

## STAFF SUMMARY FOR OCTOBER 19-20, 2016

**32. 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 Aug 2016 meeting.
- (B) Action on requests for non-regulatory requests received at the Aug 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 receipt of new petitions and requests Aug 24-25, 2016; Folsom
- **Today FGC action on petitions and requests from Aug Oct 19-20, 2016; Eureka**

(C) N/A

**Background**

FGC provides direction regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. Public petitions for regulatory change or requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration. Petitions for regulatory change or requests for non-regulatory action scheduled for consideration today were received or referred at the Aug 2016 meeting in three ways: (1) submitted by the comment deadline and published as tables in the meeting binder; (2) submitted by the late comment deadline and delivered at the meeting; or (3) received during public forum.

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

- (A) Petitions for regulatory change: 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 received at the previous meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Petition #2016-008 was received in Jun 2016 and scheduled for action in Aug 2016. However, action was deferred to Oct 2016 to allow staff time to review supporting materials submitted by the petitioner (see Exhibit A2 and staff memo in Exhibit A6).

Three additional non-marine petitions received in Aug 2016 are scheduled for FGC action at this meeting (See summary table in Exhibit A1 and individual petitions in exhibits A3-A5).

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

## STAFF SUMMARY FOR OCTOBER 19-20, 2016

Six non-regulatory requests received in Jun 2016 are scheduled for action at this meeting (See summary table in Exhibit B1, and individual requests in exhibits B2-B4).

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

No previously referred items are scheduled for discussion today.

### Significant Public Comments

1. Petition #2016-008 (Ferrets): received 14 letters in support of legalizing ferrets since the Aug 2016 FGC meeting (see Exhibit A7 for example, and Exhibit A8).

### Recommendation

- (A-B) Adopt staff recommendations for regulatory and non-regulatory requests 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) N/A

### Exhibits

- A1. [FGC table of non-marine requests for regulatory change received through Aug 25, 2016](#)
- A2. [Petition #2016-008 from Pat Wright concerning domestic ferrets, received May 26, 2016](#)
- A3. [Petition #2016-014 from Douglas Alton concerning raptor rehabilitation, received Jun 29, 2016](#)
- A4. [Petition #2016-017 from Megan Clenney concerning the legalization of hedgehogs, received Jul 20, 2016](#)
- A5. [Petition #2016-019 from NRA and CPRA concerning use of depredating game mammals, received Aug 19, 2016](#)
- A6. [Staff memo on Petition #2016-008 \(ferrets\)](#)
- A7. [Letter \(example\) from Lori Tigner, received Sep 26, 2016](#)
- A8. [Letter from Jennifer Davidson \(ferret legalization\), received October 7, 2016](#)
- B1. [FGC table of non-marine requests for non-regulatory change received through Aug 25, 2016](#)
- B2-4. [Individual requests for non-regulatory change that are summarized in Exhibit B1](#)

### Motion/Direction

- (A-B) Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on August 2016 regulatory and non-regulatory requests.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on August 2016 regulatory and non-regulatory requests, except for item(s) \_\_\_\_\_ for which the action is \_\_\_\_\_.

**CALIFORNIA FISH AND GAME COMMISSION**  
**DECISION LIST FOR REGULATORY ACTION THROUGH AUG 25, 2016**  
 Revised 10-06-2016

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

Grant: FGC is <i>willing to consider</i> the petition through a process    Deny: FGC is <i>not willing to consider</i> the petition    Refer: FGC <i>needs more information</i> before deciding whether to grant or deny the petition  <span style="display: inline-block; width: 10px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> <b>Green cells:</b> Referrals to DFW for more information <span style="display: inline-block; width: 10px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> <b>Blue cells:</b> Referrals to FGC staff or committee for more information <span style="display: inline-block; width: 10px; height: 10px; background-color: #D8BFD8; border: 1px solid black; margin-right: 5px;"></span> <b>Lavender cells:</b> Accepted and moved to a rulemaking <span style="display: inline-block; width: 10px; height: 10px; background-color: #FFFF00; border: 1px solid black; margin-right: 5px;"></span> <b>Yellow cells:</b> 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="#">2016-008</a>	5/26/2016	6/10/2016	5/31/2016	A	Pat Wright	Domestic ferrets	2118	Remove domestic ferrets from the list of prohibited species.	<i>Deny; see staff memo (Exhibit 32A.6)</i>	RECEIPT: 6/22-23/16 (NOTE: Action originally scheduled for 8/24-25/16; FGC deferred action to Oct meeting) <b>ACTION: Scheduled 10/19-20/16</b>
<a href="#">2016-014</a>	6/29/2016	7/14/2016	7/7/2016	A	Douglas Alton	Falcon and raptor rehabilitation	679(f)(4)	Add falconers and raptor breeders to list of legal recipients for non-releasable birds from rehabilitation facilities.	<i>Refer to WRC for consideration in Phase II falconry package</i>	RECEIPT: 8/24-25/16 <b>ACTION: Scheduled 10/19-20/16</b>
<a href="#">2016-017</a>	7/20/2016	8/3/2016	7/25/2016	A	Megan Clenney	Hedgehogs	671	Legalize hedgehogs.	<i>Deny; see staff memo prepared for Petition #2016-008 (Exhibit 32A.6)</i>	RECEIPT: 8/24-25/16 <b>ACTION: Scheduled 10/19-20/16</b>
<a href="#">2016-019</a>	8/19/2016	9/2/2016	8/30/2016	A	NRA and CPRA, via Michele and Associates	Use of depredated game mammals	401	To repeal the provisions of Section 401, Title 14, CCR, which require waste of game animals by depredation permit.	<i>Deny; inconsistent with intent of depredation provisions</i>	RECEIPT: 8/24-25/16 <b>ACTION: Scheduled 10/19-20/16</b>



Tracking Number: (2016-008 )

