6. PUBLIC FORUM

Today's Item **Information** ☒ **Action** ☐

Receipt of public comments and requests for regulatory and non-regulatory actions.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Feb 10-11, 2016; Sacramento**
- Direction to grant, deny, or refer requests Apr 13-14, 2016; Santa Rosa

Background

Under the Bagley-Keene Act, the FGC cannot act on any matter not included on the agenda, it can schedule issues raised by the public for consideration at future meetings. FGC generally receives three types of correspondence: Requests for regulatory action, requests for non-regulatory action, and informational only. The Administrative Procedure Act (APA) requires action on regulatory requests to be either denied or granted and notice made of that determination. At the end of public forum a motion may be made to provide direction to staff on any items for which FGC wishes to receive additional information or take immediate action. Otherwise, FGC will determine the fate of the regulatory and non-regulatory requests at the next commission meeting to allow staff time to evaluate requests.

Significant Public Comments

1. See a summary of regulatory petitions in Exhibit 1
2. No non-regulatory requests were received by the comment deadline

Recommendation (N/A)

Exhibits

1. Table containing a summary of new petitions for regulation change received by Jan 28 at 5:00 p.m., the comment deadline for the meeting binder.

2-12. Individual, new petitions and requests that are summarized in the tables.

13-14. Informational-only items; staff will not take any action on these unless otherwise directed by FGC.

Motion/Direction

Consider whether any new future agenda items are needed to address issues that are raised and within the FGC's authority.

CALIFORNIA FISH AND GAME COMMISSION
REQUESTS FOR REGULATORY ACTION
Revised 01-29-2016

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

Grant: FGC is *willing to consider* the petition through a process **Deny:** FGC is *not willing to consider* the petition **Refer:** FGC *needs more information* before deciding whether to grant or deny the petition

Green cells: Referrals to DFW for more information
Lavender cells: Accepted and moved to a rulemaking
Blue cells: Referrals to FGC staff or committee for more information
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	FGC Decision	DFW/FGC Staff Response	Final Action, Other Outcomes
2015-007	12/1/2015	12/15/15	12/15/2015	A	Dan Yoakum	Squid Fishery	53.00 et al., T14	Allow permits and quotas for a community based squid fishery north of Point Arena.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-008	12/2/2015	12/16/15	12/15/2015	A	Susan Kirks (Paula Lane Action Network (PLAN))	American Badger and Gray Fox	461, T14	Repeal hunting of American badger and gray fox.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-009	12/4/2015	12/18/15	12/15/2015	A	Jean Su (Center for Biological Diversity and Project Coyote)	Commerical Trapping License Fees	702, T14	Raise commercial trapping license fees to levels necessary for full recovery of FGC's and DFW's reasonable administrative and implementation costs of trapping program; alternatively, ban commercial trapping of fur-bearing and non-game mammals.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-010	12/4/2015	12/18/15	12/15/2015	A	Jean Su (Center for Biological Diversity and Project Coyote)	Night-time Hunting and Lethal Trapping within the Range of Gray Wolf	465.5(g)(5)(c) and 474(a), T14	Ban night-time hunting and lethal trapping within the range of the gray wolf as currently provided to other CESA-listed canids, the San Joaquin kit fox and the Sierra Nevada red fox.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-011	12/7/2015	12/21/15	12/15/2015	A	John Rodrigues	Tehama Wildlife Area Off-Highway Vehicles	551(k), T14	Add "Tehama Wildlife Area: Off-highway vehicles are allowed only on designated roads." Regional manager was not allowed this authority this past year.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-012	12/11/2015	12/28/15	12/15/2015	A	J..P. Cativiela (Dairy Cares)	Tricolord Blackbird	749.8, T14	Emergency action on Tricolord Blackbird proposed changes in regulations.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-013	12/10/2015	12/24/15	12/31/2015	A	Matthew Berkoben	D16 Deer Tags and Transiting San Felipe Wildlife Area	551, T14	Allow a legal D16 deer tag holder to transit the San Felipe Wildlife Area to pursue game on Vulcan Mountain on the BLM lands that can be legally hunted with a D16 tag.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-014	12/15/2015	12/29/15	12/15/2015	A	Patrick Kallerman	Waters with Special Fishing Regulations and Low-Flow Restrictions	7.50(b) and 8.00(b), T14	Multiple proposed amendments to alphabetical list of waters with special fishing regulations and to Section 8.00(b) waters with low-flow restrictions.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-015	12/16/2015	12/30/15	12/18/2015	A	Fred Boniello	Russian River Sport Fishing	7.50(b)(155)(A) and 8.00(b)(3), T14	Multiple changes, including Russian River open to sport fishing all year with no minimum flow requirement, catch and release for migratory species, etc.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2015-016	12/18/2015	1/4/2016	12/18/2015	A	Preston Taylor	Antlerless Deer Tag	Chapter 3, T14	Proposed options for antlerless deer tags - Archery only either sex deer tag or archery only antlerless deer tag. Addition of a traditional archery deer season (longbows & recurve bows only).	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		
2016-001	1/12/2016	1/27/2016	12/29/2015	R	Mike McCorkle	Lobster Permitting Process. Lobster Management Plan	122, T14	Consistency of the lobster permitting process with other commercial crustacean permits, and make lobster trap permits transferable.	Rejected as incomplete		
2016-002	1/28/2016	2/11/2016			Mercer Lawing (California Trappers Association)	Bobcat Trapping	478, 479 and 702, T14	Remove the bobcat trapping ban and resinstitute bobcat trapping seasons based on new information.	**Receipt scheduled 2/10-11/2016 Action scheduled 4/13-14/2016**		

From: dan yoakum [redacted]
Sent: Tuesday, December 01, 2015 9:09 AM
To: FGC
Subject: California market squid proposal for northern waters

2015-007

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

Person or organization requesting the change (Dan Yoakum, Mary Fairbanks, Bob Juntz, and the Noyo Harbor Community)

Name of primary contact person: Dan Yoakum

Address: [redacted]

Telephone number: [redacted]

Email address: [redacted]

Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Title 14, Natural Resources, and Code of Regulations, whereby formulation of general policies in commercial fishing are made. The California Procedure Act is a series of acts of the California legislature, enacted in 1945. "Chapter 3.5 requires and provides that any interested person may petition a State agency to change regulation;. these changes include the adoption of a new regulation or the amendment or repeal of an existing one." (fgc.ca.gov) In addition, President

Jack Bayliss, Commissioner Rogers and Director Mastrup suggested this direction.

Overview (Required) - Summarize the proposed changes to regulations: We are requesting creation of regulations to allow permits and quotas for a Community based squid fishery north of Point Arena. We are proposing the creation of a separate market squid quota for the ports of Fort Bragg, Eureka, and Crescent City. Quota and allocation to be controlled by a Community fishery Trust. We are proposing 10,000 tons per port, 3 transferable seine permits in each port, and 10 transferable light boat braille permits all with no vessel size limit. A landing cap of 50 tons per 24 hours for seine and 15 tons per 24 hours for braille, ensuring full sustainability and viability of spawns. All three ports and all permits with access to the area of Point Arena to the California/Oregon border, with landings by vessels of another port going against their home port's quota. This amount was chosen so that on a good year when a fleet may catch this quota, they would make enough to build infrastructure to ensure the ongoing sustainability of the port. It is also important to understand the nature of fishing in northern waters. We are governed by the sea here, more than anything else. It is rough up here, and we are lucky to fish even half the time.

This quota should be separate of the state wide quota and in addition to. This would insure the communites chance to flourish, while not taking anything away from central and southern fishermen.

Rationale (Required) - Describe the problem and the reason for the proposed change: The biggest problem we are facing is the FMP unknowingly took the biggest and most abundant fishery in California and gave it to 55 men. The prices of these permits skyrocketed to over a million dollars, and made it unattainable for fishermen of northern California to have access to a resource that's right out in front of the harbor. Another problem is the quota is based on central California south, not taking into account the enormous amount of squid we have up here. These squid are here year in year out, they are not here due to any El Nino condition. The solution is a community based squid fishery with its own quota in the ports of Noyo, Eureka, and Crescent City. This quota and fishery program will not damage the central and southern fishery, it will give fishing-based communities an opportunity to make use of a natural local resource, creating jobs, industry, and saving these precious ports that are in serious danger of failing soon.

SECTION II: Optional Information

Date of Petition: 11-20-15

Category of Proposed Change

☐ Sport Fishing

X Commercial Fishing

☐ Hunting

☐ Other, please specify: Click here to enter text.

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

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

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

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

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.

Effective date: March 2016
If the proposed change requires immediate implementation, explain the nature of the emergency: Our home port of Noyo, along with Crescent City, and Eureka have been devastated by the closure of fisheries, and loss of employment. Just recently, a bad salmon season and now a delay in dungeness crab opener has set us back even further. People, families, and businesses are failing here.

Supporting documentation: We request the experimental permits be granted by waiving the criteria they were bound to, to be granted temporarily until this new quota and fishery can be put into place, to begin saving these ports, with fishing and creation of jobs.

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: The Ca. Dept. of Fish & Wildlife will recieve substantial profit in landing fees, there will be hundreds of jobs created in the fishing, offloading, processing, and marketing of squid on the north coast. In Noyo Harbor alone, we've lost so many jobs. We've lost our fuel dock, we are losing our ice house... without these a fishing port cannot survive. We hope to bring back life to the harbor by utilizing a resource that is local and sustainable.

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

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: 12/15/15

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

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2015 DEC -1 AM 10: 18

2015-008

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).

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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: Paula Lane Action Network (PLAN), Susan Kirks, Badger Ecologist
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: Mammal Hunting 2015-2016 Regulations

3. **Overview (Required) -** Summarize the proposed changes to regulations: Repeal allowed hunting of American Badger and Gray Fox. American Badger is a Species of Concern in California since 1987 with diminishing populations and significant fragmentation of and loss of habitat.

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: Special Status Animals should not be allowed to be hunted in California. In particular, the American Badger is a CA Species of Concern. Population is diminishing and habitat areas have increasingly diminished and fragmentation prevents habitat access as well as movement for mating to sustain biodiversity. The American Badger also creates benefits for other wildlife in coastal and inland ecosystems. Hunting of this fur-bearing mammal (as well as Gray Fox) should be permanently repealed. Please see attached summary.

SECTION II: Optional Information

5. **Date of Petition: November 28, 2015**

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):Click here to enter text.
☐ Add New Title 14 Section(s): Click here to enter text.
☒ Repeal Title 14 Section(s): Mammal Hunting Regulations, Subdivision 2 Game, Furbearers, Nongame and Depredators (Detail Listing). Chapter 5 Furbearing Mammals. **§461. Badger and Gray Fox.** (a) Badger may be taken as follows: (1) Season and Area: November 16 through the last day of February, statewide. (2) Bag and Possession Limit: No limit. (b) Gray fox may be taken as follows: (1) Season and Area: November 24 through the last day of February, statewide. (2) Bag and Possession Limit: No limit. (3) Dogs may be permitted to pursue gray fox in the course of breaking, training, or practicing dogs in accordance with the provisions of Section 265 of these regulations. *Repealer and new section filed 5-13-81; designated effective 5-23-81.*

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: Request expedient review and implementation of repeal for hunting Badger and Gray Fox immediately.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached summary.

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: None.

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

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CALIFORNIA
FISH AND GAME
COMMISSION
2015 DEC -2 AM 9:03

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: _____

Meeting date for FGC consideration: _____

FGC action:

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

Request to Repeal Hunting of American Badger and Gray Fox

The American Badger (*Taxidea taxus*) has been a designated Special Status Animal, a CA Species of Concern, since 1987, for over 28 years. The CA Department of Fish and Wildlife defines Species of Concern as:

"A Species of Special Concern (SSC) is a species, subspecies, or distinct population of an animal* native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, in its primary seasonal or breeding role;
- is listed as Federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status;
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status."

The 3rd and 4th points of this description directly relate to American Badger (Taxidea taxus) in California.

A Special Status animal, a CA Species of Concern, should not be on the CA Department of Fish and Wildlife's permitted Hunting list. We respectfully request the Department repeal this regulation at your earliest convenience.

Discussion

The conservation nonprofit organization, Paula Lane Action Network (PLAN) in Sonoma County, formed in 2000 and incorporated in 2004, has for 15 years dedicated resources and time to observe and document American Badger in the San Francisco Bay area, protect identified longstanding American Badger habitat, and establish outreach in California and outside California, to better understand this reclusive mammal. The conservation effort includes documenting all available habitat, species sightings, and relating seasonal behaviors to this work. By seasonal behaviors, we mean, for example, observing burrowing and foraging patterns June through August for evidence of increased activity related to dispersal of juvenile badgers. Or from February through Summer, observing Badger activity on properties to identify and confirm preferred territories of adult female Badgers. In fact, one of the most salient factors in the potential preservation of the species in California and possibly elsewhere, is identifying preferred adult female Badger territories and ensuring non-encroachment and protection of those areas. Coupled with this is the protection of wildlife movement areas to ensure the ability of traversal by male adult Badgers and movement of all Badgers through preferred wildlife corridors, to help sustain biodiversity. Added to this is the pressing need for prey and water availability during the current drought, which has been observed to negatively impact American Badger and other wildlife species, making competition for both resources heightened.

The nonprofit, Paula Lane Action Network, has a Naturalist and Badger ecologist who has visited every available identified property and habitat, with repeat visits over seasonal time periods, in the San Francisco Bay area during these 15 years, to receive reports, discuss sightings and any questions with property owners or residents, and verify reports received of habitat and/or species sightings. The naturalist and badger ecologist has also fielded questions and responded to inquiries in California and outside California. A significant field-study-based body of knowledge about American Badger has resulted from this level of attention to the species.

In the greater San Francisco Bay Area, there are estimated to be a population of 15 adult badgers and possibly 5 remaining living juvenile Badgers from the 2015 birthing season. In Sonoma and Marin Counties, in Summer 2015, two adult Badgers were documented as killed by motor vehicle strikes and 2 juvenile Badgers were also documented as killed by motor vehicle strikes. Death by vehicle strike, especially in Summer months, from 2011 to present, as reported to PLAN and confirmed, is consistent, 2-4 Badgers annually.

American Badger relies on grassland, including agricultural areas, for habitat and foraging. Badgers succumb to mortality from ranchers who believe a badger burrow or foraged out gopher mounds on a property will result in livestock stepping in holes and breaking legs, thus a loss of potential income source for the rancher. American Badger poses no threat to ranchers or farmers. Preferred prey of American Badger of gopher, vole, mouse, and ground squirrel follow a pattern of underground prey tunnels aerating soil in grassland areas, but also partaking of available grasses and vegetation. American Badger is a natural manager of gopher, vole, mouse and ground squirrel in grassland and adjacent areas. American Badger burrow creation occurs from foraged out prey holes. The burrow is usually in a hillside and the hole itself is created on a diagonal angle with a large area of displaced soil outside the burrow opening. Unless a herd of animals is panicked and fleeing a perceived threat, thus increasing the likelihood for an accident of any kind, the possibility of a domestic large animal stepping into and then down into a Badger Burrow opening is extremely low. Direct observation of horses galloping on a hillside among 15 active Badger burrows contributes to this clarification of what is a non-threat to livestock. Foraged out gopher mounds or vole holes are also similar in size to any general small or medium hole in a grassland area and livestock have not in 15 years of multiple observations been observed to inadvertently step into such a hole. In addition, a Marin County rancher who raises cattle and sheep on a 300+ acre ranch has over time observed his bull to intentionally step into a foraged out prey hole and kick up dirt from the loosened soil onto its body to alleviate itching, and then move along its way. Direct observation over an extended period of time allows this factual clarification to offset the cultural myth of rancher and farmer dislike of American Badger on a grassland property. While American Badger generally will remain within its home range, often from necessity due to obstructed movement areas and fragmented habitat, and return to preferred areas for prey foraging, the adult female Badger selects and remains in her territory, and male adult Badgers traverse through established female Badger territories. On farms and ranches comprised of grassland, a permanent Badger in residence is unusual and any concern about a Badger burrow created on a private property could be followed by filling in the hole with dirt after an adult Badger has foraged, obtained prey, also managing the gopher, vole, mouse or ground squirrel population, and has moved on to another area in the Badger's home range. The average length of time for an adult Badger to remain in an area, foraging, is generally a week to ten days, based on direct observation.

Sonoma and Marin Counties are recorded to have a small sustaining Badger population in the coastal area and, to the degree badgers can move and range, further inland in the Occidental, Petaluma and Sonoma Valley areas in grassland with gopher/vole/mouse prey base. Petaluma in southern Sonoma County, comprised of fairly expansive grassland, has a documented American Badger presence of longstanding, over 100 years (Habitat Survey, 2003, Fitts). Nicasio in Marin County also has documented American Badger activity, with two additional reports of Badger activity in southern/mid Marin and one report in northern Marin County. In Napa County, where grassland habitat does exist, but the vineyard properties abound, there appears to be one adult female Badger and possibly one or two adult male Badgers. The East San Francisco Bay area included reports as of 2015 of one adult female Badger in the Dublin area in Summer with one to two juvenile Badgers dispersing and living, seeking water and prey, in Summer 2015. Thus, at least one adult male Badger has also been in residence in the East Bay Hills. The available land to sustain a Badger population in the East Bay is questionable.

South of the San Francisco Bay Area in Santa Clara County and Santa Cruz County are reports of one to three adult Badgers sustaining, with an unknown variant of the number of female adult Badgers in this population as of 2015.

The Central Valley area, particularly Sacramento agricultural land, has a reported small badger population via reports and questions posed to the nonprofit PLAN. The southern California area of Monterey has had documented a population of 7 adult Badgers in the mid-2000s. The current population in the Monterey area is unknown.

In Mendocino County's coastal area, reports of one juvenile badger and one adult Badger were been received in 2014 and 2015.

Negative impacts contributing to diminution in American Badger population and ability to survive include:

-First and foremost, habitat loss and habitat fragmentation. As a Species of Concern in California, habitat and assured movement areas for badger are not protected. Mitigations for development and other impacts relate to direct harm to the species and our past experience reflects the Department's lack of understanding of species needs and behaviors when regulators become involved in reviewing and approving mitigations related to loss of habitat from development or other causes requiring consideration for mitigation. Accrual of observations and data by PLAN over 15 years reflect significant loss of habitat and prey bases and a clear need to ensure habitat areas, preferred adult female Badger habitat, and the ability for American badger to range or move be identified and actively preserved.

