

## STAFF SUMMARY FOR JUNE 22-23, 2016

**38. NON-MARINE PETITIONS AND NON-REGULATORY REQUESTS FROM PREVIOUS MEETINGS****Today's Item**Information Action 

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

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

**Summary of Previous/Future Actions**

- (A-B) FGC received the requests for regulatory and non-regulatory action in exhibits A1 and B1, successively, in three ways: (1) Requests received through Mar 30 2016 published as tables in the Apr 2016 meeting binder; (2) requests received as late comments delivered at the Apr 2016 meeting; and (3) requests received during public forum at the Apr 2016 meeting.
- (C) N/A

**Background**

FGC provides guidance and direction to staff regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. The public request logs provided in exhibits A1 and B1 capture the regulatory and non-regulatory requests received through the last meeting that require FGC guidance. The exhibits contain staff recommendations for each request.

- (A) Regulatory requests: As of Oct 1, 2015, Section 662, Title 14 requires that any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, Petition to the California Fish and Game Commission for Regulation Change. Petitions for regulation change follow a two-meeting cycle to ensure proper review and consideration. Requests received for a FGC meeting by the late comment deadline or at the meeting during public forum are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

One non-marine petition received in Apr 2016 is scheduled for FGC action at this meeting (See summary table in Exhibit A1 and individual petition in Exhibit A2).

- (B) Non-regulatory: Public requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration. Requests received for a FGC meeting by the late comment deadline or at the meeting during public forum are scheduled for consideration at the next business meeting.

Ten non-regulatory requests received in Apr 2016 are scheduled for action at this meeting (See summary table in Exhibit B1, and individual requests in exhibits B2-B8).

## STAFF SUMMARY FOR JUNE 22-23, 2016

- (C) This item is an opportunity for staff to provide any follow-up information on items previously before FGC.

In April 2016, FGC granted a regulatory petition (#2016-003) from Mr. Dennis Fox requesting a change to the bag, possession, and size limits for striped bass on the San Joaquin River between Friant Dam and Highway 140 for further consideration during the sport fish rulemaking for the 2017-2018 season. In June 2016, DFW notified FGC staff that while DFW is prepared to consider this petition for the 2017 regulation cycle (effective for the 2018-2019 season) the petition cannot be adequately reviewed and evaluated for the 2017-2018 season. The DFW is expected to provide a memo regarding this issue at the meeting.

### Significant Public Comments

1. Letter from Center for Biological Diversity containing overview of petition 2015-009 and updated DFW statistics to inform the new Commissioners about the petition referred to DFW by FGC in Apr 2016 (Exhibit A3).
2. Letter from Center for Biological Diversity containing overview of petition 2015-010 and supporting documentation to inform the new Commissioners about the petition referred to DFW by FGC in Apr 2016 (Exhibit A4).
3. Letter from Miles Young in opposition to the continued importation of live bullfrogs for the live animal markets (Exhibit B9).
4. Email from Action for Animals regarding the worsening problem of imported bullfrogs due to market frogs being infected with chytrid fungus, citing it as a reason to impose an immediate ban (Exhibit B10).

### Recommendation

- (A-B) Adopt staff recommendations for regulatory and non-regulatory requests as reflected in exhibits A1 and B1, to (1) deny the request, (2) grant the request, or (3) refer the request to committee, DFW staff, or FGC staff for further evaluation or information gathering. See exhibits A1 and B1 for specific staff recommendations for each request.
- (C) Approve moving regulatory petition #2017-003 from consideration in the 2016 regulation cycle to the 2017 regulation cycle (effective for the 2018-2019 season).

### Exhibits

- A1. [FGC table of non-marine requests for regulatory change received through Apr 14, 2016](#)
- A2. [Petition #2016-004 from Modoc County Fish, Game, and Recreation Committee, concerning black bear hunting, received Mar 21, 2016](#)
- A3. [Letter from Center for Biological Diversity, received Jun 9, 2016](#)
- A4. [Letter from Center for Biological Diversity, received Jun 9, 2016](#)
- B1. [FGC table of non-marine requests for non-regulatory change received through Apr 14](#)
- B2-8. [Individual requests for non-regulatory change that are summarized in Exhibit B1.](#)
- B9. [Letter from Miles Young, received May 2, 2016](#)
- B10. [Email from Action for Animals, received Apr 24, 2016](#)

## STAFF SUMMARY FOR JUNE 22-23, 2016

**Motion/Direction**

(A-B) Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on April 2016 regulatory and non-regulatory requests and approves moving petition 2017-003 to the 2017 regulation cycle for consideration.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on April 2016 regulatory and non-regulatory requests, except for item(s) \_\_\_\_\_ for which the action is \_\_\_\_\_, and approves moving petition 2017-003 to the 2017 regulation cycle for consideration.

**CALIFORNIA FISH AND GAME COMMISSION**  
**REQUESTS FOR REGULATORY ACTION**  
 Revised 06-01-2016

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



**Blue cells:** Referrals to FGC staff or committee for more information



**Lavender cells:** Accepted and moved to a rulemaking



**Yellow cells:** Current action items

Tracking No.	Date Received	Response Due (10 work days)	Response letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	Staff Recommendation	FGC Decision
<a href="#">2016-004</a>	3/10/2016	3/24/2016	4/5/2016	A	Cheryl Kunert (Modoc County Fish, Game and Recreation Commission)	Black bear hunting in Modoc county	662(b)	Permit take of black bear in the balance of Modoc County, season to run concurrently with general deer season in Modoc County without increasing quota for black bear harvest.	<i>Grant; refer to mammal hunting rulemaking for 2017-2018 season</i>	RECEIPT: 4/13-14/16 <b>ACTION: Scheduled 6/22-23/16</b>



2016-004  
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](mailto: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](mailto: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: Modoc County Fish, Game and Recreation Commission  
Address: 202 W. 4<sup>th</sup> Street, Alturas, CA 96101  
Telephone number: (530) 233-6400  
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, Sections 86, 200, 202 and 203.
- 3. Overview (Required) - Summarize the proposed changes to regulations:** Black bear hunting is currently allowed in only a small section of Modoc County. It is proposed to modify regulations so black bear hunting is permitted in the balance of Modoc County. It is proposed that the season would run concurrently with the general deer seasons in Modoc County. This action is not intended to increase the overall quota for black bear harvested in California.
- 4. Rationale (Required) - Describe the problem and the reason for the proposed change:** There has been a significant increase in California's black bear population over the last 25 years. By the California Department of Fish and Wildlife's own estimates, the population has increased from 10,000-15,000 animals in 1982 to a current conservative estimate of 25,000-30,000 animals. In Modoc County, the population has also increased significantly. A decade ago black bear were rarely seen, now they can be seen on almost a daily basis in some areas during the warmer seasons. Further evidence of an increasing population are incidences of depredation on private lands that in the past were rare to non-existent. During Sept.-October, 2014, an estimated 50 hours were spent by the local CA Fish and Wildlife Biologist responding to public complaints of nuisance animals on private lands. During Sept.-Oct., 2015 the Biologist spent 28 hours responding to complaints. Implementing a black bear hunt over the entirety of Modoc County would likely reduce problems with depredation which are bound to increase as the bear population grows even larger. A bear hunt would also provide another hunting opportunity to be enjoyed by the public.



## SECTION II: Optional Information

5. **Date of Petition: March 10, 2016**
6. **Category of Proposed Change**  
 Sport Fishing  
 Commercial Fishing  
 Hunting  
 Other, please specify: Click here to enter text.
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*  
 Amend Title 14 Section(s): 365  
 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: October, 2016
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: Economic and Fiscal Impacts would be minimal. There would be a small increase in revenue to the Department due to tag sales, and a decrease in the amount of work by the local biologist necessary to respond to complaints of nuisance animals. Additionally, there would be a small benefit to the local economy due increased food and equipment purchases and use of local services.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
None

## SECTION 3: FGC Staff Only

Date received: Click here to enter text.

3/21/16

FGC staff action:

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



State of California – Fish and Game Commission

**PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE**

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

Tracking Number

Date petitioner was notified of receipt of petition and pending action: 4/5/16

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

FGC action:

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



*Sent via electronic mail*

June 9, 2016

California Fish and Game Commission (“the Commission”)  
Executive Director Valerie Termini  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Russell Burns  
Commissioner Peter Silva  
Commissioner Anthony Williams

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

CC: Director Charles Bonham, California Department of Fish & Wildlife  
Mr. Stafford Lehr, California Department of Fish & Wildlife  
Mr. Craig Martz, California Department of Fish & Wildlife  
Ms. Karen Miner, California Department of Fish & Wildlife

**Re: Petition on Raising Trapping License Fees (Petition #2015-009), Item #38, June 23, 2016  
Commission Meeting**

Dear Director Termini, President Sklar, Vice President Hostler-Carmesin, and Commissioners Burns, Silva, and Williams,

On behalf of the Center for Biological Diversity and Project Coyote (“Petitioners”) and our over 100,000 members and supporters in California, we urge the Commission to adopt the regulation changes proposed in petition #2015-009 (“Petition”) to raise commercial trapping license fees to the levels necessary for the full recovery of the reasonable administrative and implementation costs of the trapping program incurred by the Commission and Department of Fish and Wildlife (“the Department”) in compliance with section 4006(c) of the California Fish and Game Code (“FGC”) and SB 1148 (Pavley) (*See Exhibit A*).

We thank the Commission for receiving this Petition at the February 2016 meeting and subsequently referring the Petition to the Department for further analysis at the April 2016 meeting. In light of the Commission’s new members, this letter serves to provide the Commission with a concise overview of the Petition and updated Department statistics supporting the need for the regulation change.

## I. SUMMARY OF PETITION

This Petition respectfully requests the Commission to comply with the Fish and Game Code by substantially raising trapping license fees to the levels necessary for full cost recovery of the administrative and implementation costs of the state trapping program.<sup>1</sup> Specifically, FGC § 4006(c), enacted via SB 1148 (Pavley), mandates that the Commission set trapping license fees to the levels necessary to fully recover the Commission's and Department's reasonable administrative and implementation costs of the state trapping program. In spite of FGC § 4006(c) taking effect in January 2013, the Commission has repeatedly failed to implement this provision for the past three trapping seasons (seasons 2013-2014, 2014-2015, and 2015-2016), resulting in unlawfully low license fees that have failed to recoup the actual costs of the Department and Commission.<sup>2</sup> The Commission is legally obligated to comply with code requirements for the upcoming 2016-2107 trapping season, and any further noncompliance *should not* be countenanced.

## II. THE COMMISSION MUST SUBSTANTIALLY RAISE COMMERCIAL LICENSE FEES TO COMPLY WITH COST RECOVERY MANDATE IN AN EXPEDITIOUS MANNER

While the exact costs of California's trapping program are not publicly available, the extrapolation of existing Department data clearly demonstrates that revenue from existing commercial license fees fall grossly short of the cost of the total trapping program, resulting in the Commission's clear violation of FGC § 4006(c). As explained in the Petition, a reasonable estimate of the state's cost associated with the commercial trapping program is at a minimum \$200,000 and more likely substantially greater.<sup>3</sup> However, the total revenue of trapping license fees in the 2015-2016 season differed by a factor of ten—totaling just over \$20,000. The extraordinary gap between the license fee revenue and the trapping program costs not only evidences the Commission's gross non-compliance with the law, but illustrates the illegal subsidy footed by California taxpayers to the benefit of commercial fur trappers. (*See* figure below.)

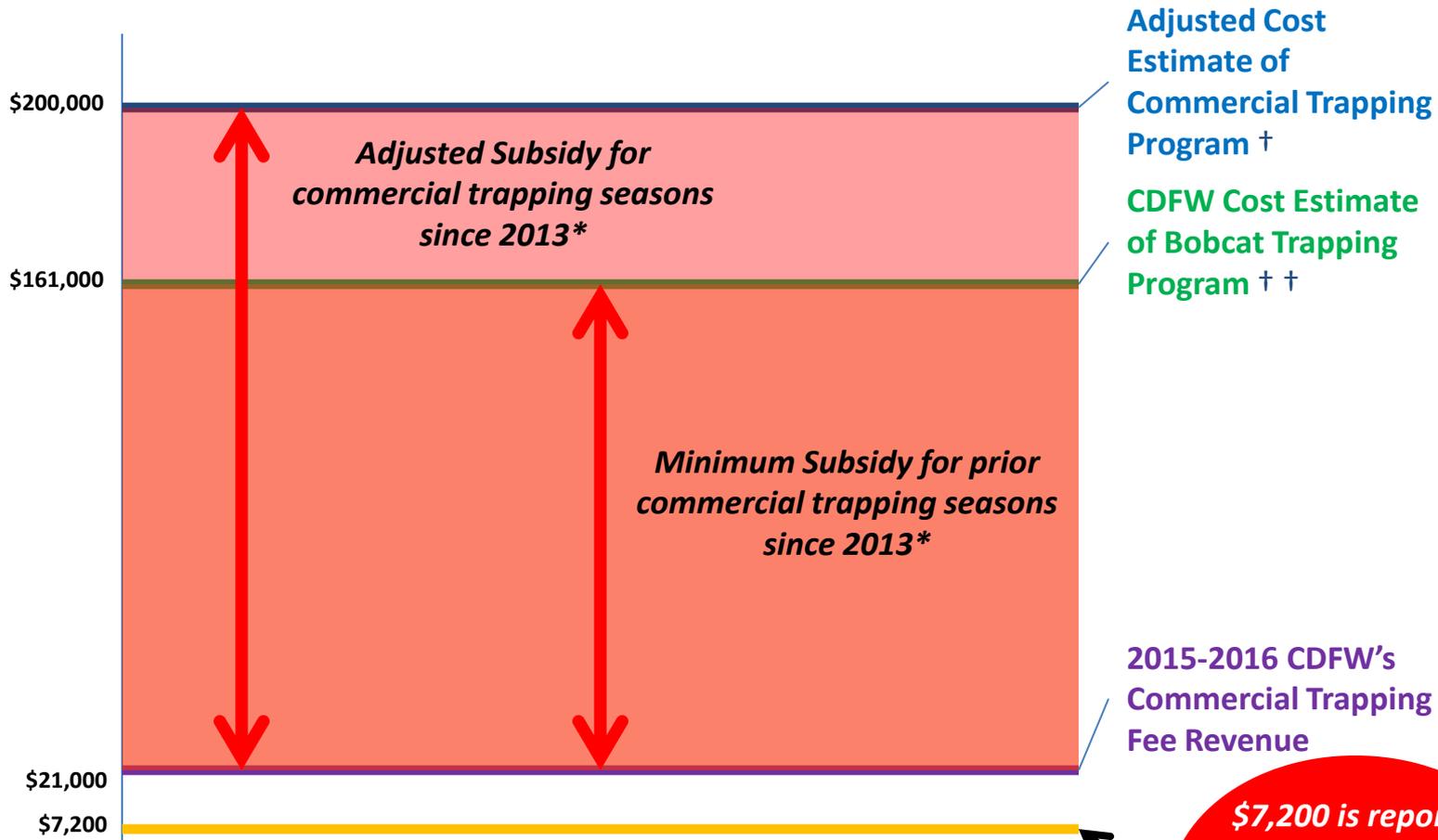
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<sup>1</sup> Petitioners seek changes in the trapping license fees only for commercial (*i.e.* "recreational") fur trapping at this stage. Given the different purposes as well as logistical, administrative, management and enforcement costs between commercial fur trapping and "pest control" trapping, Petitioners believe that setting fees and taking other management actions for these two trapping programs is best done separately. Any trapper intending to engage in both commercial and pest control trapping would be required to pay the higher of the two fees.

<sup>2</sup> *See* Petition for further details on evidence of the Commission's noncompliance with the cost recovery mandate.

<sup>3</sup> 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 (*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>.) 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.

# TRAPPING FEE REVENUE FALLS SHORT OF COST RECOVERY



† This cost adjustment is based off of the CDFW's cost estimate of the bobcat trapping program alone of \$161,000. Given bobcats are only one of a dozen species targeted by commercial trappers, program costs for the enforcement, management, and administration of the entire commercial trapping program is likely much higher; \$200,000 is a minimum reasonable estimate with the actual figure likely to be substantially greater. See Petition for greater detail.

† † Source: CDFW ISOR for the implementation of AB1213.

•These figures are illustrative of the potential illegal subsidy of the CA trapping program. The purple line indicates CDFW's trapping fee revenue from 2015-2016, but the total fee revenues from 2013 to the 2016 trapping seasons have varied slightly.

\*\*Source: CDFW 2014-2015 License Fur Trappers' and Dealers' Report.

**\$7,200 is reported total value of sold pelts minus bobcats from 2014-15 season\*\***

***A. License fees must increase at least nearly 20 times to recover program costs***

To come into compliance with the law, the level by which the Commission must raise trapping license fees is, indeed, substantial. The Commission has traditionally set trapping license fees for residential commercial trappers in the low one-hundreds, with the 2014-2015 residential trapping license priced at \$117. However, based on existing Department data and reasonable assumptions, we estimate that a trapping license fee would need to be priced at least at \$2,000—though the price is likely to be much higher, as discussed below. (To aid this cost discussion, please see figures and the attached powerpoint pack in Exhibit B, which was presented at the April 2016 Commission meeting.)

