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BY FACSIMILE TRANSMISSION AND FIRST CLASS MAIL

John Carlson, Jr., Executive Director
California Fish & Game Commission
1416 Ninth Street
P.O. Box 944209
Sacramento, CA 94244-2090

Donald Koch
Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

Re: Petition for Administrative Rulemaking

Dear Director Koch and Members of the Commission:

The following organizations ("Petitioners") hereby petition the Fish and Game Commission ("Commission") and Department of Fish and Game ("Department"), pursuant to Government Code § 11340.6, to immediately repeal a portion of Title 14, § 7.50(b)(91.1)(b)(2) of the California Code of Regulations:

Bedrock Prospectors
Eastern Oregon Mining Association
Greenhorn Grange
High Desert Treasure Club
Klamath Basin Alliance
North Central Washington Prospectors
North American Miners Association, Inc.
People for the USA Grange
Public Lands for the People Inc.
Resources Coalition
The New 49'ers, Inc.
Waldo Mining District
Washington Prospectors Mining Association
Willamette Valley Miners

Specifically, Petitioners seek the repeal of an exception to the General Area Closures set forth in § 7.50(b)(91.1)(b)(2): "Exception: members of the Karuk Indian Tribe listed on the

EXHIBIT 11
PAGE 1 OF 8

current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.” The Commission has authority to grant this Petition pursuant to, *inter alia*, §§ 200 & 316.5 of the Fish and Game Code.

Petitioners take this step with extreme reluctance, but cannot remain silent while their own activities in the vicinity of this fishery, with no adverse impact on fish whatsoever, are threatened by the Tribe and Department. Specifically, the Tribe and Department appear to contend that status of fishery resources in the area is so dire that any and all human activity which fish biologists speculate may injure fish—except intentional killing of the fish for human consumption—must be shut down. The Tribe, Commission and Department are actively involved in efforts to restrict other economic activities in the Klamath Basin, including but not limited to local agriculture, logging, mining and hydroelectric generation. Indeed, the Tribe has commenced one federal and two state lawsuits and has repeatedly sought legislative and administrative actions attempting to destroy federally-protected mining rights. At the same time, the Commission and Department continue to authorize, and the Tribe continues to conduct, an unregulated dipnet fishery with substantial direct, immediate, and adverse impacts on fishery resources—the fish are killed for human consumption.

Impact of the Ishi-Pishi Fishery

Overfishing is a well-understood mechanism for injury to anadromous fish populations. The starting point for preventing overfishing is monitoring catch. Unfortunately, the Department has failed to provide meaningful oversight of the Karuk fishery at Ishi-Pishi Falls. A September 22, 2002 article in the *Los Angeles Times* (Exhibit 1), reports that the fishery is conducted in “a gray area of the law” and that “[n]o one officially keeps track of the 2,000 or so salmon that the tribe can take in a good year”:

“Right now, their fish are not even ‘paper fish,’” said Neil Manji, a senior fisheries biologist for the California Department of Fish and Game. “Anything they catch, it’s kind of like ghost fish.”

In the article, tribal leader Leaf Hillman is quoted to explain why the fish aren’t counted:

“Then it would have to come out of someone’s allocation somewhere,” said Leaf Hillman, the tribe’s natural resources director. “No one talks about it because no one wants to deal with it. People have been satisfied for many, many years to pretend the issue doesn’t exist.”

The article suggests that a single netter can catch a hundred salmon in a day, which “far exceeds the legal three fish daily catch for a single fisherman”. One local resident in Happy Camp is prepared to testify that the Karuks are sufficiently adept at catching salmon in their dipnets that the only limiting factor in how many fish are killed is how many fish they are willing or able to pack out of the Falls area.

By letter dated December 29, 2005, in a letter directed to Director Koch in his former capacity as Regional Manager for the North Coast Region, petitioners formally requested, pursuant to the California Public Records Act, all records of the Department “concerning the subject of fishing by the Karuk Tribe or its members . . .”. The request was reiterated and

expanded by letter of January 23, 2006, ultimately producing a statement from the Department's attorney, Mr. Stephen Puccini, that no responsive documents, other than the fishing regulations themselves, existed.

Petitioners have also made recent inquiry of (1) the Department's representatives, who have confirmed that the Department does not review, and does not even possess, records of Karuk Tribal harvest, (2) federal fish regulators, who also do not review or possess records of Karuk Tribal harvest; and (3) the Karuk Tribe itself, which professes to have no records. The Department is essentially permitting the Karuk Fishery to operate without any oversight or estimate of harvest impacts. Given the lack of any monitoring data, and the direct mortality involved, it is entirely possible that this fishery is causing more damage to protected salmon stocks than all other activities in the Klamath Basin combined, which ought to make it a very high priority for the Commission and Department to address.