-Additional significant negative impacts to the remaining American Badger in California include drought. Less prey available and dried-up Summer and Autumn water sources result in competition for both.

-Motor vehicle strikes killing adult and juvenile badgers especially during critical Summer months for dispersal of young.

Dr. Jessie Quinn's research and subsequent dissertation in the late 2000s documented a movement range in the Monterey area for a population of 10 badgers of approximately 10 miles. In the San Francisco Bay area, the movement range for American Badger is directly observed over 15 years for the documented small badger populations to be only 4 to 6 miles on the Sonoma Coast, 4 miles on the Marin Coast (with development in between coastal areas preventing contiguous corridor movement) and approximately 8 miles coast-inland-coast, but *only if* conditions allowing movement, not being killed by ranchers who own the agricultural lands, and sufficient prey and water are available. A more realistic inland movement area for American Badger in Sonoma County is 6 miles and in Marin County is 5 miles.

Because there do not appear to be other dedicated broad-scale efforts to discern factual information about this Species of Concern and the observation of diminished and fragmented habitat along with mortality rates, even if the American Badger were not listed as a Special Status animal, the species should be removed from the Department's Hunting list. As a Species of Concern, the American Badger should not have ever been on the Hunting list (this includes trapping as a method for killing). Of note, in addition, is the allowed Hunting season is during mating season and early birthing season for the American Badger.

It is likely the level of knowledge about American Badger is in-depth in the San Francisco Bay Area because of the nonprofit organization's (PLAN) dedicated observation and research over 15 years. This observation and research continue. While educational outreach also continues, including dispelling cultural myths and understanding the significant benefit of the remaining Badger population to coastal and inland ecosystems, serious concerns exist related to continued fragmented and diminishing habitat and negative impacts to the species described above. Without a Threatened status designation, unquestionably, the habitat areas for American Badger will continue to be negatively impacted and diminish. This, coupled with drought and intentional killing, are of severe concern.

Gray Fox

Gray Fox is also listed in the described regulation under question. Grey Fox is a native mammal to California and, while data collection and observations of the conservation nonprofit, PLAN, relate specifically to American Badger, Gray Fox is requested to also be removed from the Hunting list of the CA Department of Fish and Wildlife as a native mammal who relies on similar movement areas, similar prey, similar habitat areas as American Badger, with negative impacts from diminishing habitat and drought-related challenges.

How many Badgers remain in California? The exact quantity is unknown. In the entire San Francisco Bay Area grassland habitat areas, we estimate under 30 Badgers. Sustaining biodiversity is challenging because of fragmented habitat areas and obstructed movement corridors. The mortality rate for vehicle strike deaths annually appears to average between 2 and 4 badgers, adult and juvenile. This has been consistently observed over 12 years. Identifying preferred female adult Badger territory areas is critical to support sustenance of Badgers that remain. However, without open movement areas, sufficient prey and water, male adult Badgers are challenged to enter a female adult Badger's territory and successfully mate. Although some publicly protected lands such as a national park (Pt. Reyes National Seashore) or public open space grassland area are preserved with no possibility for development, the necessity of connection to agricultural lands and open grassland to these areas, and prevention of obstruction of wildlife corridors as well as further loss of prey base areas, make the critical nature of preserving wildlife corridors and habitat for American Badger more urgent.

It is imperative to take every action in an attempt to allow the small American Badger population of adults and juveniles in California to sustain. Unquestionably, the American Badger's official status should be Threatened.

The purpose of this request is to repeal the allowed hunting of American Badger and also of Grey Fox in California as soon as possible.

Benefits to other species from American Badger presence in grassland habitat include for Burrowing Owl (also a CA Species of Concern), California Tiger Salamander, California Red-Legged Frog, and other unlisted species such as Striped Skunk and Gray Fox. The American Badger provides immense benefits to coastal and inland ecosystems.

Submitted for Paula Lane Action Network (P.L.A.N.), [redacted]

Tax ID#: [redacted]

Susan Kirks, Naturalist and Badger Ecologist

[redacted]

2015-009
Tracking Number: (Click here to enter text.)

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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: Jean Su on behalf of Petitioners Center for Biological Diversity and Project Coyote
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: FGC §§ 200, 202, 203, 4006(c) and 4009..

3. **Overview (Required)** - Summarize the proposed changes to regulations: Petitioners submit this petition to the California Fish and Game Commission ("the Commission") to raise commercial trapping license fees to the levels necessary for full recovery of the Commission's and Department's reasonable administrative and implementation costs of the trapping program so as to comply with section 4006(c) for the California Fish and Game Code ("FGC") and SB 1148 (Pavley). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban commercial fur trapping of fur-bearing and nongame mammals. .

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Based on information readily available on the Commission's and Department's websites, public statements by the Commission and Department, as well as from Public Record Act responses from the Department, it is undisputable that the Commission has failed to comply with the mandates of FGC § 4006(c) when setting trapping license fees. Prior to the Department's issuing trapping licenses for the 2016-2017 season, the Commission must either raise fees to legally-required levels, or, alternatively, implement a ban on commercial fur trapping in order to meet this legal mandate. See attached for more details.

SECTION II: Optional Information

5. Date of Petition: Dec 4, 2015

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
Hunting
x Other, please specify: Trapping

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

X Amend Title 14 Section(s):Proposal is to enforce FGC § 4006(c), or in the alternative, ban commercial trapping of all fur-bearing and nongame mammals.
☐ 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 NA
Or X 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: Immediate.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached..

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: None.

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

NA.

RECEIVED
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COMMISSION
2015 DEC -4 PM 2:49

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: 12/15/15

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

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____
Tracking Number

☐ Granted for consideration of regulation change

BEFORE THE CALIFORNIA FISH AND GAME COMMISSION

PETITION TO RAISE TRAPPING LICENSE FEES IN COMPLIANCE WITH FEE RECOVERY MANDATE PURSUANT TO FGC § 4006(c) and SB 1148

CENTER FOR BIOLOGICAL DIVERSITY and PROJECT COYOTE

December 4, 2015

I. NOTICE OF PETITION

Pursuant to Title 14, Section 662 of the California Code of Regulations ("CCR") (*Petitions for Regulation Change*), the Center for Biological Diversity ("the Center") and Project Coyote (collectively "Petitioners") submit this petition to the California Fish and Game Commission ("the Commission") to raise commercial trapping license fees to the levels necessary for full recovery of the Commission's and Department's reasonable administrative and implementation costs of the trapping program so as to comply with section 4006(c) for the California Fish and Game Code ("FGC") and SB 1148 (Pavley). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban commercial fur trapping of fur-bearing and nongame mammals.

A. LEGAL AUTHORITY

The Commission possesses the authority to make such amendments pursuant to FGC §§ 200, 202, 203, 4006(c) and 4009.

B. PETITIONERS

The Center for Biological Diversity is a non-profit, public interest environmental organization dedicated to the protection of species and their habitats through science, policy and environmental law. The Center has over 900,000 members and online activists worldwide, including over 100,000 members and supporters in California.

Project Coyote is a national nonprofit wildlife conservation organization with more than 25,000 advocates dedicated to promoting coexistence between people and wildlife through education, science and advocacy.

Authors: [redacted]
Address:
Phone:
Email:

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.

Jean Su
Staff Attorney
Center for Biological Diversity

Submitted on behalf of Petitioners
Date submitted: December 4, 2015

II. INTRODUCTION AND RECOMMENDED ACTION

Pursuant to Title 14, Section 662 of the California Code of Regulations ("CCR") (*Petitions for Regulation Change*), the Center for Biological Diversity ("the Center") and Project Coyote (collectively, "Petitioners") submit this petition to the California Fish and Game Commission ("the Commission") to raise existing fur trapping license fees to levels necessary to fully recover the Commission's and the California Department of Fish and Wildlife's ("the Department") reasonable administrative and implementation costs of commercial fur trapping programs for fur-bearing and nongame mammals, as required under FGC § 4006(c). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban all commercial trapping of fur-bearing and nongame mammals.

Based on information readily available on the Commission's and Department's websites, public statements by the Commission and Department, as well as from Public Record Act responses from the Department, it is undisputable that the Commission has failed to comply with the mandates of FGC § 4006(c) when setting trapping license fees. Prior to the Department's issuing trapping licenses for the 2016-2017 season, the Commission must either raise fees to legally-required levels, or, alternatively, implement a ban on commercial fur trapping in order to meet this legal mandate.[1]

III. TRAPPING IN CALIFORNIA

In California, trapping of certain furbearing and nongame mammals is permitted, subject to license requirements. FGC §§ 4005, 4006. Among the most commonly trapped species are badger, beaver, coyote, gray fox, mink, muskrat, opossum, raccoon, spotted skunk, striped skunk and weasel. By regulation, the Commission has previously banned the trapping of fisher, marten, river otter, desert kit fox and red fox. *See* 14 CCR § 460. Earlier this year, the Commission banned all commercial trapping of bobcats. 14 CCR § 478(c).

Currently, a trapping license is required for both trapping for commerce in fur as well as for those engaged in trapping for depredation purposes. FGC § 4005. For administrative purposes, the Department classifies commercial fur trapping as "recreational", and for depredation purposes as "pest control". In 2014, the Department sold 860 trapping licenses, with the overwhelming majority being for pest control purposes.[2] In 2015, the Department sold 675 trapping licenses, with the overwhelming majority again being for pest control purposes. Of the 2015 licenses, 506 were for pest control purposes, 99 were for commercial fur trapping, while 70 were for both purposes.

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[1] Given the fee-recovery mandatory of FGC § 4006 is a non-discretionary provision of law, Petitioners believe that a petition for rulemaking prior to the Commission implementing this provision should not be required. Additionally, the fee increase can be implemented administratively rather than through regulation. Nevertheless, because Plaintiffs believe that the existing fur trapping program is highly unlikely to be fiscally viable even with a mandated fee increase, Petitioners submit this petition seeking regulations prohibiting commercial fur trapping. By submitting this petition, Petitioners do not waive their right to seek immediate judicial relief to compel compliance with the requirements of FGC § 4006 and other provisions of law.

[2] Generally, data on license sales and revenues is available at http://www.dfg.ca.gov/licensing/statistics/. *See* California Department of Fish and Wildlife, "Special Permits: Fees Reported by License Year." *Available at*: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59826&inline.

IV. JUSTIFICATION FOR RECOMMENDED ACTION

A. The Commission is legally mandated to adjust license fees to fully recover trapping program costs

Trappers in California are required to procure a trapping license. FGC § 4005. Trapping license fees are governed by FGC § 4006. FGC § 4006(a) sets a base level fee for trapping licenses and requires the Department to increase that fee based on federal inflation statistics pursuant to FGC § 713. Under this regime, trapping license fees have increased from $45 several decades ago to $117.16 for the 2015-2016 license year.

However, in addition to the inflation-related increases contemplated by FGC §§ 4006(a) and 713, FGC § 4006(c) requires that fees also be adjusted to recover the costs of the Department and Commission in managing the trapping program. Specifically, FGC § 4006(c) states:

> (c) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

FGC § 4006(c). This provision was added to the FGC as a result of the passage of SB1148 (Pavley) and should have been operative in California commencing with the 2013-2014 trapping season. SB 1148 specifically required the Commission to recoup program and implementation costs from fee-based programs in an effort to "enable the Department and the Commission to do a better job as public trustees for the state's fish and wildlife, and for the people they serve."[3]

As detailed below, the reality that the existing trapping program is not self-financing plainly violates SB 1147, as codified in FGC § 4006(c). The legal arguments aside, the practical implications of perpetuating an unsustainable trapping program presents an equally compelling reason to either raise fees or eliminate the program: insufficient financial resources will inevitably lead to the program's inadequate implementation. As noted by the Legislature in enacting F&G Code §§ 710-711, the Department has failed to adequately meet its regulatory mandates due, in part, to "a failure to maximize user fees and inadequate non-fee related funding", which has "prevented proper planning and manpower allocation" to carry out its "public trust responsibilities" and the "additional responsibilities placed on the Department by the Legislature." F&G Code § 710-710.5. As a result, the Department is burdened with "the inability . . . to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the Department for the people of the state." F&G Code § 710.5. As a matter of public policy, the Commission should ensure that fees are raised sufficiently to cover the trapping program's costs, or if it is determined that such costs cannot realistically be recovered, to eliminate the program.

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[3] *See* "Legislature Passes Huffman and Pavley Bills to Improve Fish & Wildlife Conservation" (Sep. 6, 2012). *Available at*: http://sd27.senate.ca.gov/news/2012-09-06-legislature-passes-huffman-and-pavley-bills-improve-fish-wildlife-conservation.

B. Current and past license fees have been woefully inadequate to recover trapping program costs and thus violate SB 1148 and FGC § 4006(c)

In spite of the cost recovery mandate of SB1148, the Commission has failed to implement FGC § 4006(c) for the past three trapping seasons, resulting in unlawfully low license fees that have failed to recoup the actual costs of the Department and Commission. As is clear from the 2015-2016 trapping license application, the Department is charging $117.16 for the resident trapping fee for the current year.[4] While the marginal increase of $3.91 over the 2014-2015 season fee may be consistent with the inflation adjustment requirements of FGC §§ 4006(a) and 713, clearly, these fee adjustments do not comply with FGC § 4006(c).

According to the 2014-15 trapping license data available, the Department issued 671 resident licenses (at $113.75/license), 3 junior licenses (at $38.25/license), and 1 non-resident license (at $570/license), recouping a total revenue of around $77,000 for the entire trapping program.[5] Based on the Department's documents released over the course of the AB 1213 rulemaking process, a single Department warden, who is fundamental to field surveillance of trap lines and investigations, costs the Department over $100,000 annually in salary and related expenses.[6] Given that the 2014-2015 license revenue of approximately $77,000 fails to cover the cost of a single full-time warden[7], it is clear that the existing fee structure fails to recoup the costs of California's entire trapping program. Moreover, this amount is for both commercial fur trappers and pest control trappers; licenses fees from purely commercial trappers total less than $12,000 for the season. Similar low fees and consequently low revenue totals for prior seasons show that the Commission has affirmatively violated FGC § 4006(c) for the past three trapping seasons, including the current one ending on June 30, 2016.

Overall, these figures demonstrate that the Commission has been and remains in gross noncompliance with the unambiguous requirements of the Fish & Game Code. It is critical that the Commission comply with code requirements for the upcoming 2016-2017 trapping season. Further violations of law should not be countenanced.

C. License fees for the upcoming 2016-2017 trapping season must be substantially raised in order to comply with cost recovery provisions of SB 1148 and FGC § 4006(c)

While the exact costs of California's trapping program are not publicly available, the extrapolation of existing data shows that license fees will need to increase substantially in order to meet the cost recovery mandate of FGC § 4006(c) and SB 1148.

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[4] California Department of Fish and Wildlife, "2015-2016 Trapping License Application." *Available at:* https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=84525&inline.

[5] *See* https://www.wildlife.ca.gov/Licensing/Statistics. The majority of these licenses were purchased for pest-control purposes rather than for fur trapping purposes.

[6] *See* Memorandum from Charlton Bonham, Director, Cal. Dep't of Fish and Wildlife and Sonke Mastrup, Executive Director, Cal. Fish and Game Comm'n to the Assemblymember Richard Bloom, Member of the Assembly, 50th District, California, "Re: Assembly Bill 2013" (June 13, 2014). *Available at:* http://www.fgc.ca.gov/meetings/2015/Aug/Exhibits/0805_Item_20_Bobcat.pdf. Given the overlap in the fee recovery provisions of § 4006(c) and AB1213, all fee related documents before the Commission in the bobcat rulemaking should be considered part of the administrative record of the Commission's actions on this petition.

[7] *Id.*

Total Cost of Trapping Program

During the administrative rulemaking process for AB 1213, the Department stated that existing enforcement, management, and administrative costs of implementing the bobcat trapping program alone amounted to $161,000.[8] This total figure included enforcement costs consisting of salaries and vehicle mileage of 12 officers spending approximately 2,000 hours on field patrols over the course of the bobcat trapping season alone. As we demonstrated in the bobcat rulemaking, this cost estimate is unreasonably low. Nevertheless, given bobcats were only one of a dozen species targeted by commercial trappers in California, program costs for the enforcement, management and administration of the overall commercial trapping program likely greatly exceed the figure generated by the Department for just bobcats. A reasonable estimate is likely at least $200,000, and more likely substantially greater than that. Additionally, enforcement, management, and administrative costs related to pest control trapping likely also exceed the costs attributable to the commercial bobcat trapping program.

Number of Trappers

The critical factor in determining an appropriate license fee is an accurate estimate of the number of trappers who will purchase the license. According to Department license statistics, the total number of trapping licenses issued in the 2014-2015 trapping season was 675, with 506 licenses obtained for pest control only purposes, 99 licenses for commercial fur trapping, and 70 for both purposes.[9] Given the different purposes as well as logistical, administrative, management and enforcement costs between commercial fur trapping and pest control trapping, Petitioners believe that setting fees separately for these two groups of trappers is appropriate.[10]

To accurately estimate the number of commercial fur trappers who will purchase trapping licenses for the 2016-2017 trapping season and beyond, the Commission must reduce the total number of trappers to exclude those trappers primarily trapping bobcats in prior years, as it can be assumed that these individuals will no longer purchase trapping licenses given the implementation of the statewide commercial bobcat trapping ban. Given a maximum of 169 individuals who bought licenses for purposes of fur-trapping in the 2014-2015 season, the number seeking fur trapping licenses for 2016-2017 will likely be fewer than 150, and most likely fewer than 100. Absent a substantial fee increase, the number of pest control trappers would presumably remain roughly the same.

Trapping License Cost

Assuming a total commercial fur trapping program cost of $200,000 (again, likely an underestimate) and the number of fur trappers to be 100 (again, likely an overestimate), a resident trapping license fee would be approximately $2,000—seventeen times the license fee for the 2015-2016 trapping season. Even if 150 fur trappers were expected to purchase a license, the fee would need to be set at $1,333. At the very least, these numbers illustrate that the existing license fee of $117 for the 2015-2016 season will need to be exponentially increased to meet the cost recovery mandate of the trapping program.

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[8] *See* "Initial Statement of Reasons for Regulatory Action re: Implementation of the Bobcat Protection Act of 2013" (herein, "AB 1213 ISOR"), at 16. *Available at:* http://www.fgc.ca.gov/regulations/2015/478isor.pdf.

