

State of California
FISH AND GAME COMMISSION
(916) 653-4899
<http://www.fgc.ca.gov>

Marine Subcommittee Meeting
August 17, 2005 (Wednesday)
10:00 a.m. (See web page for specific agenda)

Avila Beach Yacht Club

Field Trip to Morro Bay
3:00 p.m. – The public is invited, but must provide its own transportation. The Field Trip will commence immediately following the adjournment of the Marine Subcommittee.

Meeting of
August 18, 2005 (Thursday)
10:30 a.m.

Board of Supervisors Chambers
1055 Monterey Street
San Luis Obispo

SUMMARY OF MEETING

1. DEPARTMENT REQUEST FOR COMMISSION CONSIDERATION AND POSSIBLE ADOPTION OF EMERGENCY ACTION TO AMEND SECTION 7.50(b)(178), TITLE 14, CCR, RE: CLOSING SILVER KING CREEK AND TRIBUTARIES BETWEEN LLEWELLYN FALLS AND SNODGRASS CREEK TO ALL ANGLING TO PROTECT PAIUTE CUTTHROAT TROUT.

**Received Department's recommendation; no public testimony.
Commission adopted emergency action to close Silver King Creek and Tributaries between Llewellyn Falls and Snodgrass Creek to all angling to protect Paiute Cutthroat Trout.**

2. PUBLIC FORUM.

Shirley Bianchi, Supervisor, SLO County requested that the Commission eliminate all hunting in Morro Bay. She commented that hunting is not compatible with the residential community and provided that Commission with handouts.

Janice Peters, Mayor of the City of Morro Bay indicated that the Winter Bird Festival coincided with hunting season. She supported the elimination of hunting in Morro Bay.

Mandy Davis requested that the Commission limit the hunting season in Morro Bay as well as change the boundaries to eliminate hunting on the Grassy Island. She also requested an expedited regulatory process and provided the Commission with handouts.

Melody DeMeritt supported Ms. Davis' requests.

Carol Maurer requested a ban on all hunting in Morro Bay. She provided a handout to the Commission.

Bob Richardson indicated that the money and conservation efforts spent/donated by the waterfowl hunters have resulted in many more healthy birds compared to the amount taken through hunting.

Gene Johe explained the public outreach and educational efforts on behalf of the Morro Bay hunting community. He indicated the willingness of his group to work with the City on a compromise which would make all parties happy. He provided the Commission with a handout.

Bill Gaines indicated that there have never been any documented hunting accidents in Morro Bay. He noted that it has been the hunters who have made all of the compromises and concessions in the past.

Fred Harpster Jr. indicated that the waterfowlers want to get along with the non-hunters in the City and share the Bay with everyone. He indicated that it would be nice if opposing parties agreed.

Eric Greening read portions of the Fish and Game Code and indicated that he would comment on all waterfowl proposals at the meeting on Friday.

Walt Mansell commented that the hunters have been forced to retreat over the past 20 years, with no compromise from the non-hunters. He noted that Morro Bay is one of only two places in California to hunt black brant. He supported an earlier start time for the waterfowl season in Morro Bay.

Lynda Merrill indicated that as a golfer she is bothered by the noise during the hunting season. She added that it is hard to explain to children why people are hunting the birds in the Bay. She supported limiting the waterfowl season.

Scott Chapman demanded the Commission end the killing for sport by banning hunting in Morro Bay.

Hugh Thomas explained that this controversy has been around since the 70's. He noted that since that time, the hunters have partnered with the Audubon Society and the Department of Fish and Game to find compromises with non-hunters, which only resulted in more closed areas.

Executive Director Treanor indicated that the 30 minutes designated by President Kellogg to this item had elapsed. He noted that there would be time at tomorrow's meeting to discuss only those noticed waterfowl proposals.

Camilla Fox provided the Commission with handouts regarding licensing and trapping regulations. She indicated that if passed, AB 87 would direct the Department to work with the Department of Pest Control Operators to promulgate regulations to oversee the pest control/trapping industries. She requested that the Commission direct the Department to prepare a regulatory package at this time.

Deputy Director Mastrup replied that there are currently regulations in place regarding the trapping industry. He added that the Department is waiting on the outcome of this legislation as comments on the CEQA document were substantial.

Vice President Flores questioned if any funding for the Department or Commission was included in the legislation, as mandates have come from the Legislature for years with no funding sources for implementation.

Ms. Fox responded that the trappers have already agreed to a higher license fee which would cover any costs associated with the regulation of the industry. She noted that the Department already has a regulatory package which would not require any additional work.

