

STAFF SUMMARY FOR DECEMBER 7-8, 2016

35. NON-MARINE REGULATION PETITIONS AND NON-REGULATORY REQUESTS**Today's Item**Information Action

This is a standing agenda item for FGC to act on regulation petitions and non-regulatory requests from the public that are non-marine in nature. For this meeting:

- (A) Action on petitions for regulation change received at the Oct 2016 meeting.
- (B) Action on non-regulatory requests received at the Oct 2016 meeting.
- (C) Update on pending regulation petitions and non-regulatory requests referred to staff or DFW for review.

Summary of Previous/Future Actions

(A-B)

- FGC receipt of new petitions and requests Oct 19-20, 2016; Eureka
- **Today FGC action on petitions and requests Dec 7-8, 2016; San Diego**

(C)

- **Today update and possible action on referrals Dec 7-8, 2016; San Diego**

Background

FGC provides direction regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. Public petitions for regulatory change or requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration.

Petitions for regulation change or requests for non-regulatory action scheduled for consideration today were received or referred at the Oct 2016 meeting in three ways: (1) submitted by the comment deadline and published as tables in the meeting binder; (2) submitted by the late comment deadline and delivered at the meeting; or (3) received during public forum.

The public request logs provided in exhibits A1 and B1 capture the regulatory and non-regulatory requests received through the last meeting that are scheduled for FGC action today. The exhibits contain staff recommendations for each request.

- (A) Petitions for regulation change: As of Oct 1, 2015, any "request for FGC to adopt, amend, or repeal a regulation" must be submitted on form "FGC 1, Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14). Petitions received at the previous meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Today, two non-marine regulation petitions received in Oct 2016 are scheduled for FGC action (See summary table in Exhibit A1 and individual petitions in exhibits A2-A3).

- (B) Non-regulatory requests: Requests for non-regulatory action received at the previous meeting are scheduled for consideration today.

Today, one non-regulatory request received in Oct 2016 is scheduled for action (See summary table in Exhibit B1 and individual request in Exhibit B2).

STAFF SUMMARY FOR DECEMBER 7-8, 2016

- (C) Pending regulation petitions and non-regulatory requests: This item is an opportunity for staff to provide an evaluation and recommendation on items previously referred by FGC to DFW or FGC staff for review. FGC may act on any staff recommendations made today.

Today, there are updates and recommendations for two pending regulation petitions:

Petition #2015-015 (fishing on Russian River): In Apr 2016 FGC referred petition #2015-015 from Fred Boniello, requesting changes to sport fishing on the Russian River, to DFW for evaluation and recommendation. DFW completed their review and recommends referring the petition to the WRC for further vetting.

Petition #2016-010 (sage grouse permits): In Aug 2016 FGC referred petition #2016-010 from J.D. Mostoufi, requesting a change to the sage grouse permits, to DFW for evaluation and recommendation. DFW completed their review and recommends consideration of the petition in the 2017 upland game bird rulemaking for the 2017-18 season.

Significant Public Comments (N/A)

Recommendation

- (A-B) Adopt staff recommendations for regulation petitions and non-regulatory requests to (1) deny, (2) grant, or (3) refer to committee, DFW staff, or FGC staff for further evaluation or information gathering. See exhibits A1 and B1 for staff recommendations for each regulation petition and request.
- (C) Approve DFW recommendations for regulation petitions #2015-015 and #2106-010.