Setting adequate commercial trapping license fees requires dividing the commercial trapping program's total cost, estimated to be at least \$200,000, by the number of commercial trappers. With respect to the number of commercial fur trappers, we estimate that there are likely fewer than 100 trappers who would purchase commercial trapping licenses for the 2016-2017 trapping season. According to the 2015-2016 trapping season data, as updated by the Department on March 31, 2016, the Department sold a total of 732 trapping licenses, with only 110 (15%) licenses for commercial fur trapping, 541 (74%) licenses for pest control purposes, and 81 (11%) for both purposes.<sup>4</sup> As those license sales commenced in mid-2015, several months prior to the statewide ban of bobcat trapping taking effect, it can be assumed that a number of bobcat trappers purchased commercial trapping licenses before the finalization of the rule; we expect a further decline in commercial trapping licenses for the 2016-2017 trapping season to account for the absence of trappers explicitly trapping for lucrative bobcat pelts. In fact, the impact of the bobcat trapping ban on the purchase of commercial trapping licenses is already apparent in the available license sales data. Between the 2014-2015 and 2015-2016 trapping seasons, the sale of commercial fur trapping licenses decreased by 21%, while dual licenses for both commercial and depredation licenses experienced a similarly significant 26% drop-off, both likely due to the then-impending 2015 bobcat trapping ban.<sup>5</sup> Given this data, the best estimate of commercial trappers for the 2016-2017 trapping season would likely be significantly fewer than 100 trappers.<sup>6</sup> (*See* figure on next page.)

Assuming a total commercial fur trapping program cost of at least \$200,000 and the number of commercial fur trappers to be less than 100, a resident trapping license fee would need to be raised to at least \$2,000—exponentially higher than the license fees of \$117 for the 2015-2016 trapping season<sup>7</sup>—to

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<sup>4</sup> See Cal. Dep't of Fish and Wildlife, Special Permits, Items Reported by License Year (March 31, 2016). Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59827&inline>.

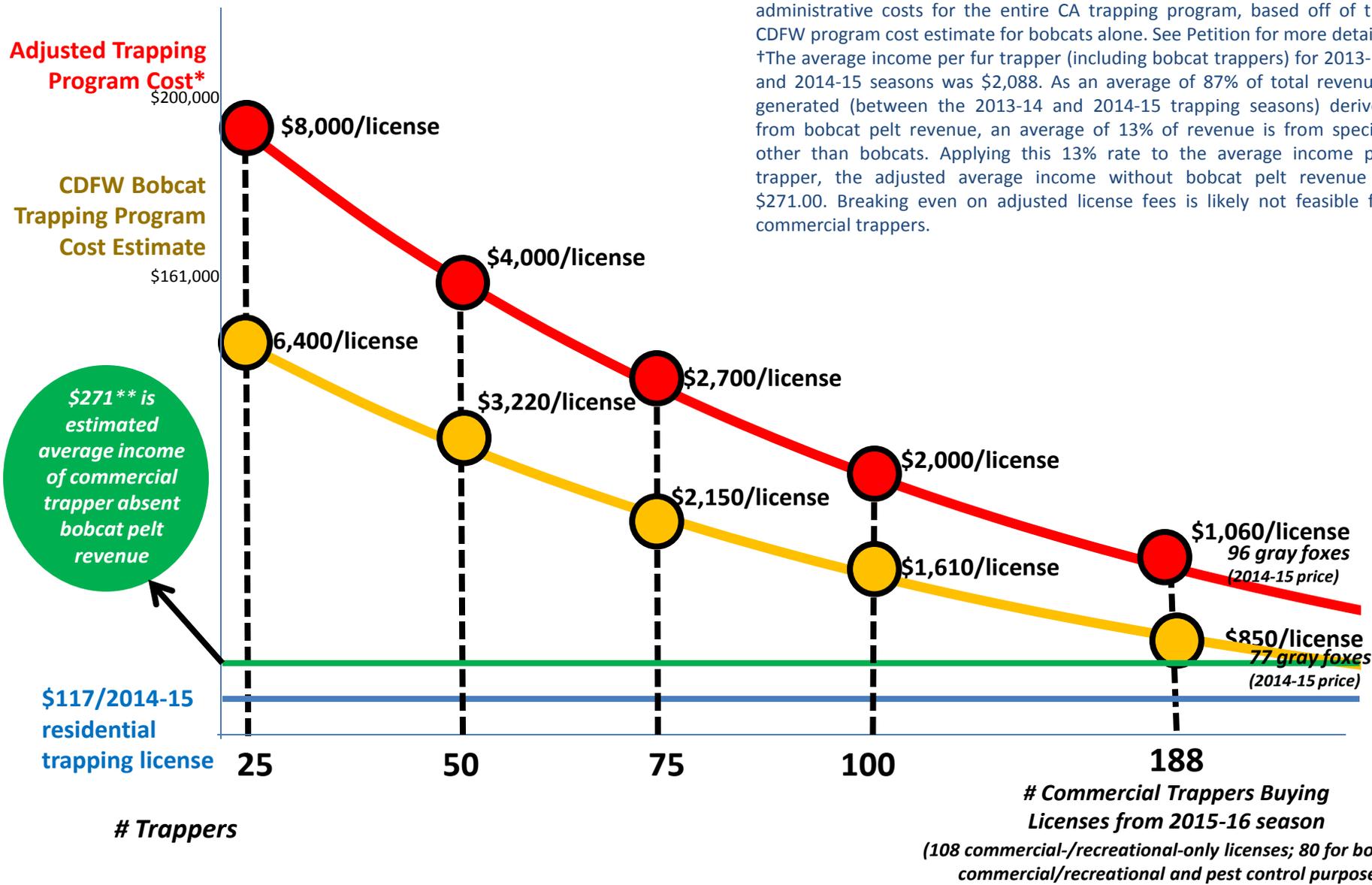
<sup>5</sup> In contrast, pest control licenses remained relatively consistent, experiencing only a 13% reduction. According to the Department's 2014-2015 trapping license data, a total number of 860 trapping licenses were issued, with 609 (71%) licenses obtained for pest control only purposes, 141 (17%) licenses for commercial fur trapping, and 110 (13%) for both purposes. See <https://www.wildlife.ca.gov/Licensing/Statistics>.

<sup>6</sup> Given the expected greatly increased cost of a commercial fur trapping license and the fact that any trapper seeking to engage in both pest control and commercial trapping would have to pay the higher of the two fees, we would expect that the majority of pest control trappers who currently check the application box for both categories would likely only check the pest control box in the future.

<sup>7</sup> We note the discrepancy in fee figures; the Department quoted the figure of \$113.75 in its revenue table (*see supra*, n. 2), while the application for a license cited \$117.16.

# FEES REQUIRED FOR COST RECOVERY NOT LIKELY AFFORDABLE

\*This adjusted cost curve assumes enforcement, management and administrative costs for the entire CA trapping program, based off of the CDFW program cost estimate for bobcats alone. See Petition for more detail.  
 †The average income per fur trapper (including bobcat trappers) for 2013-14 and 2014-15 seasons was \$2,088. As an average of 87% of total revenues generated (between the 2013-14 and 2014-15 trapping seasons) derived from bobcat pelt revenue, an average of 13% of revenue is from species other than bobcats. Applying this 13% rate to the average income per trapper, the adjusted average income without bobcat pelt revenue is \$271.00. Breaking even on adjusted license fees is likely not feasible for commercial trappers.



meet the cost recovery mandate. Given the projected 17-fold increase in fees, it is clear that setting such fees at the legally required cost-recovering levels would result in a far lower number of trappers (likely approaching zero) willing to pay such fees, leading to a blatant cost-recovery shortfall and inability to comply with the cost recovery mandate. Moreover, even if the Commission somehow concluded that the number of commercial fur trappers for purposes of cost calculations could be set at 200, license fees would still have to be set at \$1,000, an amount that few trappers would likely be willing to pay. This is especially the case in light of Department data showing that the average estimated trapping income of a commercial trapper, absent revenue from bobcat trapping, is approximately \$271,<sup>8</sup> rendering the \$1,000 license fee economically irrational for commercial trappers to purchase.

***B. Expeditious action to increase trapping fees is required***

The Commission must act expeditiously to raise trapping license fees to comply with the cost recovery mandate for the 2016-2017 trapping season; otherwise, the Commission risks a fourth year of statutory violations. In terms of process, given that the fee-recovery mandate of FGC § 4006 is a non-discretionary provision of law, we believe the Commission has full authority to immediately adopt a legally compliant fee increase through internal administrative processes—paralleling the annual license fee adjustments to account for inflation in accordance with FGC §§ 4006(a) and 713—rather than undertake a petition-driven rulemaking process.<sup>9</sup> Given that trapping licenses for a given year typically go on sale at least a month prior to the beginning of the license year starting on July 1, *now* is the time for the Commission to raise fees prior to the commencement of sales of the 2016-2017 trapping licenses.

However, should the Commission proceed with the rulemaking process to adjust fees, the Commission must act expeditiously to comply with the law during this trapping season. A number of options are available. As the best course of action, the Commission could direct the Department to refrain from issuing trapping licenses prior to the completion of this rulemaking. However, should timing prove difficult and the Commission fails to implement the necessary increase in the trapping license fee prior to the sale of 2016-2017 season licenses, the Commission may be able to at least partially remedy the situation by setting validation fees for each species subject to commercial trapping prior to the start of the

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<sup>8</sup> See powerpoint presentation in Exhibit B for more detail. According to Department statistics, the average income per fur trapper (including bobcat trappers) for 2013-14 and 2014-15 seasons was \$2,088. See Cal. Dep't of Fish and Wildlife, Summaries of Licensed Fur Trappers' and Dealers' Reports, available at: <https://www.wildlife.ca.gov/Licensing/Trapping>. As an average of 87% of total revenues generated (between the 2013-14 and 2014-15 trapping seasons) derived from bobcat pelt revenue, an average of 13% of revenue derives from species other than bobcats. Applying this 13% rate to the average income per trapper, the adjusted average income without bobcat pelt revenue is \$271. Breaking even on adjusted license fees is likely not feasible for commercial trappers.

<sup>9</sup> Petitioners believe that a petition for rulemaking prior to the Commission implementing this statutory provision should not be required. Petitioners have raised the fee adjustment issue through Petition #2015-009 for two reasons: (1) in order to respond to the verbal recommendation by the Commission's prior executive director to raise the issue via petition (See Fish and Game Commission Meeting, Los Angeles, CA (October 8, 2015). Available at: [http://www.cal-span.org/media.php?folder\[\]=CFG](http://www.cal-span.org/media.php?folder[]=CFG)); and (2) Petitioners submit this petition seeking regulations prohibiting commercial fur trapping, as Petitioners believe that the existing fur trapping program is highly unlikely to be fiscally viable even with a mandated fee increase. 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.

trapping seasons for these animals. Specifically, trapping seasons for the gray fox, badger, muskrat, mink and beaver, as well as in most areas for raccoon, all begin in November. *See* 14 C.C.R. 461, 462, 463, 464. A validation fee for each of these species could be adopted at the August 2016 Commission meeting so as to be implemented prior to the beginning of these trapping seasons. Such an approach would be consistent with the mechanism the Department proposed in 2015 to address the cost recovery mandate with regards to bobcat trapping.<sup>10</sup> Overall, the Commission should seriously consider adopting these approaches towards implementing the law rather than engage in another year of complete noncompliance with the law.<sup>11</sup>

III. IN THE ALTERNATIVE, THE COMMISSION SHOULD IMPLEMENT A STATEWIDE BAN ON COMMERCIAL FUR TRAPPING

In the alternative, as also requested in the Petition, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, which we believe is almost certainly the case, we urge the Commission to ban all commercial trapping of fur-bearing and nongame mammals. This choice is legally compliant and fiscally responsible; a ban on trapping resolves the Commission's continued violation of FGC § 4006(c), as the elimination of the commercial trapping program addresses the inability of the commercial trapping program to be self-financing.

Even more fundamental than self-finance, the implementation of a full ban on commercial fur trapping both ends the illegal subsidization of the trapping program and is consistent with the values of the overwhelming majority of Californians who appreciate our wildlife alive instead of as commodities to be exploited for private commercial gain. A coalition letter, from organizations representing over **3.1 million Californians** (*see Exhibit C*), was presented to the Commission in support of this petition and a statewide ban. Parallel to this organizational letter, thousands of Californians have written personal letters urging the Commission to adopt this regulation change and consider banning commercial trapping outright, including over **7,000 Californians** whose letters are attached herein (*see Exhibit D*). These voices are further amplified by the well over 25,000 letters of public support advocating for the statewide ban of commercial bobcat trapping in 2015.

Moreover, a statewide ban on commercial trapping drives California's wildlife management policy into the 21st century and is consistent with a slate of progressive actions taken by the California Legislature, Commission and the Department, such as banning commercial bobcat trapping, halting inhumane wildlife killing methods and renaming the Department to reflect the public's value of wildlife

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<sup>10</sup> Of course the bobcat validation requirement was never implemented as the Commission ultimately voted to prohibit bobcat trapping statewide. Such an option of a complete trapping ban is available for all these species as well.

<sup>11</sup> We note, however, that for those species for which the trapping season starts earlier than November (raccoons in parts of the state), or for which trapping is allowed year round (coyotes, weasels, skunks, opossums, moles and rodents), trapping would be allowed to begin prior to the implementation of a validation requirement. *See* 14 C.C.R.464, 472. Nevertheless, given the majority of animals taken by trappers are from species with trapping seasons starting in November, imposing the validation requirement for all species prior to November of this year would likely be sufficient to avoid litigation.

California Fish & Game Commission  
Re: Petition on Raising Trapping Fees  
June 9, 2016

not only as game but living creatures critical to the health of the State's ecosystems. If the Commission were to adopt a statewide ban on commercial fur trapping, it would be fully consistent with the Commission's mandate and the will of the majority of the state's population.

Thank you for your consideration. If you have any questions, please feel free to contact me directly.

Sincerely, on behalf of Petitioners,

A handwritten signature in black ink, appearing to read "Jean Su", followed by a horizontal line extending to the right.

Jean Su  
Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
Phone: (510) 844-7139  
jsu@biologicaldiversity.org

California Fish & Game Commission  
Re: Petition on Raising Trapping Fees  
June 9, 2016

**Exhibit A**  
**Petition on Raising Trapping License Fees (Petition #2015-009)**

*[See attached.]*

**Commissioners**  
**Jack Baylis**, President  
Los Angeles  
**Jim Kellogg**, Vice President  
Discovery Bay  
**Jacque Hostler-Carmesin**, Member  
McKinleyville  
**Eric Sklar**, Member  
Saint Helena  
**Anthony C. Williams**, Member  
Huntington Beach

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Sonke Mastrup**, Executive Director  
1416 Ninth Street, Room 1320  
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(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
*Since 1870*

December 15, 2015

Ms. Jean Su  
Petitioners Center for Biological Diversity  
And Project Coyote  
1212 Broadway Street, Suite 800  
Oakland, CA 94612

Dear Ms. Su:

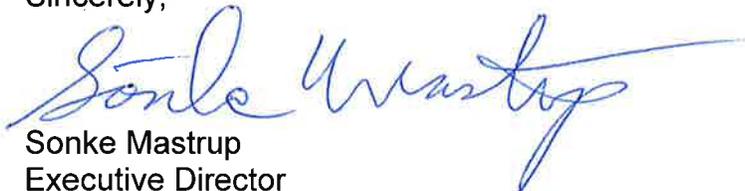
Thank you for submitting your petition for regulation change regarding commercial trapping fees (Tracking Number 2015-009) to the Fish and Game Commission (Commission).

Commission staff reviewed your petition for completeness and it has been accepted. Your request will be provided to the Commission at its February 10-11, 2016, meeting. Commission action on your request (deny or grant for further consideration) will be scheduled for the Commission's April 13-14, 2016, meeting. While it is not necessary for you to attend either of those meetings, you may attend if you desire.

Please see our website <http://www.fgc.ca.gov> for the exact times and locations for the above-referenced meetings.

If you have any further questions or concerns about the petition you submitted, please feel free to contact me at (916) 653-4899 or [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov).

Sincerely,

  
Sonke Mastrup  
Executive Director



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](mailto: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](mailto: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: 1212 Broadway St, Suite 800, Oakland, CA 94612  
Telephone number: (510) 844-7139  
Email address: [jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

### **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
- 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): 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  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.

**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:



State of California – Fish and Game Commission

**PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE**

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

- 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.

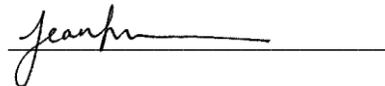
### B. PETITIONERS

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: Jean Su, Brendan Cummings, Center for Biological Diversity  
Address: 1212 Broadway St, Suite 800, Oakland, CA 94612  
Phone: (510) 844-7139  
Email: jsu@biologicaldiversity.org

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.<sup>1</sup>

## 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.<sup>2</sup> 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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<sup>1</sup> 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.

<sup>2</sup> 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.”<sup>3</sup>

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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<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> Given that the 2014-2015 license revenue of approximately \$77,000 fails to cover the cost of a single full-time warden<sup>7</sup>, 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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<sup>4</sup> California Department of Fish and Wildlife, "2015-2016 Trapping License Application." Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=84525&inline>.

<sup>5</sup> 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.

<sup>6</sup> 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, 50<sup>th</sup> 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](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.

<sup>7</sup> *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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

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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<sup>8</sup> 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>.

<sup>9</sup> See <https://www.wildlife.ca.gov/Licensing/Statistics>.

<sup>10</sup> 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.