Executive Director Treanor clarified that the Department did have a regulatory package, but did not have a completed Environmental Document, as there is no staff or money to revise this.

Chief Deputy Director Stein emphasized that the Department is in a tremendous budget crisis as there has been no funding from the Legislature to accompany all of the new mandates over the years.

Commissioner Rogers commented that it is unfair to suggest that the Department and Commission are not taking threats to resources sincerely, especially when there is no money or staff to address the serious concerns that currently exist.

Deputy Director Mastrup indicated that the Department is willing to work the author of AB 87.

Betty Winholtz requested clarification on the Commission's action on the petition to address a limited waterfowl season and area in Morro Bay, outside of the regulatory process.

Commissioner Gustafson asked staff how often the Commission had adopted regulations outside of the normal regulatory cycle.

Executive Director Treanor indicated that it had been done on an extremely rare basis and only for issues of special concern, and never for waterfowl regulations. He explained that the Commissioners did not indicate that they had any questions or concerns, and did not make a motion to take a vote therefore, that was an expression of their unwillingness to address the requests in the petition.

Deputy Attorney General Cunningham added that the regulatory process adheres to a predetermined timeline often involving CEQA requirements.

Commissioner Gustafson commented that this would be a dangerous precedent to set as there does not seem to be an emergency situation calling for regulations to be adopted outside of the normal process. She emphasized her belief that the public had been adequately heard by the Commission regarding this issue.

It was then moved by Commissioner Flores, and seconded by Commissioner Gustafson, that the Commission deny the proposed regulations as requested by the "petition" submitted by Ms. Davis. Motion passed unanimously by roll call vote.

Joel Greenberg requested that the Commission formally rename the Cowcod and Rockfish Conservation Areas as Marine Reserves, so that it may simplify the MLPA process and language.

Bill Gross requested that the Commission direct the Department to address the trespassing violations occurring at the San Joaquin River Wildlife Area north of Fresno.

Chief Deputy Director Stein indicated that the Department would address Mr. Gross' concerns.

Paul Weakland indicated his disappointment that the recent ARMP meetings were not better noticed. He added that his handouts in the appendix of the ARMP were not given as much attention as those submitted by others.

Executive Director Treanor clarified that the Commission sent a personal letter to Mr. Weakland's address on file, informing him of all the details regarding the ARMP meetings.

3. CONSIDERATION OF POSSIBLE AMENDMENTS TO COMMISSION POLICIES RE: WETLANDS RESOURCES AND DESIGNATION OF DEPARTMENT CONTROLLED LANDS AS STATE WILDLIFE AREAS.

Received the Department's recommendations; no public testimony.

Commission adopted the proposed amendments to its policies regarding Wetlands Resources and Designation of Department Controlled Lands as State Wildlife Areas.

4. RECEIPT OF DEPARTMENT REPORT AND RECOMMENDATIONS ON ITS REVIEW OF THE FOLLOWING COMMISSION POLICIES:

- (A) GOLDEN TROUT
- (B) PLANTING FISH IN YOUTH CAMPS
- (C) SALMON
- (D) STEELHEAD RAINBOW TROUT
- (E) STOCKING FISH IN WATERS WHERE ANGLERS PAY ACCESS FEES
- (F) STRIPED BASS
- (G) YOUTH FISHING PROGRAMS
- (H) COMMERCIAL USE OF NATIVE REPTILES
- (I) TROUT
- (J) TROPHY BLACK BASS PROGRAM

Received Department's recommendations; received public testimony.

5. REQUEST FOR COMMISSION CONSIDERATION TO AMEND SQUID REGULATIONS, SECTION 149.1, TITLE 14, CCR, REGARDING CRITERIA FOR QUALIFICATION OF TRANSFERABLE AND NONTRANSFERABLE MARKET SQUID VESSEL PERMITS.

Received Department's recommendations; received public testimony.

Commission will discuss details at its upcoming Marine Subcommittee meeting.

6. PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE, CONSIDERATION OF THE DEPARTMENT PETITION AND RECOMMENDATION TO UPLIST BAKER'S LARKSPUR (*Delphinium bakeri*) FROM RARE TO ENDANGERED.

**Received Department's recommendation; no public testimony.
Commission designated the Baker's Larkspur as a candidate for endangered species status.**

7. RECEIPT OF DEPARTMENT PETITION TO DELIST THE SISKIYOU MOUNTAINS SALAMANDER (*Plethodon stormi*) AS A THREATENED SPECIES. (**Note:** Discussion of this petition pursuant to Section 2074.2 of the Fish and Game Code will occur at the Commission's September 29, 2005, meeting in Susanville.)