Exhibits

- A1. [FGC table of non-marine petitions for regulation change received through Oct 20, 2016](#)
- A2. [Petition #2016-023 from Ted Souza concerning use of roe and fishing on the Smith River, received Oct 3, 2016](#)
- A3. [Petition #2016-024 from California Farm Bureau Federation concerning incidental take of tricolored blackbirds, received Oct 5, 2016](#)
- B1. [FGC table of non-marine requests for non-regulatory change received through Oct 20, 2016](#)
- B2. [Email from Karen Cusolito concerning hunting in Angeles Crest National Park, received Oct 8, 2016](#)
- C1. [Petition #2015-015 from Fred Boniello concerning sport fishing on the Russian River, received Dec 16, 2015](#)
- C2. [Petition #2016-010 from J.D. Mostoufi concerning sage grouse permits, received Jun 8, 2016](#)

Motion/Direction

- (A-B) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on October 2016 regulation petitions and

STAFF SUMMARY FOR DECEMBER 7-8, 2016

non-regulatory requests, refer Petition #2015-015 to the WRC, and approve consideration of Petition #2016-010 in the 2017 rulemaking for upland game birds.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on August 2016 regulation petitions and non-regulatory requests, refer Petition #2015-015 to the WRC, and approve consideration of Petition #2016-010 in the 2017 rulemaking for upland game birds, except for item(s) _____ for which the action is _____.

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR REGULATORY ACTION THROUGH OCT 20, 2016
 Revised 11-18-2016

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Grant: FGC is <i>willing to consider</i> the petition through a process Deny: FGC is <i>not willing to consider</i> the petition Refer: FGC <i>needs more information</i> before deciding whether to grant or deny the petition Green cells: Referrals to DFW for more information Blue cells: Referrals to FGC staff or committee for more information Lavender cells: Accepted and moved to a rulemaking Yellow cells: Current action items										
Tracking No.	Date Received	Response Due (10 work days)	Response letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	Staff Recommendation	FGC Decision
2016-023	10/3/2016	10/17/2016	10/10/2016	A	Ted Souza	Use of roe; fishing season on Smith River		Ban the use of roe for fishing salmon and steelhead. Close Smith River to all fishing above middle and south forks November through December.	<i>GRANT; consider during the 2017 sport fishing rulemaking cycle for 2018 season.</i>	RECEIPT: 10/19-20/16 ACTION: Scheduled 12/7-8/16
2016-024	10/5/2016 10/20/2016	10/19/2016	10/11/2016	A	Noelle Cremers California Farm Bureau Federation	Tricolored blackbird	749.8, T14	Authorize incidental take of tricolored blackbird in limited circumstances for the 2017 nesting season.	<i>GRANT; schedule for Feb 2017 rulemaking calendar as an emergency action and authorize staff to begin a regular rulemaking to make the emergency regulations permanent with a sunset clause that repeals the regulation at the end of the candidacy period.</i>	RECEIPT: 10/19-20/16 ACTION: Scheduled 12/7-8/16



2016-073

Tracking Number: (Not sure???)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission’s authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Ted Souza
Address:
Telephone number:
Email address:

As per Title 14 CCR 7.5 sections 200 & 205

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: ~~Unsure of what this means!~~

3. Overview (Required) - Summarize the proposed changes to regulations: 1) Ban the use of Roe for fishing salmon and steelhead 2) Second, close the Smith to all fishing above the Middle and South Forks of the Smith starting in November and lasting to the end of December.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: There’s two problems we see with using roe. There is no doubt that the use of fresh roe reduces the effort hours per fish. As a result, fresh roe is the bait of choice for salmon fishermen. Consequently, many hens are killed solely for their roe. Using roe results in more deeply hooked fish than with an artificial lure. A 1997/98 Smith River Survey Summary, California Department of Fish and Game states, “...swallowed hook for bait was 26%, lures 12% and flies 0%.” That means that even if the angler intends to release the salmon, the chance of fatally harming the fish in retrieving the hook is more than double than if caught on a lure. **November and December the two months that salmon are spawning above the forks. And there is no doubt about it, salmon are spawning in the main stems of the North, Middle and South forks during this time. Reports by Mike McCain of the USFS and Justin Garwood, a fisheries biologist for the Department of Fish & Game, both attest that salmon are spawning in the main stream. Also, since the guides rarely, if ever, fish above the forks, the financial impact on them would be negligible. This gives at least some**



protection to our spawning salmon without hurting the guides. After December, when salmon spawning is about over, the river could then be opened for steelhead fishing.

