

**State of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of November 4-5, 2009

This is staffs' best effort to summarize the actions of the meeting.

For more specific information go to www.Cal-span.org.

Pursuant to the call of the President, the Commission met at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on November 4, 2009. The meeting was called to order at 10:04 a.m. by President Kellogg.

FISH AND GAME COMMISSION

Jim Kellogg	President	Present
Richard Rogers	Vice-President	Via Telephone from DFG Santa Barbara Office (Items 1, 2, 3, 6, 10A1)
Michael Sutton	Member	Absent
Daniel Richards	Member	Present
Don Benninghoven	Member	Present

Persons present:

COMMISSION STAFF

John Carlson	Executive Director
Jon K. Fischer	Deputy Executive Director
Adrianna Shea	Deputy Executive Director
Craig Shuman	Marine Advisor
Sherrie Fonbuena	Associate Governmental Program Analyst
Anita Biedermann	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

OFFICE OF THE ATTORNEY GENERAL

Rick Thalhammer	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

John McCamman	Acting Director
Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Nancy Foley	Deputy Director, Law Enforcement Division
Ann Malcolm	General Counsel
Joe Milton	Office of the General Counsel
Devin Bartley	Aquaculture Coordinator
Neil Manji	Chief, Fisheries Branch (RMPD)
James Fong	Chief, License and Revenue Branch
Roger Bloom	Fisheries Branch
Tony Warrington	Law Enforcement Division
Brian Naslund	Law Enforcement Division
Richard Reyes	License and Revenue Branch

Tony Straw License and Revenue Branch

The following persons were present and heard:

George Osborn	Partnership for Sustainable Oceans (PSO)
Vern Goehring	California Sea Urchin Commission
Mark Hennelly	California Outdoor Heritage Alliance
Steven Fukuto	United Anglers of Southern California
Paul Weakland	Commercial Fisherman
Jerry Karnow	California Fish and Game Warden's Association
Ken Wiseman	Executive Director, Marine Life Protection Act
Terry Sawyer	Hog Island Oyster Company
Martin Strain	Point Reyes Oyster Company
Michael Toussaint	Marine Oyster Company
Valerye Anderson	Director for Outreach and Campaign, Tuleyome
Tom Pedersen	California Rifle and Pistol Association
Jim deRoque	California Hawking Club
Bill Murphy	California Hawking Club
Tony Morton	NOAA Fisheries

President Kellogg introduced members of the Commission, its staff, Directorate and Rick Thalhammer of the Attorney General's Office.

1. PUBLIC FORUM.
Received public testimony from: George Osborn, Vern Goehring, Mark Hennelly, Steven Fukuto, Paul Weakland, Jerry Karnow, and Ken Wiseman.
2. SCOPING FOR 2010 REGULATORY CALENDAR AND POSSIBLE REGULATORY PROPOSALS.
Received report from Executive Director Carlson and provided the Commissioners the opportunity to add any regulatory changes. Received comments from the Department on three statutory changes to include in the 2010 regulatory calendar. No public testimony.
3. CONSIDERATION OF AMENDMENT OF THE COMMISSION'S POLICY ON WILD TROUT WATERS TO ADD UPPER STONY CREEK, INCLUDING TRIBUTARIES, UPSTREAM FROM MINE CAMP CAMPGROUND (COLUSA, GLENN AND LAKE COUNTIES) TO THE LIST OF WILD TROUT WATERS AND TO THE LIST OF HERITAGE TROUT WATERS, AND TO ADD LOWER HONEYMOON LAKE (FRESNO COUNTY) TO THE LIST OF WILD TROUT WATERS.
Received Department's report from Roger Bloom. Received public testimony.

MOVED BY D. RICHARDS, SECOND BY D. BENNINGHOVEN, TO ADD UPPER STONEY CREEK TO THE LIST OF WILD TROUT WATERS AND HERITAGE TROUT WATERS AND TO ADD LOWER HONEYMOON LAKE TO THE LIST OF WILD TROUT WATERS.
AYES: D. BENNINGHOVEN, J. KELLOGG, D. RICHARDS, R. ROGERS.
ABSENT: M. SUTTON.
MOTION PASSED

4. POSSIBLE ADOPTION OF PROPOSED MEETING DATES AND LOCATIONS FOR 2010.

Received report from Executive Director Carlson regarding the proposed meeting dates and locations for 2010. No public testimony.