Commission received petition to delist the Siskiyou Mountains Salamander as a threatened species.

8. REQUEST OF UNITED ANGLERS OF SOUTHERN CALIFORNIA FOR DISCUSSION OF THE RECENT AUDIT OF THE DEPARTMENT'S BUDGET AND TO CONSIDER THE SELECTION OF A BLUE RIBBON BUDGET SUBCOMMITTEE.

**Received request; received public testimony.
Commission will provide an update at its next meeting.**

9. RECEIPT OF PUBLIC TESTIMONY AND CONSIDERATION OF POSSIBLE ADOPTION OF THE MARINE LIFE PROTECTION ACT'S DRAFT MASTER PLAN FRAMEWORK.

**Received Department's update; received public testimony.
Commission approved the MLPA's Draft Master Plan Framework, to include the Department's recent amendments.**

OTHER

10. RECEIPT OF DEPARTMENT LEGISLATIVE REPORT AND POSSIBLE CONSIDERATION OF COMMISSION POSITION ON LEGISLATION.

Received report; no public testimony.

11. RECEIPT OF DEPARTMENT INFORMATIONAL ITEMS.

(A) UPDATE ON DEPARTMENT'S BUDGET.

Received report; no public testimony.

(B) UPDATE ON DEPARTMENT'S COHO RECOVERY STRATEGY.

No report as it was given at the Joint Meeting with the Board of Forestry and Fire Protection in May.

(C) REVIEW OF POLICY ON HOW RECOMMENDATIONS TO THE PACIFIC FISHERY MANAGEMENT COUNCIL ARE FORMULATED RE: FISHERY MANAGEMENT.

Received review; no public testimony.

- (D) UPDATE ON DEVELOPMENT OF TANNER CRAB FISHERY REGULATORY PACKAGE.

Received update; no public testimony.

- (E) STATUS OF REGULATORY PACKAGE FOR TRAP LIMITS ON NEWLY TRANSFERRED COMMERCIAL LOBSTER PERMITS.

Received report; received public testimony.

12. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.

- (A) SUBCOMMITTEE REPORTS.
 - I. MARINE SUBCOMMITTEE.

Received report; no public testimony.

- II. WAFWA JULY 21-27, 2005, MEETING IN KANANASKIS VILLAGE, ALBERTA, CANADA.

Received report; no public testimony.

- (B) STAFF REPORTS.

No report.

13. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.

No report.

14. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.

No report.

EXECUTIVE SESSION
(NOT OPEN TO PUBLIC)

PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 11126(a)(1) AND (e)(1), AND SECTION 309 OF THE FISH AND GAME CODE, THE COMMISSION WILL MEET IN CLOSED EXECUTIVE SESSION. THE PURPOSE OF THIS EXECUTIVE SESSION IS TO CONSIDER:

- A. PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY.
- I. VENTURA COUNTY COMMERCIAL FISHERMEN'S ASSOCIATION, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: CHANNEL ISLANDS MPAS.
 - II. SANFORD WINSTON, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: SPOT PRAWN TRAWL.
 - III. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: TIGER SALAMANDER.
- B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.
- C. STAFF PERFORMANCE AND COMPENSATION.
- D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT ITEMS AND ADOPTION OF COMMISSION FINDINGS FOR:
- I. JOE ALFIERI, TRANSFERABLE MARKET SQUID VESSEL PERMIT.
 - II. ROBERT ALIOTTI, TRANSFERABLE MARKET SQUID LIGHT BOAT PERMIT.
 - III. FRANK COLONNA, TRANSFERABLE MARKET SQUID VESSEL PERMIT.
 - IV. JOSEPH DOW JR., NONTRANSFERABLE TIER III SPOT PRAWN TRAP VESSEL PERMIT.
 - V. CLAYTON FRANKLIN, TRANSFERABLE MARKET SQUID LIGHT BOAT PERMIT.
 - VI. RODNEY HELFRICH, SEA URCHING DIVING PERMIT.
 - VII. DEBORAH AND LYLE MARRINGTON, DUNGENESS CRAB VESSEL PERMIT.
 - VIII. DON PEMBERTON, NONTRANSFERABLE LIGHT BOAT BRAIL PERMIT.
 - IX. BENJAMIN PLATT, DUNGENESS CRAB VESSEL PERMIT.
 - X. DAVID TIBBLES, TRANSFERABLE MARKET SQUID VESSEL PERMIT.
 - XI. GIOI TRAN, TIER III SPOT PRAWN TRAP VESSEL PERMIT.
 - XII. VUONG TRAN, NONTRANSFERABLE TIER III SPOT PRAWN TRAP VESSEL PERMIT.
 - XIII. DANIEL WELLE, ROCK CRAB PERMIT.
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Meeting of
August 19, 2005 (Friday)
8:30 a.m.