SECTION II: Optional Information

5. **Date of Petition: April 13, 2016**

6. **Category of Proposed Change**
 - Sport Fishing
 - Commercial Fishing
 - Hunting
 - Other, please specify: [Click here to enter text.](#)

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
 - Amend Title 14 Section(s): Not sure how this works
 - Add New Title 14 Section(s): Not sure what is meant
 - Repeal Title 14 Section(s): This was a complete mystery to me.

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: This needs to be implemented as soon as possible.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: In 1973 there were over 528 sport boats at dock in Crescent City. Now there are only 100 slots even available for boats. On July 4th in the 1970's the line to launch your boat at the Crescent City harbor for ocean salmon fishing went all the way to Hwy 101—over 300 yards. Now there is no line at all. Ship Ashore, at the mouth of the Smith, used to sell fishing supplies, rent boats and had a big sign saying “World Class Salmon Caught Here”. Now the tackle shop is gone, no boats are rented and the sign is gone. As far back as 1997, the late Hank Westbrook, owner of Ship Ashore said, “It’s been some years since we rented



boats.”

The above photo is what it used to look like at the mouth of the Smith! No one comes to fish for salmon any more at Salmon Harbor! The Wagon Wheel in Gasquet used to be a major sport fishing motel. Now it’s closed. In years past, the beaches of the Smith were littered with the carcasses of spent salmon. Now it’s rare to see more than a couple all season. Veterinarians have reported that salmon poisoning of dogs (common when there were numerous salmon) has dropped to almost zero. The deep pools below the confluence of the Middle and South Fork of the Smith were once loaded with rolling salmon during October and November. Now you can watch for over an hour without see a single salmon roll. The same is true at the confluence of the North and Middle Forks of the Smith. The fish used to stack up there and roll day and night during October and November. In the past four years maybe one would roll every 45 minutes or so—or not at all! Not even 6 years ago, it was common to see 50 or more drift boats go down the river a day. For the past two years it is rare to see more than dozen a day. Your own Fish & Game put out a report in 1970 called “*Environmental Tragedy*” warning then of a collapsing salmon fishery. In 1986 Fish & Game put out another advisory called, “*The Tragedy Continues*” as well as numerous other reports warning of an impending collapse of the fishery. In 1988 your own Fish & Game reported an 80% decline in salmon and steelhead since 1954. Rowdy Creek Fish Hatchery only reported 98 salmon returned last season. As little as 10 years ago it was common for over five times that amount of fish to return. **This is strong evidence that unless we do more than we’re doing, the Smith River Salmon is heading for the Endangered List!**

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: There may be minimal impact on guides but if nothing is done, the guides will go out of business anyway.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Not informed in this area

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

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Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____
Tracking Number
- Granted for consideration of regulation change



Tracking Number: 2016-024 (Click here to enter text.)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

- 1. Person or organization requesting the change (Required)**
Name of primary contact person: Noelle G. Cremers, California Farm Bureau Federation
Address:
Telephone number:
Email address:
- 2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:** Government Code § 11340.6 (right to petition for regulation) and Fish and Game Code § 2084 (authority of Commission to enact regulation).
- 3. Overview (Required) - Summarize the proposed changes to regulations:** The regulation would authorize the take of Tricolored Blackbirds in the following limited circumstances: 1) Actions to protect, restore, conserve or enhance habitat; 2) Actions to monitor Tricolored Blackbird colonies; and 3) Harvest of grain crops after delay to protect colonies. This proposed regulation is identical to the emergency regulation adopted by the Commission in February 2016 (Title 14, § 749.8).
- 4. Rationale (Required) - Describe the problem and the reason for the proposed change:**
Historically Tricolored Blackbirds nested in native flora in or adjacent to wetlands in the Central Valley and elsewhere across the State of California. Concomitant with the loss of wetlands during the 19th and 20th centuries, Tricolored Blackbirds have adapted to nest in varied substrates. Grain fields planted for winter silage on dairy farms provide attractive nesting sites for the species.
Unfortunately, nesting occurs at the same time the crop is scheduled for harvest. For about the past decade, a patchwork of funding sources have been used to pay farmers for the lost crop when they agree to delay harvest until after nesting is complete. In some cases, particularly where funding was unavailable or farmers were not aware of the potential for funding to offset losses, harvest has occurred before the young fledged. Recently, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) committed to provide multiple years of funding to support a program to delay harvest of fields in which Tricolored Blackbird colonies have nested. At the same time, California Farm Bureau Federation and Dairy Cares in coordination with additional farming interests has initiated