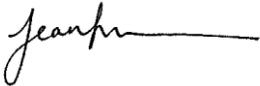
**E. The existing trapping fee schedule perpetuates a pattern of fiscal irresponsibility that the Legislature has cautioned against**

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  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
Phone: (510) 844-7139  
[jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

California Fish & Game Commission  
Re: Petition on Raising Trapping Fees  
June 9, 2016

**Exhibit B**

**Powerpoint Presentation re: Petition on Raising Trapping License Fees**

*[See attached.]*

CA Fish & Game Commission Meeting,  
April 2016, Santa Rosa

# PETITION TO RAISE CA COMMERCIAL TRAPPING FEES

FGC Petition No. 2015-009

Jean Su,  
Staff Attorney, Center for Biological Diversity

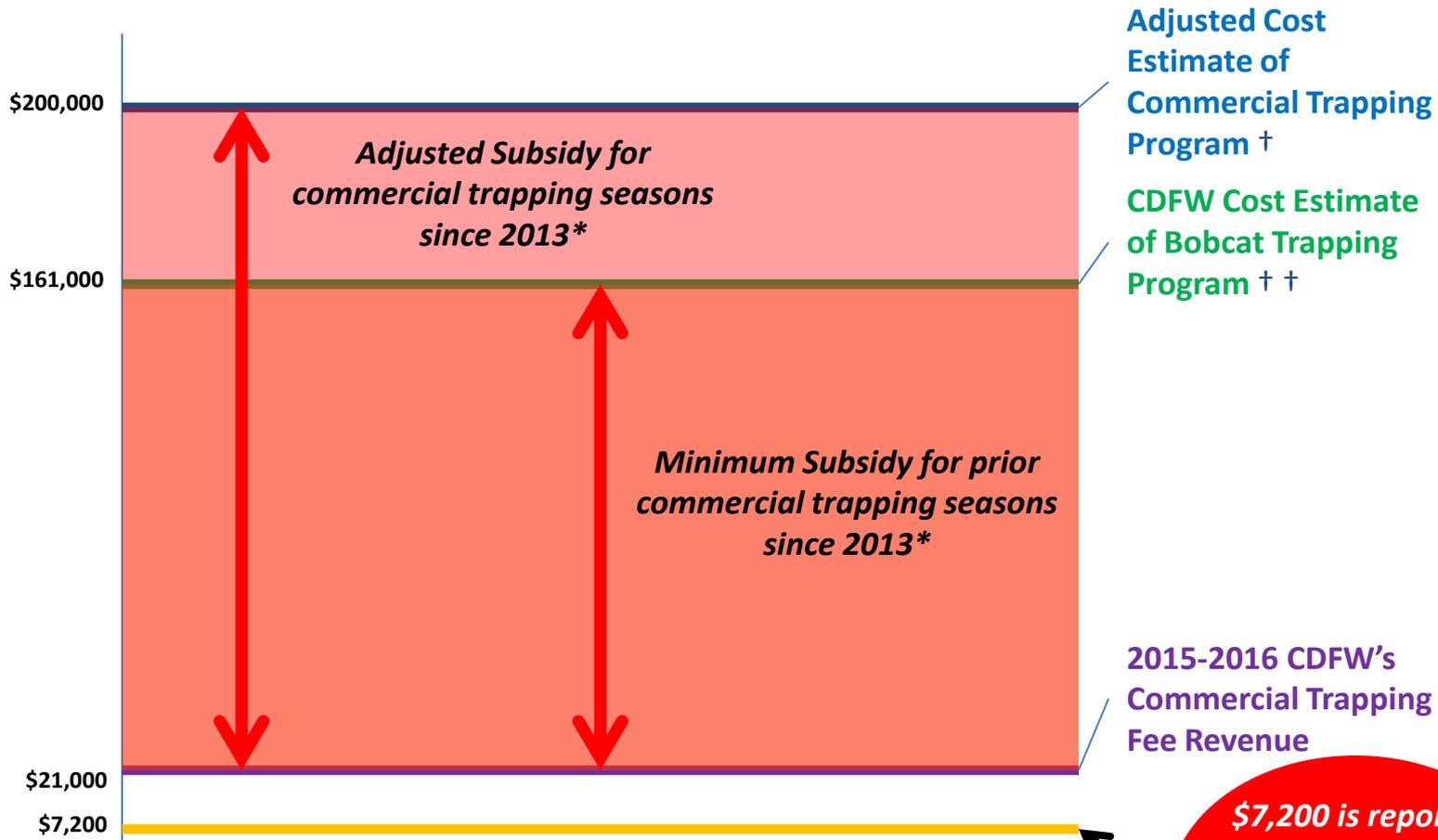




**Some of CA's  
Commercially Trapped Furbearers**



# TRAPPING FEE REVENUE FALLS SHORT OF COST RECOVERY



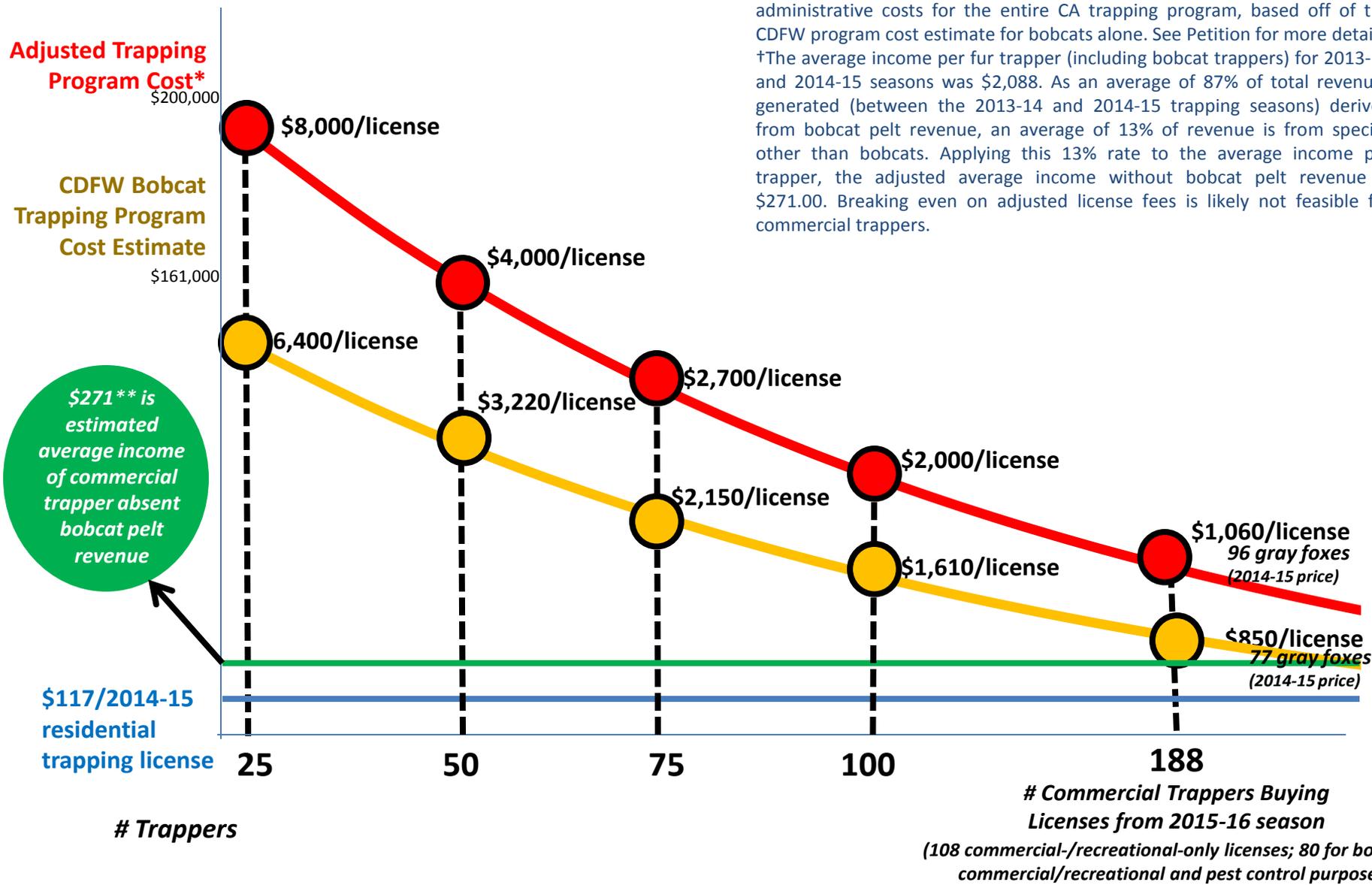
† This cost adjustment is based off of the CDFW's cost estimate of the bobcat trapping program alone of \$161,000. Given bobcats are only one of a dozen species targeted by commercial trappers, program costs for the enforcement, management, and administration of the entire commercial trapping program is likely much higher; \$200,000 is a minimum reasonable estimate with the actual figure likely to be substantially greater. See Petition for greater detail.  
 † † Source: CDFW ISOR for the implementation of AB1213.

•These figures are illustrative of the potential illegal subsidy of the CA trapping program. The purple line indicates CDFW's trapping fee revenue from 2015-2016, but the total fee revenues from 2013 to the 2016 trapping seasons have varied slightly.  
 \*\*Source: CDFW 2014-2015 License Fur Trappers' and Dealers' Report.

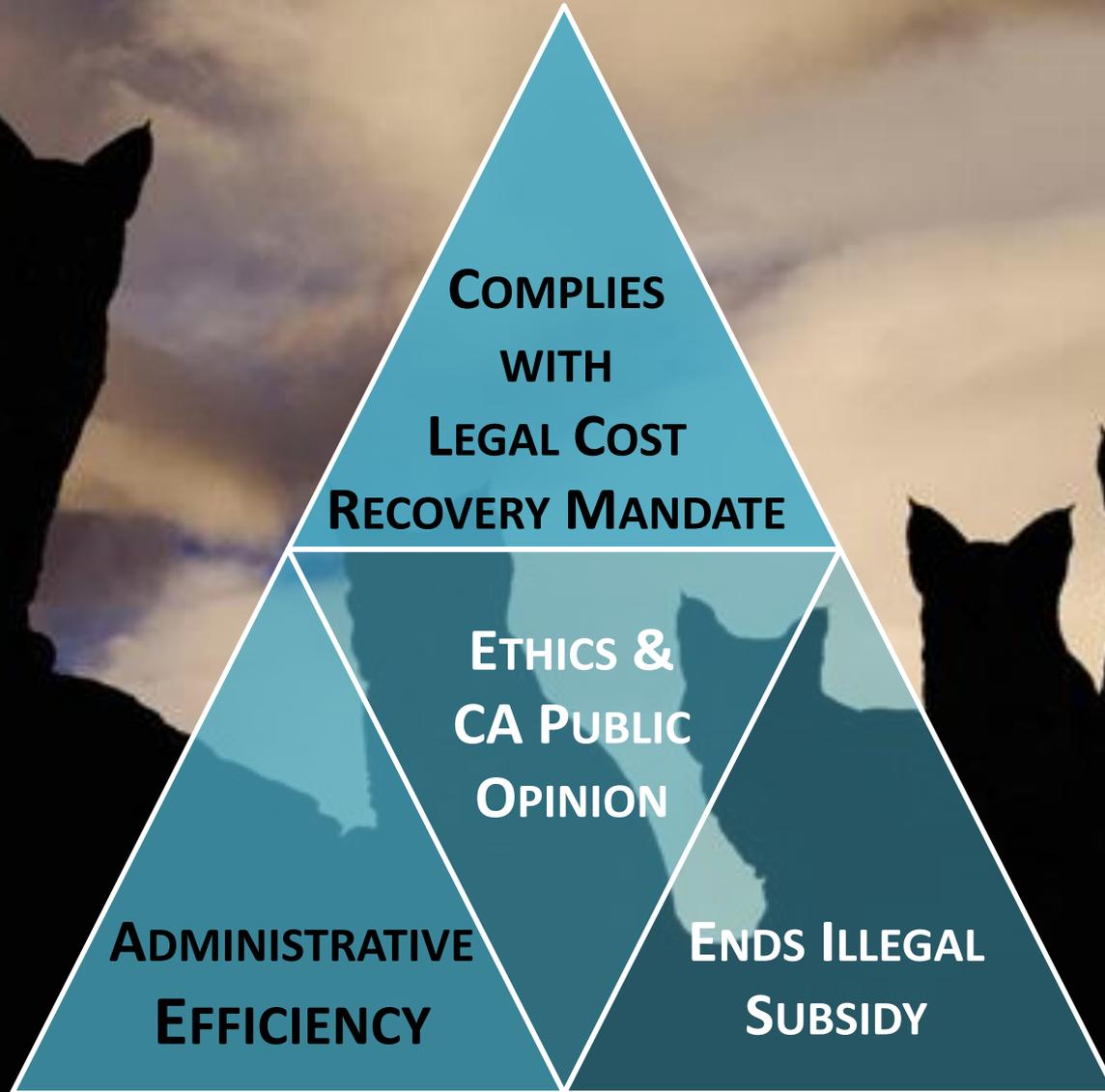
**\$7,200 is reported total value of sold pelts minus bobcats from 2014-15 season\*\***

# FEES REQUIRED FOR COST RECOVERY NOT LIKELY AFFORDABLE

\*This adjusted cost curve assumes enforcement, management and administrative costs for the entire CA trapping program, based off of the CDFW program cost estimate for bobcats alone. See Petition for more detail.  
 †The average income per fur trapper (including bobcat trappers) for 2013-14 and 2014-15 seasons was \$2,088. As an average of 87% of total revenues generated (between the 2013-14 and 2014-15 trapping seasons) derived from bobcat pelt revenue, an average of 13% of revenue is from species other than bobcats. Applying this 13% rate to the average income per trapper, the adjusted average income without bobcat pelt revenue is \$271.00. Breaking even on adjusted license fees is likely not feasible for commercial trappers.



# ALTERNATIVE OPTION: RATIONALE FOR A STATEWIDE BAN ON COMMERCIAL FUR TRAPPING





Thank you

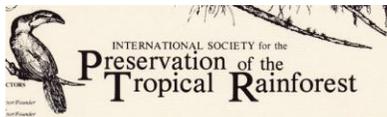


California Fish & Game Commission  
Re: Petition on Raising Trapping Fees  
June 9, 2016

**Exhibit C**

**Mass Coalition Letter Supporting Petition on Raising Trapping License Fees**

*[See attached.]*



LETTER IN SUPPORT FOR REGULATIONS TO RAISE COMMERCIAL TRAPPING FEES AND, IN THE ALTERNATIVE, BAN ALL COMMERCIAL FUR TRAPPING IN CALIFORNIA (PETITION #2015-009) Item #32(A), April 14, 2016 California Fish & Game Commission Meeting

*Sent via electronic mail*

April 8, 2016

California Fish and Game Commission (“the Commission” or “FGC”)  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Anthony Williams  
Interim Executive Director Michael Yaun

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

**Re: SUPPORT FOR COMMISSION’S ACTION TO RAISE COMMERCIAL TRAPPING LICENSE FEES  
(Petition #2015-009) (Item #32, April 14, 2016 Commission Meeting)**

Dear President Sklar, Vice President Hostler-Carmesin, Commissioner Williams, and Director Yaun:

We—Action for Animals, Animal Legal Defense Fund, Animal Rescue Team, Battle Creek Alliance, Bird Ally X, California Council for Wildlife Rehabilitators, California Wolf Center, Center for Biological Diversity, Citizens for Los Angeles Wildlife, Environmental Protection Information Center, Friends of Griffith Park, Humboldt Wildcare Center, International Society for the Preservation of the Tropical Rainforest, Los Angeles Wilderness Training, Marin Humane Society, Mountain Lion Foundation, Nevada Wildlife Alliance, Peace 4 Animals, Project Bobcat, Project Coyote, River Otter Ecology Project, San Diego Animal Advocates, Shark Stewards, Sierra Club California, Social Compassion in Legislation, Sonoma County Wildlife Rescue, The Humane Farming Association, The Humane Society of the United States, The Mojave Project, Western Watersheds Project, and WildEarth Guardians, collectively representing over 3,100,000 Californians—write to express our strong support for the California Fish and Game Commission to either raise commercial trapping license fees to the levels necessary for full recovery of the costs of California’s trapping program in accordance with section 4006(c) of the California Fish and Game Code (“FGC”) and SB 1148 (Pavley) (Petition #2015-009), or alternatively, in the likely event that trapping program costs are greater than can be recovered by a license fee increase, to promulgate regulations banning commercial fur trapping in the state.

As the Commission is well aware, FGC § 4006(c) requires that the Commission set trapping license fees to the levels necessary to fully recover the Commission’s and Department of Fish and Wildlife’s reasonable administrative and implementation costs of the state trapping program. However, since enactment of this provision in 2013, the Commission has failed to implement the law, and trapping license fees have been and remain unlawfully low, rendering the fur trapping program out of compliance with the cost recovery mandate of FGC § 4006(c). As is self-evident from information made available by the Commission and Department, it is indisputable that trapping license fees for the past three seasons have been woefully inadequate to recover trapping program costs. Revenue from commercial fur trapping license fees for the 2015-2016 season totaled only \$21,233, an amount that would cover only a small fraction of the salary of a single Department warden.<sup>1</sup> Given the full administrative, management

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<sup>1</sup> See Cal. Dep’t of Fish and Wildlife, Special Permits, Revenues Reported by License Year (Jan. 31, 2016). Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59828&inline>. A total of \$12,209 was recovered from the sale of fur trapping licenses (labeled “recreational” in the database), with an additional \$9,024 raised from the sale of licenses for both commercial fur and “pest-control” trapping. An additional \$60,441 was

and enforcement costs of the fur trapping program likely exceed several hundred thousand dollars, trapping license fees have been unlawfully set at least an order of magnitude too low.

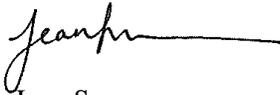
In light of the Commission's clear past and ongoing noncompliance with FGC § 4006(c), we urge the Commission to expeditiously increase fur trapping license fees prior to the issuance of licenses for the 2016-2017 trapping season. A continued illegal subsidy of commercial fur trapping will not be tolerated by the public, and certainly should not be tolerated by the Commission.