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

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

**SECTION I: Required Information.**

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

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Pat Wright

Address: [REDACTED]

Telephone: [REDACTED]

Email address: [REDACTED]

**2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code 2118**

**3. Overview (Required) - Summarize the proposed changes to regulations: Remove domestic ferrets from the list of prohibited wildlife**

**4. Rationale (Required) - Describe the problem and the reason for the proposed change: Domestic ferrets are legal in 48 states and the Fish and Game Commission has never been able to document any harm that ferrets have done elsewhere, or even the large number of illegal ferrets already in California has done. Previous requests on my part have resulted in "we don't have time for this" from Commissioners. .**

**SECTION II: Optional Information**

**5. Date of Petition: 05-26-2016**

**6. Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Fish and Game Code 2118



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):§ 671. Importation, Transportation and Possession of Live Restricted Animals. (2) Class Mammalia-Mammals (K) Order Carnivora-Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.  
 Add New Title 14 Section(s): Click here to enter text.  
 Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.  
Or  Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: **ANALYSIS OF THE POTENTIAL IMPACTS OF DOMESTICATED FERRETS UPON WILDLIFE, AGRICULTURE, AND HUMAN HEALTH IN NORTH AMERICA, WITH A FOCUS UPON CALIFORNIA, BASED UPON LITERATURE REVIEW AND SURVEY OF NORTH AMERICAN GOVERNMENTAL AGENCIES** and jCEQA Environmental Checklist
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: Increased economic activity for the pet trade, decrease in Fish and Wildlife enforcement expenses.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
Click here to enter text.

### SECTION 3: FGC Staff Only

Date received: May 26, 2016

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: May 31, 2016



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

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



Tracking Number: (2016-014)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to [FGC@fgc.ca.gov](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: Douglas R Alton  

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code Section 200
3. **Overview (Required)** - Summarize the proposed changes to regulations: Add Falconers and raptor breeders to the list of legal recipients for non-releasable birds from rehab facilities.
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: presently not allowed to the detriment of the birds and the falconers, breeders.

### SECTION II: Optional Information

5. **Date of Petition: June 28, 2016**
6. **Category of Proposed Change**
  - Sport Fishing
  - Commercial Fishing
  - Hunting
  - Other, please specify: Falconry / Rehab.



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):679.(f) (4) Possession of Wildlife and Wildlife Rehabilitation
  - 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: Within reason
  
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.
  
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: None
  
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
 Click here to enter text.

**SECTION 3: FGC Staff Only**

Date received: July 5, 2016

FGC staff action:

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

Date petitioner was notified of receipt of petition and pending action: July 6, 2016

Meeting date for FGC consideration: August 24-25, 2016

FGC action:

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

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2016-017

Tracking Number: (~~Click here to enter text.~~)

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

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

### SECTION I: Required Information.

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

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Megan Clenney



**2. Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Section 2118 of Fish and Game Code included all species of the order insectivora (shrews, moles, hedgehogs, etc.) illegal to import, transport, possess, or release alive into this state, except under a revocable, nontransferable, permit. The problem is The Department of Fish and Wildlife is authorized to issue permits only to qualified individuals or institutions for limited purposes such as research, public exhibition, or shelter. So there is no way you are legally allowed to own a hedgehog in California as a pet.

**3. Overview (Required)** - Summarize the proposed changes to regulations: Make it legal to have a hedgehog as a California citizen for pet purposes.

**4. Rationale (Required)** - Describe the problem and the reason for the proposed change: The problem is that the current rules make it impossible to own a hedgehog as a pet in California because hedgehogs are not legal to own or possess and permits are not issued for pet purposes. I'd like to change this and make hedgehogs legal so that I and other responsible pet owners will be able to own a hedgehog as a household pet. I understand you are worried about them escaping and becoming pests and breeding, but rats, mice, hamsters, and chinchillas are all allowed and have been considered "pests" by many before. Even if a hedgehog did find a way to escape it would never survive long enough to find a opposite gender hedgehog, breed, and make it through the gestation period of 35 days with California's natural hot climate and predators such as cats, dogs, owls, mountain lions, hawks, ect. They also wouldn't stand a chance against our man-made machines that we use everyday like cars, trucks, motorcycles, buses, etc. They wouldn't even survive long enough to pass on any diseases. Unlike what some people say hedgehogs are not mean and even if they wanted to hurt you they couldn't considering



that unlike the porcupine- which they aren't related to- they have soft flexible quills. They do have teeth but if they did bit they would only cause as much damage as a rat or hamster. If you're still worried about hedgehogs escaping or giving away diseases, then make qualified individuals who want a hedgehog have to get a permit before they are allowed to own one.

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**SECTION II: Optional Information**

5. **Date of Petition:** 7/14/16
6. **Category of Proposed Change**
  - Sport Fishing
  - Commercial Fishing
  - Hunting
  - Other, please specify: Hedgehogs
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): 671
  - Add New Title 14 Section(s): [Click here to enter text.](#)
  - Repeal Title 14 Section(s): [Click here to enter text.](#)
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)  
 Or  Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: [Click here to enter text.](#)
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Click here to enter text.](#)
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: If the hedgehog became legal to own and breed in California, legal professional breeders would recognize the consequences that accidentally releasing hedgehogs into the wild would start up. They would start breeding businesses by giving the hedgehogs a safe environment to be raised and sold in, making sure that each hedgehog is getting an educated owner, and decreasing their rate of escape. They would also bring money to the state with this new, legitimate source of revenue.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
[Click here to enter text.](#)

**SECTION 3: FGC Staff Only**



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

FGC staff action:

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

Date petitioner was notified of receipt of petition and pending action: July 25, 2016  
Tracking Number

Meeting date for FGC consideration: August 24-25, 2016

FGC action:

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



Tracking Number: (2016019)

