

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsection (b)(178) of Section 7.50, Title 14, CCR
Re: Silver King Creek

- I. Date of Initial Statement of Reasons: December 23, 2008
- II. Date of Pre-Adoption Statement of Reasons: March 3, 2009
- III. Date of Final Statement of Reasons: April 10, 2009
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 5, 2009
Location: Sacramento, California
 - (b) Discussion Hearing: Date: March 5, 2009
Location: Woodland, California
 - (c) Adoption Hearing: Date: April 9, 2009
Location: Lodi, California

V. Update:

No changes have been made to the proposed regulatory language.

The Fish and Game Commission adopted the proposed regulations at its April 9, 2009 meeting.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

(1) Edward H. Brown, letter dated February 20, 2009:

- a. He requests that Silver King Creek be open to fishing from below the Llewellyn Falls downstream to Tamarack Lake Creek.

Response:

- a. The Commission closed Silver King Creek below Llewellyn Falls downstream to Tamarack Lake Creek at their June 23, 2006 meeting to help prevent the unauthorized movement of nonnative trout from below Llewellyn Falls to above Llewellyn Falls. The Department still supports this closure.

(2) Robert D. Williams, US Fish and Wildlife Service, letter dated February 27, 2009:

- a. US Fish and Wildlife Service supports the proposed regulations change.

Response:

- a. Support noted.

(3) Genny Wilson, US Forest Service, letter dated March 11, 2009:

- a. US Forest Service supports the proposed regulations change.

Response:

- a. Support noted.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified.

- (b) No Change Alternative:

The changes are necessary to safeguard the recovery of a federally threatened species.

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation affects a short stream reach in a remote wilderness area of northern California and is necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(d) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(e) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(f) Other Nondiscretionary Costs/Savings to Local Agencies:

None.

(g) Programs Mandated on Local Agencies or School Districts:

None.

- (h) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (h) Effect on Housing Costs:

None.

Updated Informative Digest/Policy Statement Overview

Current regulations for Silver King Creek (Alpine Co.) downstream of the confluence with Tamarack Lake Creek provide for trout fishing from the last Saturday in April through November 15, with a five-fish daily bag limit and ten-fish possession limit. Angling is permitted in this portion of the drainage, originally occupied by the endemic Paiute cutthroat trout. The portion of Silver King Creek and tributaries (including lakes) upstream of Tamarack Lake Creek is currently closed to fishing year-round to protect Paiute cutthroat trout populations above Llewellyn Falls. Currently non-native rainbow trout dominate Silver King Creek below Llewellyn Falls, a natural barrier to upstream fish movement, posing a threat to the native Paiute cutthroat trout residing above the barrier.

The Department is proposing to increase the bag limit for trout in Silver King Creek downstream of the confluence with Tamarack Lake Creek to the confluence with Snodgrass Creek (approximately 8 miles of Silver King Creek) to a ten (10) fish daily bag limit and ten (10) fish possession limit. The proposed regulation change will reduce the number of non-native trout available for illegal human-induced translocation upstream into protected Paiute cutthroat trout habitats above Llewellyn Falls; and 2) reduce the population of non-native trout, thus improving the odds of additional restoration efforts to eliminate non-native trout from the Silver King Creek drainage.

Other existing portions of the watershed currently closed to angling would remain closed.

The Fish and Game Commission adopted the proposed regulations at its April 9, 2009 meeting.