MOVED BY D. BENNINGHOVEN, SECOND BY D. RICHARDS, TO ADOPT THE PROPOSED MEETING DATES AND LOCATIONS FOR 2010.

AYES: D. BENNINGHOVEN, J. KELLOGG, R. RICHARDS.

ABSENT: M. SUTTON, R. ROGERS.

MOTION PASSED.

5. PURSUANT TO FISH AND GAME CODE SECTION 2084, CONSIDERATION AND POSSIBLE EMERGENCY ACTION TO RE-ADOPT SECTION 749.4, TITLE 14, CCR, FOR AN ADDITIONAL 90 DAY PERIOD, RE: SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF CALIFORNIA TIGER SALAMANDER DURING CANDIDACY PERIOD.

Received Department's summary report from Ann Malcolm that there were no changes since last adoption. No public testimony.

MOVED BY D. RICHARDS, SECOND BY D. BENNINGHOVEN, TO ADOPT EMERGENCY ACTION FOR AN ADDITIONAL FINAL 90 DAY PERIOD REGARDING SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF CALIFORNIA TIGER SALAMANDER DURING CANDIDACY PERIOD.

AYES: D. BENNINGHOVEN, J. KELLOGG, R. RICHARDS.

ABSENT: M. SUTTON, R. ROGERS.

MOTION PASSED.

6. (A) CONSIDERATION AND POSSIBLE APPROVAL OF STATE WATER BOTTOMS LEASE TEMPLATE.
(B) REQUEST OF JOHN FINGER, HOG ISLAND OYSTER COMPANY, FOR LEASE RENEWAL OR EXTENSION OF STATE WATER BOTTOM LEASE NO. M-430-12, MARIN COUNTY.
(C) REQUEST OF MICHAEL TOUSSAINT, MARIN OYSTER COMPANY, FOR LEASE RENEWAL OR EXTENSION OF STATE WATER BOTTOM LEASE NO. M-430-02, MARIN COUNTY.
(D) REQUEST OF MARTIN STRAIN, POINT REYES OYSTER COMPANY, FOR LEASE RENEWAL OR EXTENSION OF STATE WATER BOTTOM LEASE NO. M-430-1, MARIN COUNTY.

All items heard together. Received report from the Department's Aquaculture Coordinator Devin Bartley and Joe Milton, Office of the General Counsel. Received public testimony.

ITEM A: NO VOTE WAS TAKEN ON THE LEASE TEMPLATE.

MOVED BY R. ROGERS, SECOND BY D. RICHARDS, TO APPROVE 90 DAY EXTENSIONS FOR LEASE NOS. M-430-12, M-430-02, M-430-1, MARIN COUNTY.

AYES: D. BENNINGHOVEN, J. KELLOGG, R. RICHARDS. R. ROGERS.

ABSENT: M. SUTTON.

MOTION PASSED.

7. RECEIPT OF LEGISLATIVE REPORTS.
 - (A) DEPARTMENT OF FISH AND GAME REPORT.
Received the Department's report from Acting Director McCamman. He provided an update on 5 recently signed bills providing protection for the Delta (SB 1X7, SB 2, SB 6, SB 7, SB 8). No public testimony.
 - (B) POSSIBLE CONSIDERATION OF COMMISSION POSITIONS ON PROPOSED LEGISLATION.
Executive Director Carlson reported that staff was still working on a draft policy. No public testimony.
8. RECEIPT OF DEPARTMENT OF FISH AND GAME INFORMATIONAL ITEMS.
 - (A) RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.
Received report from Acting Director McCamman. No public testimony.
 - (B) OVERVIEW OF THE LICENSE AND REVENUE BRANCH AND DEMONSTRATION OF THE AUTOMATED LICENSE DATA SYSTEM.
Received Branch overview from Chief Fong, License and Revenue Branch. Received demonstration of Automated License Data System from Richard Reyes and Tony Straw. Received public testimony.
 - (C) UPDATE ON ENFORCEMENT.
Received update from Chief Foley regarding increased poaching incidents, AB 708 was signed enhancing fines/penalties, National Geographic warden TV series and AB 1442, Warden Stamp. Executive Director Carlson requested a CalTIP presentation for the Commission in 2010.
 - (D) OTHER.
Commissioner Richards expressed concerns with information heard earlier regarding the MLPA process and requested staff to investigate. Department to provide an update at the December meeting.
9. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.
 - (A) CALIFORNIA BIODIVERSITY COUNCIL MEETING UPDATE.
Executive Director Carlson reported that he attended the meeting held on October 14 & 15, 2009. He reported the next meeting was scheduled for March 10-11, 2010 and will focus on the Delta/Suisun Marsh.
 - (B) UPDATE ON CHANGES TO FEDERAL FALCONRY REGULATIONS.
Received public testimony.
 - (C) OTHER.
It was recommended adding non-native frogs and turtles to the February 2010 meeting agenda.