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

### **SECTION I: Required Information.**

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

**1. Person or organization requesting the change (Required)**

Name of primary contact person: Sean Brady (on behalf of NRA and CRPA)



- 2. Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: The authority cited by the Commission for the regulatory provision sought to be amended includes: Fish & Game Code §§ 200, 202, 1050, 3960.2, 4150, 4181, & 4181.5. However, as explained below, it is unclear whether those cited statutes in fact confer on the Commission authority to adopt the provision in question, meaning it may be invalid per se.
- 3. Overview (Required)** - Summarize the proposed changes to regulations: Section 401 of Title 14, Division 1, Subdivision 2, Chapter 4, of the California Code of Regulations ("Section 401") allows for property owners and tenants to apply to the Department for a permit to take elk, bear, bobcat, beaver, wild pigs, deer, wild turkeys, or gray squirrels that are damaging or threatening property. Section 401, subsection (i) states, in relevant part: "No animals, except wild pigs, may be utilized by the permittee or designated agent." Petitioners seek to have this provision of Section 401, subsection (i) repealed.
- 4. Rationale (Required)** - Describe the problem and the reason for the proposed change: As currently written, Section 401, subsection (i) *requires* that the carcass of every elk, bear, bobcat, beaver, deer, turkey, or gray squirrel that is taken under a Section 401 depredation permit *must* go to waste. Such a blanket restriction on the use of these carcasses is not only immoral, but likely illegal.

The Administrative Procedures Act ("APA") governs the rule-making processes of the Commission. Under the APA, the validity of a regulations is evaluated by: necessity, authority, clarity, consistency, reference, and non-duplication. (Cal. Gov't. Code §11349.1). Thus, a key purpose of the APA is to limit an agency's authority to adopt only those regulations "within the scope of the authority conferred" and "consistent and not in conflict with [any] statute . . ." (Cal. Gov't. Code §§ 11342.1-11342.2).



In applying the APA's criteria, the provision of Section 401, subsection (i) that petitioners seek to repeal suffers two deficiencies: (1) there is no authority for it; and (2) it lacks consistency with general law.

### **Lack of Authority**

Under the APA, "authority" is defined as "the provision of law which permits or obligates the agency to adopt, amend, or repeal regulation." Cal. Gov't Code § 11349(b). Fish & Game Code section 200 confers on the Commission the authority to adopt regulations. The scope of the Commission's general regulatory authority is outlined in Fish & Game Code section 203.

The only provision of section 203 that is potentially relevant here is subsection (d), which permits the Commission to prescribe "the manner and the means of taking" animals. "Taking," in this context, is defined as "hunt, pursue, catch, capture or kill game or attempt to hunt, pursue, catch, capture or kill game." Cal. Fish & Game Code § 86. Significantly, the legislative counsel notes to section 86 state that "possess" has been deleted from the definition of "taking." *Id.* Under the rules of statutory construction, this means that "possession" of game is not contemplated under the Commission's general regulatory authority in Section 203, subsection (d). *See, e.g., Royal Company Auctioneers v. Coast Printing*, 193 Cal.App.3d 868, 873 (1987) (holding "[w]hen the Legislature deletes an express provision of a statute, it is presumed that it intended that to effect a substantial change of the law").

Therefore, while the Commission has general authority to regulate the actions between pursuing, capturing, and killing game, it is unlikely that it is authorized to regulate the use, i.e., possession, of game *after* the actual take, unless specifically called for under a separate governing statute, as is the case in many instances. *See, e.g., Cal. Fish & Game Code §203(c); see also § 313, 316.5, 331, 332, 395.*

None of the other statutes cited by the Commission as the basis for authority to create the problematic provision in Section 401, subsection (i) actually confers such authority, with the possible exception of Section 4181.5, which calls for the Commission to adopt regulations concerning deer depredation permits. Some of the other statutes provide for restrictions on how to take an animal pursuant to a permit, but none definitively includes restrictions on how the carcass is handled after the take, except for the restrictions on selling the depredated carcass. Nor does any statute specifically authorize the Commission to adopt regulations in that capacity.

In sum, the provision of Section 401, subsection (i) that prohibits "utilizing" the carcass of any elk, bear, bobcat, beaver, wild turkey, gray squirrel, and, possibly, deer that has been taken pursuant to a depredation permit, exceeds the Commission's regulatory authority and should be repealed.

### **Inconsistency**

Under the APA, the term "consistency" is defined as "being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law." Cal. Gov't Code § 11349(d). Agency regulations that conflict with statutory law (i.e., lack "consistency") are void. *Assn. For Retarded Citizens v. Dept. of Developmental Services*, 38 Cal. 3d 384, 391 (1985); *accord Credit Ins. Gen. Agents Ass'n v. Payne*, 16 Cal. 3d 651, 656 (1976); *Agric. Labor Rels. Bd. V. Super Ct.*, 16 Cal. 3d 392, 419 (1976) (citing *Morris v. Williams*, 67 Cal. 2d 733, 737 (1967)). This doctrine has frequently been invoked to strike down administrative regulations in conflict with the statute creating the agency or a statute the agency is authorized to administer; however "the principle is equally applicable when the regulation contravenes a provision of a different statute." *Agric. Lab Rel. Bd.*, 16 Cal. 3d at 420.



Subsection 401(i)'s prohibition on the utilization of an animal's carcass is at odds with section 4304 of the Fish and Game Code, which states that no person shall "leave through carelessness or neglect any game mammal or game bird which is in his possession, or any portion of the flesh thereof usually eaten by humans, to go needlessly to waste." Preventing anyone from "utilizing" the carcasses of elk, bear, bobcat, beaver, deer, wild turkey, or gray squirrel—as the provision of Section 401, subsection (i) at issue here does—violates Section 4304's prohibition against the wanton wasting of game.

As such, even if the Commission has the general authority to regulate the use of animals after take, the provision of Section 401, subsection (i) at issue here is nevertheless void because it conflicts with a specific statute, and should be repealed.