In the alternative, in the event that trapping program costs are determined unlikely to be fully recovered by license fee revenue, which we believe is the case, we request the Commission to promulgate regulations banning all commercial fur trapping of furbearing and nongame mammals. Implementing a commercial trapping ban is a simple and elegant solution toward meeting the legal mandate of FGC § 4006(c), is fully consistent with other provisions of the FGC, and is in line with the values of the state. We are grateful to the Commission for taking the tremendous step last year to ban all commercial trapping of bobcats. As was the case there and now here, the paltry profits of a few commercial fur trappers are surely outweighed by the public values toward wildlife held by an overwhelming majority of Californians.

Thank you for your consideration of these comments. We look forward to the Commission's swift action to address inadequate trapping license fees before the sale of this upcoming season's trapping licenses, either through an immediate increase in license fees or through the initiation of a rulemaking to prohibit all such trapping.

Sincerely,

Sincerely,



Jean Su  
Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
(510) 844-7139  
[jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)



Camilla Fox  
Executive Director  
Project Coyote  
P.O. Box 5007  
Larkspur, CA 94977  
(415) 945-3232  
[cfox@projectcoyote.org](mailto:cfox@projectcoyote.org)

*[More signatures to follow.]*

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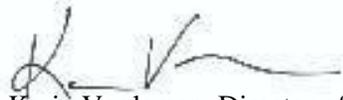
raised from pest control-only licenses. The petition currently before the Commission focuses on commercial fur trapping licenses, not those related solely to pest control trapping.



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/s/ Jessica L. Blome  
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Senior Staff Attorney  
Animal Legal Defense Fund  
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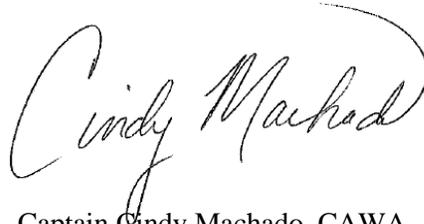
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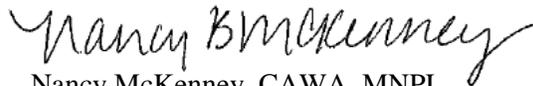
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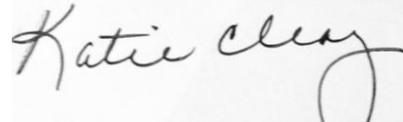
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Katie Cleary  
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/s/Eric Mills  
Eric Mills  
Coordinator  
Action for Animals  
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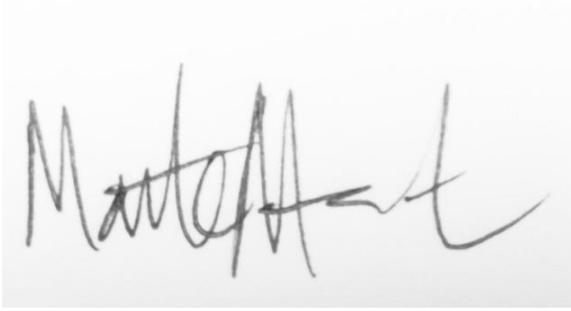
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Alison Simard  
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/s/ Jill Mountjoy  
Jill Mountjoy  
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Gerry Hans  
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Vann Masvidal  
President, California Council for Wildlife  
Chairperson, Rehabilitators and Advocacy  
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/s/ Kim Stringfellow  
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/s/ Julia J. Di Sieno  
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Animal Rescue Team, Inc.  
Executive Director, Co-founder  
805 896-1859  
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Arnold Newman

Arnold Newman, Ph.D.  
Executive Director  
International Society- for the Preservation of the  
Tropical Rainforest  
President, Oak Forest Canyon Homeowners  
Association  
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Sherman Oaks, CA91423

/s/ Jane Cartmill  
Jane Cartmill  
San Diego Animal Advocates  
[janecartmill@gmail.com](mailto:janecartmill@gmail.com)

California Fish & Game Commission  
Re: Petition on Raising Trapping Fees  
June 9, 2016

**Exhibit D**  
**Citizen Letters in Support of Petition**

*[See attached.]*



*Sent via electronic mail*

March 30, 2016

California Fish and Game Commission (“the Commission”)  
Interim Executive Director Michael Yaun  
Ms. Caren Woodson

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

**Re: Citizen Letters in Support of Petition on Raising Trapping License Fees (Petition #2015-009), Item #32(A), April 14, 2016 Commission Meeting**

Dear Director Yaun and Ms. Woodson,

Please find attached a total of **5,652 letters** from members of the Center for Biological Diversity in support of petition #2015-009 regarding raising commercial trapping license fees to the levels necessary for the full recovery of California’s trapping program.

We note that the text of the letters is substantially similar. For purposes of the inclusion of the letters in the Commissioners’ briefing binders for the April meeting, we suggest that Commission staff include this cover letter and one sample letter.

Thank you for inclusion of these letters in the briefing binders. Please feel free to reach out to me with any questions.

Sincerely,

Jean Su  
Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
Phone: (510) 844-7139  
[jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
US

Dear Commissioners,

I am writing to express my support for ending all commercial fur trapping in California. As a taxpayer, I strongly oppose my tax dollars being used to continue illegally subsidizing the commercial fur trapping trade. Commercial fur trapping is an outdated practice that offends my ethics and value of all wildlife as living, critical parts of our ecosystem; these animals belong to the public and are not commodities belonging to a handful of trappers.

You made the right choice in 2015 by banning the cruel practice of commercial bobcat trapping; now's your chance to end commercial fur trapping of all other species in California, bringing the state into the 21st century of wildlife management. Please do the right thing and ban commercial fur trapping.

Sincerely,

Avilda Kast

[REDACTED]  
[REDACTED]



Recipient: California Fish and Game Commission

**Re: Agenda Item 32(A): Support for regulations banning night-hunting & lethal trapping to protect wolves & for Commission compliance with trapping fee related laws (Pavley, SB 1148)**

Letter: Greetings Commissioners,

I am writing to express my support for a ban on night-time hunting and lethal trapping of nongame and furbearer species within the range of the gray wolf. Mistaken killings of gray wolves recolonizing California pose an immediate risk to the Shasta Pack and gray wolf recovery in general in California. Well-documented cases across the United States show that wolves are frequently killed by hunters targeting coyotes (particularly at night) and by lethal traps and snares set for coyotes and other animals. While wolf recovery and management in California will be a multifaceted and long-term endeavor engaging myriad stakeholders, the most immediate risks to the species can and must be addressed by the Commission. As the current California gray wolf population consists of only seven known wolves, it is indisputable that the wolves' very survival in the state is precarious, thus warranting expeditious action to minimize risks of their illegal take. The requested regulations are an essential step in this effort. The Commission's adoption of a ban against such activities serves to greatly reduce the likelihood of ESA and CESA violations by hunters and trappers, as well as the Commission's and Department's own potential legal liability under these statutes. I also support the petition to raise existing fur trapping license fees to levels that reflect the true costs of the program and believe the best and simplest way for the Commission to address this is to ban all commercial trapping of fur-bearing and nongame mammals in California.



*Sent via electronic mail*

June 9, 2016

California Fish and Game Commission (“the Commission”)  
Executive Director Valerie Termini  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Russell Burns  
Commissioner Peter Silva  
Commissioner Anthony Williams

1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
Fax: (916) 653-5040  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

CC: Director Charles Bonham, California Department of Fish & Wildlife  
Mr. Stafford Lehr, California Department of Fish & Wildlife  
Mr. Craig Martz, California Department of Fish & Wildlife  
Ms. Karen Miner, California Department of Fish & Wildlife

**Re: Petition on Banning Night-Time Hunting and Lethal Trapping in Gray Wolf Territory (Petition #2015-010), Item #38, June 23, 2016 Commission Meeting**

Dear Director Termini, President Sklar, Vice President Hostler-Carmesin, and Commissioners Burns, Silva, and Williams,

On behalf of the Center for Biological Diversity and Project Coyote (“Petitioners”) and our over 100,000 members and supporters in California, we respectfully request the Commission to adopt the regulation changes proposed in petition #2015-009 (“Petition”) to ban all night-time hunting and lethal trapping in potential gray wolf territory (*See Exhibit A*). This ban should be adopted *expeditiously* in order to protect the federally and state-listed gray wolf and aid this magnificent species on its critical road to recovery in California. We thank the Commission for receiving this Petition at the February 2016 meeting and subsequently referring the Petition to the Department for further analysis at the April 2016 meeting. In light of the Commission’s new members, this letter serves to provide the Commission with a concise overview of the Petition and relevant supporting documents.

#### I. SUMMARY OF PETITION

This Petition requests 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*),

*Alaska • Arizona • California • Florida • Minnesota • Nevada • New Mexico • New York • Oregon • Vermont • Washington, DC*

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 Exhibit B for powerpoint pack discussing the science and law in support of this Petition, presented to the Commission at the April 2016 meeting.)

## II. EXPEDITIOUS ACTION REQUIRED DUE TO PRECARIOUS STATUS OF GRAY WOLF

As the Commission is well aware, the recovery of California’s gray wolf population is precarious in light of only a single pack, the Shasta Pack, currently known to be residing in the state. In recognition of this status, the gray wolf is listed as endangered under both the state and federal Endangered Species Acts (“CESA” and “ESA”). While these regulatory mechanisms render both the intentional and accidental taking of gray wolves in California illegal, specific regulations are necessary to protect wolves in the state from one of the greatest threats to their recovery: the accidental killing of gray wolves mistaken for other species, particularly coyotes, in night-time hunting and lethal trapping currently permitted in occupied and potential wolf territory. We are pleased that the Commission is now, in response to a petition, considering regulations to address this need. Further, we note that North Carolina in 2014 banned night-time coyote hunting in wolf territory in order to protect its endangered red wolf populations.<sup>1</sup> We urge the Commission to follow state examples like North Carolina and take swift action on the requested regulations in order to greatly reduce the risk of future takings of wolves in violation of the ESA and CESA.

## III. COMPARABLE PROTECTIONS ALREADY AFFORDED TO OTHER THREATENED SPECIES

The protections we seek for the gray wolf are neither new nor extraordinary; identical protections are already afforded to California’s two other CESA-listed wild canids. Specifically, the Commission previously enacted prohibitions on night-time hunting and the use of lethal traps within the range of the endangered San Joaquin kit fox and Sierra Nevada red fox<sup>2</sup>—protections identical to those we now seek on behalf of the gray wolf. The Commission should afford equal protective treatment to the endangered gray wolf population.

## IV. TREMENDOUS SUPPORT FROM CALIFORNIANS

This regulation change has garnered wide-spread support from Californians. Over thirty organizations, representing over **3.1 million Californians**, submitted a coalition letter to the Commission

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<sup>1</sup> See North Carolina Administrative Code, 15A NCAC 10B.0219, available at: <http://ncrules.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2010%20%20wildlife%20resources%20and%20water%20safety/subchapter%20b/15a%20ncac%2010b%20.0219.pdf>. See also Bruce Sicheloff, *NC Coyote Hunting-Controls Approved for Red Wolf Protection*, THE NEWS & OBSERVER (Nov. 13, 2014), <http://www.newsobserver.com/news/local/article10127975.html>.

<sup>2</sup> See 14 CCR § 465.5(g)(5)(c), 466 and 474(a).

California Fish & Game Commission  
Re: Petition on Banning Night-Time Hunting and Trapping in Gray Wolf Territory  
June 9, 2016

in April 2016 urging the Commission to adopt these regulations expeditiously. In addition, over 1,000 Californians expressed their support for this regulation change in a Change.org petition. (See Exhibit C.)

Thank you for your consideration. If you have any questions, please feel free to contact me directly.

Sincerely, on behalf of Petitioners,

A handwritten signature in cursive script, appearing to read "Jean Su", followed by a horizontal line extending to the right.

Jean Su  
Staff Attorney  
Center for Biological Diversity  
1212 Broadway Street, Suite 800  
Oakland, California 94612  
Phone: (510) 844-7139  
jsu@biologicaldiversity.org

California Fish & Game Commission  
Re: Petition on Banning Night-Time Hunting and Trapping in Gray Wolf Territory  
June 9, 2016

**Exhibit A**

**Petition on Banning Night-Time Hunting and Trapping in Gray Wolf Territory  
(Petition #2015-010)**

*[See attached.]*

**Commissioners**  
**Jack Baylis**, President  
Los Angeles  
**Jim Kellogg**, Vice President  
Discovery Bay  
**Jacque Hostler-Carmesin**, Member  
McKinleyville  
**Eric Sklar**, Member  
Saint Helena  
**Anthony C. Williams**, Member  
Huntington Beach

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Sonke Mastrup**, Executive Director  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
*Since 1870*

December 15, 2015

Ms. Jean Su  
Petitioners Center for Biological Diversity  
And Project Coyote  
1212 Broadway Street, Suite 800  
Oakland, CA 94612

Dear Ms. Su:

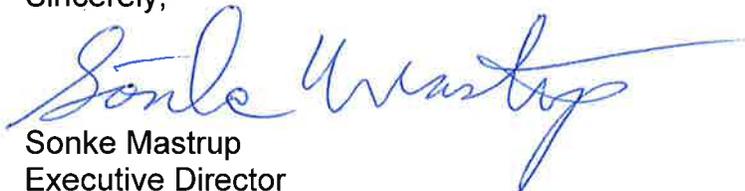
Thank you for submitting your petition for regulation change regarding commercial trapping fees (Tracking Number 2015-009) to the Fish and Game Commission (Commission).

Commission staff reviewed your petition for completeness and it has been accepted. Your request will be provided to the Commission at its February 10-11, 2016, meeting. Commission action on your request (deny or grant for further consideration) will be scheduled for the Commission's April 13-14, 2016, meeting. While it is not necessary for you to attend either of those meetings, you may attend if you desire.

Please see our website <http://www.fgc.ca.gov> for the exact times and locations for the above-referenced meetings.

If you have any further questions or concerns about the petition you submitted, please feel free to contact me at (916) 653-4899 or [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov).

Sincerely,

  
Sonke Mastrup  
Executive Director



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](mailto: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](mailto: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: 1212 Broadway St, Suite 800, Oakland, CA 94612  
Telephone number: (510) 844-7139  
Email address: [jsu@biologicaldiversity.org](mailto:jsu@biologicaldiversity.org)

### **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 nescator*), 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

Hunting

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>)*

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  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.

## **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”).

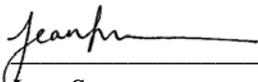
### B. PETITIONERS

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.

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



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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 recovery.

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*<sup>1</sup> 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<sup>2</sup>, though considerable clinal variation in size exists from the Arctic to central Mexico.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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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<sup>1</sup> Mech, L.D. 1970. *The wolf: the ecology and behavior of an endangered species*. Natural History Press. Stillwater, MN.

<sup>2</sup> Mech 1970.

<sup>3</sup> Young, S.P. and E.A. Goldman. 1944. *The Wolves of North America*. American Wildlife Institute. Washington, D.C.

<sup>4</sup> Mech 1970.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> O'Farrell, T.P. 1984. Conservation of the San Joaquin 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](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.<sup>8</sup>

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.<sup>9</sup> 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 Plan, the last draft issued in December 2015. The Department has engaged a wide stakeholder group, including Petitioner, to develop the plan.

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<sup>8</sup>*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>.

<sup>9</sup>*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.<sup>10</sup> 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.”<sup>11</sup>

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.”<sup>12</sup>

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 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 hunting, has led to several deaths of endangered wolves mistaken as coyotes. In its notice of findings for

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<sup>10</sup> 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](http://www.canids.org/CBC/18/Red_wolf_recovery_response_to_Way.pdf).

<sup>11</sup> 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>.

<sup>12</sup> *Id.*

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.”<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup>

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<sup>13</sup> *Id.* at 7. 9.

<sup>14</sup> 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](http://www.oregonlive.com/pacific-northwestnews/index.ssf/2015/11/baker_city_man_charged_with_mi.html#incart_river_home).

<sup>15</sup> 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>.

<sup>16</sup> 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>.

<sup>17</sup> *Id.*

<sup>18</sup> 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](http://www.biologicaldiversity.org/campaigns/gray_wolves/pdfs/Making_Room_for_Recovery_print.pdf).

<sup>19</sup> *Id.* at 5-6; Appendix D at 19-25.

<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup> 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.<sup>25</sup> Similar incidents have been reported around the country, such as local newspaper accounts from Maine, Michigan, and Pennsylvania.<sup>26</sup>

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 catch, kill and maim non-target animals without the opportunity for human judgment. Where there is

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<sup>21</sup> 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>.

<sup>22</sup> 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>.

<sup>23</sup> *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](http://www.denverpost.com/news/ci_24846304/man-killed-hunting-accident-sw-colorado).

<sup>24</sup> 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>.

<sup>25</sup> 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/>.

<sup>26</sup> 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/>.

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.<sup>27</sup> 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.<sup>28</sup> 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<sup>29</sup>. 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 protection of the endangered San Joaquin kit fox. 14 CCR § 474(a). Coyote hunting, including night-time

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<sup>27</sup> 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>.

<sup>28</sup> 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/>.

<sup>29</sup> 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](http://www.biologicaldiversity.org/campaigns/gray_wolves/pdfs/ODFWStatusReviewForGrayWolf.pdf).

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.