an active campaign to educate dairy farmers about the Tricolored Blackbird and the NRCS-funded program. After adoption of Title 14 § 749.8 in 2016, through a coordinated effort including NRCS, farming interests, the Department, and Audubon, dairy farmers enrolled in the NRCS program delayed harvest on fields where an estimated 57,000 Tricolored Blackbirds nested. During the 2016 nesting season through this concerted effort 100 percent of the known Tricolored Blackbird colonies on dairy farms were protected under this program. Having the 2084 regulation in place helped alleviate concerns for farmers participating in the harvest delay program that they could still be at risk for incidental take.

NRCS funds compensate participating farmers for a portion of the value of the crop lost by the harvest delay. Under the NRCS program, a colony is identified and the area inhabited by the colony is delineated by a biologist. Once the colony is delineated, a buffer is established and the farmer is allowed to harvest only those fields outside the colony site and buffer area. Delaying harvest protects the vast majority of the colony until the birds fledge, but it does not guarantee that no take will occur. Having the emergency regulation (Title 14 § 749.8) in place for the 2016 nesting season provided tremendous value to ensure farmers who protected colonies on their farms weren't penalized in the event a small number of birds are taken incidental to their beneficial conservation actions in delaying harvest and otherwise lawful agricultural activities. By all accounts the 2016 nesting season was a success and the emergency regulation worked well.

It is likely that the timing of the Commission's consideration of whether or not listing is warranted under CESA won't occur until the middle of nesting season at the earliest. If a decision is delayed, Tricolored Blackbirds will be candidates for the entire nesting season. Given this timing, it is important to have a regulation in place that again allows for incidental take in the limited circumstances adopted previously.

SECTION II: Optional Information

5. **Date of Petition: October 3, 2016**

6. **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Incidental Take Regulation for Tricolored Blackbirds

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

Amend Title 14 Section(s):

Add New Title 14 Section(s): 749.9

Repeal Title 14 Section(s): Click here to enter text.

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.

Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the emergency: February 15, 2017. Tricolored Blackbirds typically start nesting in the southern San



Joaquin Valley in late February to early March. Tricolored Blackbirds have adapted their nesting to utilize both native and non-native habitat, including farm fields typically associated with working dairy farms. The nesting period typically coincides with planned harvest and this regulation is needed to provide incidental take to farmers who agree to delay harvest to protect Tricolored Blackbird colonies, but still have a risk of incidental take from their ongoing farming activities. A regulation adopted pursuant to Fish and Game Code § 2084 is necessary to protect farmers who are providing habitat and agreeing to protect nesting Tricolored Blackbirds.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See Attachment A – Proposed 2084 Regulation for Incidental Take of Tricolored Blackbird (*Agelaius tricolor*) During Candidacy Period.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: If enacted by the Commission, the proposed 2084 regulation would have positive economic impacts and contribute to the conservation of the Tricolored Blackbird. The regulation would have positive economic impacts because it would incentivize farmers to participate in the NRCS program described above or a similar program administered by the Department. In 2016, there were nearly 400 acres of dairy silage fields that provided nesting habitat for Tricolored Blackbirds. NRCS was able to provide payments to farmers who agreed to delay the harvest of their fields until after the nesting season ended. Without these payments, losses (due to the decline in value of the crop) associated with delayed harvest would have been approximately \$250,000.