10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.
 - (A) MARINE RESOURCES COMMITTEE.
 1. SCOPING FOR POSSIBLE REGULATORY CHANGES TO THE COMMERCIAL ROCK CRAB FISHERY.
Marine Advisor Craig Shuman provided a report on the rock crab fishery and "emerging fisheries". Commissioner Rogers requested that the Commercial Rock Crab fishery be added to the 2010 regulatory calendar. No public testimony.
 - (B) AL TAUCHER'S PRESERVING HUNTING AND SPORT FISHING OPPORTUNITIES ADVISORY COMMITTEE.
Deputy Executive Director Fischer stated there was nothing to report and the next meeting to be scheduled in February 2010. No public testimony.
 - (C) AQUACULTURE COMMITTEE.
No meetings and nothing to report. Received public testimony.
11. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.
Received report from Tony Morton. No public testimony.
12. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.
There were no legal counsel informational items to report.
13. NEW BUSINESS.
The Falconry demonstration field trip scheduled for November 5, 2009, was cancelled and will be rescheduled for spring 2010. No public testimony.

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. BIG CREEK LUMBER COMPANY AND CENTRAL COAST FOREST ASSOC. vs. CALIFORNIA FISH AND GAME COMMISSION RE: COHO LISTING, SOUTH OF SAN FRANCISCO.
 - II. LINDY O'LEARY vs. CALIFORNIA FISH AND GAME COMMISSION RE: R.R.S.A.C. AND R.R.S.S. PERMIT DENIALS.
 - III. JAMES BUNN AND JOHN GIBBS vs. CALIFORNIA FISH AND GAME COMMISSION RE: SQUID PERMITS.
 - IV. KERN COUNTY WATER AGENCY vs. CALIFORNIA FISH AND GAME COMMISSION, DEPARTMENT OF FISH AND GAME, DEPARTMENT OF

WATER RESOURCES RE: STATE WATER PROJECT AND CALIFORNIA
ENDANGERED SPECIES ACT.

- B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.
 - C. STAFF PERFORMANCE AND COMPENSATION.
 - D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT
ITEMS.
 - I. TANYA BAIN, DENIAL OF 2008 APPLICATION TO RENEW RESTRICTED
SPECIES ANIMAL CARE-WELFARE SPECIES PERMIT AND APPLICATION
FOR A RESIDENT EXHIBITING PERMIT TO EXHIBIT AND POSSESS TWO
WALLABIES.
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**There being no further business, the meeting recessed at 4:25 p.m. to reconvene
on November 5, 2009, at 9:30 a.m.**

**State of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of November 5, 2009

This is staffs' best effort to summarize the actions of the meeting.
For more specific information go to www.Cal-span.org.

Pursuant to the call of the President, the Commission met at the Yolo Fliers Club,
Ballroom, 17980 County Road 94B, Woodland, California, on November 5, 2009. The meeting
was called to order at 9:43 a.m. by President Kellogg.

FISH AND GAME COMMISSION

Jim Kellogg	President	Present
Richard Rogers	Vice-President	Absent
Michael Sutton	Member	Absent
Daniel Richards	Member	Absent
Don Benninghoven	Member	Present

Persons present:

COMMISSION STAFF

John Carlson	Executive Director
Jon K. Fischer	Deputy Executive Director
Sherrie Fonbuena	Associate Governmental Program Analyst
Anita Biedermann	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

OFFICE OF THE ATTORNEY GENERAL

Rick Thalhammer Deputy Attorney General

DEPARTMENT OF FISH AND GAME

Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Nancy Foley	Deputy Director, Law Enforcement Division
Neil Manji	Chief, Fisheries Branch (RMPD)
Scott Barrow	Fisheries Branch
Tony Warrington	Law Enforcement Division
Brian Naslund	Law Enforcement Division