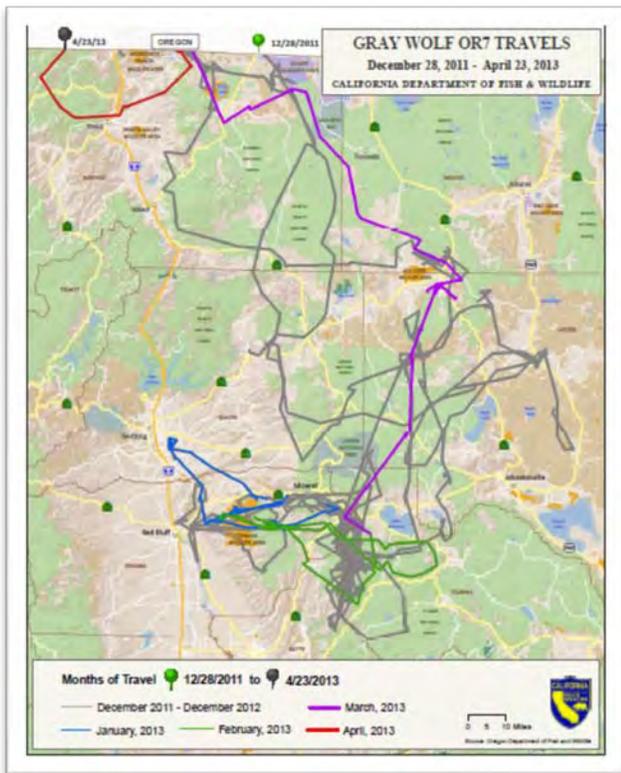
Similarly, geographic restrictions on the use of lethal traps that were imposed to protect California's two other endangered canids are not applicable within much of the current known and probable range of wolves in the state. Gray wolves need, are legally-entitled to, and consequently must be afforded 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.<sup>30</sup>

### **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).

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<sup>30</sup> 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.

California Fish & Game Commission  
Re: Petition on Banning Night-Time Hunting and Trapping in Gray Wolf Territory  
June 9, 2016

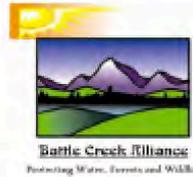
**Exhibit B**  
**Powerpoint Presentation re: Petition**

*[See attached.]*

# PETITION TO INSTITUTE A BAN ON NIGHT-TIME HUNTING & LETHAL TRAPPING IN THE RANGE OF THE GRAY WOLF



Presented by Camilla H. Fox



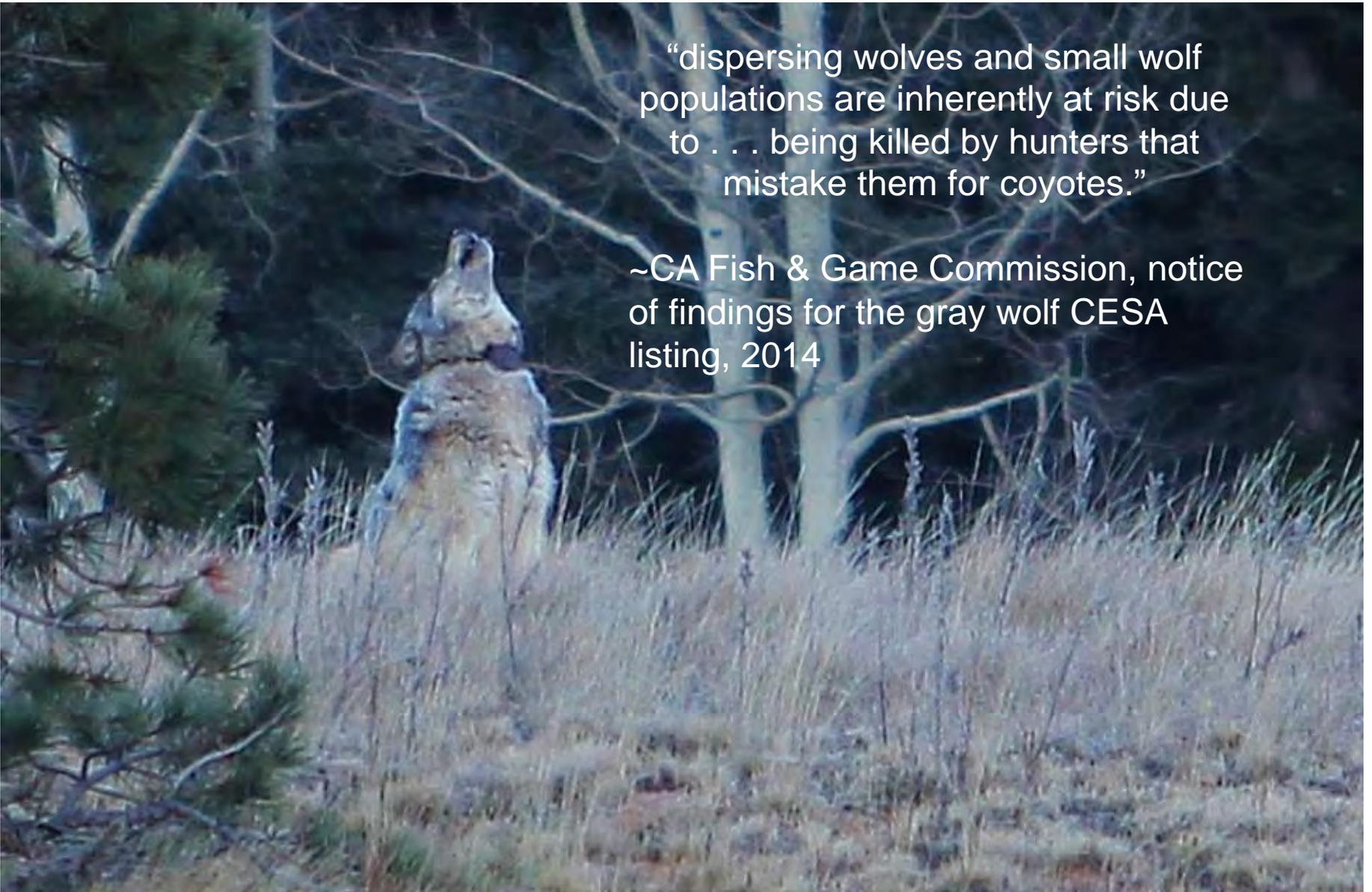
SCIL Social Compassion in Legislation



LETTER IN SUPPORT FOR REGULATIONS TO BAN NIGHT-TIME HUNTING AND LETHAL TRAPPING IN GRAY WOLF TERRITORY (PETITION #2015-010)

Item #32(A), April 14, 2016 California Fish & Game Commission Meeting



A photograph of a wolf standing in a field of tall, dry grass, howling with its mouth open and head tilted back. The background features several trees, including a prominent evergreen on the left and bare deciduous trees. The lighting is somewhat dim, suggesting dusk or dawn.

“dispersing wolves and small wolf populations are inherently at risk due to . . . being killed by hunters that mistake them for coyotes.”

~CA Fish & Game Commission, notice of findings for the gray wolf CESA listing, 2014



# Proposed Zones Banning Night-Time Hunting and Lethal Trapping

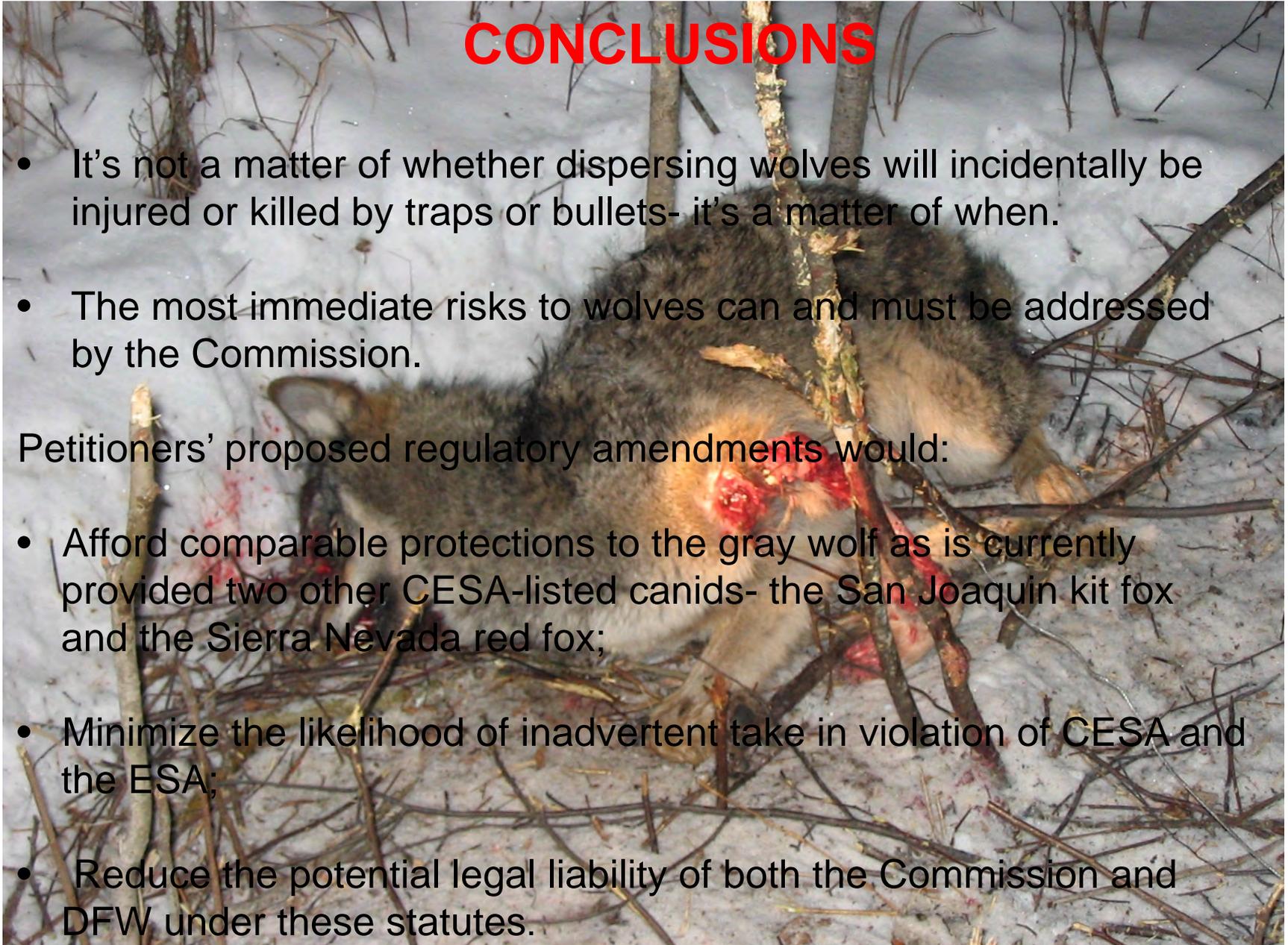


# CONCLUSIONS

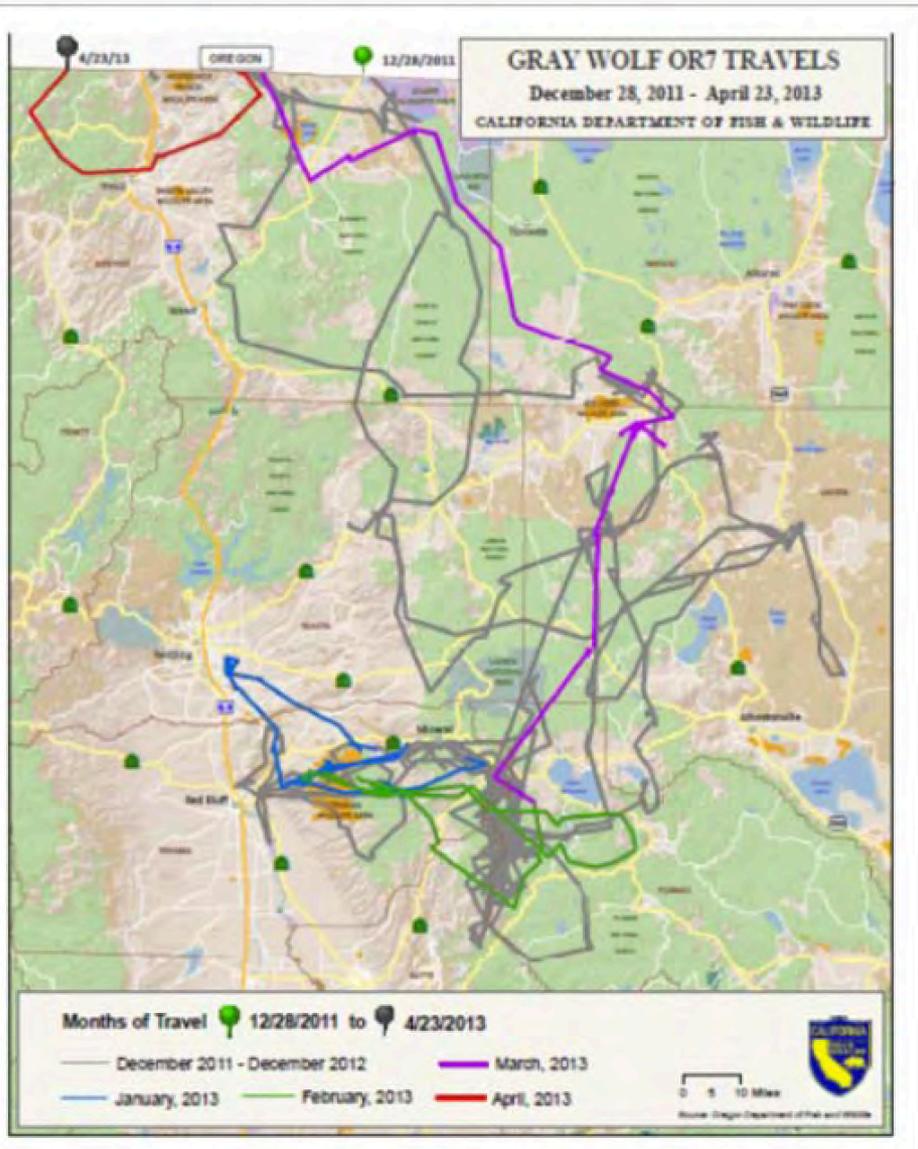
- It's not a matter of whether dispersing wolves will incidentally be injured or killed by traps or bullets- it's a matter of when.
- The most immediate risks to wolves can and must be addressed by the Commission.

Petitioners' proposed regulatory amendments would:

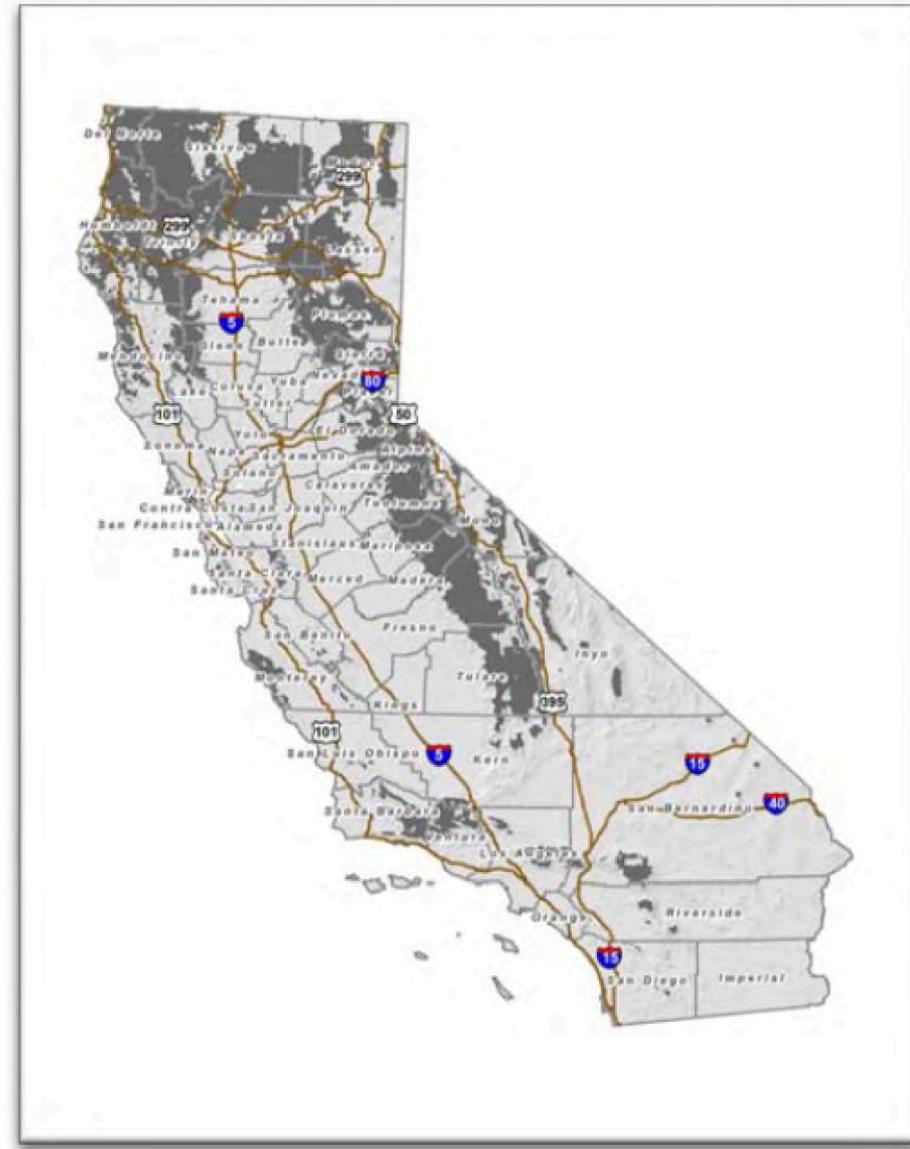
- Afford comparable protections to the gray wolf as is currently provided two other CESA-listed canids- the San Joaquin kit fox and the Sierra Nevada red fox;
- Minimize the likelihood of inadvertent take in violation of CESA and the ESA;
- Reduce the potential legal liability of both the Commission and DFW under these statutes.