It should be noted that dipnetting, like other adult harvests of salmon, includes the harvest of mature, egg-laden females returning to spawn. The loss of a single such adult female is literally thousands of times more important to the population dynamics of salmon than the loss of eggs, fry or even juvenile salmon rearing in the river before outmigration, because the females typically produce thousands of eggs and fry.

CEQA Violations

Pursuant to § 21100 of the Public Resources Code, the Commission or Department is required to prepare and certify an environmental impact report "on any project which they propose to carry out or approve that may have a significant impact on the environment". The Department did prepare an EIR in 2006 addressing Inland Sport Fishing Regulations, but it did not even address the Karuk Tribal Fishery.

The Commission and Department may contend that the regulations authorizing unregulated Karuk fishing are exempt from any requirement that an EIR be prepared pursuant to § 21080.5 of the Public Resources Code and 15 C.C.R. § 15251(b), but it is doubtful that the provision can qualify for this exemption as the Commission and Department must prepare substitute written documentation meeting various criteria under § 21080.5.

The Ishi Pishi Falls fishery manifestly has a significant effect on the environment, and the Commission and Department have manifestly failed to "minimize any significant adverse effect on the environment" (*see* § 21080.5(d)(2)(A) & 3(A)). Indeed, based on the Department's response to the Public Records Act requests discussed above and other inquiries, the Commission and Department have failed to conduct any environmental analysis whatsoever concerning this fishery. Even if the Commission and Department do have lawful authority to grant special rights under California law to Karuk tribal members (*but see infra*), it is entirely irresponsible for those rights to be granted without a careful study and regulation of the environmental impacts.

While petitioners would prefer not to put a stop to Tribal fishing, in view of the Department's strategy of regulating nearly all other productive activity in the area out of existence on account of salmon declines, stopping Karuk fishing (other than in compliance with generally applicable fishing regulations) is the only responsible thing to do until a full

CEQA or other legally-sufficient review is completed to determine the impacts. The Department must pursue a regulatory approach that prevents continuing harm to threatened fishery resources and prevents unnecessary harm to other economic activities which support *all* local communities and cultures in and around Siskiyou County.

Unlawful Taking of Listed Species

Coho salmon in the Klamath River are listed as a federally-protected threatened species, 50 C.F.R. § 223.102(a)(10), and any take of such fish (with an intact adipose fin) is a violation of federal law, 50 C.F.R. § 223.203(a). They are also listed as threatened under California law. 14 C.C.R. § 670.5(b)(2)(E).

According to a November 2005 report on the Karuk Tribal diet (excerpt, Figure 5, attached as Exhibit 2), 3.2% of Karuk households reported harvesting "11 to 50" coho, and 11.1% of Karuk households reported harvesting "10 or less" coho in the 2004-2005 season, a season in which catches were reportedly at "record lows". A 2006 master's thesis at Humboldt State University (excerpt, Figure 1, attached as Exhibit 3) reports that 30% of the tribal households harvested coho.

Petitioners are unaware of any documentation concerning very recent harvests, consistent with the Department's grossly irresponsible "ghost fish" approach to Karuk Tribal harvest. However, representatives of Petitioners have observed the harvests at Ishi Pishi Falls in recent years, including years in which coho salmon were ostensibly protected as an endangered species, and have not observed the Karuk Tribal members making any attempt to distinguish between listed and unlisted fish, or fish with or without an intact adipose fin.

Petitioners also note that the current draft of the "Karuk Tribe Department of Natural Resources Eco-Cultural Resources Management Plan"¹ does not specify any protections whatsoever for coho salmon, referring only to the goal "protect activities in tributaries that contribute to the quality and availability of spawning, rearing and migration habitat, for Threatened and Endangered, anadromous, and resident fish populations". The Plan acknowledges that:

"Fish harvested include; [*sic*] Fall Chinook Salmon, Fall Winter and early Spring Run Steelhead, Coho Salmon, Crayfish, Trout and Pacific Lamprey. *Many of the listed fish are harvested at Ishi Pishi Falls*, while all are harvested to a lesser extent at many locations throughout the Karuk Aboriginal Territory. Ishi Pishi Falls is currently the only place traditional salmon fishing methods are consistently practiced and known by management agencies and the general public." (Emphasis added.)

Indeed, the Plan acknowledges that no uniform obeisance is given to the Endangered Species Act, noting that some "Karuk Tribal members continue to practice traditional fishery management practices", including some who "refuse to purchase fishing licenses", while "many others [*assertedly*] go by the regulatory policies of the California Department of Fish and Game".

