

Commissioners
Michael Sutton, President
Monterey
Richard Rogers, Vice President
Santa Barbara
Jim Kellogg, Member
Discovery Bay
Jack Baylis, Member
Los Angeles
Vacant, Member

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Sonke Mastrup, Executive Director
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Fish and Game Commission



Staff Summary, Meeting of March 6, 2013

Following is a summary of the subject meeting. The official record of the meeting provided by the Department of General Services can be found on DVDs located in the Commission Office.

Pursuant to the call of the President, the Commission met at the Mount Shasta Hatchery Museum, #3 North Old Stage Road, Mount Shasta, California on March 6, 2013. The meeting was called to order at 8:30 a.m. by President Sutton. Due to weather conditions, Commissioners, and some staff of the Commission and Department of Fish and Wildlife participated via teleconference.

FISH AND GAME COMMISSION

Michael Sutton	President	Via Telephone
Richard Rogers	Vice President	Via Telephone
Jim Kellogg	Member	Via Telephone
Jack Baylis	Member	Absent
Vacant	Member	

Persons present:

COMMISSION STAFF

Sonke Mastrup	Executive Director
Scott Barrow	Deputy Executive Director
Adrianna Shea	Deputy Executive Director-Via Telephone
Mary Brittain	Administrative Assistant
Sherrie Fonbuena	Analyst
Anita Biedermann	Analyst-Via Telephone

OFFICE OF THE ATTORNEY GENERAL

Christopher Ames	Senior Assistant Attorney General-Via Telephone
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DEPARTMENT OF FISH AND WILDLIFE

Chuck Bonham	Director-Via Telephone
Tom Gibson	Office of the General Counsel-Via Telephone
Mike Carion	Deputy Director, Law Enforcement Division
Stafford Lehr	Chief, Fisheries Branch-Via Telephone

Eric Loft	Chief, Wildlife Branch-Via Telephone
Rick Banko	Law Enforcement Division
Rich Wharton	Law Enforcement Division
Daniel Beck	Law Enforcement Division
Chris Giertych	Law Enforcement Division
Neil Manji	Regional Manager, Northern Region
Karen Kovacs	Northern Region
Michael Dege	Northern Region
Ian Taniguchi	Marine Region
Barry Miller	Marine Region

The following persons were present and heard:

<u>Name</u>	<u>Organization</u>	<u>Agenda Item(s)</u>
Michael Kobseff	Supervisor Siskiyou County	1, 8
Richard Gierak	Siskiyou County Water Users	1
Jennifer Fearing	The Humane Society of the U.S.	1, 2, 7
Don Belkin	Concerned Citizen	1
Ed Valenzuela	Supervisor Siskiyou County	1
Wayne King	Concerned Citizen	1
Jeffrey Stewart	Concerned Citizen	1
Greg Helms	Ocean Conservancy	1, 6
Paul Weakland	Commercial Fisherman	1, 2
Monica Engebretson	Born Free USA	1, 7
Bill Gaines	California Outdoor Heritage Alliance	1, 7
Michael Payne	Shasta County Sportsmen's Association	3
Ben Wolfe	Concerned Citizen	6
George Bristol	American Falconry Conservancy	7
Peter Windrem	Council for Clear Lake Hitch	8
Marc Hooper	Lake County Farm Bureau	8
Jeff Miller	Center for Biological Diversity	8
Tom Smythe	Lake County	8
Paula Britton	Habematolel Pomo of Upper Lake	8
Sarah Ryan	Big Valley Band of Pomo Indians	8
Carla Rodriguez	Big Valley Rancheria	8
Gina Gomez	Big Valley Rancheria	8
Gary Rynearson	California Forestry Association	9
Lowell Diller	Green Diamond Resource Company	9
Dirk Embree	Michigan-California Timber Company	9
Ed Murphy	Sierra Pacific Industries	9
Rich Klug	Roseburg Resource Company	9
Tom Raftican	The Sportfishing Conservancy	11(C)
April Wakeman	The Sportfishing Conservancy	11(B)
George Osborn	Ca. Association of Recreational Fisheries	11(C), 12(A)
Curtis Knight	CalTrout	12(F)

Executive Director Mastrup introduced members of the Commission, its staff, Directorate and Christopher Ames of the Attorney General's Office.