### **Allowing the Use of Depredated Carcasses Is Good Policy**

Setting aside the legal problems with the provision of Section 401, subsection (i) at issue here, the Commission should, regardless, allow the utilization of game carcasses taken under a depredation permit on policy grounds. Section 4304 legally compels people not to waste game meat, but it reflects a moral concept that all decent people adhere to already. It is simply wrong to allow animals to go to waste.

If the concern is that individuals will use depredation permits as a pretext for poaching, then the regulation should at least provide a more tailored system to address these concerns rather than a blanket ban on using the carcasses, assuming the Commission does have the regulatory authority to restrict use, which is unlikely for the reasons explained above. Section 401, subsection (i) provides that animal carcasses must be disposed of as required in the permit issued. The Commission could craft policies that carefully balance the concerns of preventing poaching and preventing waste. The Code already provides various mechanisms for doing just that in the context of hunter taken game.

For instance, Fish and Game Code § 3080 allows a person to possess a game bird or mammal during a period other than open season if the person is a "donor intermediary," that is, if they are a "recipient who receives a game bird or mammal from a donor to give to a charitable organization or charitable entity." By mandating this type of charitable transaction for depredated animals, which is wholly legal and statutorily-backed, the Commission would dually address concerns about abuse of depredation permits by poachers and the concerns about wasting carcasses. Section 401, subsection (i) could be redrafted so that either disposal of animals "as required in the permit" could contemplate this type of donor intermediary transaction or the prohibition on carcass utilization could be relaxed to allow for charitable donations of meat.

And, sections cited as authority in support of regulation section 401 also set forth viable options for depredated carcasses, beyond wholesale banning their use. Section 4181 provides to depredation permit applicants "lists of licensed hunters interested in wild pig hunting and lists of nonprofit organizations that are available to take possession of depredating wild pig carcasses." Providing the same network for other species would lessen carcass waste and also avoid the poaching dilemma.

Finally, Section 713 of the Fish & Game Code authorizes "[d]epartment employees to condemn the carcass of a diseased, injured, or chemically immobilized big-game animal (as defined in Section 350) that was lawfully taken and lawfully possessed and . . . unfit for human consumption." This section provides a useful mechanism whereby unsafe or useless meat can be kept out of circulation, just as with meat taken by a hunter. Either the permit requirements set forth in section 401 or a revised version of the regulation could allow for this, in the event of diseased or injured carcasses.



### Conclusion

For the above stated reasons, NRA and CRPA urge the Commission to accept this Petition and open the rulemaking process for a regulation that either simply deletes Section 401, subsection (i)'s general restriction on utilizing the carcasses of any elk, bear, bobcat, beaver, deer, wild turkey, or gray squirrel taken under a depredation permit, or, to the extent it has the authority to do so, that sets out clear guidelines for how depredated carcasses may be "utilized" by either charities or the Department.

### SECTION II: Optional Information

5. **Date of Petition:** August 19, 2016
6. **Category of Proposed Change**
  - Sport Fishing
  - Commercial Fishing
  - Hunting
  - Other, please specify: Depredation
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
  - Amend Title 14 Section(s):
  - Add New Title 14 Section(s): *Click here to enter text.*
  - Repeal Title 14 Section(s): 401, subsection (i).
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** *Click here to enter text.*  
Or  Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.  
If the proposed change requires immediate implementation, explain the nature of the emergency: This is not an emergency. But, the effective date of this regulatory change should be at the Commission's and Department's earliest convenience to avoid any unnecessary waste of useable animal carcasses.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: <http://shootingcouncil.org/hunters-for-the-hungry/>; <http://sportsmenslink.org/policies/state/game-meat-donation-programs>
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: The potential impact depends on whether the Commission simply strikes Section 401, subsection (i) or amends it. The impact of allowing depredation permittees (or a third party intermediary) to utilize animal carcasses is likely minimal, but could have a positive impact on the individuals or agencies that receive meat from depredated animals and the businesses that process that meat.



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

Not applicable, unless physical deprecation permits or applications therefor currently contain the restriction in Section 401, subsection (i) written on them.

**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: August 29, 2016

Meeting date for FGC consideration: October 19-20, 2016

FGC action:

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

Tracking Number

RECEIVED  
 CALIFORNIA  
 FISH AND GAME  
 COMMISSION  
 2016 AUG 19 PM 12:41

STATE OF CALIFORNIA  
**FISH AND GAME COMMISSION**  
**MEMORANDUM**

**DATE:** October 10, 2016

**TO:** Members of Fish and Game Commission

**FROM:** Mike Yaun (Legal Counsel) and  
Erin Chappell (Wildlife Advisor)

**SUBJECT:** Considerations for Ferret Legalization Associated with Petition #2016-008

Commission staff has drafted this memo to provide a detailed explanation for the staff recommendation regarding regulatory petition #2016-008 scheduled for Commission action under Agenda Item 32, Non-Marine Regulatory Petitions at its October 19-20, 2016 meeting.

### **Regulatory Overview**

Petition #2016-008 requests the Commission amend Title 14 CCR Section 671(c)(2)(K) by removing any reference to domestic ferrets. Section 671 (Importation, Transportation and Possession of Live Restricted Animals) states that it is unlawful to import, transport, or possess live animals, restricted in subsection (c) except under a permit issued by the Department of Fish and Wildlife (DFW). The regulation specifically states in Section 671(b) that “the commission has determined the [animals listed in subsection (c)] are not normally domesticated in this state.” Currently, all species in the Family Mustelidae, including ferrets are listed in subsection (c). Within Section 671, ferrets are further designated as “detrimental animals” because they pose a threat to native wildlife, the agricultural interests of the State, or to public health and safety.