[9] *See* https://www.wildlife.ca.gov/Licensing/Statistics.

[10] Through this petition, Petitioners at this stage seek that the Commission only address fees for, and/or termination of, the trapping program for commercial (*i.e.* "recreational") trappers. Setting lawful fees for pest control trappers is likely best done through a separate process.

Given the costs of administering and enforcing the commercial fur trapping program and relatively low number of current fur trappers, we do not see how the program can ever be self-funding. The average income of trappers in the 2014-2015 trapping season was $1,239, but that figure includes income from bobcat trapping. Absent bobcat trapping, the average income per trapper was well below $1,000. At a program cost of $200,000 and 150 trappers paying a $1,333 trapping fee, the average trapper would still make less from trapping than necessary to pay for the cost of the license. Given this difficulty of breaking even, it is not rational to expect 150 individuals to pay a license fee so as to engage in a commercial enterprise when that enterprise generates on average less money than the cost of the fee. Consequently, the number of trappers supporting the program would be fewer and the fee would need to be raised accordingly. At 50 trappers, the fee would be $4,000, an amount likely none would be willing to pay.

D. Implementing a statewide ban on all commercial fur trapping is a compelling alternative solution to meeting the cost recovery mandate

This basic economic analysis, based on logical assumptions of cost and viable number of trappers, plainly illustrates that much higher prices of trapping licenses need to be set in order to recover the costs of a commercial fur trapping program in accordance with F&G Code § 4006(c). It is also clear, though, that setting such fees at the required levels would result in a far lower number of trappers (likely approaching zero) willing to pay such fees, leading to a cost-recovery shortfall. Yet setting fees at a level low enough that significant numbers of trappers will pay the fees will simply not recoup program costs. This is also legally impermissible.

In short, given the substantial administrative and enforcement costs associated with fur trapping, and the relatively low numbers of commercial trappers operating in the state, such trapping simply cannot continue in California without a substantial subsidy. Consequently, operating as it must under the cost recovery mandates of F&G Code § 4006(c), we do not see how the Commission can lawfully adopt fees that allows continued commercial fur trapping in California. A statewide ban on commercial and recreational trapping is a compelling alternative and practical solution to meet the statutory cost recovery mandate.

E. The existing trapping fee schedule perpetuates a pattern of fiscal irresponsibility that the Legislature has cautioned against

The reality that the existing trapping program is not self-financing plainly violates SB 1147, as codified in FGC § 4006(c). The legal arguments aside, the practical implications of perpetuating an unsustainable trapping program presents an equally compelling reason to raise fees: insufficient financial resources will inevitably lead to the program's inadequate implementation. As noted by the Legislature in enacting F&G Code §§ 710-711, the Department has failed to adequately meet its regulatory mandates due, in part, to "a failure to maximize user fees and inadequate non-fee related funding", which has "prevented proper planning and manpower allocation" to carry out its "public trust responsibilities" and the "additional responsibilities placed on the Department by the Legislature." F&G Code § 710-710.5. As a result, the Department is burdened with "the inability . . . to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the Department for the people of the state." F&G Code § 710.5. As a matter of public policy, the Commission should ensure that fees are raised accordingly for, at the bare minimum, the subsequent trapping season 2016-2017.

V. CONCLUSION

The Commission, presumably by oversight rather than design, is in clear noncompliance with unambiguous requirements of the Fish and Game Code. To rectify these violations, the Department and Commission should perform a cost analysis of the fur trapping program and implement license fees that adequately recoup the cost of that program. However, should the Commission determine that license fees are unlikely to generate sufficient revenue to cover the costs of the program, Petitioners urge the Commission to implement a state-wide ban on all commercial trapping of fur-bearing and nongame mammals.

Respectfully submitted on behalf of Petitioners,

Jean Su
Staff Attorney
Center for Biological Diversity
[redacted]

2015-011
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: John Rodrigues
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code; Division 1; Chapter 2; Article 1; 200-220

3. **Overview (Required)** - Summarize the proposed changes to regulations: Add "(3) Tehama Wildlife Area: Off-highway vehilces are allowed only on designated roads within the Tehama Wildlife Area." to the California Code of Regulations; Title 14; Division 1; Subdivision 2; Chapter 8; Section 551 (k).

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Off-highway vehicle (OHV) use has reasonably been allowed for many years within the Tehama Wildlife Area (TWA) by Regional Manager authority. It is estimated that half the visitors to the TWA have used OHVs on their visits. This past year the Regional Manager was not allowed this authority. The road system within the TWA is very rough and rocky with several roads labeled as Jeep trails. Normal on-highway vehicles have difficulty traversing the road system due to ground clearance limitations thereby limiting/detering mobility. OHVs are better suited for these road conditions and provide better mobility for visitors and less impact compared to Jeeps. The regulations should be modified to allow reasonable OHV use. No adverse effect can be identified.

SECTION II: Optional Information

5. **Date of Petition: December 5, 2015**

6. **Category of Proposed Change**
   - ☐ Sport Fishing
   - ☐ Commercial Fishing
   - ☐ Hunting
   - ☐ Other, please specify: Wildlife Areas

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): Division 1, Subsection 2, Chapter 8, Section 551 (k)
   - ☐ 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: By next season

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: None

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: None

12. **Forms:** If applicable, list any forms to be created, amended or repealed:
    None

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2015 DEC -7 AM 8:37

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: 12/15/15

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

FGC action:
- ☐ Denied by FGC

☐ Denied - same as petition _____
Tracking Number

☐ Granted for consideration of regulation change

Tracking Number: (~~Click here to enter~~ 2015-012 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.P. Cativiela
   Address: Dairy Cares, [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

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), Fish and Game Code § 2084 (authority of Commission to enact regulation), Government Code 11346.1 (authority to enact emergency regulation), Fish and Game Code 240(a) (same).

3. **Overview (Required)** - Summarize the proposed changes to regulations: The regulation would authorize 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. The regulation was developed after initial discussions with the Department of Fish and Wildlife (Department).

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 has 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, Dairy Cares in coordination with other farming interests has initiated an active campaign to educate dairy farmers about the Tricolored Blackbird and the NRCS-funded program. In 2015, 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 67,000 tricolored blackbirds nested.

NRCS funds compensate the farmer for about 85 percent 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. In the event the Tricolored Blackbird is designated as a candidate for listing and therefore subject to the regulatory protections provided by the California Endangered Species Act, promulgating a regulation to authorize incidental take provides farmers assurances that if they agree to follow the requirements imposed by NRCS, delay harvest, and protect the colony nesting in their field, they will not be 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.

Emergency Justification:

The following facts provide the basis for emergency action by the Commission under Fish and Game Code § 240(a) and Government Code § 11346.1:

(1) The harvest management programs administered by NRCS and the Department can be expected to protect tens of thousands of nesting Tricolored Blackbirds provided farmers are incentivized to participate.
(2) Designation of the Tricolored Blackbird as a candidate for listing under the California Endangered Species Act, should it occur, could inhibit participation in the harvest management programs.
(3) The 2084 regulation, in combination with funding from NRCS, will provide farmers with a strong incentive to participate.
(4) Tricolored Blackbird nesting can begin as early as February.
(5) The Commission's next two scheduled meetings are in February and March 2016.

Under these circumstances, it is only possible to put a 2084 regulation in place to conserve nesting Tricolored Blackbirds and protect farmers that enroll in one of the harvest management programs in 2016 through emergency action. We contend that such action will effectuate the purposes of Fish and Game Code § 2084, and the California Endangered Species Act, more broadly.

SECTION II: Optional Information

5. **Date of Petition:** December 10, 2015 (in the event the Commission takes action to designate the Tricolored Blackbird a candidate for listing under the California Endangered Species Act).

6. **Category of Proposed Change**
   ☐ Sport Fishing
   ☐ Commercial Fishing
   ☐ Hunting
   ☒ Other, please specify: Incidental Take Regulation for Tricolored Blackbirds, if designated as a candidate for listing under the California Endangered Species Act.

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):Click here to enter text.
   ☒ Add New Title 14 Section(s): 749.8
   ☐ 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, 2016. 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 a Tricolored Blackbird colony, 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 2015, there were approximately 200 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. These payments reduced losses (due to the decline in value of the crop) associated with delayed harvest from approximately $190,000 to approximately $20,000.

Absent the 2084 regulation, enrollment in the NRCS program may decline. Furthermore, farmers may elect to plant lower value crops that do not provide nesting habitat for the Tricolored Blackbird thereby decreasing available nesting habitat; 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; or farmers may risk harvesting their crop even if Tricolored Blackbird are present. The first two of these outcomes have 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 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

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

Meeting date for FGC consideration: _____

FGC action:

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

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COMMISSION
2015 DEC 11 AM 10: 28

Attachment A – Proposed 2084 Regulation for 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 (*Agelaius tricolor*), 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 After Delay to Protect Colonies.
Take of Tricolored Blackbird incidental to harvest of grain fields and related agricultural activities is authorized where harvest has been delayed to protect the Tricolored Blackbird colony as part of a harvest management program. The harvest management program shall include measures identified 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." The individual seeking authorization shall receive written or verbal authorization of participation in the harvest management program from the Natural Resources Conservation Service, the Department, or individuals approved by the Department.

(b) Reporting.

Any person, individual, organization, or public agency, or their agents, for which incidental take of Tricolored Blackbirds is authorized pursuant to subdivision (a), shall report observations and detections of Tricolored Blackbird colonies, including take, to the Department of Fish and Wildlife on a semi-annual basis during the candidacy period. Observations, detections, and take shall be reported pursuant to this subdivision to the Department of Fish and Wildlife, Wildlife Branch. Information reported to the Department pursuant to this subdivision shall include as

available: a contact name; the date and location (GPS coordinate preferred) of the observation, detection, or take; and details regarding the animal(s) observed.

(c) Additions, Modifications or Revocation.

(1) 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.

(2) The Commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity or project may cause jeopardy to the continued existence of Tricolored Blackbird.

Tracking Number: (2015-013 ~~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: Matthew Richard Berkoben
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: California Department of Fish and Game South Region, Wildlife, Fisheries and Lands Program. Title 14 of the California Code of Regulations.

3. **Overview (Required)** - Summarize the proposed changes to regulations: Allow a legal D16 Deer tag holder to transit the San Felipe Wildlife Area to pursue game on Vulcan Mountain on the BLM lands that can be legally hunted with a D16 tag. Furthermore, if transiting remains illegal, it should be clearly stated in the hunting regulations. If transiting is not allowed, the BLM lands that are paid for and supported by sportsman and taxpayers should then be closed to all hunters to prevent a publicly funded Private Big Game Preserve for only a handful of individuals. The current regulation states that D16 hunting is closed East of S2 in the San Felipe Wildlife Area and the possession of D16 tag while transiting the area to reach D16 open BLM land is a serious infraction and possibly a misdemeanor if game is take on the BLM legal D16 lands and transited back across the San Felipe Wildlife Area with steep penalties.

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Current access to the Public BLM hunting area is restricted to a few select individuals. Current access t o Vulcan BLM land is limited to the surrounding private property owners except one individual that has permission to hunt this public area. To the East of Vulcan is the San Felipe Wildlife Area. This area is open to hunting except for the use of D16 tag West of S2 essentially land-locking the area. Unlike other hunting zones where local authorities have permitted transiting of the area with a tag that cannot be used until you have reached the open zone (BLM D16), citations are given to those who traverse the area with

an unloaded empty shouldered weapon. Due to these current restrictions and regulations money paid thr ough licenses and other support of Fish and Game has created a private and privileged hunting preserve for a few select individuals. Currently there are no clear regulations that states that you cannot transit the San Felipe Wildlife area with a D16 tag to reach the BLM land, but it is enforced this way. The proposed changes to the regulations would allow an individual holding a legal D16 Deer tag to transit the San Felipe Wildlife area in a lawful way to ensure that fawning areas are not disrupted to allow the legal pursuit of game on lands supported by outdoor enthusiasts and taxpayers to reach the BLM land on Vulcan Mountain. It should be noted that the area closed to D16 that would be traversed is open to G13 antlerless deer, archery, and upland game and it is unclear how these activities protect the San Felipe Wildlife Fawning Area, which is one of the reasons we were informed that we cannot transit the area with the D16 tag. If it is the intention of the Fish and Game Commission to create a sanctuary for a "Big" buck population on Vulcan, it should in that case not be opened to those unique individuals that have access either due to property ownership or personal connections. Considering today's technology, it is very easy to track and show the area in which an individual is hunting. If the requirement to GPS track to indicate where an animal is taken on Vulcan and not in the San Felipe Wildlife Area is required, these restrictions would make sense to ensure protections of the resources that I and other individuals pay to protect and respect.

SECTION II: Optional Information

5. Date of Petition: 30 November, 2015

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
X 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): Click here to enter text.
☐ 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: Click here to enter text.

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: Click here to enter text.

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

Click here to enter text.

SECTION 3: FGC Staff Only

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COMMISSION MEETING
AGENDA ITEM 26

Matthew Berkoben

Date received: Click here to enter text.

FGC staff action:

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

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

Meeting date for FGC consideration: _____

FGC action:

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

Tracking Number: 2015-014

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: Patrick Kallerman
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested:

   Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code

3. **Overview (Required) -** Summarize the proposed changes to regulations:

   This proposal would amend subsections of Chapter 3, Article 3, Section 7.50(b) – Alphabetical List of Waters with Special Fishing Regulations – and subsections of Chapter 3, Article 4, Section 8.00(b) – Low-Flow Restrictions Mendocino, Sonoma, and Marin County coastal streams: Stream Closures: Special Low Flow Conditions – Title 14, California Code of Regulations.

   Proposed **amendments to subsections of 7.50(b)** would apply to the following streams (north to south): Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, Garcia River, Gualala River, Russian Gulch, Salmon Creek, Walker Creek, and Sonoma Creek.

   For Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River:

   - Amend Section 7.50(b) to permit only artificial lures with barbless hooks to be used year-round.
   - Amend Section 7.50(b) to close streams to all angling from April 1st through October 31st.

Proposed **amendments to subsections of 8.00(b)** are:

- Amend Section 8.00(b) to leave the Navarro River open to angling on the main stem below the confluence of the North Fork Navarro when the applicable designated gauging station is less than the minimum flows set forth.
- Amend Section 8.00(b) to leave the Garcia River open to angling on the main stem below the Highway 1 bridge when the applicable designated gauging station is less than the minimum flows set forth.
- Amend Section 8.00(b) to leave the Gualala River open to angling on the main stem below the confluence of the North Fork Gualala when the applicable designated gauging station is less than the minimum flows set forth.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

The problem – Many of the Central Coast streams described in the Overview section are considered 'focus populations' for the recovery of ESA-listed salmonids and merit improved protection as habitat and from angling practices and equipment that are statistically more harmful to fish. These rivers are managed as steelhead and coho streams. There are no hatchery fish added to these streams to support a put-and-take fishery.

However, several of these streams – the Gualala, the Garcia, and the Navarro in particular -- are legendary steelhead fisheries that have played a prominent role in the evolution of the culture and techniques of modern steelhead angling. Because these three streams are so important to anglers, the angling regulations for them deserve more consideration in terms of alternative strategies and language that will better protect salmon and steelhead through all of their freshwater life history phases while enhancing angling opportunity.

Currently, these streams remain open to angling from mid-Spring to mid-Fall. The result is that current angling regulations allow catch of salmonid smolts, juveniles, and kelts when they are at their most vulnerable. In addition, the lack of a provision regarding use of barbless hooks on these streams probably elevates catch rates and likely increases stress on salmonid populations throughout the year. Lastly, the current flow triggers for angling closures on these streams, while well-intentioned, lack scientific justification, are needlessly over-restrictive, and dramatically reduce many of the lowest-impact angling opportunities. A simple adjustment in the stream reaches that are open to angling when streamflows drop below the current flow trigger would provide strong protection for fish, preserve a greater variety of angling opportunity, and help reduce poaching and other illegal activities all along these rivers.

The solution – (1) Transition to allowing only artificial lures with barbless hooks for all angling on these waters. This is a simple and pragmatic step to reduce angling impacts regardless of preferred tackle type and spread the use of a limited resource across a greater number of anglers.

(2) Limit angling only to periods when fully mature adult fish are in these streams. A strategically limited angling season will reduce angling pressure when salmon and steelhead are most vulnerable while preserving more angling opportunity in the traditional winter run steelhead season.

(3) Adjust the current regulations to allow angling for steelhead throughout the tidally influenced reaches of the Gualala, Garcia, and Navarro rivers when streamflows drop below the current trigger for

the designated gauging stations. The reaches proposed here to remain open are predominately tidally affected and therefore have adequate volume and flow for fish passage throughout the season. They are also well below the well documented spawning habitat in these rivers.

SECTION II: Optional Information

5. **Date of Petition:** Click here to enter text.

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):Click here to enter text.
   ☐ 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: Click here to enter text.

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: Click here to enter text.

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

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2015 DEC 15 AM 8: 10

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: 12/15/15

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

FGC action:

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

Tracking Number: 2015-015

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: Fred Bonielle
Address: [redacted]
Telephone number: [redacted]
Email address: [redacted]

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 minimun 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(artificials 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 thier 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 fist 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 signatured 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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2015-016

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).

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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: Preston Taylor
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: "The Fish and Game Commission is composed of five members who are appointed by the Governor and confirmed by the State Senate. The Commission establishes hunting and sport fishing regulations including seasons, bag and possession limits, methods of take, area descriptions and any special conditions. In addition, the Commission formulates general policies for the Department of Fish and Wildlife. Monthly topical meetings are held to hear regulation change proposals. The public may make recommendations in writing before a Commission meeting or present its proposals verbally at the meeting. The Commission's meeting schedule, including specific topics, dates and locations, is posted on their web site www.fgc.ca.gov." (pg. 6 California Mammal Hunting Regulations 2015-2016).

3. **Overview (Required)** - Summarize the proposed changes to regulations: 1) Antlerless deer tag: Proposed options- Archery Only either sex deer tag. OR Archery Only antlerless deer tag. 2) Addition of a Traditional Archery deer season (longbows & recurve bows only).

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: 1) Natural predation incurs the highest mortality on the youngest age class (fawns), and hunters and wildlife managers should emulate natural predation. It would be better for the health of the deer herd if hunters harvested antlerless deer (fawns and does). This would relieve the pressure from a sex-biased management model. Under current management guidelines, hunters can only kill male deer. This results in a heavily skewed sex ratio, with there being very few bucks per doe on the landscape. A natural sex ratio is closer to 1:1. Fawns are the most likely age class to die; therefore, hunting antlerless animals would contribute to compensatory mortality. Right nowfocus on mature bucks is additive mortality.