1. PUBLIC FORUM.

Received public testimony from the following individuals: Michael Kobseff, Richard Gierak, Jennifer Fearing, Don Belkin, Ed Valenzuela, Wayne King, Jeffrey Stewart, Greg Helms, Paul Weakland, Monica Engebretson, and Bill Gaines.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY REQUESTED A BRIEFING BEFORE THE FULL COMMISSION REGARDING THE CENTRAL COAST MPA SYMPOSIUM HELD FEBRUARY 2013 IN MONTEREY.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY AUTHORIZES REFERRING THE PREDATOR MANAGEMENT/KILLING CONTESTS ISSUE TO THE WILDLIFE RESOURCES COMMITTEE.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

THE FISH AND GAME COMMISSION HEREBY REFERS THE NEASHORE PERMIT TRANSFERABILITY ISSUE TO THE COMMISSION'S MARINE RESOURCES COMMITTEE.

2. COMMITTEE ASSIGNMENTS

- I. MARINE RESOURCES COMMITTEE
- II. LEAD COMMITTEE
- III. WILDLIFE RESOURCES COMMITTEE

The Commission agreed that the lead ammo issue/committee would be included in the new Wildlife Resources Committee. It was also agreed that Committee assignments would be put over to the April meeting when all Commissioners would be present and possibly including a new appointed Commissioner. It was proposed to keep Commissioners Sutton and Rogers assigned to the Marine Resources Committee and assign Commissioners Kellogg and Baylis to the new Wildlife Resources Committee. Received public testimony.

3. DISCUSSION OF PROPOSED CHANGES TO MAMMAL HUNTING REGULATIONS (SECTIONS 354, 360, 361, 362, 363, 364, AND 708.9, TITLE 14, CCR)
 Note: The final decision will be considered at the April meeting.
Executive Director Mastrup reported that most of the proposed changes were tag quota changes. Received the Department's update from Eric Loft. Received public testimony.

4. DISCUSSION OF PROPOSED CHANGES TO KLAMATH-TRINITY SPORT FISHING REGULATIONS (SECTION 7.50, TITLE 14, CCR)
 Note: The final decision will be considered at the April meeting.
Received the Department's PowerPoint presentation from Stafford Lehr. No public testimony.

5. OCEAN SALMON SPORT FISHING REGULATIONS FOR CONSIDERATION AND POSSIBLE ACTION
 - (A) DISCUSSION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO REGULATIONS FOR APRIL 2013 (SUBSECTION 27.80(c), TITLE 14, CCR)
Received the Department's PowerPoint presentation from Barry Miller. No public testimony.

MOVED BY J. KELLOGG, SECONDED BY R. ROGERS, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE APRIL 2013 RECREATIONAL FISHING REGULATIONS FOR OCEAN SALMON AS RECOMMENDED AND PRESENTED BY THE DEPARTMENT.
AYES: J. KELLOGG, R. ROGERS, M. SUTTON.
ABSENT: J. BAYLIS.
MOTION PASSED.

 - (B) DISCUSSION OF PROPOSED CHANGES TO REGULATIONS FOR MAY TO NOVEMBER 2013 (SUBSECTION 27.80(d), TITLE 14, CCR)
 Note: The final decision will be considered at the April meeting.
Received the Department's PowerPoint presentation from Barry Miller. No public testimony.