Board of Supervisors Chambers
1055 Monterey Street
San Luis Obispo

SUMMARY OF MEETING

OTHER

15. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.

Commission accepted its Hearing Officer's proposed decisions on the following license and permit items from the Commission's August 19, 2005, Executive Session:

- I. Joe Alfieri, Denied Transferable Market Squid Vessel Permit.
- II. Robert Aliotti, Denied Transferable Market Squid Light Boat Permit.
- III. Frank Colonna, Denied Transferable Market Squid Vessel Permit.
- IV. Joseph Dow Jr., Denied Nontransferable Tier III Spot Prawn Trap Vessel Permit
- V. Clayton Franklin, Approved Transferable Market Squid Light Boat Permit.
- VI. Rodney Helfrich, Denied Sea Urchin Diving Permit.
- VII. Deborah and Lyle Marrington, Approved Dungeness Crab Vessel Permit.
- VIII. Don Pemberton, Denied Nontransferable Light Boat Permit.
- IX. Benjamin Platt, Approved Dungeness Crab Vessel Permit.
- X. David Tibbles, Denied Transferable Market Squid Vessel Permit.
- XI. Gioi Tran, Approved Tier III Spot Prawn Vessel Permit.
- XII. Vuong Tran, Approved Nontransferable Tier III Spot Prawn Trap Vessel Permit.
- XIII. Daniel Welle, Approved Rock Crab Permit.

16. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO ADD SECTIONS 2.45 AND 251.9, TITLE 14, CCR, RE: REGULATIONS TO PROHIBIT THE TAKE OF FISH AND WILDLIFE BY REMOTE COMPUTER ASSISTANCE.

**Received Department's recommendations; received public testimony.
Commission adopted the regulations as proposed by the Department.**

17. CONSIDERATION OF CERTIFICATION OF FINAL ENVIRONMENTAL DOCUMENT, ADOPTION OF FINDINGS AND PROPOSED PROJECT (OR ALTERNATIVE), AND FINAL ADOPTION OF THE 2005-2006 MIGRATORY WATERFOWL REGULATIONS.

**Received Department's presentation; received public testimony.
Commission certified the final Environmental Document. Commission adopted the proposed project and adopted the 2005-2006 Migratory Waterfowl Regulations.**

18. REQUEST OF HARRY HOFFLAND FOR COMMISSION AUTHORIZATION TO ISSUE AN EXPERIMENTAL MARKET SQUID VESSEL PERMIT PURSUANT TO SECTION 149.3, TITLE 14, CCR.

Received Department's recommendations; no public testimony. Commission authorized an Experimental Market Squid Permit to Mr. Hoffland.

19. REQUEST OF BILL BURROWS FOR COMMISSION AUTHORIZATION FOR AN EXTENDED DEER SEASON DURING THE INITIAL YEAR IN THE PLM PROGRAM FOR THE HEAVEN'S GATE RANCH, TEHAMA COUNTY.

Received Mr. Burrows request; received Department's recommendation; received public testimony. Commission authorized an extended deer season during the initial year in the PLM program for The Heaven's Gate Ranch, Tehama County.

20. (A) RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTION 163, AND ADDITION OF SECTION 163.1, TITLE 14, CCR, RE: COMMERCIAL HERRING FISHERY.

Received Department's presentation; received public testimony. Commission directed staff to publish a notice to include Mr. Liberati's request for additional regulatory amendments to Section 163.1, Title 14, CCR, to consider adoption at its November 4, 2005, meeting.

- (B) RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTION 164, TITLE 14, CCR, RE: HARVESTING OF HERRING EGGS ON KELP. (**Note:** The adoption hearing for both (A) and (B) is scheduled for September 30, 2005, in Susanville.)

Received Department's presentation.

21. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 630, TITLE 14, CCR, RE: ECOLOGICAL RESERVES.

Received Department's presentation; received public testimony on Ballona Ecological Reserves. Commission adopted the Department's proposed regulatory changes regarding Ecological Reserves.

22. REQUEST OF WILLIAM JAMES FOR COMMISSION CONSIDERATION OF THE POSSIBLE AMENDMENT TO SECTION 150.16, TITLE 14, CCR, RE: A SLOT LIMIT (15-22 INCHES) FOR THE COMMERCIAL HARVEST OF CABEZON.

Received Mr. James' presentation; received Department's recommendation; received public testimony. Commission took no action at this time.