Map 1. OR7 Traveled Territory in California



Map 2. CDFW Map of Wolf Recovery Areas



California Fish & Game Commission  
Re: Petition on Banning Night-Time Hunting and Trapping in Gray Wolf Territory  
June 9, 2016

**Exhibit C**  
**Mass Coalition Letter in Support of Petition**

*[See attached.]*



**NRDC**  
NATURAL RESOURCES  
DEFENSE COUNCIL



California Wolf Center



Conservation, Education, Research



**WILDLIFE RESCUE**  
SONOMA COUNTY



**SCIL**  
Social Compassion  
in Legislation



**LETTER IN SUPPORT FOR REGULATIONS TO BAN NIGHT-TIME HUNTING AND LETHAL TRAPPING IN GRAY WOLF TERRITORY (PETITION #2015-010)**

**Item #32(A), April 14, 2016 California Fish & Game Commission Meeting**

*Sent via electronic mail*

March 30, 2016

California Fish and Game Commission (“the Commission” or “FGC”)  
President Eric Sklar  
Vice President Jacqueline Hostler-Carmesin  
Commissioner Anthony Williams  
Interim Executive Director Michael Yaun

1416 Ninth Street, Room 1320  
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**Re: SUPPORT FOR REGULATIONS TO BAN NIGHT-TIME HUNTING AND LETHAL TRAPPING IN GRAY WOLF TERRITORY (PETITION #2015-010) (Item #32(A), April 14, 2016 FGC Meeting)**

Dear President Sklar, Vice President Hostler-Carmesin, Commissioner Williams, and Director Yaun:

We—Action for Animals, Animal Legal Defense Fund, Apex Protection Project, Battle Creek Alliance, California Wolf Center, Cascadia Wildlands, Center for Biological Diversity, Defenders of Wildlife, Eastern Sierra Wildlife Care, Endangered Species Coalition, Environmental Protection Information Center, International Marine Mammal Project, Klamath Forest Alliance, Los Angeles Wilderness Training, Marin Humane Society, Mountain Lion Foundation, Natural Resources Defense Council, Nevada Wildlife Alliance, Peace 4 Animals, Project Bobcat, Project Coyote, River Otter Ecology Project, Shark Stewards, Sierra Club California, Social Compassion in Legislation, Sonoma County Wildlife Rescue, The Humane Society of the United States, Western Watersheds Project, WildEarth Guardians, and Wildlife Emergency Services, collectively representing over 3,100,000 Californians—write to express our strong support for regulations to ban night-time hunting and lethal trapping of coyotes and other species within the range of the gray wolf in California (Petition #2015-010). We urge the Commission to expeditiously adopt the ban in order to protect the federally and state-listed gray wolf and aid this magnificent species on its critical road to recovery in California.

As the Commission is well aware, the recovery of California’s gray wolf population is precarious in light of only a single pack, the Shasta Pack, currently known to be residing in the state. In recognition of this status, the gray wolf is listed as endangered under both the state and federal Endangered Species Acts (“CESA” and “ESA”). While these regulatory mechanisms render both the intentional and accidental taking of gray wolves in California illegal, specific regulations are necessary to protect wolves in the state from one of the greatest threats to their recovery: the accidental killing of gray wolves mistaken for other species, particularly coyotes, in night-time hunting and lethal trapping currently permitted in occupied and potential wolf territory. We are pleased that the Commission is now, in response to a petition, considering regulations to address this need.

We urge the Commission to take swift action on the requested regulations in order to greatly reduce the risk of future takings of wolves in violation of the ESA and CESA. Well-documented cases across the United States show that wolves have frequently been killed by hunters targeting coyotes as well as having been injured or killed in traps set for other species.<sup>1</sup> The Commission, in your notice of findings for the

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<sup>1</sup> See Petition #2015-010 for further details.

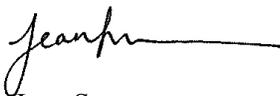
gray wolf CESA listing, confirmed that “dispersing wolves and small wolf populations are inherently at risk due to . . . being killed by hunters that mistake them for coyotes.” Further, the California Department of Fish and Wildlife articulated the accidental killing of wolves “mistak[en] . . . for coyotes” and “by traps or snares” as key sources of wolf mortality in its December 2015 Draft Conservation Plan for Gray Wolves.<sup>2</sup> The risk of mistaken identity is greatest at night, with threats to species that look nothing like the target species, including humans.<sup>3</sup> 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 gray wolf will, absent amendment, almost certainly result in the illegal take of the endangered gray wolf. The Commission’s adoption of a ban against such activities serves to greatly reduce the likelihood of ESA and CESA violations by hunters and trappers, as well as the Commission’s and Department’s own potential legal liability under these statutes.

Moreover, the protections we seek for the gray wolf are neither new nor extraordinary; identical protections are already afforded to California’s two other CESA-listed wild canids. Specifically, the Commission previously enacted prohibitions on night-time hunting and the use of lethal traps within the range of the endangered San Joaquin kit fox and Sierra Nevada red fox<sup>4</sup>—protections identical to those we now seek on behalf of the gray wolf. The Commission should afford equal protective treatment to the endangered gray wolf population.

While we recognize that wolf recovery and management in California will be a multifaceted and long-term endeavor engaging myriad stakeholders, the most immediate risks to the species can and must be addressed by the Commission. As the current California gray wolf population consists of only seven known wolves, it is indisputable that the wolves’ very survival in the state is precarious, thus warranting expeditious action to minimize risks of their illegal take. The requested regulations are an essential step in this effort.

Thank you for your consideration of these comments. We look forward to the Commission’s swift action on this matter.

Sincerely,



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<sup>2</sup> California Fish and Wildlife Department, Draft Conservation Plan for Gray Wolves in California Part II, p. 13 (December 2015), <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=112630&inline>.

<sup>3</sup> 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. See 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>. See Petition for further analysis.

<sup>4</sup> See 14 CCR § 465.5(g)(5)(c), 466 and 474(a).



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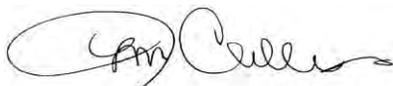
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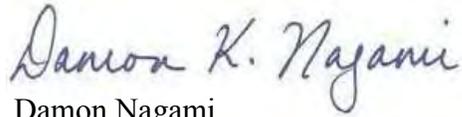
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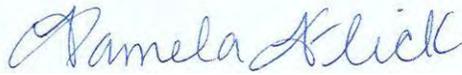
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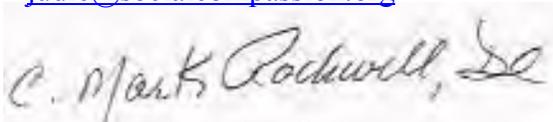
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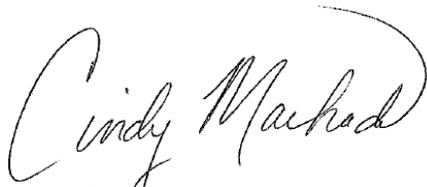
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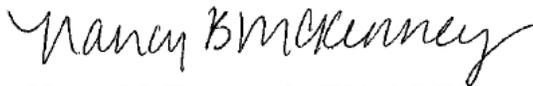


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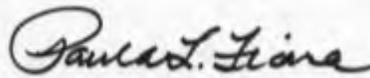
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Board Representative  
Project Bobcat  
HC1-1067  
Joshua Tree, CA 92252  
(213)705-8003  
[miriamseger@mac.com](mailto:miriamseger@mac.com)



Paula Ficara  
Founder/Executive Director  
P.O. Box 220  
Acton, CA 93510  
661-575-9261  
[Paula@ApexProtectionProject.org](mailto:Paula@ApexProtectionProject.org)



Recipient: California Fish and Game Commission

**Re: Agenda Item 32(A): Support for regulations banning night-hunting & lethal trapping to protect wolves & for Commission compliance with trapping fee related laws (Pavley, SB 1148)**

Letter: Greetings Commissioners,

I am writing to express my support for a ban on night-time hunting and lethal trapping of nongame and furbearer species within the range of the gray wolf. Mistaken killings of gray wolves recolonizing California pose an immediate risk to the Shasta Pack and gray wolf recovery in general in California. Well-documented cases across the United States show that wolves are frequently killed by hunters targeting coyotes (particularly at night) and by lethal traps and snares set for coyotes and other animals. While wolf recovery and management in California will be a multifaceted and long-term endeavor engaging myriad stakeholders, the most immediate risks to the species can and must be addressed by the Commission. As the current California gray wolf population consists of only seven known wolves, it is indisputable that the wolves' very survival in the state is precarious, thus warranting expeditious action to minimize risks of their illegal take. The requested regulations are an essential step in this effort. The Commission's adoption of a ban against such activities serves to greatly reduce the likelihood of ESA and CESA violations by hunters and trappers, as well as the Commission's and Department's own potential legal liability under these statutes. I also support the petition to raise existing fur trapping license fees to levels that reflect the true costs of the program and believe the best and simplest way for the Commission to address this is to ban all commercial trapping of fur-bearing and nongame mammals in California.

**CALIFORNIA FISH AND GAME COMMISSION**  
**REQUESTS FOR NON-REGULATORY ACTION 2016**  
 Revised 06-01-2016

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

Date Received	Name of Petitioner	Subject of Request	Short Description	Staff Recommendation	FGC Decision
2/9/2016	<a href="#">Laura Dax Honda and 15 students, Manor School</a>	Bullfrogs	Requests FGC do whatever it can to help protect native frogs from non-native imported bullfrogs intended for human consumption.	<i>Refer; already under review by DFW</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
2/25/2016	<a href="#">Helen Bourne</a>	Pumas	Requests consideration and funding for open space linkage protection and wildlife corridor enhancements to protect southern California pumas as outlined in a July 1, 2015 CalTrans Sustainability Policy Memo and for those goals to be stated in the CalTrans 2040 Plan.	<i>Deny; outside FGC authority</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
2/12/2016	<a href="#">Kim Richard</a>	Pallid bat	Requests 15 minutes for presentation on Pallid bat.	<i>Refer to FGC staff to evaluate and coordinate presentation for October FGC meeting</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
2/17/2016	<a href="#">Jim Conrad</a>	Predator Policy Workgroup	Requests reconsideration of his application for inclusion in the appointed writing group.	<i>Deny; selection is complete and the workgroup is active. Petitioner is encouraged to participated via public meetings.</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
3/9/2016	<a href="#">Ronald Stephens</a>	Predator Policy Workgroup	Requests reconsideration of the appointed writing group to include southern California hunters/trappers.	<i>Deny; selection is complete and the workgroup is active. Petitioner is encouraged to participated via public meetings.</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
4/13/2016	Paul Weakland	DFW management	Requests an itemized audit of DFW and FGC to show how natural resources are being managed.	<i>Deny; audits and budgets are publicly available via Department of Finance, State Auditor, and Governor's budget</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
4/13/2016	Mike McCorckle	Petition form	Requests FGC-1 more clearly explain how to fill out the petition for regulation change.	<i>Grant; FGC staff efforts are underway</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
4/14/2016	<a href="#">Jenny Loda, Center for Biological Diversity</a>	Bullfrog importation	(a) Requests report on bullfrog importation, (b) ask staff to work with DFW to protect against the spread of disease, and (c) consider an outright ban on bullfrog importation.	(a) <i>Grant; see DFW Feb 2015 report</i> (b) <i>Grant; previously referred to DFW</i> (c) <i>Deny; requires petition for regulatory change</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
4/14/2016	Kimberly Richard	Bats	Requests FGC do more to help the struggling bat population.	<i>Grant; item placed on future agenda</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>
4/14/2016	<a href="#">Eric Mills</a>	Bullfrog importation	Requests FGC work with DFW to ban the issuance of permits for bullfrogs importation, place this issue back on the agenda for consideration and action.	<i>Deny; requires petition for regulatory change</i>	RECEIPT: 4/13-14/2016 <b>ACTION: Scheduled 6/22-23/2016</b>

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

February 7, 2016

Commissioner Richard Rogers  
California Fish and Game Commission  
P.O. Box 949209  
Sacramento, CA 94244-2090

Dear Commissioner Rogers,

I am a fourth grade teacher at Manor School in Fairfax and I coordinate our school's Green Team. I believe very strongly in teaching children about our natural world and how to take care of it. My students and I love birds, bees, flowers, trees, frogs, elephants and all of nature and we want to help make a difference in the world.

Recently we heard from Dr. Kerry Kriger, director and founder of Save the Frogs, that non-native bull frogs are invading our California eco-systems and consuming our native red legged and yellow legged frogs. Our water district (Main Municipal Water District) does lots of work to reduce invasive species and restore habitat and monitor species' health. They are at a loss as to what to do about bull frogs. There are so many bull frogs throughout our reservoirs and watershed and a small population of native frogs trying to survive.

Bullfrogs are being imported to our state for consumption, but they get out into the environment and cause major disruption. We need to put an end to importing any more bullfrogs into California. I am writing to ask that you please do, what ever you can personally do to help with this situation. My students want to see our native red legged and yellow legged frogs in their natural habitat when they grow up. I would deeply appreciate your efforts to make that possible.

Sincerely,  
Laura Dax Honda  
Manor School  
150 Oak Manor  
Fairfax, CA 94930

February 3, 2016

Commissioner Richard Rogers  
California Fish and Game Commission  
P.O. Box 944244-2090  
Sacramento, CA 944244-2090

Dear Commissioner Richard Rogers,  
I am a fourth grader on the green team and in the green team club and I love frogs. But the frogs are being eaten by non-native bull frog.

I worried because the bull frogs are eating our native frogs. They were imported to California to be eaten and they got out. Now they are eating our native frogs and we need your help. We are asking you to use your power to make a law to not be able to import bull frogs to California.

Please follow along with our idea. Thank you for reading.

Sincerely,

Ella

February 2,  
2016

Commissioner Richard  
Rogers California fish and  
game commission P.O. Box  
94244-2090.

Dear Commissioner Rogers,

My name is Andrew [REDACTED] I am  
a member of the Manor School Green  
Team and the Sierra Club. I am  
writing on behalf of native yellow/  
red legged frogs and all the people who  
care about the frogs.

The native frogs are at near  
extinction. I need your help. Will you help  
stop the importation of invasive  
bull frogs?

Bull frogs are increasing and the  
native frogs are decreasing. Bull frogs  
are eating native frogs, fish eggs, and  
anything that can fit in their mouth.  
They are taking over wildlife, creeks,  
reservoirs, etc. I hope you will help us  
save native frogs.

Sincerely,  
Andrew



February 2, 2016

Commissioner Richard Rogers  
Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 95814

Dear Commissioner Rogers,

I am currently a fourth grader at Manor School in Fairfax and I am on the green team. I want to make positive difference in the world and make it an even cleaner place than it is now. I care and hope you care too.

I am writing to you because I want to help our native red legged and yellow legged frogs. I want to help them because they are being eaten and taken over by non-native bull frogs. I ask you to make it illegal to import bull frogs from restaurants. Bull frogs eat anything that will fit into their mouths. It breaks my heart so please consider this letter.

Thanks for listening.  
I hope you do the right thing  
Sincerely, Jane

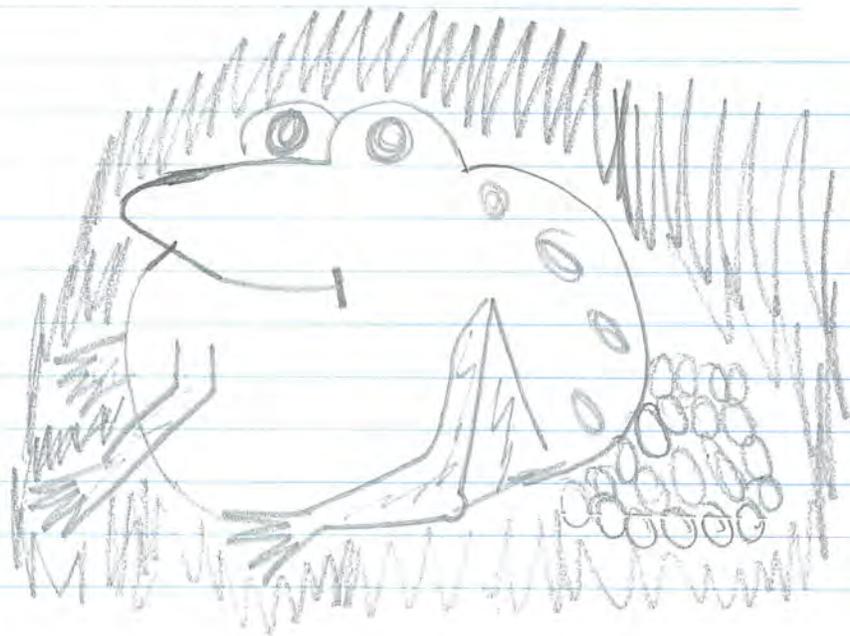
Commissioner Richard

Rogers California fish and Game  
Commission P.O Box 944209 Sacramento,  
CA 94244-2090

Dear Commissioner Rogers;

I am a student at Manor School in  
Fairfax 4<sup>th</sup> grader I'm on the Green  
Team. I care about our frogs but the  
bullfrogs are now eating frogs. I would like  
for you to make a law saying stop  
importation of bullfrogs to come to California.  
I am worried about them to go extinct  
because of the bullfrogs keep  
eating them so please help us make  
this law. Bullfrogs are bad because  
they eat our native red legged and  
yellow legged frogs and now there  
endangered. Thank you

Sincerely,  
Melody



February 2, 2016

Commissioner Richard Rogers  
California Fish and Game Commission  
P.O. Box 944209 Sacramento, CA  
94244 - 2090

Dear Commissioner Rogers

I am fourth grader and a member of the green team. I care because frogs are a big part of the world and I want them to be alive when I get older.