6. DISCUSSION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO LOBSTER REPORT CARD PERIOD AND FEES, AND OTHER SPORT FISHING REPORT CARD REQUIREMENTS (SECTIONS 1.74 AND 701, TITLE 14, CCR)
Received PowerPoint presentation from Executive Director Mastrup. Received public testimony.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE PROPOSED CHANGES TO SPORT FISHING REPORT CARDS AS RECOMMENDED BY STAFF.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

7. FALCONRY REGULATIONS FOR CONSIDERATION AND POSSIBLE ACTION

(A) CONSIDERATION OF CERTIFICATION OF FINAL ENVIRONMENTAL DOCUMENT

Received the Department's report (slides) from Eric Loft regarding comments received regarding the environmental document.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION CERTIFIES THAT THE FINAL ENVIRONMENTAL DOCUMENT IS COMPLETE AND IN COMPLIANCE WITH CEQA.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

(B) DISCUSSION AND POSSIBLE ADOPTION OF PROPOSED CHANGES (SECTION 670, TITLE 14, CCR)

Received the Department's update from Eric Loft on the proposed changes. Received public testimony.

MOVED BY M. SUTTON, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE PROPOSED FALCONRY REGULATION CHANGES AMENDING SECTION 670 AND REPEALING SECTION 678, TITLE 14, CCR, AS RECOMMENDED BY THE DEPARTMENT.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

8. CONSIDERATION OF PETITION, DEPARTMENT'S REPORT, AND COMMENTS RECEIVED ON WHETHER LISTING CLEAR LAKE HITCH (*Lavinia exilicauda chi*) AS A THREATENED SPECIES MAY BE WARRANTED (FISH AND GAME CODE SECTION 2074.2)

Note: If the Commission determines listing may be warranted, a one-year status review will commence before the final decision on listing is made.

Received an overview and slide presentation of the Department's report from Stafford Lehr. The Department recommended that the petitioned action may be warranted. Received public testimony.

MOVED BY R. ROGERS, SECONDED BY M. SUTTON, THAT THE FISH AND GAME COMMISSION, PURSUANT TO SECTION 2074.2 OF THE FISH AND GAME CODE, HEREBY FINDS THAT THE PETITIONED ACTION TO LIST THE CLEAR LAKE HITCH (*Lavinia exilicauda chi*) AS A THREATENED SPECIES MAY BE WARRANTED; AND THEREFORE, DESIGNATES THE CLEAR LAKE HITCH AS A CANDIDATE FOR THREATENED SPECIES STATUS. FURTHERMORE, PURSUANT TO SECTION 2074.6 OF THE FISH AND GAME CODE, THE DEPARTMENT IS TO PROMPTLY COMMENCE A STATUS REVIEW OF THE SPECIES AND REPORT BACK TO THE COMMISSION WITHIN ONE YEAR FROM THE DATE OF THE COMMISSION'S PUBLISHED FINDINGS WITH A RECOMMENDATION AS TO WHETHER THE SPECIES SHOULD OR SHOULD NOT BE LISTED AS THREATENED.

AYES: R. ROGERS, M. SUTTON.

NOES: J. KELLOGG.

ABSENT: J. BAYLIS.

MOTION PASSED.

<u>CONSENT ITEMS</u>
<p>9. RECEIPT OF DEPARTMENT'S 90 DAY EVALUATION REPORT ON PETITION TO LIST THE NORTHERN SPOTTED OWL (<i>Strix occidentalis caurina</i>) AS A THREATENED OR ENDANGERED SPECIES (FISH AND GAME CODE SECTION 2073.5)</p> <p>Note: The Commission's decision on whether listing may or may not be warranted will be considered at the April meeting.</p> <p>10. RECEIPT OF THE JOHN MUIR PROJECT OF EARTH ISLAND INSTITUTE AND THE CENTER FOR BIOLOGICAL DIVERSITY'S STATUS REVIEW ON THE BLACK-BACKED WOODPECKER (<i>Picoides arcticus</i>) (SECTION 670.1(h), TITLE 14, CCR)</p> <p>Note: This independent report will be considered at a future meeting.</p>

Item #9 was removed from the Consent Calendar and received public testimony.