Applicable Fish and Game Code sections include:

- Section 2 - Unless the provisions or the context otherwise requires, the definitions in this chapter [Div .5, Ch 1 of the Fish and Game Code] govern the construction of this code and all regulations adopted under this code.
- Section 54 – "Mammal" means a wild or **feral mammal** or part of a wild or feral animal, but not a wild, feral, or undomesticated burro.
- Section 89.5 – "Wildlife" means and includes all **wild** animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability.
- Section 2116 – As used in this chapter [Div. 3, Ch. 2 of the Fish and Game Code], "wild animal" means any animal of the class ... Mammalia (mammals ...

which is **not normally domesticated in this state as determined by the commission.**

- Section 2118 – Prohibited importation or release into state of live wild animals of listed species, except under revocable, nontransferable permit.
- Section 2120(a) – The commission, in cooperation with the California Department of Food and Agriculture (CDFA), shall adopt regulations governing both (1) entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals imported pursuant to Chapter; and (2) the possession of all other wild animals. Regulations shall be designed to prevent damage to native wildlife and agriculture and to provide for welfare of the animal and safety of the public

Any change to the regulation would require coordination with CDFA and the proposed action would effectively eliminate the Commission's authority to regulate ferrets, with the exception of escaped individuals to the extent those individuals could be shown to have reverted to a wild state.

### **Supporting Documentation**

Submitted with the petition were two pieces of supporting documentation: A report published by Dr. G.O. Graening (California State University, Sacramento) in 2010 and a CEQA checklist. The report, *Analysis of the Potential Impacts of Domesticated Ferrets Upon Wildlife, Agriculture, and Human Health in North America, with a Focus Upon California, Based Upon Literature Review and Survey of North American Governmental Agencies*, provides an accurate summarization of much of the existing information on domestic ferrets. The purpose of the report was to fully summarize the body of knowledge on the domesticated ferret (*Mustela putorius furo*) for potential impacts and an analysis to identify potentially significant issues so that Commission could proceed with the preparation of an Environmental Impact Report (EIR). The report identified three items that may need further analysis in an EIR: 1) the potential for the establishment of feral breeding populations; 2) potential impacts of ferrets on wildlife, either from an established population or from intentionally or inadvertently released ferrets; and 3) the potential economic impacts both beneficial and adverse of ferret legalization. The report also identified three items that may not need further analysis in an EIR: 1) the potential impacts to agriculture since there is no indication of impacts found in the literature or from a questionnaire of agricultural departments; 2) the potential impacts to human health from rabies, noting that impacts could be mitigated to a less than significant impact with required vaccination; and 3) the potential impacts to human safety from biting, noting that with effective mitigation measures this could be reduced to a less than significant impact.

Regarding potential impacts to wildlife populations, the report finds that while the establishment of feral colonies is improbable, there is a possibility that escaped ferrets might do significant damage to wildlife, such as ground-nesting birds or listed species, during a period up to a few weeks of survival (see Chapter 8, Section 2.2). It further notes that ongoing intentional releases or inadvertent escapes might replenish the population in the wild which could pose a continued hazard to wildlife. In addition, the

report states that while pet-store ferrets do not possess the necessary traits to become invasive, pole-cat-ferret hybrids and polecats may possess the necessary traits. The report notes that both fertile ferrets and polecat-ferret hybrids are advertised for sale online. Therefore, some risk of them establishing a breeding population remains. How great a risk that poses to California's unique biodiversity remains unclear.

The CEQA Checklist provided identified biological resources, land use planning, and mandatory finding of significance as environmental factors potentially affected by the proposed change in regulation. For all three, the determination was that those impacts may be less than significant with mitigation. While the checklist did not identify any potentially significant impacts related to greenhouse gas emissions, the discussion section was not included in the materials provided. More broadly, the document does not include discussions about some of the conclusions found in the report - notably, the need to further analyze the potentially significant impacts to wildlife from the establishment of a feral breeding population of ferrets in an EIR or a discussion of the full breadth of the potential ramifications of legalization, such as the increased potential for polecat and polecat-ferret hybrids.

Even ignoring the omissions in the checklist outlined above, the findings require at a minimum, that the Commission develop a mitigated negative declaration before adopting the regulation. However, the Commission would not have authority to ensure that the proposed mitigation measures are implemented because the Commission does not have authority over domestic animals. Based on the inability to implement that mitigation, a full EIR is needed, even if founded on the existing checklist. It is important to note that if potentially significantly impacts are found in the EIR the adoption of that EIR would require a statement of overriding concern due to authority issues associated with mitigation.

### **Process for Preparing an EIR**

As the Lead Agency under CEQA, the Commission would be responsible for preparing the EIR. Previously, the Commission directed that any new petitioner would need to fund the preparation of an environmental document, in this case an EIR, before considering any changes in the current regulation. Project proponent-funded environmental documents have been used by other agencies. For example, DFW has contract mechanism in place for this type of CEQA analysis. DFW adopted regulations (see Title 14 CCR sections 789.0-789.6) to allow for a special contract selection process. Through this process a project proponent contracts with DFW to pay for the contractor's work and DFW directs a previously-approved consultant to prepare the environmental document through the retainer contracts authorized in the regulations. The Commission would need to establish a similar process through regulations to pursue the development of a petitioner-funded EIR.

### **FGC Staff Recommendation**

Staff recommends denying the petition. Given that the proposed action would effectively eliminate the Commission's authority to regulate ferrets, the potentially

significant impacts to wildlife identified in the report, and the inability of the Commission to implement any identified mitigation measures, staff does not recommend removing ferrets from the list of restricted species at this time. However, if the Commission would like to move forward with the preparation of an EIR to further evaluate the potential impacts, staff recommends developing regulations to establish a contract selection process similar to the DFW regulations and proceed with a petitioner-funded EIR.