With a healthier deer herd, more bucks would reach maturity, this has 2 benefits. First, when there are more mature bucks in a deer population, the majority of does get bred in their first estrous cycle resulting in the majority of fawns being born the same time; this is called predator swamping: there are so many fawns on the landscape that predators have less of an impact on the total number resulting in more fawns surviving the first critical month of life. Second, more mature bucks equals greater hunter satisfaction; there could still be limited buck tags available.
2) The original intent of the archery season was to provide hunters with a greater challenge. Modern compound bows have reduced the challenge for archers: let-off (where you only have to hold 10% of the draw weight while at full draw), sights, rangefinders, high speed bows, and other components of compound bows make it much easier and more tempting for archers to shoot at distances greater than 20 yards (many compound hunters shoot up to 100 yards). This is not bow hunting. With my longbow, I need to be within 10 yards of an animal to take an ethical shot. Let's return the spirit of bowhunting to the archery season by creating a Traditional Archery tag.

SECTION II: Optional Information

5. Date of Petition: 12/17/15

6. Category of Proposed Change
☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☐ Other, please specify: HUNTING

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):Click here to enter text.
☐ 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: Click here to enter text.

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: Click here to enter text.

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

Click here to enter text.

SECTION 3: FGC Staff Only

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Date received: Click here to enter text.

FGC staff action:

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

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

Meeting date for FGC consideration: _____

FGC action:

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

2015-010

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: Jean Su on behalf of Petitioners Center for Biological Diversity and Project Coyote,
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 202, 203, 3000, 3003.1,4009.5, and 4150 of the California Fish and Game Code, and to implement, interpret or make specific sections 1755, 2055, 2062, 2067, 2070, 2072.7, 2074.6, 2075.5, 2077, 2080, 2081 and 2835, of said Code.

3. **Overview (Required)** - Summarize the proposed changes to regulations: Petitioners propose to amend Sections 465.5(g)(5)(c) and 474(a) of Title 14 of the CCR so to ban night-time hunting and lethal trapping within the range of the gray wolf (*Canis lupus*), a species protected by both the federal Endangered Species Act ("ESA") and the California Endangered Species Act ("CESA"). Such regulatory amendments would afford comparable protections to the wolf as is currently provided to the State's other CESA-listed canids, the San Joaquin kit fox and the Sierra Nevada red fox, and minimize the likelihood of violations of CESA and the ESA. See attached for more detail.

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: The gray wolf is currently listed as endangered under the federal ESA. In June 2014, the Commission found that the gray wolf also warranted listing under CESA, with final regulations to be adopted at its December 2015 meeting. Further, the Department is currently developing the California Wolf Plan, a state-wide wolf management plan, aiming to regulate human interaction with wolves so as to ensure gray wolf recovery. Petitioners' proposed regulatory amendments would afford comparable protections as that afforded to California's two other CESA-listed canids, the San Joaquin kit fox (*Vulpes macrotis mutica*) and the Sierra Nevada red fox (*Vulpes vulpes necator*), to the gray wolf as is currently provided to these two species, minimize the likelihood of inadvertent take in violation of CESA and the ESA, and

consequently reduce the potential legal liability of both the Commission and the California Department of Fish and Wildlife under these statutes. See attached for more details.

SECTION II: Optional Information

5. Date of Petition: Dec 4, 2015

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
x Hunting
x Other, please specify: Trapping and Night Hunting

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

X Amend Title 14 Section(s):465.5(c) and 474
☐ 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 NA

Or X 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: Immediate.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached..

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: None.

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

NA.

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2015 DEC -4 PM 2:49

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: _____

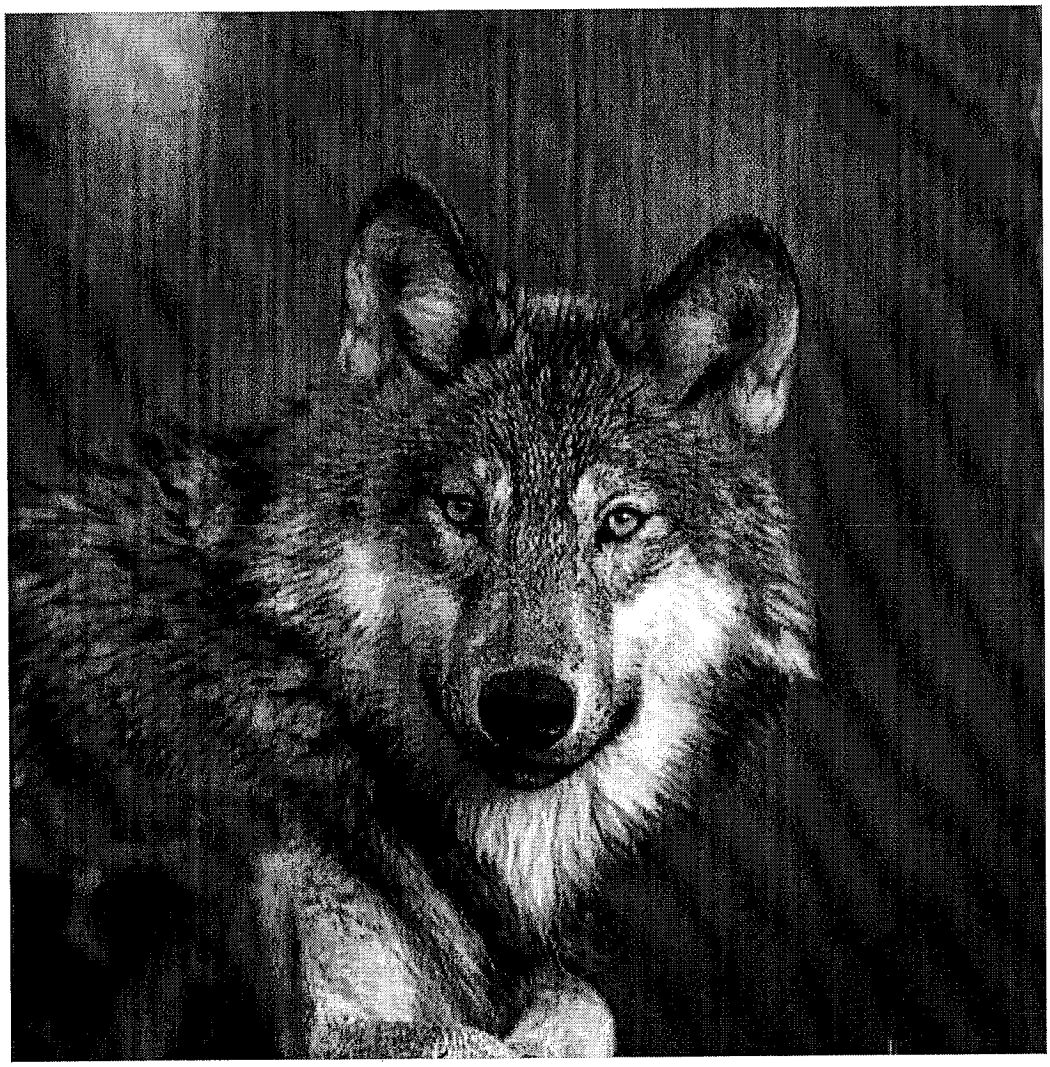
Meeting date for FGC consideration: _____

FGC action:

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

BEFORE THE CALIFORNIA FISH AND GAME COMMISSION

PETITION TO INSTITUTE A BAN ON NIGHT-TIME HUNTING AND LETHAL TRAPPING IN THE RANGE OF THE GRAY WOLF; PROPOSED AMENDMENTS TO 14 CCR §§ 465.5(g)(5)(c) and 474(a)



CENTER FOR BIOLOGICAL DIVERSITY and PROJECT COYOTE

December 4, 2015

I. NOTICE OF PETITION

Pursuant to Title 14, Section 662 of the California Code of Regulations ("CCR") (*Petitions for Regulation Change*), the Center for Biological Diversity ("the Center") and Project Coyote (collectively, "Petitioners") submit this petition to the California Fish and Game Commission ("the Commission") to amend Sections 465.5(g)(5)(c) and 474(a) of Title 14 of the CCR so to ban night-time hunting and lethal trapping within the range of the gray wolf (*Canis lupus*), a species protected by both the federal Endangered Species Act ("ESA") and the California Endangered Species Act ("CESA"). Such regulatory amendments would afford comparable protections to the wolf as is currently provided to the State's other CESA-listed canids, the San Joaquin kit fox and the Sierra Nevada red fox, and minimize the likelihood of violations of CESA and the ESA.

A. LEGAL AUTHORITY

The Commission possesses the authority to make such amendments pursuant to Sections 200, 202, 203, 3000, 3003.1,4009.5, and 4150 of the California Fish and Game Code ("FGC").

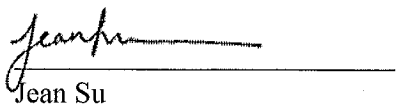
B. PETITIONERS

The Center for Biological Diversity is a non-profit, public interest environmental organization dedicated to the protection of species and their habitats through science, policy and environmental law. The Center has over 900,000 members and online activists worldwide, including over 100,000 members and supporters in California.

Project Coyote is a national nonprofit wildlife conservation organization with more than 25,000 advocates dedicated to promoting coexistence between people and wildlife through education, science and advocacy.

Authors: Jean Su, Brendan Cummings, Amaroq Weiss, Center for Biological Diversity
Address: [redacted]
Phone:
Email:

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.



Jean Su
Staff Attorney
Center for Biological Diversity

Submitted on behalf of Petitioners
Date submitted: December 4, 2015

II. EXECUTIVE SUMMARY

Pursuant to Title 14, Section 662 of the California Code of Regulations ("CCR") (*Petitions for Regulation Change*), the Center for Biological Diversity and Project Coyote (collectively, "Petitioners") submit this petition to the California Fish and Game Commission ("the Commission") to ban all night-time hunting and lethal trapping within the range of the gray wolf (*Canis lupus*) by amending Sections 465.5(g)(5)(c) and 474(a) of Title 14 of the CCR. The Commission possesses the authority to make such amendments pursuant to Sections 200, 202, 203, 3003.1,4009.5, and 4150 of the California Fish and Game Code ("FGC").

The gray wolf (*Canis lupus*) is protected by both the federal Endangered Species Act ("ESA") and the California Endangered Species Act ("CESA"), yet few on-the-ground protections to the species have been provided since its return to California. In contrast, California's two other CESA-listed canids, the San Joaquin kit fox (*Vulpes macrotis mutica*) and the Sierra Nevada red fox (*Vulpes vulpes necator*), are currently protected from inadvertent take by prohibitions on night-time hunting and the use of lethal traps within their range. *See* 14 CCR § 465.5(g)(5)(c), 466 and 474(a). Petitioners' proposed regulatory amendments would afford comparable protections to the gray wolf as is currently provided to these two species, minimize the likelihood of inadvertent take in violation of CESA and the ESA, and consequently reduce the potential legal liability of both the Commission and the California Department of Fish and Wildlife ("the Department") under these statutes.

Though native to California, the gray wolf was extirpated from the state in the 1920s. Nearly a century later, the first known wolf to enter California—the now famous OR7—crossed into the state in December 2011 and returned to Oregon in March 2013, with subsequent visits across the border since. In August 2015, the Department confirmed the discovery of a family of seven resident wolves—the aptly named Shasta Pack—living in southeastern Siskiyou County in northern California. With a source population in Idaho and growing source populations in eastern Oregon and the Washington Cascade Range, gray wolves are likely to continue naturally dispersing to and throughout California.

The homecoming of the Shasta Pack has sparked both renewed hope and debate about wolf management in California. Notwithstanding the polarizing discussions about wolves, it is indisputable that the species' survival and recovery in California are precarious in the wake of the single pack now residing here. The Commission and Department both recognize this fact. The gray wolf is currently listed as endangered under the federal ESA. In June 2014, the Commission found that the gray wolf also warranted listing under CESA, with final regulations to be adopted at its December 2015 meeting. Further, the Department is currently developing the California Wolf Plan, a state-wide wolf management plan, aiming to regulate human interaction with wolves so as to ensure gray wolf conservation.

While these regulatory mechanisms prohibit the taking of gray wolves in California, they do not adequately protect the species against another potent threat: the accidental killing of wolves mistaken as other species, particularly coyotes, in night-time hunting and lethal trapping currently permitted in occupied and potential wolf territory. Mistaken killings of non-target species pose an immediate risk to the Shasta Pack specifically and gray wolf recovery more generally, while California's current regulations which permit night-time hunting and lethal trapping of coyotes and other nongame and furbearer species

within the range of the wolf will, absent amendment, result in the illegal take of endangered gray wolves in violation of the ESA and CESA. In order to minimize this risk and avoid violations of law, Petitioners respectfully request that the Commission ban all night-time hunting and lethal trapping within the range of the wolf by amending Sections 465.5(g)(5)(c) and 474(a) of Title 14 of the CCR.

III. FACTUAL AND LEGAL BACKGROUND

A. Species Description and Ecological Importance of the Gray Wolf

Gray wolves (*Canis lupus*) are the largest member of the family *Canidae*[1] and resemble some large breeds of domestic dogs, such as Alaskan malamutes and German shepherds. Females on average weigh from 80–85 pounds and males from 95–100 pounds[2], though considerable clinal variation in size exists from the Arctic to central Mexico.[3] The heaviest recorded wolf was a 175-pound male from east central Alaska, though males seldom exceed 120 pounds and females are seldom over 100 pounds.[4]

Ecologically, gray wolves play a critical role in ecosystems because they are a top predator and keystone species. Wolves limit ungulate herbivory of saplings in sensitive riparian areas and thereby aid beavers, songbirds and fish whose habitat is enhanced through growth of riparian trees.[5] Wolves have also been found to aid fox (*Vulpes spp.*) and pronghorn (*Antilocapra americana*) populations by controlling coyotes (*Canis latrans*), which are intolerant of foxes and disproportionately prey on pronghorn fawns.[6] These results indicate that broader recovery of wolves would benefit many species and overall ecosystem integrity.

The extirpation of gray wolves has likely impacted biological communities throughout California. It is reasonable to assume that the removal of wolves allowed coyotes to move into new areas and to reach higher population densities. This may also explain the high mortality rate of the San Joaquin kit fox (*Vulpes macrotis mutica*), caused by predators, chiefly coyotes.[7] Recovering the gray wolf to its former range in California would likely bring similar benefits to ecological communities within the state and would restore a lost part of California's natural heritage.

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[1] Mech, L.D. 1970. *The wolf: the ecology and behavior of an endangered species*. Natural History Press. Stillwater, MN.

[2] Mech 1970.

[3] Young, S.P. and E.A. Goldman. 1944. *The Wolves of North America*. American Wildlife Institute. Washington, D.C.

[4] Mech 1970.

[5] Ripple, W. J. and R. L. Beschta. 2003. Wolf reintroduction, predation risk and cottonwood recovery in Yellowstone National Park. Forest Ecology and Management 184: 299-313.

[6] Berger, K.M. and E.M. Gese. 2007. Does interference competition with wolves limit the distribution and abundance of coyotes? Journal of Animal Ecology 76(6):1075-1085; Berger, K. M., Gese, E. M. and Berger, J. 2008. Indirect effects and traditional trophic cascades:a test involving wolves, coyotes and pronghorn. Ecology 89(3) 818-828; Smith, D.W., R.O. Peterson, and D.B. Houston. 2003. Yellowstone after wolves. BioScience 53(4):330-340.

[7] O'Farrell, T.P. 1984. Conservation of the San Joquin Kit Fox *Vulpes macrotis mutica* on the Naval Petroleum Reserves, California. *Acta Zoologica Fennica* 172:207-208. Oregon Department of Fish and Wildlife. 2011. Oregon Wolf Program, July Update. Available online: http://www.dfw.state.or.us/Wolves/docs/oregon_wolf_program/July_2011_Wolf_Report.pdf.

B. Distribution and Range of Gray Wolf in California

As of the filing of this petition, the current number of documented gray wolves in California is seven. A Department trail camera in Siskiyou County recorded a lone canid in May and July 2015. Additional cameras deployed in the vicinity took multiple photos showing two adults, and five pups which appeared to be a few months old in August 2015. Recent lab results released by the Department also indicate that at least the breeding female of the Shasta Pack was born into the Imnaha Pack of northeastern Oregon.[8]

In addition to the Shasta Pack, the Department has stated that the natural dispersal of wolves into California is reasonably foreseeable given the expanding populations in the Pacific Northwest.[9] The wolf designated OR7 crossed into California in 2011 and has since returned to Oregon and established a pack there, named the Rogue Pack. In addition to OR7's pack, nine other wolf packs have been documented in Oregon, with the overall population currently at 82 confirmed individuals. In Washington, there are at least 68 confirmed wolves. Wolf populations in Oregon and Washington will likely continue to grow in the coming years and generate individual dispersing wolves, some of which are predicted to cross into California.

C. Current Legal Status and Regulatory Mechanisms Protecting Gray Wolves in California

In California, the gray wolf is currently pending listing as an endangered species pursuant to CESA. In February 2012, prompted by the presence of OR7 in California, the Center and allies submitted a petition to list the gray wolf as endangered throughout its range in California pursuant to CESA. In June 2014, the Commission made the finding that such listing was warranted and voted to list gray wolves under CESA. The Commission is scheduled to make a final vote adopting final regulations for the listing, including the completion of all official filings with respect to the listing, at the December 2015 Commission meeting in San Diego.

Federally, the gray wolf is listed as endangered in portions of its range, including California, under the ESA. Currently, gray wolves that enter California are protected by the ESA, making it illegal to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect wolves, or to attempt to engage in any such conduct in California.

Separately, the Department is developing a California Wolf Conservation Plan, with a draft version for public comment just released in December 2015. The Department has engaged a wide stakeholder group, including Petitioner, to develop the plan.

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[8] *Wolf News: Results of lab analysis of scat collected from the Shasta Pack* (Oct. 5, 2015), https://www.wildlife.ca.gov/Conservation/Mammals/Gray-Wolf/20151005.

[9] *See, e.g.*, California Department and Game et al., "Federal/State Coordination Plan for Gray Wolf Activity in California" (May 2012), https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=76635&inline=1.