MOVED BY R. ROGERS, SECONDED BY J. KELLOGG, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS THE CONSENT CALENDAR, ITEMS 9-10.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

11. COMMISSION STAFF REPORT FOR CONSIDERATION AND POSSIBLE ACTION

- (A) RECOMMENDATIONS ON ITEMS OF INTEREST FROM PRIOR MEETINGS
Executive Director Mastrup stated there were no action items. No public testimony.
- (B) DISCUSSION OF PROPOSED REGULATIONS REGARDING MEETING AND BUSINESS PROCEDURES PURSUANT TO AB 2609
Executive Director Mastrup stated that the Commission was in the process of implementing AB 2609 regarding regulations to govern meeting and business practices and developing a Code of Conduct policy. Received public testimony.
- (C) PREVIEW OF FUTURE AGENDA ITEMS
Executive Director Mastrup reported that a group of several individuals had requested an agenda item to ban waterfowl hunting at Tomales Bay. Commissioners agreed not to agendize the item at this time, but to hear the request under Public Forum at the April meeting.

He also reported that Mr. Maynard had requested an agenda item for the Commission to amend the restricted species regulations to provide the same exemptions for ZAA facilities that are provided to AZA facilities. This item to be scheduled for the May meeting in Los Angeles.

Potential April Agenda Items

- 1) Adoption of mammal, May to Nov. ocean salmon, and Klamath River salmon regulation changes.**
- 2) Notice of depredation permit application and form, fishing activity records, mountain lion display, and FGC meeting and business procedures regulation changes.**
- 3) Receipt of Department's 90 day evaluation report for Townsend's big-eared bat and the one year status reports on American Pika and black-backed woodpecker petitions.**
- 4) Decision on whether or not there is sufficient information to indicate listing the northern spotted owl may be warranted.**

Potential May Agenda Items

- 1) Discussion of depredation permit application and form and abalone catch reduction regulation changes.**
- 2) Notice of upland game bird and stamp, waterfowl and stamp, sturgeon tags, harvest of kelp and aquatic plants, ground squirrel depredation and herring regulation changes.**

- 3) Commission review of one year status reports on American Pika and black-backed woodpecker petitions.
- 4) Decision on whether or not there is sufficient information to indicate listing Townsend's big-eared bat may be warranted.
- 5) Receipt of the Department's status review as well as the "independent" status review of the black-backed woodpecker

Potential June Agenda Items

- 1) Adoption of depredation permit application and form, abalone catch reduction, fishing activity records, and FGC meeting and business procedures regulation changes.
- 2) Discussion of upland game bird and stamp and waterfowl and stamp regulation changes.
- 3) Notice of trout and salmon special regulation changes.
- 4) Receipt of Department reports on proposed duck stamp projects and lead levels in condors.

Received public testimony.

12. DEPARTMENT OF FISH AND WILDLIFE INFORMATIONAL ITEMS

- (A) DIRECTOR'S REPORT
Director Bonham reported on the following issues: legislative update, DFW efforts to rebuild trust in Siskiyou and Shasta counties, and predator management. Received public testimony.
- (B) WILDLIFE AND FISHERIES DIVISION AND ECOSYSTEM CONSERVATION DIVISION
Received a salmon fishing briefing from Stafford Lehr. Karen Kovacs provided a wolf management update. No public testimony.
- (C) LAW ENFORCEMENT DIVISION
Captain Banko provided a recap on current enforcement cases in the area. No public testimony.
- (D) MARINE
There was no report. No public testimony.
- (E) UPDATE ON PROPOSED CHANGES TO ABALONE REGULATIONS FOR CATCH REDUCTION
Received PowerPoint presentation from Ian Taniguichi. No public testimony.
- (F) REPORT ON STATUS OF UPPER TRINITY RIVER TROUT POPULATIONS
Received report from Michael Dege. Received public testimony.

- (G) OTHER
Received PowerPoint presentation from Neil Mani and Michael Dege regarding Sacramento perch. No public testimony.

13. OTHER INFORMATIONAL ITEMS

- (A) LEGAL COUNSEL
There was no report. No public testimony.
- (B) FEDERAL AGENCIES
There was no report. No public testimony.

14. POSSIBLE DIRECTION ON LEGISLATIVE MATTERS

Executive Director Mastrup reported that an author was found to author a bill to create a Wildlife Resources Committee. He also reported on the introduction of AB 504 and AB 497. No public testimony.