Finally, it is important to note that this issue is not specific to ferrets. Other species that are sometimes kept as domestic pets, such as hedgehogs and sugar gliders (species of possum), are also included in the list of restricted species. Any requests to remove them from the list would require similar considerations.

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2016 SEP 26 PM 1:47

September 23, 2016

Ms. Valerie Termini  
Executive Director  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-209

RE: Ferret Legalization

Dear Ms. Termini,

Thank you for considering lifting the ban on ferrets in California. Please add me to the list of people that support the legalization of pet ferrets.

There is absolutely no reason why they should be illegal in California. As a prior ferret owner I can tell you what sweet wonderful pets they make. I would like to have ferrets again. I have never spoken to anyone who did not support having ferrets as pets and the ban being lifted.

I also support the proposed \$100 licensing fee when a ferret is purchased.

Sincerely,



Lori Tigner

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2016 OCT -7 PM 3: 21

MCS

Jennifer Davidson

Valerie Termini  
Executive Director  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244

Dear Ms. Termini,

I am writing today as a current resident of California, and a ferret owner since 1992 in multiple U.S. states and England. Please add me to your list of voters who support ferret legalization.

I am willing to pay a licensing fee in advance of obtaining pet ferrets. I am willing to pay annually for vaccinations and wellness exams, and for food, litter, toys and other products. California tax is paid on products, so the state is already benefitting from pet ferrets, which are the 3<sup>rd</sup> most popular pet in the state, according to some pet organizations. It is difficult to accurately assess this because of the current illegal status of ferrets.

I understand the concern that escaped pet ferrets will overpopulate and/or harm local flora and fauna is one of the main reasons the California Department of Fish & Game has denied ferret legalization petitions in the past. Pet ferrets cannot breed in the wild because they are already spayed or neutered when they leave Marshall Ferret Farms in upstate New York, the largest breeder of pet ferrets nationwide.

Please consider legalizing ferrets for the state of California. It would mean so much to me and my beloved pets, and would positively impact California financially.

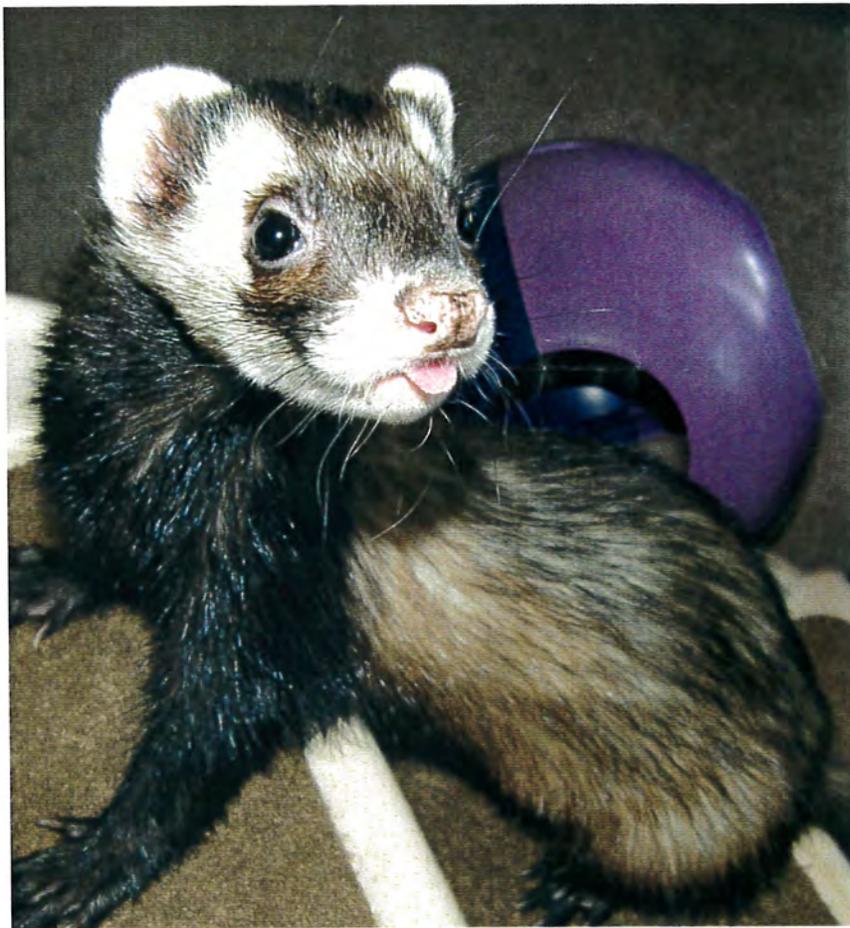
Sincerely,



Jennifer Davidson



Rest in Peace Samson, who was put to sleep Friday Oct 1 due to a cancer caused by premature neutering. He was 6 years old.



He is missed by his life-partner Mr. Miyagi, and their adopted daughter-ferret, Zipper.



**CALIFORNIA FISH AND GAME COMMISSION**  
**DECISION LIST FOR NON-REGULATORY ACTION THROUGH AUG 25, 2016**  
 Revised 10-06-2016