Absent the 2084 regulation, enrollment in the NRCS program may decline. Furthermore, farmers may harvest their crop early before onset of the nesting season, which would decrease the value of the crop and also decrease available nesting habitat; farmers may elect to plant crops that do not provide nesting habitat for the Tricolored Blackbird thereby decreasing available nesting habitat; or farmers may risk harvesting their crop even if Tricolored Blackbirds are present. The first of these outcomes has adverse economic impacts.

Adopting a regulation providing incidental take coverage for farmers participating in harvest delay programs will incentivize participation in these programs thereby reducing economic impacts as described above. As important if not more so, adopting a regulation will contribute to the conservation of the Tricolored Blackbird during the period the species is a candidate for listing.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

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 COMMISSION
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Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____
Tracking Number
- Granted for consideration of regulation change

Attachment A – Proposed Section § 749.8. Incidental Take of Tricolored Blackbird (*Agelaius tricolor*) During Candidacy Period.

This regulation authorizes take as defined by Fish and Game Code Section 86, of tricolored blackbird in the limited circumstances described below, subject to certain terms and conditions, during the species' candidacy under the California Endangered Species Act (Fish and Game Code, Section 2050 et seq.).

(a) Take Authorization.

The Commission authorizes the take of tricolored blackbird during the candidacy period subject to the terms and conditions herein.

(1) Actions to Protect, Restore, Conserve, or Enhance Habitat.

Take of tricolored blackbird incidental to otherwise lawful activity, where the purpose of the activity is to protect, restore, conserve, or enhance habitat for a species designated as an endangered, threatened, or candidate species under state or federal law.

(2) Actions to Monitor Tricolored Blackbird Breeding Colonies.

Take of tricolored blackbird incidental to efforts to monitor active tricolored blackbird breeding colonies, including entering colonies to perform walking transects. Only trained observers who are approved by the Department will be authorized to engage in such monitoring.

(3) Harvest of Grain Crops Under Harvest Management Program to Protect Colonies.

Take of tricolored blackbird incidental to harvest of grain fields and related agricultural activities is authorized where an individual participates in a harvest management program administered by the Natural Resources Conservation Service (NRCS), or harvest management program administered or approved by the Department; the harvest management program shall include the establishment of a buffer zone and harvest date as described under Topics 1 and 2 in the document "California Department of Fish and Wildlife (Department) Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (adopted on March 19, 2015 and available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=99310&inline>). The individual seeking authorization for take incidental to harvest of grain fields and related agricultural activities shall receive written confirmation of participation in the harvest management program and must obtain specific authorization for the timing of harvest and related agricultural activities from NRCS, the Department, or a biologist authorized by the Department or NRCS before proceeding with any harvest activities that take tricolored blackbirds.

(b) Reporting.

Any person, individual, organization, or public agency, or their agents, for which incidental take of tricolored blackbirds is authorized pursuant to subsections (a)(1) or (a)(3), shall report observations and detections of tricolored blackbird colonies, including take, to the Department's Wildlife Branch by August 1 during the candidacy period.

Information reported to the Department pursuant to this subsection shall include: a contact name; the date and location (GPS coordinate preferred) of the colony or take; colony size; colony outcome; and details regarding the tricolored blackbirds observed. Colony outcome means whether the colony was abandoned or whether young in a colony fledged. Any person, individual, organization, or public agency, or their agents seeking incidental take authorization pursuant to subsection (a)(3), shall report their participation in an approved harvest management program to the Department prior to grain harvest.

(c) Additions, Modifications or Revocation.

Incidental take of tricolored blackbird from activities not addressed in this section may be authorized during the candidacy period by the Commission pursuant to Fish and Game Code Section 2084, or by the Department on a case-by-case basis pursuant to Fish and Game Code Section 2081, or other authority provided by law.

Note: Authority cited: Sections 200, 202, 240 and 2084, Fish and Game Code.
Reference: Sections 200, 202, 240, 2080, 2084 and 2085, Fish and Game Code.