D. Threats to Gray Wolves in California

Human-caused killing of wolves continues to be a primary obstacle to wolf recovery in this country.[10] Indeed, in the Commission's own words from its findings for the gray wolf listing "[h]umans are the primary factor in the past decline of wolves in the conterminous United States, including California, and humans remain the largest cause of wolf mortality as a whole in the western United States."[11]

Critically, the primary determinant of the long-term viability of gray wolf populations in California is human attitudes toward this species. Any successful recovery effort in California will require the establishment of policy mechanisms that address direct human-caused mortality of gray wolves, which remains a primary threat to the species. At the time of the gray wolf's federal 1978 listing, FWS recognized that "[d]irect killing by man . . . has been the major direct factor in the decline of wolves in the conterminous United States." 43 Fed. Reg. at 9611. Through the enforcement of take prohibitions for gray wolves, the federal ESA has been crucial to allowing progress towards wolf recovery for gray wolves. Yet even with the ESA's protections, human-caused mortality—including illegal shooting and trapping, whether intentional or inadvertent—has accounted for a significant number of wolf deaths. As the Commission found, "humans impact wolf populations through intentional predation (shooting or trapping) for sport or for protection; through unintentional killing, as gray wolves are often confused with coyotes (Canis latrans), domestic dogs (C. lupus familiaris), and wolf hybrids; through vehicle collisions; and through exposures to diseases from domestic animals."[12]

Illegal killing of wolves occurs for a number of reasons. One of the chief reasons is accidental killings, either through mistaken identity or when caught in traps set for other species. 76 Fed. Reg. at 26117. It is likely that most illegal killings intentional or not, are never reported to government authorities. *Id.* Because the killings generally occur in remote locations and the evidence is easily concealed, there are no reliable estimates of illegal killings of gray wolves. *Id.*

E. Threat of Mistaken Night-Time Hunting and Lethal Trapping to Gray Wolves

Both the endangered listing under CESA and ESA as well as the California Wolf Conservation Plan are important regulatory mechanisms to protecting the gray wolf in California, reflective of the legal and public mandate to preserve and recover gray wolves in the state. However, these regulatory instruments are limited because, while they prohibit the taking of wolves, they fail to protect the species from accidental killing and trapping intended for other target animals, thereby posing a critical gap in wolf recovery efforts. The proposed amendments seek to mitigate these risks to gray wolf recovery.

Overall, both daytime and night-time hunting of species, particularly in wolf territory, has resulted in innumerable cases of wolf deaths and other non-target species. Hunting, particularly recreational coyote

[10] Hinton, Joseph et al. 2014. Strategies for red wolf recovery and management: a response to Way (2014). Canid Biology and Conservation. Available online: http://www.canids.org/CBC/18/Red_wolf_recovery_response_to_Way.pdf.

[11] California Fish and Game Commission, Notice of Finding and Notice of Proposed Rulemaking Gray Wolf (2014), 9, http://www.fgc.ca.gov/CESA/gwfindingslistingwarranted.pdf.

[12] *Id.*

hunting, has led to several deaths of endangered wolves mistaken as coyotes. In its notice of findings for the gray wolf CESA listing, the Commission confirmed that "dispersing wolves and small wolf populations are inherently at risk due to . . . bring killed by hunters that mistake them for coyotes" and "[Department staff] have been fearful that . . . unknown wolves that could be in California would be mistaken for a coyote and shot or harmed." [13] Such risks have been substantiated in other states. In October 2015, an Oregonian coyote hunter shot a radio-collared wolf which he claimed to have mistaken for a coyote; though he has been charged with killing a state-listed endangered species, this prosecution will not restore the wolf to life.[14] In December 2014, the first gray wolf spotted in the Grand Canyon in over 70 years, affectionately named Echo by schoolchildren three months prior to her death, was shot dead by a hunter in southern Utah who mistook Echo for a coyote.[15] Similarly, in January 2013, a highly endangered Mexican wolf, one of fewer than 100 roaming the southwest after an expensive reintroduction program, was killed in southwestern New Mexico by a U.S. Wildlife Services officer who again mistook the animal for a coyote.[16] These deaths follow a string of accidental wolf killings in recent years: gray wolves have been shot mistakenly as coyotes in Iowa in 2014, in Missouri in 2012, and in Illinois in at least two separate incidents in 2011.[17]

In addition to these breaking headlines, state and federal officials have reported wolves being shot mistakenly as coyotes in all parts of the country where wolves are returning. A 2014 report, prepared by the Center, tabulated known dispersals of wolves from gray wolf federal recovery areas in the Western Great Lakes states and northern Rockies to adjacent states over a 33-year period from 1981-2014, and the outcome of those dispersal events. [18] Of 56 known dispersals, in 48 instances the wolves were later found killed or dead of unknown causes. Of those 48 instances, in 36 cases the wolves were found shot and killed, and in 11 of those cases, agency reports noted that the shooter mistook the animal for a coyote.[19]

As the accidental killings of wolves mistaken for coyotes in daytime are well-documented, night-time conditions only serve to exacerbate the risk of mistaken wolf taking in potential wolf territory where night-time hunting is permitted. Exemplifying such risk, North Carolina's red wolf population suffered the loss of five wolves in 2012; they were shot by coyote hunters engaging in spotlighting, which compelled a state court to ban night-time spotlight hunting of coyotes entirely in order to protect the imperiled 100 red wolves there.[20]

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[13] *Id.* at 7. 9.

[14] Stuart Tomlinson, *Baker City man charged with misdemeanors for shooting wolf* (Nov. 16, 2015, 2:36 pm), http://www.oregonlive.com/pacific-northwestnews/index.ssf/2015/11/baker_city_man_charged_with_mi.html#incart_river_home.

[15] Ari Philips, *First Gray Wolf Spotted at Grand Canyon In 70 Years Shot Dead by Hunter* (Feb. 12, 2015, 2:59 pm), http://thinkprogress.org/climate/2015/02/12/3622423/famous-grand-canyon-gray-wolf-shot-by-hunter/. *See also* Brett Prettyman, *Coyote hunter kills a wolf by mistake near Beaver* (Dec. 29, 2014, 1:00 pm), http://www.sltrib.com/news/1999741-155/utah-hunter-kills-wolf-near-beaver.

[16] Chris Clarke, *Is it time to end coyote hunting in California?* (Jan. 5, 2015, 2:14 pm), http://www.kcet.org/news/redefine/rewild/commentary/is-it-time-to-end-coyote-hunting-in-california.html.

[17] *Id.*

[18] Weiss et al., Center for Biological Diversity, Making Room for Wolf Recovery: The Case for Maintaining Endangered Species Act Protections for America's Wolves (2014), *available at* http://www.biologicaldiversity.org/campaigns/gray_wolves/pdfs/Making_Room_for_Recovery_print.pdf.

[19] *Id.* at 5-6; Appendix D at 19-25.

[20] Brian North, *Fourth red wolf killing prompts hunting change* (Nov. 21, 2012, 8:25 pm), http://www.wcti12.com/news/Fourth-red-wolf-killing-prompts-hunting-change/17518384.

Further, numerous examples abound of other non-target victims of night-time coyote hunting, demonstrating the significant risk such activity poses to wolf recovery. Such mistaken-identity night-time killings include species that look nothing like the target species, including humans. Exemplifying this in California in 2014, Department Warden Bob Perra suffered near-fatal neck injuries from night-time shots taken by a contestant of a coyote-killing contest in El Dorado County.[21] Other human victims of night-time coyote hunting include seventeen year-old Devin Dourin of Michigan, who was killed by a hunter firing immediately at Dourin when observing movement in the brush at the base of a tree.[22] Twenty-eight year old Trenton Sutherland of Colorado, a coyote hunter himself, was shot dead by his two hunting companions, who mistook his eyes for those of a coyote when engaging in coyote night-hunting.[23] U.S. Forest Service ranger Christopher Upton of Georgia was brutally killed with eleven shots by a coyote hunter wielding a high-powered rifle with night-vision equipment; the killer said that he mistook Upton's eyes, looking out from binoculars, as those of a coyote.[24] Such tragedies highlight that even hunters equipped with high-tech equipment fail to differentiate a human from a coyote. It is clear that if coyote hunters cannot adequately differentiate humans from target species at night, wolves face a great risk of accidental targeting.

In addition to mistaken human killings during night-time hunting, there is strong anecdotal evidence about mistaken nocturnal shootings of other non-target species, further heightening the case for protections in wolf territory. A recent example includes a Nevada deaf dog who was run over numerous times by a police officer who believed it was a coyote in the evening time.[25] Similar incidents have been reported around the country, such as local newspaper accounts from Maine, Michigan, and Pennsylvania.[26]

In sum, accidental shootings of wolves and other wildlife is a relatively common occurrence by coyote hunters, with the risks greatly exacerbated at night. Additionally, the use of lethal traps in areas of potential wolf territory also poses the risk of non-target trapping of wolves. While the likelihood of hunting accidents can theoretically be reduced by responsible hunters exercising good judgment, traps

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[21] Locke, Cathy, El Dorado County man charged in 2014 wounding of game warden (Feb. 25, 2015), http://www.sacbee.com/news/local/crime/article11171996.html.

[22] Roger Weber, *Michigan teen dies in apparent hunting accident in Brockway Township* (Sep. 21, 2012, 10:08 am), http://www.clickondetroit.com/news/Michigan-teen-dies-in-apparent-hunting-accident-in-Brockway-Township/16688822.

[23] *Man shot and killed after being mistaken for coyote* (Jan. 5, 2014, 7:24 pm), http://kdvr.com/2014/01/05/man-shot-and-killed-after-being-mistaken-for-coyote/#comment-48689. *See also Man killed in hunting accident* (Jan. 5, 2014, 10:15 am), http://www.kktv.com/news/headlines/Man-Killed-In-Hunting-Accident-238774501.html; Associated Press, *Man killed in hunting accident in SW Colorado* (Jan. 4, 2014. 2:49 pm), http://www.denverpost.com/news/ci_24846304/man-killed-hunting-accident-sw-colorado.

[24] Rob Pavey, *Forest officer's death investigated after shooter says he mistook man for coyote* (Mar. 8, 2010), http://chronicle.augusta.com/news/metro/2010-03-08/forest-officers-death-investigated-after-shooter-says-he-mistook-man-coyote.

[25] John Edwards, *Collingwood police confirm it was dog, not coyote run over by OPP cruiser three times* (Oct. 21, 2015), http://www.simcoe.com/news-story/5970394-collingwood-police-confirm-it-was-dog-not-coyote-run-over-by-opp-cruiser-three-times/.

[26] *See, e.g.* http://bangordailynews.com/2011/12/30/news/portland/family-dog-mistaken-for-coyote-shot-and-killed-by-hunter/;http://uppermichiganssource.com/news/local/purebred-dog-shot-and-killed-mistaken-for-coyote/; http://wnep.com/2015/01/12/looking-for-answers-after-family-dog-shot-dead/.

catch, kill and maim non-target animals without the opportunity for human judgment. Where there is overlap of wolves and traps, wolves will almost inevitably be trapped. For example, very recently in Utah, a gray wolf perished in a trap laid out for coyotes.[27] For example, a study by the U.S. Geological Survey found that thirteen highly endangered Mexican wolves were accidentally trapped by trappers targeting other species, with seven of those animals (equal to California's entire current wolf population) suffering injuries.[28] The Oregon Department of Fish and Wildlife similarly reports that, in Oregon, four wolves have been incidentally captured in traps set by recreational trappers seeking species other than wolves[29]. Clearly, restricting the use of lethal traps in the range of the wolf in California is essential to prevent such from occurring here.

F. Current Regulation of Night-Time Hunting and Lethal Trapping in California

The California Fish and Game Code generally prohibits the take of birds and mammals at night (defined as from one half-hour after sunset to one half-hour before sunrise) with the exception of nongame mammals, for which such take can be authorized. *See* FGC § 3000. Notably, this section explicitly authorizes the Commission to prohibit night-time take of nongame mammals. *Id.* Notwithstanding the statutory prohibition on night-time take of furbearers, through regulation, the Commission has authorized night-time take of those furbearers for which take is otherwise authorized. *See* 14 CCR § 466. Similar regulations authorize night-time take for nongame mammals for which take is otherwise authorized. *See* 14 CCR § 474.

Importantly, the current regulations that allow night-time take of furbearers and nongame mammals include important restrictions designed to protect sensitive species from accidental take by hunting and trapping. Specifically, section 465.5(g)(5) precludes use of Conibear-type traps and snares in two zones, which correspond to the ranges of the CESA-listed San Joaquin kit fox and the Sierra Nevada red fox. Similarly, section 474(a) prohibits night-time hunting of nongame mammals within a zone that corresponds to the range of the San Joaquin kit fox. Section 466, cross-references section 474(a) and precludes all night-time take of furbearers within that same zone. Read together with the statutory prohibitions on taking game mammals at night, these regulations collectively result in a complete ban on the use of lethal traps in the range of both the kit fox and red fox and a ban on the night-time hunting of any mammal in the range of the kit fox.

Currently, there are no limits to night-time hunting of furbearers or nongame mammals, including coyotes, within much of the range of the gray wolf in California. California classifies coyotes as nongame mammals. FGC § 4150. Coyotes may be taken at any time of the year with no bag limits. 14 CCR § 472(a). Consequently, night-time hunting of coyotes is legal except in the area designated for the

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[27] Maffly, Brian, *Utah's war on coyotes claims another wolf I* (Nov. 30, 2015, 2:40 pm), http://www.sltrib.com/home/ 3223668-155/utahs-war-on-coyotes-claims-another.

[28] Turnbull, T.T., Cain, J.W., III, and Roemer, G.W., 2011, Evaluating trapping techniques to reduce potential for injury to Mexican wolves: U.S. Geological Survey Open-File Report 2011–1190, 11, *available at*: http://pubs.usgs.gov/of/2011/1190/.

[29] Oregon Department of Fish and Wildlife, Updated biological status review for the Gray Wolf (*Canis lupus*) in Oregon and evaluation of criteria to remove the Gray Wolf from the list of Endangered Species under the Oregon Endangered Species Act (Oct 9, 2015), 19, *available at*: http://www.biologicaldiversity.org/campaigns/gray_wolves/pdfs/ODFWStatusReviewForGrayWolf.pdf.

protection of the endangered San Joaquin kit fox. 14 CCR § 474(a). Coyote hunting, including night-time hunting, is common and widespread within the range of the gray wolf in California and therefore presents a significant threat to both individual wolves as well as to the establishment and recovery of the species.

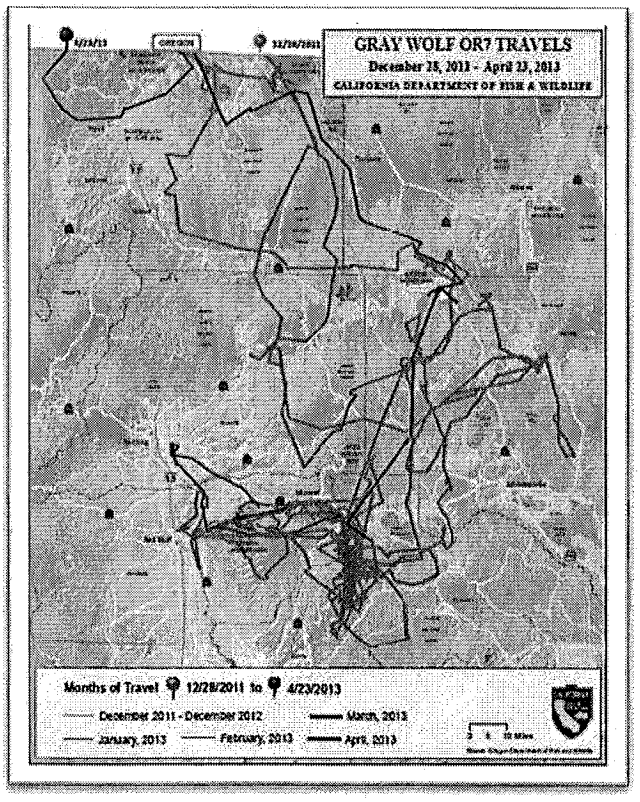
Similarly, geographic restrictions on the use of lethal traps that were imposed to protect California's two other endangered canids are not applicable within much of the current known and probable range of wolves in the state. Gray wolves need, are legally-entitled to, and consequently must be afforded the same protections the San Joaquin kit fox and Sierra Nevada red fox currently receive. Night-time hunting and the use of lethal traps should be prohibited within the gray wolf's known and projected range.

IV. PROPOSED REGULATION AMENDMENTS

A. Description of Proposed Amendments

The proposed amendments below prohibit night-time hunting and the use of lethal traps in known and potential wolf territory. The proposed restricted zones are intended to encompass the areas in which the Shasta Pack is currently understood to reside and expand to, based on areas geographically covered by OR7 (*see* Map 1 below) and some of the territories that the Department has identified as wolf recovery territory in the draft wolf management plan (*see* Map 2 below).