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

Date Received	Name of Petitioner	Subject of Request	Short Description	Staff Recommendation	FGC Decision
7/1/2016	<a href="#">Eric Mills</a> Action for Animals	Live animal food markets	Request to place ban on importation of frogs and turtles for the live animal food market on the FGC agenda for discussion and action.	<i>GRANT; schedule for Feb 2017 FGC meeting.</i>	RECEIPT: 8/24-25/2016 <b>ACTION: Scheduled 10/19-20/2016</b>
7/19/2016	<a href="#">Thomas O'Rourke</a> Yurok Tribal Chairman	Commissioner Hostler-Carmesin conflict	Requests FGC address concerns regarding Commissioner Hostler-Carmesin's compliance with the FGC Code of Conduct policy.	<i>FGC letter in response to these concerns was sent to Yurok on 9/09/2016.</i>	RECEIPT: 8/24-25/2016 <b>ACTION: Scheduled 10/19-20/2016</b>
7/21/2016	<a href="#">Inyo County</a> Board of Supervisors	Fish planting in Eastern Sierra	Urges DFW to increase the number and size of fish planted in the Eastern Sierra.	<i>DENY; outside FGC's scope of authority. Petitioners should contact DFW.</i>	RECEIPT: 8/24-25/2016 <b>ACTION: Scheduled 10/19-20/2016</b>
8/24/2016	Mindy Knatt, Frank Meyers, Yurok Tribe	Blue Creek	(a) Urges FGC to expand the Blue Creek closure due to the detection of ick on salmon at the mouth, and (b) requests FGC work more closely with the Yurok when decisions affect resources located within tribal boundaries.	<i>(a) DENY; DFW study ongoing, update to FGC upon conclusion of study. (b) GRANT; all tribes are welcome to join and participate in public meetings of FGC, including committee and tribal workgroup meetings. Meeting information is located at the back of meeting agendas. Meeting agendas are available at least 10 days in advance on the FGC website.</i>	RECEIPT: 8/24-25/2016 <b>ACTION: Scheduled 10/19-20/2016</b>
8/25/2016	Kimberly Richard	Napa Valley Democrats	Requests update on wolf management, monitoring, and conservation plans at future meeting.	<i>GRANT; schedule update by DFW once Wolf Management Plan finalized</i>	RECEIPT: 8/24-25/2016 <b>ACTION: Scheduled 10/19-20/2016</b>
8/25/2016	Michael Bocodoro	Delta predation	Requests FGC engage with stakeholders on predation issues related to salmon and smelt in the Delta.	<i>GRANT; FGC referred to WRC at Aug 2016 meeting; WRC considering a Delta predation forum in May 2017</i>	RECEIPT: 8/24-25/2016 <b>ACTION: Scheduled 10/19-20/2016</b>

**From:** [afa@mcn.org](mailto:afa@mcn.org)  
**To:** [FGC](#)  
**Cc:** [CNRA Office of the Secretary; Wildlife DIRECTOR](#)  
**Subject:** LIVE ANIMAL FOOD MARKETS  
**Date:** Friday, July 01, 2016 3:16:41 PM  
**Attachments:** [STATEMENT OF ERIC MILLS.docx](#)

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July 1, 2016

Greetings -

LIVE ANIMAL FOOD MARKETS (see attached)

While organizing some materials today, I ran across the attached from 2010.

Since the new commissioners and the Exec. Director are, I presume, relatively unfamiliar with the live animal food markets issue, would you please forward this attachment to them?

And I DO hope that the matter will soon be re-agendized. As you may recall, former Resources Secretary Huey Johnson wrote twice in support of a ban on the importation of non-native frogs and turtles for human consumption, as did more than 3,000 other organizations, legislators and members of a concerned public. Surely the Department has the authority to stop these harmful imports. (That's why they're called "permits," right?)

Cheers,

Eric Mills, coordinator  
ACTION FOR ANIMALS

**STATEMENT OF ERIC MILLS, COORDINATOR, ACTION FOR ANIMALS TO THE STATE FISH & GAME COMMISSION RE THE PROPOSED BAN ON THE IMPORTATION AND/OR SALE OF LIVE FROGS AND TURTLES FOR THE LIVE ANIMAL FOOD MARKETS - FEBRUARY 3, 2010**

Good morning, Commissioners.

Thank you for this opportunity to again address the Commission on the pressing need for a ban on the importation of live frogs and turtles for human consumption, an issue which has been before this body for nearly 15 years now. Indeed, the Commission in 2006 instructed the Department to go to notice, but the Department failed to act. It's way past time for action.

As has been well documented, these non-native animals are often bought and released into California waters, where they pose major problems for our native wildlife. On a personal note, on New Year's Day I was walking around Oakland's Lake Merritt, the nation's first in-city wildlife refuge, when I spotted a dead red-eared slider floating in the water. It was very likely the result of a religious "animal liberation" ceremony, an ongoing problem there and elsewhere, as described to in a January 12, 2010 letter sent to the Commission by Dr. Richard Bailey, Director of the Lake Merritt Institute. Dr. Bailey also favors the proposed ban.

Some 25 necropsies on turtles and frogs purchased from markets in Sacramento, Oakland, San Francisco and Los Angeles have shown these animals to be seriously diseased and/or parasitized. It is **illegal** to sell such products for human consumption, yet the practice continues unabated. DFG and health codes require that diseased or parasitized animals be destroyed at the border, or returned to the point of origin, yet are seldom if ever enforced.

Back in 1996, the Department's Steve Taylor (now retired), who issued the market permits for many years, told me that he administratively selected the red-eared sliders and the spiny soft-shells as the two turtle species for which the Department would issue permits. (Was this even legal?) It should be just as easy to administratively ban the importation, no?

Adding a sense of urgency to the matter is a scientific study which appeared in the January 2009 journal, BIOLOGICAL DIVERSITY, entitled, "Magnitude of the US trade in amphibians and presence of *Batrachochytrium dendrobatidis* and ranavirus infection in imported North American bullfrogs (*Rana catesbeiana*). (Abstract attached. I have submitted this study to the Commission previously.) The five researchers involved (one from USFWS here in Sacramento, another from UC Santa Cruz) documented that some TWO MILLION American bullfrogs are imported annually into California for the live markets. **OF THE FROGS NECROPSIED, 62% TESTED POSITIVE FOR THE DREADED CHYTRID FUNGUS, A PRIME SUSPECT IN THE**

**EXTINCTIONS OF DOZENS OF AMPHIBIAN SPECIES AROUND THE WORLD IN THE PAST 15 YEARS.** That fact alone should be enough reason to stop this commercial trade.