15. COMMISSION POLICIES FOR CONSIDERATION AND POSSIBLE ACTION

- (A) PROPOSED CODE OF CONDUCT POLICY PURSUANT TO AB 2609
Executive Director Mastrup reviewed the policy and recommended that the draft “Code of Conduct” policy be adopted to satisfy the requirements of Fish and Game Code Section 107 and to continue the pursuit of draft regulations for Fish and Game Commission Business Practices for future consideration. No public testimony.

MOVED BY J. KELLOGG, SECONDED BY R. ROGERS, THAT THE FISH AND GAME COMMISSION HEREBY ADOPTS “CODE OF CONDUCT” POLICY AS DRAFTED.

AYES: J. KELLOGG, R. ROGERS, M. SUTTON.

ABSENT: J. BAYLIS.

MOTION PASSED.

16. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION

No Executive Session was held. No public testimony.

17. POSSIBLE ACTION ON NEW BUSINESS, COMMISSION FOLLOW-UP AND STAFF DIRECTION

Commissioner Rogers stated he would like to discuss the status of audio visual support and the costs and elements of service once provided by AGP Video compared to those being provided by Department of General Services. It was agreed to agendaize the item for the April Fish and Game Commission meeting.

Executive Director Mastrup asked if the Commissioners were interested in the Fish and Game Commission hosting a shooting competition. No public testimony.

18. ANNOUNCEMENT OF FUTURE MEETINGS

Executive Director Mastrup reviewed the meeting schedule for the balance of the year. He reported that the April hatchery workshop was cancelled due to the speakers not being available.

President Sutton requested a presentation on new science at each meeting. He stated that the role of long term monitoring in adaptive management be scheduled for the April meeting. No public testimony.

**2013 FISH AND GAME COMMISSION
MEETING SCHEDULE**

www.fgc.ca.gov

April 17 (Wed.) April 18 (Thurs.)	Flamingo Conference Resort & Spa 2777 Fourth Street Santa Rosa
May 22 (Wed.) May 23 (Thurs.)	Los Angeles
June 26 (Wed.) June 27 (Thurs.)	Sacramento
August 7 (Wed.) August 8 (Thurs.)	San Luis Obispo
September 4 (Wed.) September 5 (Thurs.)	Yreka Medford, OR Joint meeting with Oregon Fish and Wildlife Commission
October 2 (Wed.) October 3 (Thurs.)	Ventura
November 6 (Wed.) November 7 (Thurs.)	Santa Barbara
December 11 (Wed.) December 12 (Thurs.)	San Diego

Pacific Fishery Management Council Meeting, March 6-11, Tacoma, WA
 Pacific Fishery Management Council Meeting, April 6-11, Portland, OR
 Pacific Flyway Meeting, March 26, Arlington, VA
 Summer WAFWA Meeting, July 19-24, Omaha, NE

There being no further business, the Fish and Game Commission meeting adjourned at 3:00 p.m.

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. JAMES BUNN AND JOHN GIBBS vs. CALIFORNIA FISH AND GAME COMMISSION RE: SQUID PERMITS.
 - III. 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.
 - IV. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION AND DEPARTMENT OF FISH AND GAME RE: PACIFIC FISHER.
 - V. UNITED ANGLERS OF SOUTHERN CALIFORNIA; COASTSIDE FISHING CLUB; AND ROBERT C. FLETCHER vs. CALIFORNIA FISH AND GAME COMMISSION RE: SOUTH COAST STUDY REGION AND NORTH CENTRAL COAST STUDY REGION MARINE PROTECTED AREAS UNDER THE MARINE PROTECTION ACT.
 - VI. CENTER FOR BIOLOGICAL DIVERSITY AND EARTH ISLAND INSTITUTE vs. FISH AND GAME COMMISSION ADOPTING EMERGENCY REGULATION TO AUTHORIZE INCIDENTAL TAKE OF THE BLACK-BACKED WOODPECKER DURING CANDIDACY PERIOD.
- B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.
- C. STAFF PERFORMANCE AND COMPENSATION.
- D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT ITEMS.
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