¹ <http://karuk.us/dnr/pdf/Public%20releaseECRMP%20May%202006.pdf>

For all these reasons, it can safely be presumed that Karuk Tribal members are regularly engaged in a widespread and wanton unlawful take of listed species in violation of federal law, a violation to which the Department has contributed through its failure to provide any specific guidance or oversight to the fishery at Ishi Pishi Falls. Even if Tribal members do not kill and consume the coho themselves, their action of indiscriminate dipnetting constitutes an unlawful "take" within the meaning of the ESA, for "take" means "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). *See also* Fish and Game Code § 2080 (parallel California prohibition)

A number of recent cases demonstrate that governmental entities that authorize conduct that results in take of listed species can be indirectly liable for such take. Many of these cases have relied upon § 9(g) of the Federal Endangered Species Act, which makes it unlawful for any person "to attempt to commit, solicit another to commit, or cause to be committed, any offense" prohibited by the Endangered Species Act. *E.g., Strahan v. Cox*, 127 F.3d 155 (1st Cir. 1997) (Massachusetts liable for authorizing commercial fishing). Petitioners expect to give notice, pursuant to 16 U.S.C. § 1540(g), of intent to sue the Commission and Department for violations of § 9(g) if the Petition is rejected.

The Need for Fishery Restrictions

Ishi Pishi Falls is located just upstream from where the Salmon River branches off from the mainstem Klamath River. The Tribe and Department have sought to severely limit and shut down suction dredge mining in numerous areas above the Falls, ostensibly to protect anadromous fish spawning in the area. Local agricultural interests face crippling and potentially insurmountable permitting requirements, again spearheaded by the Tribe and Department, which are ostensibly invoked to protect Klamath River anadromous fish. The Tribe, Commission and Department even seek to remove large hydroelectric dams providing significant public benefits notwithstanding (1) the historic compatibility of such projects with large and healthy fish runs,² and (2) massive and adverse impacts to salmon habitat through toxic sediment releases against which all other human activities in and around the Klamath River pale by comparison.

In particular, fish runs were perceived as adequate for decades after the last dam was constructed on the Klamath River, during a time when agricultural and mining operations were of a substantially larger scale with assertedly greater impacts on fisheries. It is fundamentally irrational and unfair to permit unregulated fisheries of the type that destroyed Klamath salmon runs in the first place (then unrestricted cannery operations at the mouth of the river) to persist while destroying large sectors of other economic activity with no appreciable effect on run sizes.

With respect to suction dredge mining, the Department is well aware, from its participation the case of *Karuk Tribe v. Department of Fish and Game*, and the record therein,

²Petitioners acknowledge that coho runs have never been large and healthy, but that status long preceded most Klamath Dams. As as far back as the 1912-13 season, only an estimated 49 coho were taken at the Klamathon racks, an egg-taking facility that effectively blocked all salmon runs. *See* http://www.dfg.ca.gov/fish/documents/SAL_SH/SAL_Coho_StatusNorth_2002/SAL_Coho_StatusNorth_2002_D.pdf (number refers to female coho).

of the lack of any evidence that miners have so much as injured a single anadromous fish in this area—or anywhere else. The Tribe and Department have sought action against suction dredge mining on the basis of speculation by biologists that some effects of suction dredge mining are adverse to salmonid habitat, and further speculation that the adverse impacts outweigh the beneficial ones. Yet repeated studies have failed to demonstrate any measurable link between such impacts and salmonid populations. Most notably, Professor Bayley's study showed that even when the impacts of unlawful mining (dredging into banks, etc.) are considered, no effect can be measured. Numerous other studies have failed to demonstrate any adverse population impacts whatsoever from the rural agricultural and forestry activities being regulated out of existence by the Department.

It is a well-established principle of California law that human activities are to be restricted pursuant to the environmental laws only to the extent required to mitigate their adverse effects on California Fish and Wildlife. The California Endangered Species Act specifically provides that agencies shall develop measures that avoid jeopardizing listed species "while at the same time maintaining the project purpose [here suction dredging, agriculture, hydroelectric generation and other important productive activity] to the greatest extent possible" (Fish & Game Code § 2053); where mitigation measures are required of private parties, "the measures or alternatives required shall be roughly proportional in extent to any impact on those species that is caused by that person" (*id.* § 2052.1). The general principle of limiting restrictions to the minimal extent necessary is also incorporated into CEQA, and made expressly applicable to judicial relief such as the injunction the existing parties propose to have this Court enter. *See* Public Resources Code § 21168.9(b) (court's orders "shall include only those mandates which are necessary to achieve compliance with this division and only those specific project activities in noncompliance with this division").