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR NON-REGULATORY ACTION THROUGH OCT 20, 2016
 Revised 11-18-2016

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Date Received	Name of Petitioner	Subject of Request	Short Description	Staff Recommendation	FGC Decision
10/8/2016	Karen Cusolito	Hunting	Requests consideration to re-draw hunting boundaries in Angeles Crest National Forest in a way that will not endanger human lives, due to proximity to campground and hiking trails.	<i>DENY; hunting is an appropriate activity for this area and is already prohibited within 150 yards of a residence, building, campsite, recreation site, or occupied area.</i>	RECEIPT: 10/19-20/2016 ACTION: Scheduled 12/7-8/2016

From: [Karen Cusolito](#)
To: [FGC](#)
Subject: Dear Hunting in Angeles Crest
Date: Saturday, October 08, 2016 2:41:39 PM

Dear California Fish and Game Commissioners:

I had the distinct displeasure today of taking my dog for a hike in the Angeles Crest National Park, only to be met by men in camouflage staked out along the trail with rifles. Apparently it is the first day of deer-hunting season. Never mind that it is only a few miles from a major metropolitan area, or that the hunting area is across the road from Clear Creek Camp, owned by Los Angeles Unified School District. Schoolchildren who go to camp to escape the gunfire in their inner-city neighborhoods can now look forward to hearing gunfire in the forest.

My husband and I planned to hike to Strawberry Peak, but turned back after we saw our tenth man with a gun. The occasional gunshots did nothing to heighten our appreciation of nature. These trails should be for those who want to enjoy nature, not those who want to destroy it. The deer in the area are not very large. Real hunters would go to the Sierras, away from populated areas. Those in charge of this decision need to be called to task for their poor judgement.

When I asked the park ranger about this, she said it was regulated by the state Department of Fish and Game. I also informed her that the hunters were parked directly across the street from the ranger station and that they had no wilderness pass on their cars. She said wilderness passes were no longer required to park there. So, my husband and I pay \$35 a year for two parking passes in order to hike in the national forest while hunters pay nothing.

Please consider re-drawing the hunting boundaries in a way that will not endanger human lives. Hunting should be kept away from hikers and campers.

Sincerely,

Karen Cusolito

--

Karen



Tracking Number: 2015-015

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SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: _____
 Address: _____
 Telephone number: _____
 Email address: _____

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Section 200, 202, 205, 215, 220, 240, 315, 316.5 of Fish & Game Code.

3. Overview (Required) - Summarize the proposed changes to regulations: 7.50b 155A Title 14 8.00b3 Title 14 North Coast Central District, Russian River to be open to sport fishing all year with a no minimum flow requirement. A no take "Catch and Release" of all migratory species including hatchery fish (if the C.D.F.W. would like). A year round restriction for the use of bait (artificial only permitted). The year round closure from the point of the C.D.F.W.'s Coho reestablishment monitoring project (near the confluence of Austin Creek) to the Pacific Ocean, as not to interfere with their efforts. All proposed changes to include current hook requirements, such as barbless and single.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: 8.00b3 Myself and other sport fishing anglers are not allowed to sport fish for any species from Oct. 1 to April 30th unless the river flow is at 300C.F.S or more, leaving us with no sport fishing for long periods on what we feel are our home waters (many of us being native to the area). With the vast majority of migrating species being hatchery fish coupled with changes proposed above (overview) and also the rights of others being able to use and enjoy the Russian River year round (kayaks, canoes, swimmers, dogs, special events, etc) adding all due respect to them, we feel somewhat left out of things we are interested in doing year round. It is important that the C.D.F.W. realize many of us have other interests (family, work, hobbies, to mention a few) and that many of us would not be able to sport fish at the same times. Adding (that with all due respect) the C.D.F.W. should not make that assumption.



