on the species' food sources, although these sources of mortality are not yet well documented.

Benefits of Listing: The regulations will benefit the environment in that it will provide much needed protections for this declining species and will direct agency focus towards its recovery.

Without protections from harvest-caused mortality the tricolored blackbird could experience declines that further reduce its range in the State, further diminish its abundance, and drop its colony sizes to levels that cannot be successful.

The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to animals of California declared to be endangered or threatened.