Map 1. OR7 Traveled Territory in California



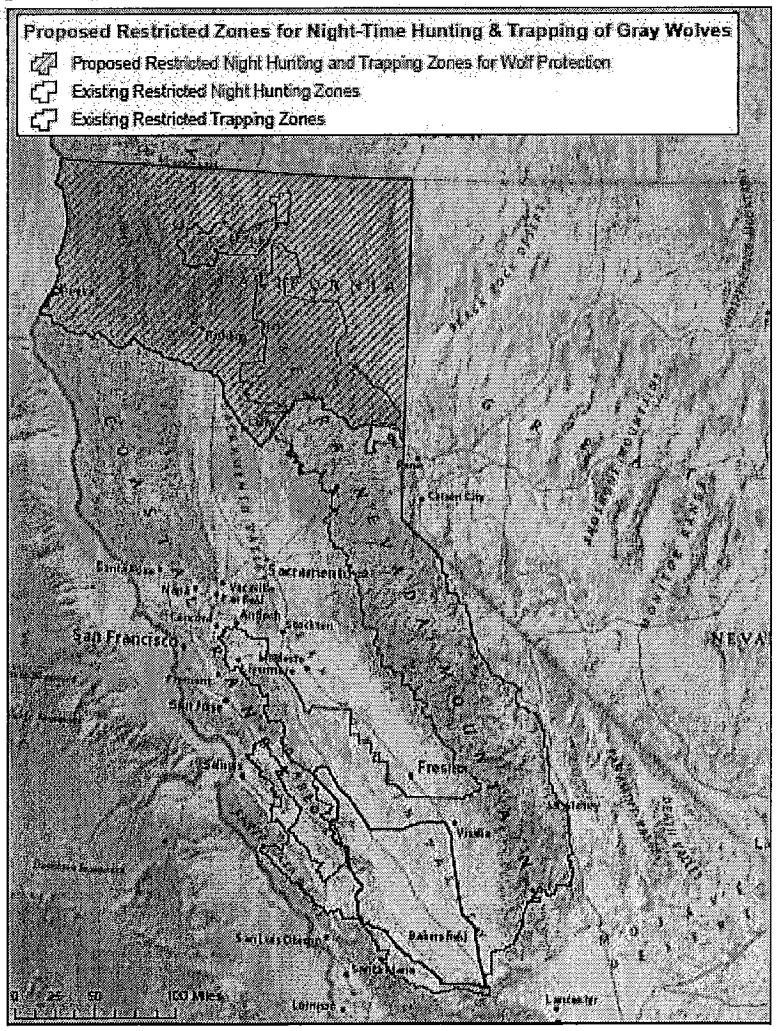
Map 2. CDFW Map of Wolf Recovery Areas

As a result, the proposed restricted area is described in the recommended amendments as:

> Beginning at the intersection of the Oregon border and the Pacific coast line; south along the Pacific coast line to the mouth of the Eel River; east along the Eel River to the intersection with State Route 211; north on State Route 211 to Fernbridge Drive; south on Fernbridge Drive to U.S. Highway 101; south on Highway 101 to State Route 36; east on State Route 36 to Highway 99; south on Highway 99 to State Route 149; south on State Route 149 to State Route 70; east on State Route 70 to U.S. Highway 395; south on U.S. Highway 395 to the border of Nevada; north along the Nevada border to the Oregon border; west along the Oregon border to the Pacific coast line.

This zone is outlined in Map 3 below. Petitioners welcome further consultation with the Department's scientists and other science-based stakeholders to determine modifications of this zone as the wolf population in California expands and disperses.

Map 3. Proposed Zones Banning Night-Time Hunting and Lethal Trapping



Further, under the current text of 14 CCR §465.5(g)(5)(c), lethal trapping, including conibear traps and snares, is prohibited in two zones designed to protect the San Joaquin kit fox and Sierra Nevada red fox (*see* map below), which are listed as endangered species pursuant to CESA. This Petition seeks to expand such zones to protect the predicted territory of gray wolves in California, who deserve the same amount of protections as other endangered species.

With respect to night-time hunting, all night-time hunting of any species in California poses threats to wolves if such hunting is permitted in potential wolf territory. To avoid mistaken night-time killings via hunting, the current text of 14 CCR § 474, which governs hours for taking of nongame mammals including the coyote, generally allows for night-time hunting at all hours except for certain areas enumerated in 14 CCR § 474(a). The proposed amended language includes the wolf zone described above within this provision applicable to nongame mammals. In addition, this amendment would result in the prohibition of night-time hunting of furbearers as well. 14 CCR § 466 (Hours for Taking Furbearers) requires that furbearers may only be hunted "at any hour of the day or night except that they may not be taken between one-half hour after sunset and one-half hour before sunrise in the area described in Section 474(a) of these regulations"—which will exclude the wolf zone under the proposed amendments.
With regard to trapping, 14 CCR § 465.5(g)(5) currently contains two zones, described in subsections (a) and (b), which correspond to the ranges of the San Joaquin kit fox and Sierra Nevada red fox. The proposed amendment would add a subsection (c) to delineate a wolf zone where such practices would also be prohibited.

B. Text of Proposed Amendments

Petitioners request the Commission to adopt the following amendments with respect to night-time hunting and lethal trapping in the known and likely range of the gray wolf in California (additions shown in *redline italics*):

Title 14 §465.5(g)(5)(c)

(g) Use of Conibear Traps, Snares, Cage and Box Traps, Nets, Suitcase-type Live Beaver Traps and Common Rat and Mouse Traps for Purposes Unrelated to Recreation or Commerce in Fur. Conibear traps, snares, cage and box traps, nets, suitcase-type live beaver traps and common rat and mouse traps may be used by individuals to take authorized mammals for purposes unrelated to recreation or commerce in fur, including, but not limited to, the protection of property, in accordance with subsections (1) through (5) below. Except for common rat and mouse traps, all traps used pursuant to this subsection must be numbered as required by subsection (f)(1) above. The prohibitions of subsections (c) and (d) above shall apply to any furbearing or nongame mammal taken by a conibear trap or snare pursuant to this subsection (g).

(5) Zones Prohibited to the Use of Conibear-type Traps and Snares. Conibear-type traps and snares, except those totally submerged, and deadfall traps are prohibited in the following zones.

(A) Zone 1: Beginning at Interstate 5 and Highway 89 . . .

(B) Zone 2: Beginning in Tehama County . . .

(C) Zone 3: Beginning at the intersection of the Oregon border and the Pacific coast line; south along the Pacific coast line to the mouth of the Eel River; east along the Eel River to the intersection with State Route 211; north on State Route 211 to Fernbridge Drive; south on Fernbridge Drive to U.S. Highway 101; south on Highway 101 to State Route 36; east on State Route 36 to Highway 99; south on Highway 99 to State Route 149; south on State Route 149 to State Route 70; east on State Route 70 to U.S. Highway 395; south on U.S. Highway 395 to the border of Nevada; north along the Nevada border to the Oregon border; west along the Oregon border to the Pacific coast line.

Title 14 § 474(a)

Nongame mammals may be taken at any time except as provided in this section.

(a) Area Closed to Night Hunting. Nongame mammals may be taken only between one-half hour before sunrise and one-half hour after sunset in the following described area:

(1) Beginning at a point where Little Panoche Road crosses Interstate 5 near Mendota . . .

(2) Beginning at the intersection of the Oregon border and the Pacific coast line; south along the Pacific coast line to the mouth of the Eel River; east along the Eel River to the intersection with State Route 211; north on State Route 211 to Fernbridge Drive; south on Fernbridge Drive to U.S. Highway 101; south on Highway 101 to State Route 36; east on State Route 36 to Highway 99; south on Highway 99 to State Route 149; south on State Route 149 to State Route 70; east on State Route 70 to U.S. Highway 395; south on U.S. Highway 395 to the border of Nevada; north along the Nevada border to the Oregon border; west along the Oregon border to the Pacific coast line.

This section does not pertain to the legal take of nongame mammals with traps as provided for by Sections 461-480 of these regulations, and by Sections 4000-4012, 4152 and 4180 of the Fish and Game Code. (This regulation supersedes Section 3000 of the Fish and Game Code.)

(b) On privately-owned property. . .

(c) Fallow deer. . .

V. POLICY AND LEGAL JUSTIFICATION FOR PROPOSED REGULATION AMENDMENTS

While take of wolves is prohibited under both federal and state law, and the California Wolf Plan holds potential to address numerous threats to the species, absent action by the Commission these mechanisms are unlikely to prevent one of the greatest threats to California small and vulnerable wolf population—death and injury as a result of inadvertent killing via night-time hunting and lethal trapping intended for other target animals in wolf territory. As discussed above, night-time hunting and lethal trapping of animals, particularly the coyote, pose a serious threat to gray wolves because these activities have repeatedly resulted in deaths and injuries to wolves and other non-target species across the country. Therefore, the proposed regulatory amendments would tackle this gap in protection by banning the practices of night-time hunting and lethal trapping within the known and likely range of the wolf in California.

A. Protections Against Accidental Killings are Necessary to Avoid Violations of the ESA and CESA

The Commission risks legal liability under the ESA and CESA if it fails to ban night-time coyote hunting and lethal trapping within the range of the wolf in California. Permitting these activities will likely result in the illegal take of gray wolves in violation of the ESA, CESA, and their implementing regulations. The Commission may face litigation under these statutes should it fail to implement the proposed regulatory amendments set forth in this petition.

Federal courts have firmly held that third party liability is appropriate under the ESA. Section 9 of the ESA prohibits the "take" of an endangered species without authorization; "take" is defined by the ESA "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. 16 U.S.C. § 1532(19). The ESA expressly applies to any person, which is defined to include "any . . . agent, department, or instrumentality" of any state (16 U.S.C. § 1532(13)), who "causes to be committed" an unlawful take. 16 U.S.C. § 1538(g); 50 C.F.R. 1784(c)(8). Applying these provisions, a federal circuit court ruled that the ESA "not only prohibits the acts of those parties that directly exact the taking, but also *bans those acts of a third party that bring about the acts exacting a taking*. We believe that a governmental third party pursuant to whose authority an actor directly exacts a taking of an endangered species may be deemed to have violated the provisions of the ESA." *Strahan v. Coxe,* 127 F.3d 155, 163 (1st Cir. 1997) (emphasis added). Other courts have followed the First Circuit. *See, e.g., Seattle Audobon Soc'y v. Sutherland,* 2008 U.S. Dist. LEXIS 31880, 23 ("The plain language of the ESA supports the proposition that a government official violates the ESA take prohibition when that official authorizes someone to exact a taking of an endangered species. . .").

Moreover, in remarkably similar facts as to the situation facing gray wolves in California, two federal courts have stated that state wildlife agencies are liable under the ESA for authorizing actions leading to mistaken hunting and trapping of endangered species because such regulations directly led to the increased likelihood of take. Specifically, with respect to mistaken killings during coyote hunting, a federal court stated that North Carolina's wildlife commission would be liable under the ESA for unauthorized take of federally endangered red wolves "where [the commission's] actions have greatly increased the likelihood of the take" through authorizing coyote hunting in red wolf recovery territory. *Red Wolf Coalition v. North Carolina Wildlife Resources Commission,* 2014 U.S. Dist. LEXIS 65601, 20 (E.D.N.C. 2014). With respect to trapping, a federal court in Maine held that the state's wildlife

department, in permitting of the use of a lethal trap intended for other animals but which could also trap Canada lynx, a threatened species under the ESA, caused incidental takes in violation of the ESA. *Animal Welfare Institute v. Martin*, 588 F. Supp.2d 70 (D. Me. 2008). Critically, the district court held that the state's actions in regulating trapping were sufficiently proximate to subject it to liability for incidental takes actually perpetrated by citizen trappers. *Id.* at 98-99 ("[B]y authorizing trapping, Maine creates the likelihood that lynx—along with the preferred animal—will find its way into a trap.").

In California, the Commission, by permitting coyotes to be hunted and conibear traps and snares to be laid in wolf habitat would be the "cause" of any illegal take of gray wolves that occurs via hunters or trappers. By prohibiting night-time hunting and the use of lethal traps in wolf habitat, the Commission would significantly reduce the likelihood of wolves being accidentally taken, thereby both reducing the Commission's legal exposure while simultaneously advancing wolf conservation.[30]

B. The Commission is Legally Required to Advance Wolf Recovery under California Law

While avoiding liability under the ESA and CESA for unauthorized takes is reason enough for the Commission to act in accordance with this petition, CESA additionally requires the Commission to utilize its authority to carry out the purposes of the Act. The rulemakings requested under this petition are within the Commission's authority to implement and serve the purpose of CESA in reducing the likelihood of illegal take of the gray wolf.

Specifically, when a species is listed as endangered pursuant to CESA, both prohibitory and affirmative mandates come into force. As noted above, all "take"—which includes, according to FGC § 86, hunting, catching, capturing, killing and any attempts to do so—is legally prohibited. Additionally, CESA § 2055 requires that all state commissions and agencies "conserve endangered and threatened species" and "utilize their authority in furtherance of the purposes" of CESA. Further, CESA § 2052 declares that "it is the policy of the state to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat".

Under FGC § 2061, the definition of "conservation" of a CESA-listed species requires that the state and its agencies:

> "use . . . *all methods and procedures which are necessary* to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary. These methods and procedures include, but are not limited to, all activities associated with . . . *law enforcement*, habitat acquisition, restoration and maintenance . . . ." (emphasis added).

[30] Banning night-time hunting of coyotes or other species within the range of the wolf is also consistent with the conservation principles of the ESA and the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"). The ESA provides protection for species which, though they may not be endangered themselves, *resemble* endangered species closely enough that it would be difficult for either law enforcement or the public at large to distinguish between them. Similarly, CITES, to which the U.S. is a signatory, contains mirror provisions to the ESA, affording protection to species which resemble the most imperiled species in the world. Here, coyotes are far from threatened in population size, but it is clear that coyote hunters pose a critical threat to California's wolves who are struggling to survive.

Furthermore, FGC § 1801 reinforces the Commission's responsibility to recover gray wolves by mandating that the Commission "encourage the preservation, conservation, and maintenance of wildlife resources under the jurisdiction and influence of the state" and to "maintain sufficient populations of all species of wildlife and the habitat necessary".

Consistent with these conservation mandates, the Commission has previously promulgated regulations protecting California's two other CESA-listed canids, the San Joaquin kit fox and the Sierra Nevada red fox, from inadvertent take by prohibitions on night-time hunting and the use of lethal traps within their range. *See* 14 CCR § 465.5(g)(5)(c), 466 and 474(a) Petitioners' proposed regulatory amendments would afford comparable protections to the wolf as is currently provided to these two species.

In addition to its past actions protecting the kit and red foxes, the Commission has recently taken steps to reduce the risk of wolves being killed as a result of coyote killing contests. Concern over coyote-killing contests was driven in significant part by the threat the contests posed to the wolf OR7, whose territory in California overlapped with the site of the state's best-known coyote-killing contest held in Modoc County each year. The Commission's 2014 decision to interpret existing law as prohibiting inducements for coyote killing contests occurred in this context and serves as precedent demonstrating that the Commission has already recognized the real threat to wolf recovery from coyote hunting. This policy reasoning applies equally here.

Given its affirmative legal mandate to use all methods and procedures to recover and protect gray wolves, the Commission must take action such as requested in this petition to protect and recover the gray wolf.

VI. CONCLUSION

The first family of wolves has returned to California after nearly a century of absence from its native lands. In recognition of the imperiled status of the handful of gray wolves in California, both the Commission and Department are finalizing the listing of gray wolves under CESA and developing a management plan of the species with the ultimate goal of population recovery. Key to these efforts is addressing the very real danger of mistaken night-time shooting and lethal trapping of wolves in their territory, which existing regulations fail to cover. The Commission is obligated under California and federal law to implement the proposed regulatory amendments here in order to help actualize the recovery of gray wolves in California.

Respectfully submitted on behalf of Petitioners,

Jean Su
Staff Attorney
Center for Biological Diversity

PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE

2016-02

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: **MERCER LAWING / CALIF TRAPPERS ASSOCIATION**
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: **Fish & Game Code, Division 1, Chapter 2, Article 1, Sec. 200, et seq.**

3. **Overview (Required)** - Summarize the proposed changes to regulations: **Remove the bobcat trapping ban and reinstitute bobcat trapping seasons based upon new information concerning: 1) stable and increasing bobcat populations, 2) highly significant bobcat predation on numerous species, including threatened and endangered species and candidate species listed under the California Endangered Species Act ("CESA") (Fish & Game Code Sec. 2050, et seq.), all of which information was not considered previously when the Commission adopted California Code of Regulations Title 14, Sections 478, 479 and 702 on August 4-5, 2015.**

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: **When the bobcat trapping ban was adopted, bobcat populations were underestimated and no consideration was given to bobcat predation on a number of listed threatened and endangered species and candidate species under CESA, which listed species the Commission is mandated to protect by law as one of its utmost priorities (a far higher legal mandate than protection of bobcats). Bobcat predation on a number of listed species is very high and, in some cases, is the single highest cause of mortality of certain threatened and endangered species and candidate species as the attached data demonstrates. A ban on the trapping of bobcats removes the single most effective management tool available to the Department of Fish and Wildlife to control**

bobcat populations and reduce bobcat predation on threatened and endangered species and candidate species under CESA, especially those species within, and in close proximity to, national and state parks and national monuments and/or wildlife refuges which areas often provide absolutely essential, critical "core" protection zones for those CESA-listed species. (SEE ATTACHED DETAILED SCIENTIFIC BIOLOGICAL DATA AND DISCUSSION.)

SECTION II: Optional Information

5. **Date of Petition: January 28, 2016**

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

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): Click here to enter text.
   ☐ Add New Title 14 Section(s): Click here to enter text.
   ☒ Repeal Title 14 Section(s): **478, 479 and 702**

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: **IMMEDIATELY TO BE IN TIME FOR ENVIRONMENTAL REVIEW FOR THE 2016 BOBCAT TRAPPING SEASON REGULATION SETTING PROCESS.**

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: **SEE ATTACHED EXTENSIVE SCIENTIFIC BIOLOGICAL DATA.**

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: **SEE ATTACHED DATA.**

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. 1/28/16

FGC staff action:

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

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

Meeting date for FGC consideration: _____

FGC action:

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

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2016 JAN 28 PM 4:46

SUPPLEMENT TO PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION

FOR REGULATION CHANGE

TO REMOVE BOBCAT TRAPPING BAN / REINSTITUTE BOBCAT TRAPPING SEASONS

January 28, 2016

SECTION I: REQUIRED INFORMATION (CONTINUED)

4 RATIONALE:

When the bobcat trapping ban was adopted, bobcat populations were underestimated and no consideration was given to bobcat predation on a number of listed threatened and endangered species and candidate species under CESA, which listed-species the Commission is mandated by law to protect as one of its utmost priorities (a far higher legal mandate than protection of bobcats). Bobcat predation on a number of listed species is very high and, in some cases, is the single highest cause of mortality of certain threatened and endangered species and candidate species as the data herein will demonstrate. A ban on the trapping of bobcats removes the single most effective management tool available to the Department of Fish and Wildlife ("CDFW") to control bobcat populations and reduce bobcat predation on threatened and endangered species and candidate species under CESA, especially those species within, and in close proximity to, national and state parks and national monuments and/or wildlife refuges which areas often provide absolutely essential, critical "core" protection zones for those CESA-listed species. Allowing bobcat populations and bobcat predation of these species to continue unchecked where trapping is banned, has the significant potential to jeopardize the continued existence of these species (i.e., result in their extinction). State action which restricts or bans bobcat trapping increases the likelihood of bobcat predation on those listed species in violation of CESA and other legal mandates.