SECTION II: Optional Information

5. **Date of Petition:** Dec. 16, 2015

6. **Category of Proposed Change**
 Sport Fishing
 Commercial Fishing
 Hunting
 Other, please specify: _____

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
 Amend Title 14 Section(s): 7.50, 8.00
 Add New Title 14 Section(s): _____
 Repeal Title 14 Section(s): _____

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** _____
 Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.
 If the proposed change requires immediate implementation, explain the nature of the emergency: March 1, 2017, preferably earlier if possible. Perhaps through some sort of Public Notice (Local newspaper the Press Democrat) and/or revised issue of Regulations between current effective dates.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Knowledge of the area (having lived in Santa Rosa, Ca. for over 50 years and sport fished the Russian River for over 35 years) respectively, in addition to signed proposal enclosed. Also see attached closing statement for regulation changes.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: May have had and/or continue to have negative revenue impact on the above due to less travel and spending of visiting and local sport anglers during low flow closure period (listed in current regulations). Our proposal could only help to provide a more positive revenue impact listed in number 11 (economic or fiscal impacts:)

12. **Forms:** If applicable, list any forms to be created, amended or repealed: _____



SECTION 3: FGC Staff Only

Date received: 12/16/15

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Date petitioner was notified of receipt of petition and pending action: 12/18/15

Meeting date for FGC consideration: February 10-11, 2016

FGC action:

- Denied by FGC
- Denied - same as petition: _____
Tracking Number
- Granted for consideration of regulation change

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FISH AND GAME
COMMISSION
2015 DEC 16 AM 8:44



2016-010

Tracking Number: (Click here to enter text.)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: J.D. Mostoufi

Address:

Telephone:

Email address:

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game code sections 200, 202, 203, 355

3. Overview (Required) - Summarize the proposed changes to regulations: I propose that hunters who apply for a sage grouse permit and are unsuccessful in the drawing be awarded a preference point similar to the CDFW Big Game Drawing, so that unsuccessful hunters will receive preference in future years over hunters who have recently drawn a sage grouse permits.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:
Currently, sage grouse permits are given away in a random fashion. If approximately 350 hunters put in for 30 sage grouse permits in the North Mono Zone, the odds of drawing a permit would be 1 in 11.67. If the CDFW switched over to a draw system similar to the big game drawing system, then hunters who have been unsuccessful in the sage grouse permit draw over the years would build up preference points which would help the unsuccessful hunter have a better chance at drawing a permit in future years. This system would be fair and equitable to all and it would not be difficult to accomplish, as hunters in California are already using this system to be awarded big game tags. Additionally, hunters are already using the Online Licensing system to apply for sage grouse permits; the change would only be to give unsuccessful applicants a better chance in the future to draw a permit. If approximately 350 hunters applied every year for sage grouse permits, then within 10-11 years, most if not all the applicants would have a chance to draw a sage grouse permit.



SECTION II: Optional Information

5. **Date of Petition: June 6, 2016**

6. **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Click here to enter text.

7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)

Amend Title 14 Section(s): Amend Title 14, FGC section 300

Add New Title 14 Section(s): Click here to enter text.

Repeal Title 14 Section(s): Click here to enter text.

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.

Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: I recommend that the desired changes be implemented immediately, as there is a meeting of the FGC on June 22,23 2016 and the next drawing period for sage grouse hunts in California would be in August 2016. The drawing could be accomplished without problem this year, as the preference points would not come into play in the drawing until August 2017, which would allow one year to make changes to track and implement a preference point system for sage grouse permits.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: I do not foresee any economic impacts caused by the proposed change as it has no bearing on the number of permits that are issued or areas where sage grouse hunting is allowed.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

Click here to enter text.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

Accept - complete

Reject - incomplete



State of California – Fish and Game Commission

PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE

FGC 1 (NEW 10/23/14) Page 3 of 3

Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: June 14, 2016

Meeting date for FGC consideration: June 22-23, 2016

FGC action:

Denied by FGC

Denied - same as petition _____

Tracking Number

Granted for consideration of regulation change

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2016 JUN - 8 PM 1:55