I am writing to because every body is inportation Bull frogs are not native and they eat every things that fits in there mouth and they eat all of the native frogs.

Thank you so much for taking time read this please make the right choice

Sincerely,  
Vanessa

February 2, 2016

Commissioner Richard Rogers  
California Fish and Game Commission  
P.O. Box 94209  
Sacramento CA, 95244-2090

Dear Commissioner Rogers,

Hello my name is Corina [REDACTED] I  
am 9 years old and in the 4<sup>th</sup> grade at  
Manor school in Fair fax C.A.

California had many Native  
frogs. But because of bull frogs the  
number is going down and Bull frogs  
number is going up because of Bull  
frogs eating the native frogs.

The Bull frogs are not just part  
of the food chain because they are  
from the east but have been imported  
for food. Some times they get away  
and get into the wild that's when the  
trouble starts. I would love it if you would

ban importing Bull frogs for food.  
It would reald help.

thank you.

Sincerely,

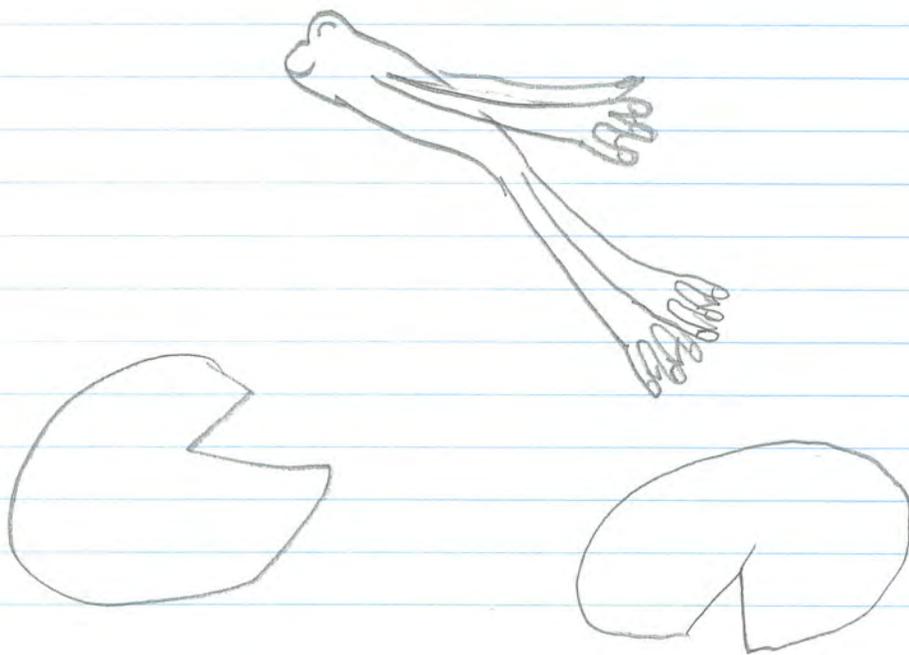
Corina

Commissoner Richard Rogers  
fish and Game commgain P.O Box 94420P  
Sacramento CA 95814

Dear Commissoner Rogers  
I am a forth grader at Manor School  
in farfax. I am worried about that  
thar will be no frogs! I care about  
the safty of all frog. I want the  
world to be healthy for frogs and me  
wen I am older.

I am writing to you to ask that  
you use your power to stop the  
im portation of bull frogs to caliafornia.  
Could you make a law? Bull frogs are bad  
because they eat our native frogs!  
I want to thank you for listening!  
please do the right thing,

Sincerely Ivan



February 2,  
2016

Commissioner Richard  
Rogers California fish and  
game Commission P.O. Box  
94244-2090.

Dear Commissioner Rogers;

I'm a nine year old girl at Manor  
School in Fairfax California, and I'm  
in Mrs. Honda's fourth grade class.  
My class mates and I love frogs! ♡

We are all verry worried about  
our little red legged and yellow  
legged frogs. We are worried because all  
of them are becoming endangered  
because of bullfrog importation in  
California.

I'm writing to you to ask if you  
could use the power you have to try  
to make a law, is that all possible?  
If it is please do it. We love frogs!

Sincerely, Zoë

February 3, 2016

Commissioner Richard Rogers  
California Fish and Game Commission  
P.O. box 944 209  
Sacramento, CA 94244-2090

Dear Commissioner Rogers,

I am a fourth grade green team member at Manor School in Fairfax. I care about frogs, but I am worried. Non-native bullfrogs are escaping into the wild and eating our native red and yellow legged frogs.

I am writing to you to ask that you try to ban the importation of bullfrogs to California. Bullfrogs are bad because they escape and eat our native frogs that we love.

I want to thank you for listening.  
Please fix this problem.

Sincerely,  
Anthony

February 7, 2016

Commissioner Richard Rodgers  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento CA 94244 7090

Dear Commissioner Rodgers,

I am a fourth grade green team member at Manor Elementary asking for your help for our sake and the frogs. Our future could have no more yellow legged or Red legged frogs in the wild. Bullfrogs are eating enething they can put in their mouths.

I'm hoping you will do what you can do to help us, the frogs and the frogs future. I am really hoping you can help our butifal and helpless little yellow legged and Red legged native frogs. I care about them, I'm worried about them and I love them. You have the power to stop them from importing bullfrogs, so please for the frogs.

Sincerely,  
Eleanor

Comissioner Richard Rogers California  
Fish and game comission P.O. Box 94244-  
2090  
Sacramento, CA 95814

Dear Commissioner Richard Rogers  
Hi my name is Dante [REDACTED]  
I am a 4<sup>th</sup> grader at Manor school. I care  
about are native frogs and bull frogs  
are eating them. When your kids grow up  
do you want them to see a fat bull frog  
or native frogs you choose.

I am writing to you because  
you can do something, you can save  
the frogs like Karie kregger I be-  
belive in you.

Sincerely Dante

February 3, 2016

Commissioner Richard Rogers  
California Fish & Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

Dear Commissioner Richard Rogers;

I am a fourth grader at Manor School in Fairfax. I care about the native red and yellow legged frog. I want there to be native frogs when I grow up.

I am writing to you to make a law on the importation of bull frogs. Bull frogs eat our native frogs.

Thank you for reading. Please do the right thing.

From:  
Dolan

February 3, 2016

Commissioner Richard Rogers  
California Fish + Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

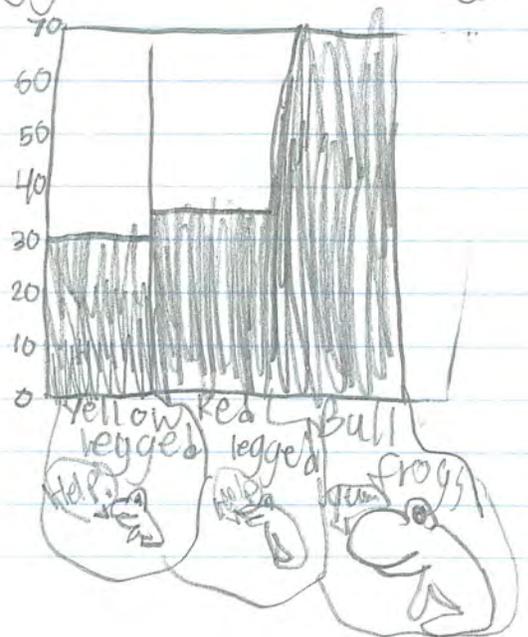
Dear Commissioner Rogers,

I am a 4th grade student at Manor School, Fairfax. I am in the green team because I care. I care about the frogs and their reasoning right to live. I care about a healthy world. I am worried about the over population of bullfrog and how our native frogs are becoming endangered. I want my children to be able to watch our native frogs hop around in ponds in our neighborhood.

I am writing to you to ask that you make it a law that there will be no importation of bullfrogs to California. Bull frogs are bad because they overpopulate very fast and they eat our native yellow legged and red legged frogs!

I want to thank you for reading my letter. Please do the right thing and help our native yellow legged and red legged frogs.

Thank you,  
Maya



February  
2016

Commissioner Richard  
Rogers California Fish & Game  
P.O. Box 944209 Sacramento,  
CA 94244-2090

Dear

I am a student from Mrs.  
Honda's 4<sup>th</sup> grade class at  
Maner School in Fairfax, Va.  
I am worried about our yellow  
and red legged frogs.

I want to ask you  
to stop the importation  
of bullfrogs. They eat  
our native frogs.

Thank you

Sincerely,

Samantha

Commissioner Richard Rogers  
California Fish Game  
Commission P.O. box 944209  
Sacramento, CA 94244-2090

Dear Commissioner Richard  
Rogers

I am a student in  
manor school. I am scared  
for our native frogs, the native  
bull frogs they are  
eating the native frogs. We need  
your help to save the frogs.

from Michael

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2016 FEB 25 PM 4:00

Date *February 20, '16*

*MCS*

Dear *Executive Director Mastrop;*

I wish to express my concern for our pumas in California. Based on the recent and thorough studies from UC Davis Wildlife Center, we now know that our puma populations are in serious decline. Puma territories and former wildlife corridors are cut off by freeways and development. The puma genetics taken from the blood samples in this study are showing inbreeding and subsequent genetic issues that will further hurt the remnant populations.

In Southern California, the number one cause of puma mortality west of I-15 is vehicular strikes; east of this freeway the number one cause of mortality is a too casual approval of lion depredation permits for hobby or domestic animal kills. I believe it is the responsibility of the domestic animal owners to shelter and protect their hobby/domestic animals and not blame our lions for poor husbandry in the backcountry. The most recent lion depredation permit was issued for loss of chickens.

Now that we know the problems facing our puma populations, and, we know the solutions, we need these solutions to become a priority in agency action and agency budgets. As a citizen of this region, **I have an expectation of open space linkage protection for pumas and wildlife corridor enhancements.** Some work is being done with fencing and now we need highway projects to include exclusion fence planning, wildlife crossings, and construction of underpasses and over passes for wildlife. Further, these goals need to be clearly stated in the Caltrans 2040 plan.

In keeping with the July 1, 2015 Sustainability Policy Memo from Cal-Trans Director Dougherty, I ask that serious consideration and funding become available to enact these stated goals to protect our environment and our wildlife corridors before our Southern California pumas succumb entirely to the fate of the Florida panther.

*Thank you,*

*Helen M. Baune*



**From:** [REDACTED]  
**To:** [FGC](#)  
**Cc:** [REDACTED]  
**Subject:** Time Request  
**Date:** Tuesday, January 12, 2016 12:06:06 PM

---

Greetings,

I am requesting 15 minute time at the April 14th meeting in Santa Rosa , Dr. David Johnston and myself to show a power point as to why it is important for bats to be looked at further. It will be also at this meeting hopefully be able to get this one specie of Pallid bat listed as a possible candidate for listing on the CESA .

Kimberly Richard  
Chair Environmental and Wildlife  
Democrats of Napa Valley  
[REDACTED]

## James R. Conrad's Request for Nomination to the Predator Policy Workgroup

Name: James R. Conrad

Contact information:

Mailing Address:

Phone:

Email:

Mr. Conrad has been a regular and active participant in the WRC meetings and particularly in the Predator Management Committee meetings. He has consistently demonstrated his ability to work collaboratively with others of diverse opinions and is always respectful, polite, and patient. With an undergraduate degree in engineering and a MBA, he has strong writing skills and the ability to evaluate complex statute, policy, and regulation issues. As a Commissioner on the San Diego County Fish and Wildlife Advisory Committee, he has a demonstrated ability to balance regional perspectives and local knowledge and experience with statewide needs.

Mr. Conrad has access to and total familiarity in the use of an effective communication network to reach stakeholders not attending the public PWG meetings (WebEx video and conference call sessions). He is committed to all aspects of the charge of the Predator Policy Workgroup. As the founder and President of SIMS Software, he is knowledgeable and experienced with all manner of software, including web-based software. Perhaps most importantly, he is willing and able to devote the requisite time for full participation on a volunteer basis.

Additional relevant areas of knowledge, expertise and participation with stakeholder groups, wildlife policy, planning and management include:

- Commissioner on the San Diego County Fish and Wildlife Advisory Commission, representing Supervisor Bill Horn, 5th District since March of 2000.
- Charter member of the Big Game and Upland Game Advisory Committees, (established as a result of 2010 legislation SB 1058 that established new dedicated accounts) representing the San Diego County Wildlife Federation and advising the California Department of Fish & Wildlife.
- Charter member of the Al Taucher Preserving Hunting and Sport Fishing Opportunities Advisory Committee (which has now become the WRC ) supporting the California Fish and Game Commission.

- Charter member of the California Department of Fish and Game's Game Bird Heritage Program Advisory Committee.
- Coordinated consumptive-use inputs from the recreational hunting community for the U.S Fish & Wildlife Service San Diego National Wildlife Refuge - Public Use Workshop, January, 2007 for the Draft CCP.
- Focus Group participant in the development for the California Fish & Game Commission's Strategic Plan in July, 1998.
- Author of the California Fish and Game Commission's amended policy regarding Multiple Use of Lands Administered by the Department of Fish and Game (8/2/02).
- Past President and current Political Liaison of the San Diego County Wildlife Federation, a coalition of wildlife conservation and outdoor enthusiast organizations that include Ducks Unlimited, California Waterfowl Association, the National Wild Turkey Federation, Safari Club International, Quail Forever, San Diego Sporting Dog Club, the Sportfishing Conservancy, California Rifle & Pistol Association, North American Versatile Hunting Dog Association, San Diego County Varmint Callers and approximately a dozen similar groups.
- Past President of the National Wild Turkey Federation, San Diego Chapter where he worked with the Department of Fish and Game on the successful reintroduction of wild turkeys to San Diego County.
- Life Member of the California Waterfowl Association , Sponsor Member of Quail Unlimited, Life Member of Pheasants Forever and also a member of Safari Club International where he currently is the President of the San Diego Chapter.

**From:** [Chappell, Erin@FGC](mailto:Chappell_Erin@FGC)  
**To:** [Woodson, Caren@FGC](mailto:Woodson_Caren@FGC)  
**Cc:** [Yaun, Michael@FGC](mailto:Yaun_Michael@FGC); [Miller-Henson, Melissa@FGC](mailto:Miller-Henson_Melissa@FGC)  
**Subject:** RE: Predator policy work group  
**Date:** Wednesday, March 09, 2016 3:45:50 PM

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Hi Caren,

Please include this request in the requests for non-regulatory action as well.

Thanks,

Erin

---

**From:** FGC  
**Sent:** Tuesday, March 08, 2016 11:52 AM  
**To:** Chappell, Erin@FGC; Woodson, Caren@FGC  
**Subject:** FW: Predator policy work group

**From:** [REDACTED]  
**Sent:** Tuesday, March 08, 2016 9:52 AM  
**To:** FGC  
**Subject:** Predator policy work group

Dear Commissioners

There needs to be a change in who is writing policy at the PPWG. I am sure that all stakeholders need to be heard. Our voice is not being heard. In this case many people feel discriminated against. Five hunting groups in Southern California have no voice and we want on this writing group. I am sure you want to be fair and let the groups be heard. We have one person that can represent the five largest predator hunting groups. We also have people to represent the coyote watch groups in Long Beach, Seal Beach and Huntington Beach. Do you want one person from each city or one person for all of southern California ?

Thank you  
Ronald Stephens



RECEIVED AT

April 13, 2016

APR 14 2016

Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

COMMISSION MEETING  
AGENDA ITEM 19

Jennifer Loda

**Re: Item 19: Public Forum For Items Not On The Agenda - Bullfrog Importation**

Dear Commissioners,

These comments are submitted on behalf of the Center for Biological Diversity. The Center ("Center") is a national, nonprofit conservation organization dedicated to the protection of endangered species and wild places. The Center has 990,000 members and online activists throughout the country, many of whom reside in California. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people throughout California.

The Center and numerous other groups and concerned citizens have expressed concerns to the Commission over the years about the threat that the importation of bullfrogs into California poses to our native wildlife. The Commission even appeared like it was going to ban the import of bullfrogs in 2010, but that was retracted at the time and in lieu of a complete ban the Department made policy changes to try to stem the problem. Unfortunately these policy changes have not been enough to properly deal with these threats.

The Department published a report in late 2014 ("Implications of Importing American Bullfrog (*Lithobates catesbianus*) into California") that outlined the continuing threats to native species from bullfrog importations. The live amphibian trade was suggested to be the most significant introduction pathway for novel and emerging amphibian diseases, some of which can also transfer to other types of wildlife. The report found that changes to permit requirements made in 2010 are regularly violated and thus the current policy may not be effective without more active enforcement. The argument made in the report was that limiting or eliminating the issuance of amphibian importation permits is a reasonable alternative to current policy.

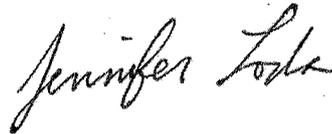
The Department reported on this issue to the Commission at its February 12, 2015 meeting and explained that the importation of bullfrogs continues to pose a significant threat to our native fish and wildlife. The only administrative change reported by the Department was to cease issuance of long-term permits and switch to the use of 30-day permits for importation. Some of the Commissioners expressed concern about this ongoing issue and the need to take further action

beyond this administrative change. In light of these concerns, the Commission directed staff to work with the Department to identify a list of potential actions that the Commission can take, and to report back to the Commission at the June, 2015 meeting. However, no such report was made at the June meeting or at any other Commission meetings to date.