23. REQUEST OF WILLIAM JAMES FOR DEVELOPMENT OF A COMMISSION POLICY FOR PEER REVIEW OF RESEARCH AND MONITORING PROTOCOLS FOR ALL MAJOR DEPARTMENT PROGRAMS, I.E., ALL FMP'S, MLPA, ETC.

Received Mr. James' request; received Department's recommendation; received public testimony. Commission requested Mr. James to put his request in writing with more details and resubmit to the Commission.

24. RECEIPT OF PUBLIC TESTIMONY AND DISCUSSION OF TIMELINE FOR POSSIBLE ADOPTION OF THE ABALONE RECOVERY AND MANAGEMENT PLAN.

Received Department's presentation; received public testimony. Department indicated it would provide an update on its recent data collections at the Commission's September meeting.

CONSENT CALENDAR

25. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 180.1, TITLE 14, CCR, RE: SPOT PRAWN FISHING.

Approved; no public testimony.

26. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 401, TITLE 14, CCR, RE: ISSUANCE OF PERMIT TO TAKE ANIMALS CAUSING DAMAGE.

Withdrawn from the Consent Calendar; received public testimony. Item continued to the Commission's September meeting.

27. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SECTION 632, TITLE 14, CCR, RE: MARINE PROTECTED AREAS.

Approved; no public testimony.

28. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO ADD SECTION 701, TITLE 14, CCR, RE: SPORT FISHING FORMS AND FEES.

Approved; no public testimony.

29. REQUEST FOR AUTHORIZATION TO PUBLISH NOTICE OF COMMISSION INTENT TO ADD SECTION 702, TITLE 14, CCR, RE: HUNTING APPLICATIONS, TAGS, SEALS, PERMITS, RESERVATIONS AND FEES.

Approved; no public testimony.

30. REQUEST OF PAUL BRYNE, EAGLENET SEA FARMS, INC., FOR LEASE RENEWAL OF STATE WATER BOTTOM LEASE AGREEMENT FOR NO. M-653-09, SANTA BARBARA COUNTY.

Approved; no public testimony.

31. CONSIDERATION OF APPROVAL OF PRIVATE LANDS HABITAT ENHANCEMENT AND WILDLIFE AREA LICENSE (2005-2010) AND 2005-2006 MANAGEMENT PLAN FOR:
- (A) ABERNATHY RANCH, SHASTA COUNTY
 - (B) CARNAZA WILDLIFE MANAGEMENT AREA, SAN LUIS OBISPO COUNTY
 - (C) HEAVEN'S GATE RANCH, TEHAMA COUNTY
 - (D) JS RANCH, SHASTA COUNTY
 - (E) R MOUNTAIN RANCH, MENDOCINO COUNTY

Approved; no public testimony.

32. CONSIDERATION OF APPROVAL OF ANNUAL REPORT AND 2005-2006 PRIVATE LANDS HABITAT ENHANCEMENT AND WILDLIFE AREA PLANS FOR:
- (A) BANGOR RANCH, YUBA COUNTY
 - (B) BELL RANCH, TEHAMA COUNTY
 - (C) CONNOLLY/ CORRAL HOLLOW RANCH, SAN JOAQUIN AND ALAMEDA COUNTIES
 - (D) DIAMONDBACK RANCH, TEHAMA COUNTY
 - (E) FIVE DOT RANCH-AVILA UNIT, LASSEN COUNTY
 - (F) HATHOWAY OAK RUN RANCH, SHASTA COUNTY
 - (G) ISLAND MOUNTAIN TRINITY RANCH, MENDOCINO COUNTY
 - (H) PBM FARMS, SISKIYOU COUNTY
 - (I) ROSENDAHL RANCH, MODOC COUNTY
 - (J) SILLER RANCH (PEARSON PROPERTIES), YUBA COUNTY
 - (K) SNOWSTORM RANCH, LASSEN COUNTY
 - (L) SUGARLOAF RANCH, YUBA COUNTY
 - (M) TRIPLE B RANCH, SHASTA COUNTY

(Applications submitted for the above item have been analyzed by Department staff and a determination has been made that they are within the scope of the Hunting Program Environmental Documents prepared for the affected species pursuant to the California Environmental Quality Act.)

Approved; no public testimony.

33. DEPARTMENT REQUEST FOR AUTHORIZATION TO ACCEPT PALO PRIETO CONSERVATION BANK, SAN LUIS OBISPO.

Approved; no public testimony.

34. APPROVAL OF MINUTES.

Approved; no public testimony.

OTHER

35. ANNOUNCEMENT OF FUTURE MEETINGS.