The following persons were present and heard:

Steve Karr	Putah Creek Trout
Paul Weakland	Commercial Fisherman
Dave Ford	NCCFFF
Eric See	Chico Area Flyfishers
Jeff Miller	Alameda Creek Alliance
Charles Bucaria	Federation of Flyfishers
Rob Dicely	International Animal Welfare Institution

President Kellogg introduced members of the Commission, its staff, Directorate and Rick Thalhammer of the Attorney General's Office.

FIELD TRIP: November 5, 2009 at 8:00 a.m. at the Conaway Ranch, 45332 County Road 25, Woodland. The Field Trip was cancelled and will be rescheduled in the spring 2010.

14. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.
Deputy Attorney General Thalhammer announced results of the Executive Session. He reported that the Commission adopted the Office of Administrative Hearing's proposed decision regarding Tanya Bain's request for a Resident Restricted Species Exhibiting Permit for two Bennett's wallabies pursuant to completion of an inspection and denied renewal application for a Restricted Species Animal Care Permit.
15. RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO THE TRIENNIAL SPORT FISHING REGULATIONS FOR 2010-2012. (Note: Written comments mailed, faxed or e-mailed to the Commission office and to be considered at this meeting, must be received before 5:00 p.m. on November 2, 2009. The adoption hearing is scheduled for December 10, 2009, at the Radisson Hotel at Los Angeles Airport, 6225 West Century Blvd., Los Angeles.)
Received Department's summary from Chief Manji. Chief Foley reported that an amended ISOR for lobster traps would be completed for the Commission's December meeting. Received public testimony.

16. STATUS UPDATE AND POSSIBLE COMMISSION ACTION TO CLARIFY CONTENTS OF THE AMENDED INITIAL STATEMENT OF REASONS ON PROPOSED ADDITION OF SECTION 681, TITLE 14, CCR, RE: HYBRID ANIMALS AND PLANTS. (Note: The adoption hearing will be scheduled for spring 2010 and will be announced at a later meeting.)
Received Department's update from Chief Foley that an amended ISOR would be completed for the Commission's December meeting. No public testimony and no action taken by the Commission.
17. STATUS UPDATE AND POSSIBLE COMMISSION ACTION TO CLARIFY CONTENTS OF THE AMENDED INITIAL STATEMENT OF REASONS ON PROPOSED CHANGES TO SECTIONS 671, 671.1, 671.7 AND 703, TITLE 14, CCR, RE: NEW RESTRICTED SPECIES PERMITS AND REQUIREMENTS.
Received the Department's update from Scott Barrow. Received public testimony. Commission requested that the Department coordinate with Commission staff on the new documents.

CONSENT CALENDAR – Item heard on November 4, 2009.

MOVED BY D. BENNINGHOVEN, SECOND BY D. RICHARDS, TO APPROVE CONSENT CALENDAR ITEM #18, AS RECOMMENDED BY THE DEPARTMENT.

AYES: D. BENNINGHOVEN, J. KELLOGG, D. RICHARDS, R. ROGERS.

ABSENT: M. SUTTON.

MOTION PASSED.

18. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED AMENDMENTS TO SECTION 155, TITLE 14, CCR, RE: COMMERCIAL TAKE OF WHITE SEABASS. (Note: Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on November 2, 2009. All comments must be received no later than November 5, 2009, at the hearing in Woodland.)

Approved. No public testimony.

OTHER

19. COMMISSION FOLLOW-UP, MEETING REVIEW, AND STAFF DIRECTION.
Executive Director Carlson reviewed the item.
20. ANNOUNCEMENT OF FUTURE MEETINGS.
Executive Director Carlson reviewed the meeting schedule.

**2009 FISH AND GAME COMMISSION
MEETING SCHEDULE
www.fgc.ca.gov**

DATE	LOCATION
December 9 (Wed.) Joint Meeting with the Blue Ribbon Task Force December 10 (Thurs.)	Radisson Hotel at Los Angeles Airport 6225 West Century Blvd. Los Angeles, CA 90045

There being no further business, the Fish and Game Commission meeting was adjourned at 10:46 a.m.