Bobcat Population Data

The most authoritative, recent biological studies assessed bobcat populations in all 48 of the contiguous United States. Bobcats were found to be the most widespread wild felid in North America, occurring in 47 of the 48 states. Only Delaware did not have a known population. These studies found that, based upon the best scientific biological information available, bobcat populations were not in decline, but rather, in 40 of the 48 states were stable or

population data. (Roberts NM, Crimmins SM, 2010, Bobcat Population Status and Management in North America: Evidence of Large-Scale Population Increase, *Journal of Fish and Wildlife Management*, published November 2010.)

In fact, bobcats are one of the most widely spread and adaptable carnivores in all of North America, where they often serve as the top predator in many ecosystems with significant effects upon ecosystem function. In fact, bobcats have been identified as a significant source of predation upon animals as large as white-tailed deer and pronghorn antelope, with the authors concluding that proper management of bobcat populations is important for the protection of ecosystem function and biodiversity. (Roberts and Crimmins 2010).

The researchers estimated bobcat abundance to be between 2,352,276 and 3,571,681 individuals – "significantly higher" than the last major inventory in 1996 with the general trend being that "bobcat populations are expanding across much of their geographic range." This includes California where population estimates are between 69,429 and 72,735 individuals and are known to be "stable". In fact, bobcat populations may well have been reported as "stable/increasing" because "states that reported populations as 'stable/increasing' in this survey were assigned a status of 'stable' for this analysis." (Roberts and Crimmins 2010).

"Harvest data analysis and hunter surveys were the most commonly used methods" for determining population trends. "Recent harvest levels are comparable to those three decades earlier despite this increase in population size, likely due to decreased harvest effort." (Roberts and Crimmins 2010).

Those research "results indicate that bobcat populations have increased throughout the majority of their range in North America since the late 1990s and that populations within the United States are much higher than previously suggested." In fact, "overall population estimates for the United States have more than doubled since 1981." (USFWS 1981). "These increases are likely attributable primarily to multiple factors including habitat availability, increased prey density, changing land-use practices, and intense harvest management at the state level." (Roberts and Crimmins 2010).

Thus, based upon this exhaustive nationwide study of bobcat populations, which included California, there is no biological basis for reducing the harvest of bobcats in California by any means, including by banning bobcat trapping. In fact, based upon CDFW's own studies, every time periodic statewide bobcat population estimates are revised in California, bobcat populations have increased. Furthermore, by banning trapping, the state deprives itself of the most efficient, cost-effective and highly-reliable means of regularly and frequently monitoring and affecting the status of bobcat populations in California.

Bobcat Predation Upon Threatened, Endangered and Candidate Species

The potential impacts of bobcat predation upon formally listed threatened and endangered species, and potentially listed (a.k.a., candidate) species under CESA, was effectively ignored by the Commission in its analysis, and deliberations leading up to the Commission's decision to ban bobcat trapping at the its August 2015 meeting, despite the fact that scientifically valid biological evidence of bobcat predation on several CESA-listed and candidate species is readily available.

Pacific Fisher (*Pekania pennanti*)

On January 23, 2008, the Commission received a petition to list the Pacific fisher ("fisher") as a threatened or endangered species under CESA. On March 4, 2009, the Commission designated the fisher as a candidate species under CESA. After deciding that listing under CESA was not warranted in 2010, the Commission reinitiated its status review of the fisher as a candidate species in 2012 in response to a court order. Under a Department staff report dated May 12, 2015, the Commission, is currently reconsidering listing the fisher as a threatened or endangered species.

In the Department's own May 12, 2015 staff report, the CDFW warned the Commission that "predation appears to be the most significant cause of mortality for fishers in California. In the Southern Sierra Nevada, 69% of fisher mortalities . . . and 90% of fisher mortalities....[at two sample sites] were due to predation." The CDFW went on to put the Commission on notice that "DNA amplified from 50 predated fisher carcasses . . . identified bobcats (*Lynx rufus*) as the primary predator." (CDFW Fisher Status Review Report, May 12, 2015, p. 90.)

Bobcat predation of fishers was further compounded by the fact that bobcats killed only female fishers, and over 70% of bobcat fisher predation occurred from late March through July, the period when fisher kits remain dependent on their mothers for survival (CDFW 2015). Bobcat predation of a female fisher results not only in her death, but also the death of her entire litter of 2-4 fisher kits exacerbating fisher population decreases by bobcats. The higher the bobcat population, the higher the fisher predation by bobcats can be presumed.

Thus, the Commission was fully put on notice by their own 2015 CDFW staff report of major bobcat predation of fishers months in advance of the Commission's action to ban bobcat trapping in the same areas occupied by fishers in California. Incredibly, CDFW's fisher predation data was before the Commission in August 2015, at the very same meeting in which the Commission approved the bobcat trapping ban! Yet, Commission deliberations on the bobcat trapping ban failed to even consider these extremely important facts in violation of CESA and the California Environmental Quality Act ("CEQA"), the latter of which mandates state agencies to find a significant impact on the environment when state action has any

potential to "cause a fish or wildlife population to drop below self-sustaining levels" or "substantially reduce the number or restrict the range of an endangered, rare or threatened species." (CEQA Guidelines Sec. 15065.) In violation of CEQA, the Commission adopted the bobcat trapping ban by use of a Notice of Exemption (NOE) finding there were no significant impacts upon the environment in allowing bobcat populations to increase unchecked.

Other recent independent studies have verified these findings that bobcats are the number one cause of predation on fishers, especially in the spring time when fisher females and kits are most vulnerable (Sweitzer RA and Barrett RH 2009, SNAMP Fisher Study: Sources of Mortality; Halsey SM and Scheller RM 2015, Modeling Predator Habitat to Enhance Reintroduction Planning).

Translocated fishers may be even more susceptible to bobcat predation than resident fishers. (Wengert 2014) further compounding the difficulty of re-establishing fishers due to bobcats.

CDFW and the Commission failed to analyze the impact of bobcat predation on this proposed threatened or endangered species in the Commission's decision to ban bobcat trapping.

Several other threatened or endangered or candidate species are preyed upon heavily by bobcats, which potential impacts were ignored by the Commission in its decision to ban bobcat trapping. These include, but are not limited to, the Humboldt marten, Steven's kangaroo rat, other kangaroo rats, San Joaquin kit fox, sage grouse, and others.

Humboldt Marten (*Martes caurina humboldtensis*)

A growing body of authoritative studies are demonstrating that bobcats are also the # 1 predator on Humboldt martens. On June 8, 2015, the Commission received a petition to list the Humboldt marten ("marten") found in northwestern California as an endangered species under CESA because population surveys indicate the marten population may be as low as 100 individuals. This data had been received and was under CDFW staff analysis well in advance of the Commission's decision to ban bobcat trapping in August 2015.

In the marten petition, as acknowledged in CDFW's own "Report to the Fish and Game Commission Evaluation of Petition to List the Humboldt Marten as Endangered Under the California Endangered Species Act, October 13, 2015", CDFW definitively states, in analyzing the marten petition data and other scientific literature that,

"... *the authors attributed 44% of marten predation to bobcats*, 22% to raptors (birds of prey), 22% to other martens, and 11% to coyotes. In a study of Humboldt martens begun in 2012, nine martens have been found dead to date, and *all nine [Humboldt marten] mortalities were attributed to bobcat predation (USFWS 2015)*. . . . Slauson et al. (2009b) hypothesized that predation was the likely cause of the 42% decline in Humboldt marten

occupancy in their study area between 2001-2008. . . [for the same reasons as described for fishers above], female marten may be more susceptible to predation." (Emphasis added.)

Numerous other detailed studies concur. Bobcats were the # 1 source of predation in northeastern Oregon (Humboldt marten). (Stone, 2010).

"Predation of martens, primarily by bobcats (*Lynx rufus*), has recently emerged as a potential limiting factor for marten populations distribution and persistence (Slauson et al 2014), on on-going study of Humboldt martens in California." (Bailey, Oregon State University, 2014).

Furthermore, "Fishers are also known to kill martens, and the distribution of fisher populations may limit the distribution of marten (USFWS 2015), Krohn et al 2004)."

Again, CDFW and the Commission failed to analyze the impact of bobcat or fisher predation on this proposed endangered species in the Commission's decision to ban bobcat trapping.

San Joaquin Kit Fox (*Vulpes macrotus mutica*)

It has long been known that predators are the # 1 cause of death, and that bobcats can be a very significant predator, for San Joaquin kit fox. (Benedict, Forbes 1973)

Subsequent studies have confirmed this, "For [San Joaquin kit] foxes for which the cause of death could be determined 78% were killed by predators, 16% were killed by vehicles, and 6% died from other causes" including evidence of San Joaquin kit fox "killed by bobcat (*Felix rufus*)." (Berry, Harris 1987)

In a more recent study of San Joaquin kit fox mortality, bobcats were found to be the # 2 cause of death. "Bobcat predation on San Joaquin kit foxes has been previously reported. . . Of 24 predator-caused deaths, 45.8% were attributed to coyotes, 8.3% to bobcats . . ." (Standley, Berry, O'Farrell, Kato 1992).

However, bobcat predation has been documented to be much more significant for kit fox in certain locations. Benedict and Forbes (1979) reported "the finding of 12 kit fox (*Vulpes macrotus*) skulls in an active bobcat den."

Again, CDFW and the Commission failed to analyze the impact of bobcat predation on this currently listed endangered species in the Commission's decision to ban bobcat trapping.

Various Kangaroo Rats (*Dipodomys sp.*)

Although not a lot of data has been collected on bobcat predation of kangaroo rats, some studies do exist from which reasonable inferences and conclusions can be drawn. This study below from Oklahoma noted kangaroo rats were the # 2 food in bobcat diets after rabbits.

Percentages or Weight and Occurrence of Food Items in Ten Bobcat Stomachs Collected in Cimarron County, Oklahoma, from September 1954 through December 1956. (Ellis, Schemnitz, 1958)

Table 1	Bobcats	
Food Items	Weight	Occurrence
Mammals	99.9	100.0
Rabbits	70.2	60.0
Woodrats	22.4	10.0
Kangaroo Rats	6.7	20.0**
Grasshopper Mice	.4	10.0
Pocket Mice	.1	10.0
Birds	t***	10.0
Grass	.2	20.0

**** # 2 Food item found**

***** Trace = less than .1 gram**

Again, CDFW and the Commission failed to analyze the impact of bobcat predation on several currently listed threatened and endangered kangaroo rat species in California in the Commission's decision to ban bobcat trapping, including the following all of which exist within bobcat range:

Fresno Kangaroo Rat, (*Dipodomys nitratoides exilis*)
Giant Kangaroo Rat, (*Dipodomys ingens*)
Morro Bay Kangaroo Rat, (*Dipodomys heermanni morroensis*)
Stephens' Kangaroo Rat, (Dipodomys stephensi)
San Bernardino Merriam's Kangaroo Rat, (*Dipodomys merriami parvus*)
Tipton Kangaroo Rat, (*Dipodomys nitratoides nitratoides*)

Desert tortoise (*Gopherus agassizii* and *Gopherus morafka*)

The desert tortoise is a federally listed threatened species. It is well-documented that, "Carnivores, especially coyotes and bobcats prey on tortoises." (San Diego Zoo, various studies 1982-2012). "Large tortoises may be eaten by kit foxes, badgers, bobcats, coyotes and golden eagles."

Again, in the Commission's decision to ban bobcat trapping, CDFW and the Commission failed to analyze the impact of bobcat predation on this federally-listed threatened species.

Greater sage grouse (*Centrocercus urophasianus*)

The same population of greater sage grouse inhabits northeastern California and northwestern Nevada. Their numbers have been in decline in recent years. They were proposed for federal listing in 2004. The listing was found by the USFWS to be warranted but precluded by other higher listing priorities. Since that time, studies have been conducted on predation of this species. A very recent study documented that bobcats were a predator of this California/Nevada greater sage grouse population.

"We also successfully documented a suite of mammalian and reptilian species depredating sage-grouse nests, including some predators never previously confirmed in the literature to be sage-grouse nest predators (i.e., bobcats *Lynx rufus* and long-tailed weasels *Mephaitis frenata*)." *Greater sage-grouse nest predators in the Virginia Mountains of Northwestern Nevada,* (ZB Lockyear, DJ Delehanty, PS Coates, ML Casazza, S Espinosa 2013)

Again, in the Commission's decision to ban bobcat trapping, CDFW and the Commission failed to analyze the impact of bobcat predation on this species of special concern which has been proposed in the past for federal listing as a threatened / endangered species.

Conclusion

Bobcats have been shown in repeated studies to be the # 1 - # 2 cause of mortality for numerous threatened and endangered species, including several recently petitioned-for-listing species, yet CDFW and the Commission failed to analyze bobcat predation on those listed species when the Commission made its decision in 2015 to ban bobcat trapping.

Bobcat trapping is the most effective, and only really viable, management tool available to CDFW and the Commission to affect any appreciable reduction in bobcat numbers. Bobcats have substantial economic value as furbearers to trappers. There is a ready market by which bobcat population management services can be provided by private sector trappers at little

or no cost to California taxpayers if the free market is allowed to operate as it has historically done since well before California was admitted into the Union as a state in September 1850.

Banning bobcat trapping, on the contrary, will result in further increases in size in the well-documented, stable and increasing bobcat populations in California, which will directly have documented negative impacts through un-checked bobcat upon threatened, endangered and candidate species upon which bobcats are often the # 1 or # 2 predator. State action by the Commission supporting a ban on bobcat trapping jeopardizes the continued existence (threatens extinction) of an ever-growing number of threatened, endangered and candidate species, in clear violation of the legal mandates of CESA that no governmental agency will take such action. How ironic it is, that the Commission - the very agency entrusted by the Citizens of the State of California to protect their threatened, endangered and candidate species - is the very agency which enacted a ban on trapping bobcats, thereby ensuring the deaths of untold hundreds of individuals of listed threatened and endangered species which so desperately need (and legally deserve) protection by the Commission in order to have any chance to avoid extinction.

For all of the reasons stated above and more, we file this petition to request that the Commission re-consider the Commission's 2015 bobcat trapping ban based upon the new, highly-compelling scientific biological information described above, and re-instate state-wide trapping seasons for the very abundant, ubiquitous bobcat (*Lynx rufus*) which lives virtually everywhere in every habitat type from the Pacific Ocean beaches to the high Sierra Nevada peaks, from Mexico to Oregon, within the State of California.

California Trappers Association
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Barstow, CA 92311

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January 28, 2016

Honorable Members of the
California Fish and Game Commission
Michael Yuan, Acting Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
Fax: (916) 653-5040
fgc@fgc.ca.gov

Via E-Mail, Facsimile and Hand Delivery

Re: Bobcat Trapping Regulations (CCR Title 14, Sections 478, 479 and 702)

Members of the Commission:

We represent Mercer Lawing and the California Trappers Association ("CTA") who appeared before the California Fish and Game Commission ("the Commission") on numerous occasions during the elongated process in 2014 and 2015 involving the Commission's adoption of the above regulations. CTA appeared before the Commission and the California Department of Fish and Wildlife ("CDFW") to oppose the adoption of the above regulations banning trapping of bobcats in California for a number of prudent, biologically sound reasons. During those hearings, Mercer Lawing and CTA's government affairs representative, Kathryn Lynch, testified before the Commission to point out that the Commission never did stakeholder outreach and denied the trappers workshops in the areas of trapping before they proceeded with regulations. The Commission also denied the most cost effective and accurate approach proposed by the trappers – GPS tracking. CTA demonstrated that the Commission had precedent for using GPS on other species within marine protection zones and other terrestrial species. CTA pointed out that the Legislature recommended against a statewide ban and that the Governor's Office requested that CDFW allocate funding for and perform a bobcat population study before determining zones or acting on trapping restrictions. Furthermore, there were multiple opportunities after the Legislation was signed by the Governor in 2013 for the Commission, CDFW and the author of the bill, Assemblyman Bloom who also Chair's the Assembly Budget Subcommittee #3 Resources and Transportation that oversee's their budgets to pursue and obtain funding per the Governor's recommendations in his signing message and proceed with the population study before enacting restrictions which was not done.

Thereafter, on September 24, 2015, CTA submitted a petition to the Commission requesting that the Commission reconsider its June 1, 2015 decision to ban trapping of bobcats for which final adoption occurred on August 5, 2015. CTA was provided assurances by the Commission on

August 5, that the Commission would accept a petition for reconsideration under the pre-October 1, 2015 "new rules" for submission of petitions and so CTA submitted its September 24 petition.

On October 8, 2015, Kathryn Lynch on behalf of CTA and other organizations, testified again before the Commission under Item 23 on the Commission's agenda, seeking assurances that (1) the pre-October petition for reconsideration prepared under the pre-October "old" format would be accepted by the Commission, and (2) it would be heard at the next Commission meeting on December 10, 2015.

On the record in the October 8, 2015 Commission meeting, Commission Executive Director, Sonke Mastrup stated, "Because it is a pre-October one, what we do, when we receive it, we received it at this [October 8] meeting, we will put it in the hopper for your [the Commission's] consideration at the December [Commission] meeting."

Commission President Jack Baylis then expressly stated on the record, "So the answer is 'yes'." Ms. Lynch clarified, "So it will be on the December agenda?" President Baylis and Mr. Mastrup in tandem, "Yes." Mr. Mastrup, "It will be listed as one of the things for them to contemplate taking action on then." President Baylis, "Correct. Thank you, Ms. Lynch."

Following the October 8 Commission meeting, requests were made by Kathryn Lynch and CTA to Commission staff to schedule CTA's September 24 petition on December 10, as part of the Commission's regular business that day, because CTA's representatives were not able to appear on December 9 which is the marine resources/aquatic species Commission day. CTA pointed out that the appropriate date for Commission review of bobcat issues is the mammal issues day (the second day) which was December 10th. Commission Executive Director, Sonke Mastrup acknowledged in the Public Forum that day and again later in writing in multiple e-mails, that the Commission needed to and would honor their own agenda schedule and put appropriate actions on the correct date – in this case December 10. Sonke Mastrup and the Commission acknowledged this was a flaw and would be corrected for December. Based upon those assurances from the Commission and its Executive Director that the CTA petition would be scheduled on the mammal day - December 10, not on the marine resources day - December 9, CTA scheduled its President, attorney, supporters and government affairs representatives to appear on December 10. CTA notified Commission staff CTA could not appear on December 9.

The week before the December Commission meetings when the agendas were released to the public, it was learned that CTA's petition was scheduled to be heard on December 9 as part of the marine resources discussion for some unfathomable reason, the precise date on which the Commission had been given advance notice that CTA's representatives could not attend!!