We are concerned that this important issue has fallen by the wayside, as it appears that Commission staff and the Department have not been working to come up with actions that the Commission can consider. We ask that the new Commissioners familiarize themselves with this issue and push staff to work with the Department, as directed over a year ago. Action needs to be taken quickly, as over 100,000 bullfrogs are imported into California every month (2 million per year) and each shipment provides another opportunity for the establishment of a new bullfrog population or the spread of an emerging disease to our native species.

The Center encourages the Commission to consider an outright ban on the importation of bullfrogs into California, as this is the only way to ensure against the threats this species poses to our native wildlife. Please keep me up to date on any progress made on this issue. If the Commission would prefer that the Center and its allies submit a formal petition requesting specific actions on bullfrog importations, we are ready and willing to do so.

Sincerely,



Jennifer Loda  
Amphibian and Reptile Staff Attorney  
Center for Biological Diversity  
(510) 844-7100 x336  
JLoda@BiologicalDiversity.org



# ACTION FOR ANIMALS

P.O. Box 20184  
Oakland, CA 94620  
tel. - 510/652-5603  
fax - 510/654-7432  
e-mail - afa@mac.org

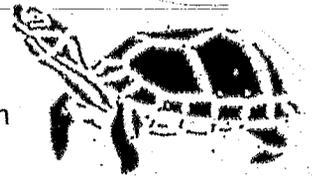
RECEIVED AT

"We need a boundless ethics which  
will include the animals also."  
--Dr. Albert Schweitzer

APR 14 2016

April 14, 2016 COMMISSION MEETING  
AGENDA ITEM 19

Eric Mills



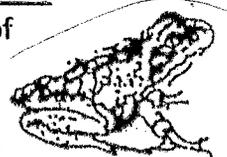
TO: President Eric Sklar, ~~president~~, and members, State Fish & Game Commission  
FROM: Eric Mills, coordinator  
RE: Live animal food markets issue - frog/turtle imports - request to reauthorize

After 15 years of vigorous debate, in 2010 the Commission twice voted unanimously (5:0) to ban the importation of live frogs and turtles for human consumption, receiving more than 3,000 letters of support from various environmental and animal protection organizations, and several state legislators. Former Secretary of Resources Huey Johnson wrote TWICE.

In a bizarre twist of politics and disregard for our natural resources, then-director of the Dept., John McCammon, announced that he would continue issuing the import permits on a month-to-month basis. Challenged by an irate Commission, then-DFW deputy director Sonke Mastrup responded, "The Director acts at the pleasure of the Governor." So much for the democratic process. Makes one wonder what the Governor's "pleasure" truly is. Here's an example of racial, cultural and financial politics at its worse, all at the expense of our native wildlife. NOT ACCEPTABLE! The Department absolutely DOES have the authority to stop this harmful commerce. That's why they are called PERMITS.

California annually imports some TWO MILLION non-native American bullfrogs for food. Most are commercially-raised in Taiwan. Plus an estimated 300,000-to-400,000 nonnative freshwater turtles, ALL taken from the wild, depleting local populations: mostly red-eared sliders and various softshell species, some recommended for CITES Appendix II protection.

More than three dozen necropsies have shown that ALL the market frogs & turtles are diseased and/or parasitized, though it is ILLEGAL to sell such products for human consumption. Where's the Health Dept.? Fish & Wildlife's own rules (California Code 236) require that any such shipments be quarantined, destroyed or sent back to point-of-origin, ALL AT THE EXPENSE OF THE IMPORTER, NOT THE DEPARTMENT. There is near ZERO enforcement, not for lack of funding or manpower, but for lack of WILL. Again, not acceptable.



Most anyone can readily buy these animals alive from the markets, though such sales are illegal. When released into local waters (also illegal), the exotics prey upon and displace the natives. **WORSE YET, the majority of the bullfrogs test positive for the deadly chytrid fungus, *Batrachochytrium dendrobatidis (Bd)*, which has caused the EXTINCTION of 200+ frog and other amphibian species worldwide in recent years.** The bullfrogs generally do not succumb to

the disease, but they certainly do disperse it, putting our native wildlife in grave danger. **EASY FIX: STOP THE IMPORTS!** The European Union allows the importation of only FROZEN frogs parts for human consumption. The U.S. should follow suit.

The Department issued its own "White Paper" in November 2014, suggesting that a total important ban was the most viable solution to the bullfrog problem, yet has failed to act. In that same year, with only three of the five members present, Commissioner Richard Rogers made a motion, seconded by Commissioner Jim Kellogg, that the issue be sent to the State Legislature for resolution, over the vehement protest of Commission president Mike Sutton. Reminds me of a quote from the late political pundit Molly Ivins: "For anyone to enjoy the state legislature, you need only a strong stomach, and a complete insensitivity to the needs of the people." This problem is a matter for the Department, NOT the State Legislature.

I hereby request that this issue be immediately restored to the Commission's agenda for further debate and a viable resolution, before I become a complete cynic about the entire process.

*Eric Mills*

 ACTION FOR ANIMALS  
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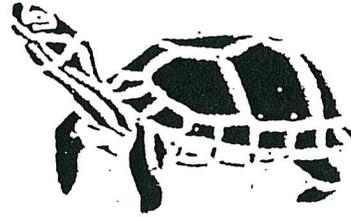


# ACTION FOR ANIMALS

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April 2016

*"We need a boundless ethics which will include the animals also."*  
--Dr. Albert Schweitzer



## SAVE THE FROGS!

## SAVE THE TURTLES!

### LETTERS NEEDED TO GOVERNOR JERRY BROWN

*"The Director [John McCamman, Dept. of Fish & Game] acts at the pleasure of the Governor."*

--Sonke Mastrup, Deputy Director of DFG - 2010

California annually imports **TWO MILLION AMERICAN BULLFROGS** and **300,000-400,000 FRESHWATER TURTLES** for human consumption. The frogs are commercially-raised in Taiwan. Most of the turtles are taken from the wild in states east of the Rockies. None of these animals are native to California, and they displace and prey upon our native species when released into local waters (a common, though illegal practice). All are diseased and/or parasitized (though it's illegal to sell such products). Many are butchered while fully conscious. Worse, a recent study showed that 62% of the market frogs carry the chytrid fungus, which is believed to have caused the extinctions of some 200 species of amphibians around the world in recent years.

A small group of us for 20 years have been pressuring the Department of Fish & Game to ban the importation, possession and sale of these animals for human consumption, to no avail. **But now there's hope for REAL change.** If DFG Deputy Director Mastrup (above) is correct, then the Governor could fix this deplorable situation overnight.



**WHAT YOU CAN DO** - Please write to Governor Brown and Resources Secretary John Laird, asking them to stop this brutal and environmentally-destructive commerce, which also puts the public health at risk. And ask your own legislators to make the same request.

**GOVERNOR JERRY BROWN, THE STATE CAPITOL, SACRAMENTO, CA 95814**

**JOHN LAIRD, SECRETARY OF RESOURCES and CHUCK BONHAM, DIRECTOR, DEPT. OF FISH AND WILDLIFE (both at 1416 Ninth Street, Sacramento, CA 95814).**

All legislators may be written c/o the State Capitol, Sacramento, CA 95814.



ACTION FOR ANIMALS would appreciate copies of any letters you send.

*E.M.*

Eric Mills, coordinator

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

4/30/2016

2016 MAY -2 PM 2: 00

MLS

To: California Fish and Game Commission

From: Miles Young

Subject: Live Animal Markets (LAM's)

Commissioners:

It's my understanding the issue of live bullfrog importations is again being brought up before the Commission. Neither CDFW nor the Commission deny that bullfrogs predate on many of our native species nor is there any denial that imported bullfrogs in the Live Animal Markets carry the Chytrid. Frogs purchased from the markets have been tested by certified laboratories and found to be carrying Chytrid. According to testimony and the paper "Implications of Importing American Bullfrog into California" prepared by the CDFW Fisheries Branch and submitted to the Commission over a year ago, escapees from the live animal trade have contributed to at least one strain of *Batrachochytrium dendrobatidis*. The paper further states in part, "A significant reduction or elimination of importation permits for live American bullfrogs would reduce the risks to California wildlife."

The Department's reaction was to change the permits but still allowing the same number of frogs from the same importers to come into the State. How did this paperwork shuffle do anything to protect our native species? If I was a commissioner I would want to know if this change of permits is working and has there been a decrease of LAM frogs getting out into the wild. The answer and the responsibility belong with the Department. Have they been making inspections, have the shipments been coming in with clean health certificates as REQUIRED by the permit. Have the religious groups stopped buying the live animals from the wholesalers and releasing them into the wild? If not then it is reasonable to believe the frogs are still being introduced into our States waterways.

During the presentation the Department's spokesperson said that CCR - Title 14, Section 236 (every commissioner should be familiar with the section) does not say the Department SHALL inspect the shipments it says it MAY inspect the shipments. That's correct but if the imported frogs are such a problem and Section 236 puts the financial burden on the importer why aren't the inspections being made? If in fact there are inspections then why isn't the Department talking about them telling us the frogs are disease free and not getting out into the wild.

The public is not stupid and three times now since the mid-1990's the Commission has voted to ban the importation of market frogs and every time they have given in to political pressure or the Department and backtracked. This tells us two things. First the Commission doesn't have the authority everyone thinks it has and second politics takes precedence over protection of our native species.

The Asian coalition has a strong hold on the governor and they have convinced him and his staff the markets would suffer a financial burden if the importations were stopped. Any proof of this? Just about all transactions in Oakland and SF Chinatown are with cash. How does one know just how much money is transacted and what that amount is compared to the rest of the products sold. Most of the other

ethnic markets have gone to frozen frog legs and for that matter most of the world has gone to frozen for the same health and predation reasons.

The aforementioned paper also states a significant number of bullfrogs have come out of the pet trade; highly doubtful. If they have come out of the pet trade it's partly because the Department isn't doing its job. Several companies in the Eastern States sell bullfrog tadpoles in California. One business owner told me personally tadpoles are not frogs and therefore aren't breaking any California laws – look up the law on that subject. Do you know what happens to the tadpoles that get shipped to schools for “science” studies? They get placed in the local waterways when school shuts down for the summer. When the CDFW person involved with this matter was alerted to the situation and asked if they would send a letter to the companies the response was “to busy to do that.” Pet shops rarely if ever deal in American bullfrogs: the money is in the exotic frogs not 6” bullfrogs that have to be fed live food and can jump across a room – common sense.

I do not have a PhD and I'm not an attorney but I am a retired CDFW PT/LT who spent 27 years in the field with the Department. My perspective comes from dealing in person with the issue not from sitting behind a computer or summarizing someone else's work. I supervised both a uniformed squad and ran the original Northern Special Operations Unit. In those days we were concerned with the preservation of the Resource not political correctness. I have hundreds of hours of investigation and enforcement time in the two Bay Area Chinatowns. I was also the Departments liaison with the “Families” of Chinatown. I know what the wardens can do and how much time it takes and what the courts have to say on the matter. Obviously the wardens work for the Department and they will work on the issues the Department feels relevant. If there aren't any current stats on the LAM importations it's not from lack of caring but from following orders. In my current capacity as a consultant to several groups I have put in countless hours up and down the state and written several papers on the LAM import situation providing background information to the CBD, ALDF and other such entities. I have a pretty good idea, probably better than most people as to what is really happening out there. I maintain my Chinatown contacts from several walks of life.

It's my opinion the Department created this situation as they set the process in motion by granting permits based on an ADMINISTRATIVE decision not good science as they claim. A few years before mainland China took over Hong Kong many of its residents fled and came to California to our Chinatowns. These people from southern China have a tradition of wanting live product from the markets. Most of the newly arrived Chinese came with those traditions and since they had the means to travel to the US they had the money to keep the tradition alive. CDFW (DFG then) noticed an upswing in native frogs and turtles and of course bullfrogs in the LAM's. There weren't any large shipments coming at least none that we ever saw in the paperwork or on display. The frogs and turtles were being taken from the wild. We were getting hit so hard we ran a special undercover operation (KERMIT) that lasted several months and as a result we were able to shut down a large business dealing with frogs coming out of Delta and going straight into the markets. Subsequent market checks shut down the business in local critters for the most part but by then the demand for live product was increasing dramatically. The markets whom were developing a new source of income pressured the Department via congressional contacts and asked for permits to import the frogs and turtles. Even though the Department had

aquaculture facilities within the State that could supply bullfrogs the profit was larger for the markets if they purchased product overseas. It's interesting that the Department even then didn't want to risk increasing bullfrog numbers in the State by having them locally grown and supplementing the wild populations? Suppliers in other countries weren't concerned about frogs coming out of polluted ponds, what the animals were fed or how they were shipped thus they could be sold cheaply. The field wardens and biologists realized massive imports would be a real threat to our native species and another job on the plates of the already burdened work force and were against the importation permits. The world amphibian community was already talking about the Chytrid and bullfrogs as carriers plus their liking to eat anything that crossed their path so CDFW should have taken that into account and at least conducted a study for potential detrimental impacts. That was never done the permits were simply an administrative act with the stroke of a pen and as the aquaculture person in charge told me "we don't want to interfere with business". There has to be significant evidence the frogs were a huge problem for so many countries and other states to ban them entirely. Since then millions of bullfrogs and turtles have come into California and as the Department has stated some have ended up in the wild. Why continue to support their numbers by constantly importing more frogs knowing some will make it to the wild. In fact that's another excuse from the Department, "the barn door is already open and they are in the wild now". I can think of plenty of plants and animals in the wild we don't want and are actually trying to eradicate or at the very least STOP SUPPLEMENTING THEIR NUMBERS.

Since the Department and the Commission on a couple of occasions have admitted the market animals are diseased, are getting into the wild and are preying on our native species the only question remains is why do the imports continue. Were the Department to come up with some facts, actual field studies, and show the animals aren't a problem or diseased then there wouldn't be a problem. However all that has surfaced is that the permit system has changed (but not the importation numbers or species), the Department is too busy to deal with it, the Department can't afford it, maybe it should be handled by the legislature etc. None of the excuses hold water and if the Commission just accepts them without asking for proof they are doing a disservice to the public they represent. I served with the Department when we shut down the salmon fishery on opening day, pulled specific types of herring boats off the waters, shut down the abalone trade plus a dozen more such actions. How many people did that put out of work? Did anyone cry "racism", no they didn't because it was viewed as a Resource issue. The Chinatowns can get the same product in frozen form, actually cheaper. So there isn't any real financial loss and caring for the product is a lot easier. That leaves social and cultural implications as the Department Director stated in his opening remarks at one meeting. Were the social and cultural implications considered in the aforementioned closures? Last time I checked there were no American bullfrogs in China thousands of years ago, hundreds for that matter. Fact is we sent them bullfrogs so it's OUR culture to eat them not theirs. If they want to be culturally correct have them import Chinese frogs!

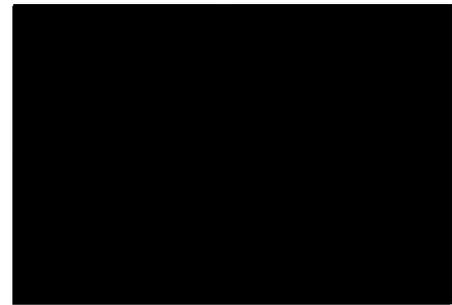
I mentioned before the commissioners sit at the pleasure of the governor and those that have bucked the system in the past in favor of politics over Resource preservation have been removed. It's my understanding the Commission advises and sets policy for the Department but that's not reality. I believe it's very hard to argue against an agency you are supposed to be watching over when you rely on

their staff for advice and a budget. Especially when a commissioner asks the Department why when instructed to pull permits they refused to do so and the Department says they do what they think is best and after all the Department Director takes his orders from the Governor not the Commission. That video has surfaced again and is getting a lot of play; questions the authority of the Commission.

I believe for the most part the men and women of the Department are dedicated and care very much about our Resources but they are controlled by politics. Perhaps the Commission can find some way to give them enough support so they can actually do the work the public expects them to do and that's to protect our native resources. I understand that may cost some jobs but what is the value of a job if your under someone else's control.

Respectfully Submitted

*Miles Young*  
Miles Young/Retired CDFW/PtLt.



**From:** [REDACTED]  
**To:** [secretary@resouces.ca.gov](mailto:secretary@resouces.ca.gov); [Wildlife DIRECTOR](#); [FGC](#)  
**Subject:** NON-NATIVE AMERICAN BULLFROGS - ON-GOING IMPORTATION FOR FOOD  
**Date:** Sunday, April 24, 2016 3:46:36 PM

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April 24, 2016

John Laird, Secretary of Resources  
Chuck Bonham, Director, Dept. of Fish & Wildlife  
Members of the Fish & Game Commission

Greetings, all -

See below, a trip down Memory Lane. And please see the comments, too.

The imported bullfrog problem has only worsened. The fact that the majority of the market frogs are infected with the deadly chytrid fungus is more than enough reason to impose an immediate ban (as the DFW's "White Paper" recently recommended). Way past time for the Commission to re-agendize this issue, and for the DFW and the Natural Resources Agency to do their duty by our beleaguered wildlife. Should be an easy call, yes?

Regards,

Eric Mills, coordinator  
ACTION FOR ANIMALS

----- Original Message -----  
Subject: NON-NATIVE AMERICAN BULLFROGS - ON-GOING IMPORTATION FOR FOOD  
From: [REDACTED]  
Date: Sun, April 24, 2016 3:30 pm  
To: [REDACTED]  
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<http://blogs.scientificamerican.com/extinction-countdown/should-california-ban-american-bullfrogs/>