As is well known, the non-natives displace and prey upon our native wildlife. Threatened species such as the red-legged frog and the western pond turtle are put at great risk by the exotics. Bullfrogs are known to eat baby ducks and the fry of gamefish, which should concern all sporting organizations, as well as the environmental community. Both Oregon and Washington have either banned or severely restricted these species, and Florida only last year stopped the commercial trade in softshell turtles, in light of local depletions. California should follow suit.

I've seen the January 13, 2010 letter which the Commission sent to the Governor regarding the untenable furloughs thrust upon our beleaguered game wardens, and I share your concerns. That said, I hope you will not use the state budget as an excuse NOT to adopt the needed regulations to ban the turtle/frog importation and sales. According to the Governor's office, the furloughs are scheduled to end in June. It's critical that the regulatory ban be put in place as soon as possible. If we delay until all the human problems are resolved, all the animals will be extinct, the environment uninhabitable. I'm convinced that a total ban will not only resolve the problem, but will actually EASE the wardens' workload, not add to. The recent letter sent to the Commission by the California Fish and Game Wardens' Association seems to concur.

In sum, the mandate of the Commission and the Department of Fish and Game is to protect the state's natural resources, irreplaceable treasures belonging to all Californians. Please, no further delay--the issue is urgent. There's consensus that only a ban on the importation and sale of these non-native species will resolve the problem.

Thank you for your consideration.

Sincerely,

Eric Mills, coordinator

attachments



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548



*Sent via electronic mail*

July 19, 2016

President Eric Sklar  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

**Re: Tribal Committee Chair Jacque Hostler-Carmesin**

Aiy-ye-kwee' President Sklar and Commissioners,

The purpose of this letter is to continue the conversation regarding the Yurok Tribe's concerns about the California Fish and Game Commission's ("Commission") Tribal Committee Chair, Commissioner Jacque Hostler-Carmesin.

On June 22, 2016, I presented to you a summary of the Yurok Tribe's concerns regarding the Tribal Committee Chair. Although the Commission made a point to clarify that they are not able to ask questions for items presented during the public forum, members of the commission did provide limited response to our genuine concerns. You, President Sklar, said that you thought our concerns were "inappropriate."

To be clear, the Yurok Tribe raised concerns Commissioner Hostler-Carmesin's work on the Commission with respect to the Commission's Code of Conduct – which is separate and distinct from the Commission's Conflict of Interest Code. As you know, the Commission adopted a Code of Conduct Policy in March of 2013 which states, in part, that "a Commissioner shall conduct his or her affairs in an open, objective, and impartial manner, free of undue influence and the abuse of power and authority." Once again, the Yurok Tribe respectfully requests that the Commission address our concerns pursuant to relevant Code of Conduct grievance and investigation processes. Yurok Tribal Council, unfortunately, has continuing concerns about the current Committee Chair's ability to practice unbiased leadership. The Yurok Tribe recognizes the value of having someone with tribal experience fill the Tribal Committee Chair position. However, there have been actions taken by Commissioner Hostler-Carmesin when the Yurok Tribe has felt excluded from the Commission's business related to matters that impact the Tribe.

We appreciate your consideration of our request. If you have any questions, please contact the Office of Tribal Attorney at 707-482-1350.

Sincerely,

A handwritten signature in blue ink, appearing to read "T.P. O'Rourke, Sr.", with a stylized flourish at the end.

Thomas P. O'Rourke, Sr.  
Chairman

Cc: Valerie Termini, Executive Director California Fish and Game Commission



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CALIFORNIA  
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COMMISSION

2016 JUL 21 AM 7:51  
BOARD OF SUPERVISORS  
COUNTY OF INYO

P. O. DRAWER N • INDEPENDENCE, CALIFORNIA 93526  
TELEPHONE (760) 878-0373  
e-mail: kcarunchio@inyocounty.us

MCS



July 13, 2016

Charlton Bonham, Director  
California Department of Fish and Wildlife  
1416 9<sup>th</sup> Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814  
[director@wildlife.ca.gov](mailto:director@wildlife.ca.gov)

California Fish and Game Commission  
P. O. Box 944209  
Sacramento, CA 95814  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

The Honorable Jerry Brown  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814

Gentlemen:

The Inyo County Board of Supervisors strongly urges the California Department of Fish and Wildlife to increase the number and size of fish planted in the Eastern Sierra. Over the past several years the region has seen a decrease in the numbers and size of fish planted which has directly impacted the fishing opportunities available to our visiting anglers.

As a tourist-based economy, Inyo County depends heavily on our fishing resources for our economic wellbeing. Department statistic show that in the past 10 years sales of resident fishing licenses have declined from 1,245,007 to 985,986, which correlates to a significant reduction in State revenues. In addition to the diminishing numbers of fish, the size of the fish planted have also continued to be smaller. The competition with other States for California fresh water anglers' tourist dollars is becoming more and more diverse as other States look to the millions of California residents to improve their economies. It is important to ensure that our fresh water angling opportunities maintain the necessary ingredients to keep our fishing opportunities viable and competitive. The only way to do this is to improve the numbers and size of fish available. Inyo County is a tourist destination for millions of southern California residents, as well as visitors from around the globe. As a primary fishing destination for many of our visitors, it is imperative that those who pay for a State fishing license see a compensatory result for their purchase.

While the County recognizes the challenges of running an efficient department within the constraints of diminishing revenues, it is imperative for the Department to protect its fresh water fishing industry which has had a proven positive fiscal impact for our State. Without immediate action to protect this industry, we believe that this vital economic industry for our State and most especially for our small rural county will become non-existent in the future.

Your recognition of the importance of Inyo County's fishing resources to our economic well-being is greatly appreciated and we look forward to improved local hatchery operations and in the size and numbers of fish planted in the Eastern Sierra in the very in the near future.

Sincerely,

Jeff Griffiths, Chairperson  
Inyo County Board of Supervisors