CTA's representatives immediately contacted Commission Executive Director, Sonke Mastrup, who apologized saying that CTA was correct, it was promised to be scheduled on December 10 and Sonke would move the matter to be heard under "New Business" on December 10. Sonke confirmed in writing this would be the appropriate placement for this item to correct the Commission's scheduling error. The Commission was made aware on December 3 and Sonke confirmed back in writing on December 4 that CTA would be presenting with its attorney on December 10 and CTA would be allocated 15 minutes for a full presentation.

On December 10, CTA's petition was placed as *the very last item on the entire agenda* (Item #38 (C)) which did not come up for discussion before the Commission until nearly 5:00 PM on the second and last day of the Commission's two-day December meetings.

When this matter was called, CTA's representatives (Kathryn Lynch, Josh Brones and myself) approached the podium, and thanked the Commission for scheduling the bobcat trapping ban reconsideration petition. We promised our presentation would take no more than 15 minutes.

Immediately upon making our opening statement that the reason CTA was petitioning was to present new, compelling scientific biological information regarding bobcat predation on threatened and endangered species and species of special concern which CDFW and the Commission had not taken into account in the decision to ban bobcat trapping, we were instantly cut off by Commissioner Eric Sklar saying, "I am very uncomfortable with this. I don't want to hear any information on this topic even if it is an emergency action. They should have submitted a petition in advance like everyone else." (Ignoring the fact that he was part of the unanimous Commission decision on October 8 to have the September 24 petition heard in December.)

President Baylis, then said, "This issue is done. THIS ISSUE IS DONE!!" (Emphatically) President Baylis then refused to let us make our short 10-minute power point presentation.

Kathryn Lynch then took the podium and reminded the Commission that at its October 8 meeting, the Commission had unanimously agreed on the Public Record to allow CTA to present its petition request at the December meeting. She then explained the scheduling error by Commission staff placing it on the marine resources agenda on December 9, instead of with the other mammal items on December 10 as requested. Commission Executive Director, Sonke Mastrup, acknowledged on the record on December 10, about the Commission scheduling error and agreement to allow CTA to present on December 10 per CTA's duly submitted petition on September 24. Still we were denied the opportunity by the Commission on December 10 to continue with our presentation. Trapper Chad Varney took the podium and read a statement which confirmed the Commission's statement at the October 8 meeting that the Commission agreed that it would consider new information if it was brought forward by CTA in December.

Commissioner Anthony Williams then stated that he had not heard any new information today that was not taken into account. (Commissioner Williams was out of the room for a lengthy period and missed my entire testimony minutes earlier about the un-considered impacts upon threatened and endangered species and candidate species, and he also the missed Ms. Lynch's December 10 testimony confirming the Commission's unanimous agreement on October 8 to allow CTA's December presentation.)

Commissioner Williams then went on to state, that "it was wrong" for a member of the public to request that one piece of new information "trump" the entire process that had gone on before. (Legally that is not correct. State law ***mandates*** that the Commission ***must*** take into account potential impacts on threatened and endangered species in all actions the Commission takes. A single adverse impact upon one individual of a single threatened or endangered species ***can and will*** trump all other criteria the Commission takes into account as mandated under state (as well

as federal) law which can restrict or prohibit the Commission's decision-making and its issuance of regulations.)

Commissioner Williams then asked for information regarding an assessment of bobcat population levels. (Bobcat population level information was included as part of the 10-minute presentation that President Baylis and Commissioner Sklar refused to let CTA present on December 10.)

Commissioner Williams went on to say that "today is not the forum to present [the new information]" and even if you presented it today "we certainly are not going to act on it today" because "you did not go through the regular process of submitting a regulatory petition." (As explained extensively above, CTA, of course, did submit the September 24 petition which the Commission unanimously agreed on October 8 to hear at this December Commission meeting.)

At that point, I stepped back to the microphone and pointed out to Commissioner Williams that he had been out of the room the whole time and had missed my entire presentation which started to explain the new information and the importance of it before I was cut off inappropriately by President Baylis and that he had also missed Ms. Lynch's testimony today reminding the Commission of its October 8 unanimous decision to hear the September 24 petition today. Again, President Baylis and these two Commissioners refused to let us make our presentation.

We then requested that the petition be scheduled for the February 10-11 Commission meeting, and were told 'no', the Commission would not consider entertaining our request until April.

At the close of the December 10 Commission meeting, Commissioner Jim Kellogg made a decided point of thanking us for our trip all the way from Sacramento to San Diego to have CTA's petition heard as the Commission had promised CTA it would do, and he reminded the public that he and another Commissioner did not vote for the bobcat trapping ban and would have let us present on December 10 as the Commission had promised on October 8. Kellogg said he understood how the trappers felt "disenfranchised" by being denied a voice now before the Commission after being promised by the Commission and its staff, CTA would be allowed to present new information CTA brought forward not previously considered by the Commission.

In final closing remarks, Executive Director, Sonke Mastrup, admitted on the record on December 10 that "you [the Commissioners] actually were petitioned to reconsider bobcat" and "they [CTA] want to address that [the new information] because that would have been an appropriate agenda item because you were considering their agenda item for bobcat reconsideration" and he went on to admit the Commission had "really bungled" the scheduling by putting it on the December 9 marine resources day which he said was "not the appropriate day" subject matter-wise and since CTA notified him CTA could only attend on December 10.

For all of these reasons, CTA was wrongfully deprived of due process of law at the December 10 Commission meeting under its appropriately submitted September 24 petition for reconsideration which the Commission had agreed unanimously on October 8 to hear at the December 10 (appropriate mammal day) meeting, for which CTA's entire team had flown to San Diego at considerable expense to appear before the Commission on the date promised by the Commission.

As a result, CTA was wrongfully denied the opportunity to present new, compelling scientific biological information regarding bobcat predation on threatened and endangered species and species of special concern which CDFW and the Commission had not taken into account in the decision to ban bobcat trapping, which should have resulted in the ban being overturned.

CDFW, the Commission and other state agencies, are prohibited from taking action which results in the unauthorized take of threatened or endangered species or candidate species. As CTA would have shown in its presentation to the Commission on December 10, had the Commission not wrongfully denied CTA from making its duly scheduled presentation, the Commission's state action of banning bobcat trapping, results in extensive unlawful take of several threatened and endangered species and candidate species.

As a direct result of the Commission's wrongful action on December 10, the 2015-2016 bobcat trapping season was given no chance to proceed as it has for decades, damaging CTA's hundreds of members by depriving them of a substantial portion of their annual income in 2015-2016 amounting to hundreds of thousands of dollars in damages. It is also resulting, as you read this, in the deaths of numerous individuals of several threatened and endangered species and candidate species which the Commission could have prevented by continuing trapping and thus population control of bobcats which are proven to be the # 1 predator of many of those species.

For all of the above reasons, the action of a majority of the Commission on December 10 to purposely deprive CTA of its rightful due process hearing on CTA's petition which should have resulted in the immediate reopening of the bobcat trapping season, has resulted in substantial damages to CTA and its members.

Time is of the essence in having this petition for reconsideration agendized and the new compelling scientific biological information heard by the Commission at an emergency meeting or at the very latest at the Commission's February meeting. CTA thereby requests that this petition be scheduled for a full presentation no later than the Commission's February 11 meeting.

Respectfully yours,

George T. Kammerer

Encs.

Cc: Clients
Mr. Edmund G. Brown, Governor, State of California
Mr. Charlton Bonham, Director, California Department of Fish and Wildlife
Mr. Michael Yuan, Legal Counsel, California Fish and Game Commission
Ms. Jacque Hostler-Carmesin, Commissioner, California Fish and Game Commission
Mr. Eric Sklar, Commissioner, California Fish and Game Commission
Mr. Anthony Williams, Commissioner, California Fish and Game Commission

From: Rose Cook
To: FGC
Subject: Give Gray Wolves a Chance
Date: Wednesday, December 23, 2015 1:51:15 PM

Dear Commission Members;

Thank you for the opportunity to comment on your draft management policy for the endangered gray wolf. I am a California resident who cares deeply about our wildlife, the health of our native ecosystems, and public policy towards our amazing shared natural heritage. I am also a highly trained ecologist and conservation biologist.

I have read your draft plan and find it satisfying in many regards. However, I am very concerned about the option for removing wolves from the Endangered Species list when the population exceeds 50 animals statewide or when there are 10 breeding pairs. Fifty animals does not even meet the requirements for sustained genetic diversity with acceptable levels of inbreeding. This level requires an "effective population size" of 50 which would only be equivalent to 50 animals overall if every animal in the population has an equal chance of breeding with any other. We know this is not the case for wolves due to their strong social structure with a single breeding pair per pack.

Wolf recovery in California has only just begun. I urge you to reconsider and set a goal for recovery that truly reflects recovery. I strongly believe that wolves and humans can coexist peacefully, but premature actions to derail recovery may prevent such an outcome. Please give wolves a chance and a safe haven from persecution in the west. We are a great state and will be even greater with the return of this magnificent species and the immense benefits they bring to our natural ecosystems.

Sincerely,
Rosamonde Cook, Ph.D.

--
Lead Biologist and Data Manager
Biological Monitoring Program
[redacted]ple Species Habitat Conservation Plan
[redacted]

I know the human being and fish can coexist peacefully.

- George W. Bush

MEMORANDUM

TO:	**Mike Yaun, Interim Executive Director, California Fish and Game Commission**
CC:	**Susan Ashcraft, Marine Advisor, California Fish and Game Commission**
FROM:	**Michael DeLapa, Interim Executive Director, California Ocean Science Trust**
DATE:	**January 28, 2016**
REGARDING:	**Summary of the North Central Coast State of the Region Report**
ENCL:	**Tribal Engagement Summary**

California Ocean Science Trust is a boundary organization, established by the California Ocean Resources Stewardship Act (CORSA) to support managers and policymakers with sound science. The California Department of Fish and Wildlife and Ocean Science Trust work together closely to lead marine protected area (MPA) monitoring for the State of California.

Ocean Science Trust, in partnership with the California Department of Fish and Wildlife and California Ocean Protection Council, has developed a comprehensive report, the *State of the California North Central Coast: A Summary of the Marine Protected Area Monitoring Program 2010-2015* (Report). This Report contains the summary of baseline monitoring findings, new tools, and partnerships developed during the first five years of MPA implementation in the North Central Coast region. It is a synthesis of the portfolio of MPA monitoring reports, data, and outreach documents developed by the North Central Coast MPA Baseline Program collaborators and partner organizations. All products are publicly available at www.oceanspaces.org/nccsotr.

The Report was developed to provide a comprehensive science foundation to inform potential management recommendations from the first five years of MPA implementation in the North Central Coast region (currently scheduled to be received by the Fish and Game Commission in April, 2016).

This memo is intended to inform the Fish and Game Commission of the upcoming delivery of the full results from the North Central Coast MPA Baseline Program, in advance of the April 2016 meeting, to inform the management review in April. This information will include:

- The *State of the California North Central Coast: A Summary of the Marine Protected Area Monitoring Program 2010-2015* (Report)
- A summary of outreach and community engagement efforts over the past twelve months
- Potential management recommendations
- A joint presentation from California Department of Fish and Wildlife and Ocean Science Trust

The enclosed Tribal Engagement Summary provides a brief overview of North Central Coast tribal engagement activities conducted by Ocean Science Trust through December 2015. Ocean Science Trust anticipates providing the Fish and Game Commission with an additional summary to highlight any tribal engagement efforts conducted during the first quarter of 2016, in advance of the April 2016 Commission meeting. We welcome the opportunity to present this to the Tribal Committee in their April meeting, if that would be of service.

Engagement with North Central Coast Native Communities through December 2015
California Ocean Science Trust and Strategic Earth Consulting
January 28, 2016

California Ocean Science Trust is deeply invested in establishing an open dialogue with North Central Coast tribes and exploring opportunities to collaborate and partner on shared areas of interest related to marine protected area (MPA) monitoring. North Central Coast tribes have a long history in stewarding the natural resources along the coast, and hold in-depth knowledge about the region and its natural environment. Partnering with local tribes that express an interest in collaborating on MPA monitoring helps acknowledge, represent, and value this knowledge in monitoring and management activities. Ensuring monitoring informs tribal governance and the management needs of California adds efficiency and cooperation in decision-making efforts, while concurrently respecting and valuing tribal rights and traditions.

We recognize and respect that local tribes may have varied capacity and desire to engage with MPA monitoring planning, activities, and results. With this in mind, as a first step Ocean Science Trust is interested in learning more about each North Central Coast tribe, including how tribal leaders wish to engage with Ocean Science Trust. We hope to work with each tribe to identify the most appropriate setting for establishing meaningful relationships, including the most appropriate ways to share mutually beneficial information.

The following summary provides a brief overview of North Central Coast tribal engagement activities conducted by Ocean Science Trust through December 2015. Ocean Science Trust anticipates providing the Fish and Game Commission with an additional summary to highlight tribal engagement efforts that may be conducted during the first quarter of 2016 in advance of the April 2016 Commission meeting. As it is helpful, we also welcome the opportunity to present an update to the Tribal Committee during its April 2016 meeting.

Summary of Central Coast Tribal Engagement Through December 2015
Beginning in October 2013, engagement with North Central Coast tribes has focused on a number of primary objectives, including:

- Establish an open line of communication with North Central Coast tribes and tribal leaders.
- Introduce/re-introduce the Ocean Science Trust team, role, and approach to MPA monitoring.
- Provide an update on the status of baseline monitoring in the region, including sharing baseline results from the first five years of MPA monitoring.
- Identify common interests related to ocean health, management, and stewardship, and explore how Ocean Science Trust and tribal leaders might collaborate and partner in ocean monitoring initiatives.
- Deepen our collective understanding of the role traditional knowledge can play in scientific reports of ocean conditions and trends.
- Learn and understand the most appropriate way(s) to engage and communicate with North Central Coast tribes.

October 2013 – December 2014

- A mailing list was developed, sourced with information from the Native American Heritage Commission and the California Ocean Protection Council (OPC) tribal contact list. The list was shared with select North Central Coast tribal liaisons to ensure there were no unintentional omissions.
- An introductory letter was mailed to all coastal tribes requesting an in-person meeting to share information about Ocean Science Trust's work to design and implement MPA monitoring in California. Follow up phone calls were made to all tribal contacts; two native communities expressed an interest in meeting with Ocean Science Trust in early 2014.
- In May 2014, Ocean Science Trust met with the Kashia Band of Pomo Indian's Tribal Council. This meeting focused on exploring the objectives outlined above. Ocean Science Trust was invited by Tribal Council to continue informing the Kashia about MPA monitoring activities in the region.

January – October 2015

- Ocean Science Trust continued to reach out to North Central Coast tribes that had expressed interest in building a relationship and maintaining an open line of communication.
- Outreach was conducted primarily via direct phone calls and email with key tribal contacts. The primary focus of these communications was to provide updates on the status of the baseline program and discuss the future availability of the *State of the California North Central Coast* Report.
- It may be important to acknowledge that part of the reason for taking a more "informal" approach to engagement during this phase was to try to limit confusion and/or burden due to the many state-led efforts that were actively engaging with California tribes (e.g., MLPA Master Plan update, MPA Partnerships Plan).

November – December 2015

- A letter was mailed to all coastal tribes to notify leadership of a series of public "community gatherings" that were held in early December 2015. A copy of the *State of the California North Central Coast* Report was included in each mailing. Follow up phone calls were made to tribal contacts to confirm receipt of the letter. Updates were made to a master North Central Coast contact list to reflect recent changes in leadership.
- A number of tribal representatives attended these public events, including members of the Kashia Band of Pomo Indians and the Federated Indians of Graton Rancheria. Additionally, OST met individually with North Central Coast tribal leaders that expressed interest (see table below).
- Being mindful of confidentiality, input provided by tribal contacts was included in a summary of key themes expressed by those who attended the community gatherings, as well as input received during informal, small group discussions. This summary document will be available on the North Central Coast region page on OceanSpaces.org.

Ongoing

- Ocean Science Trust is working to maintain an open line of communication with North Central Coast tribes.
- A number of tribes and tribal consortiums have expressed an interest to continue learning about Ocean Science Trust and our work in the region via email updates, ongoing phone discussions, and possible in-person meetings, including Intertribal Sinkyone Wilderness Council and Manchester-Point Arena Band of Pomo Indians of the Manchester-Point Arena Rancheria.
- The Kashia Band of Pomo Indians and Federated Indians of Graton Rancheria have expressed interest in holding in-person meetings in 2016 to further explore opportunities to collaborate and partner on shared interests related to MPA monitoring and ocean health.

North Central Coast Tribes, Outreach List

Ocean Science Trust has reached out to the Chairpersons and/or primary contacts of the following coastal native communities in the North Central Coast region.

North Central Coast Tribes
Federated Indians of Graton Rancheria
Intertribal Sinkyone Wilderness Council
Kashia Band of Pomo Indians of the Stewarts Point Rancheria
Koi Nation of Lower Lake Rancheria
Lytton Rancheria of California
Manchester-Point Arena Band of Pomo Indians of the Manchester-Point Arena Rancheria
Santa Rosa Band of Mission Indians

The following North Central Coast tribes and/or community leaders have engaged in a dialogue with Ocean Science Trust and expressed an interest in continuing to be informed of MPA monitoring in the region, including opportunities for collaboration and partnership. Ocean Science Trust continues to be in close communication with the majority of these tribal contacts. Contacts in *italics* indicate those Ocean Science Trust has met with directly.

First	**Last**	**Title**	**Tribal Affiliation**
Nick	*Tipon*		*Traditional Coast Miwok*
Devin	Chatoian	Environmental and Cultural Director	Federated Indians of Graton Rancheria
Buffy	McQuillen	THPO Officer	Federated Indians of Graton Rancheria
Hawk	Rosales	Director	Intertribal Sinkyone Wilderness Council
Reno	*Keoni Franklin*	*Chairman*	*Kashia Band of Pomo Indians of the Stewarts Point Rancheria*
Nina	*Hapner*	*Director of Environmental Planning*	*Kashia Band of Pomo Indians of the Stewarts Point Rancheria*
Brenda	Tomaras	Legal Counsel	Lytton Rancheria of California
Jamie	*Cobarrubia*	*Chairman*	*Manchester-Point Arena Band of Pomo Indians of the Manchester-Point Arena Rancheria*