The Department's and Tribe's support for additional restrictions upon suction dredge mining and other activities, notwithstanding their inability to demonstrate actual and *measurable* impacts upon salmonid species, suggests that the status of local anadromous fish populations is sufficiently dire that there can be no justification for the continued wholesale slaughter of these fish for private gain. In the case of the threatened coho, both the United States and the State of California have found these fish are likely to become an endangered species.

A recent report by California Trout³ identifies several other runs of anadromous fish in the Klamath River Basin "regarded as in danger of extinction within the next 50-100 years," including Klamath Mountains Province summer steelhead and Klamath-Trinity spring chinook. Harvest of wild steelhead is restricted for every other California fishing group except the Karuk Tribe at Ishi Pishi Falls. Of particular importance with respect to the fishery at Ishi Pishi falls are "dwindling populations of spring chinook in Elk, Indian, [and] Clear . . . Creeks . . ."—upstream from the Falls. The experts engaged by California Trout concluded that "[r]emoval of even a small number from the population by [means of harvest] presumably has an effect . . .".

Petitioners assume that the Commission and Department, in evaluating this petition, will also utilize the extensive records already before the Commission and Department concerning the status of anadromous fish runs in the Klamath River, and that petitioners need not provide the Department with the information already in its own files. If this assumption is incorrect, please advise us and we will supplement the Petition.

³ Available at <http://www.caltrout.org/SOS-Californias-Native-Fish-Crisis-Final-Report.pdf>.

In any event, the status of fish runs as revealed by the regulatory efforts of the Commission and Department (outside the context of the Karuk Tribal fishery) does not afford the Department and Commission a factual basis for continuing to authorize an unregulated fishery on the Klamath River. It is particularly irrational for the Department to suffer this fishery while pursuing extensive regulation against other interests in the Klamath Basin whose impacts on the fish are too small to be measured—while allowing the Karuk Tribe an unlawful right to unregulated takings which may be the most significant continuing causative factor in declines of protected fish. It is also a gross failure of the duty of the Commission and Department's duty as trustee to protect the State's fish and wildlife resources "held in trust for the people of the state by and through the Department". (Fish and Game Code § 711.7(a).)

A Special Rights Fishery for the Karuk Tribe Is *Per Se* Unlawful

The law also does not permit such a fishery. The United States Government terminated federal recognition of the Karuk Tribe pursuant to Public Law 588 of August 13, 1954, making no provision, as it sometimes did with respect to other Native American Tribes, for recognition of any continuing Tribal fishing rights. While the Assistant Secretary for Indian Affairs of the U.S. Bureau of Indian Affairs determined in 1978 to deal with the tribe for the limited purpose of providing federal benefits, *see* 13 I.B.I.A. 76, 78 (Jan. 8, 1985), the Assistant Solicitor for Indian Affairs confirmed in 1994 that the tribe possessed no federally-reserved fishing rights (Memorandum, M.J. Anderson to W. Shake, U.S. Fish & Wildlife Service, Mar. 7, 1994). More recently, Congress specifically rejected proposed H.R. 2875, to grant federal fishing rights to the Karuk Tribe.

The powers of the Commission and Department are limited by Article 4, § 20 of the California Constitution to "such powers relating to the protection and propagation of fish and game as the Legislature sees fit", and the Legislature's delegation of "the power to regulate the taking or possession of . . . fish" is limited "to the extent and in the manner prescribed" in the Fish and Game Code. Fish & Game Code § 200.

No provision of the Code or other California statute authorizes any special fishing rights for members of the Karuk Tribe. Where the Legislature has conferred special fishing rights on Native American tribes, the Legislature has done so specifically, and only for tribes with federally-recognized fishing rights, under conditions that carefully regulate and limit the harvest. *E.g.*, Fish and Game Code § 7155 (regulating Yurok harvest).

Nor does any provision of California law purport to afford the Commission or Department general authority or administrative discretion to recognize Native American Tribes or define the scope of Tribal rights.⁴ Fish and Game Code §§ 16500-541 does afford the Department authority to enact regulations concerning tribal fishing consistent with any agreement or compact with the Yurok or Hoopa Tribes, but it does not extend to the Karuk Tribe, and given the absence of any such agreement, is irrelevant in any event.

⁴ In those cases where California officials have been authorized to deal with Native American Tribes, the scope of their authority has been limited to dealing with "federal recognized Indian Tribes on Indian lands in California in accordance with federal law". Cal. Const. Art. 4, § 19.

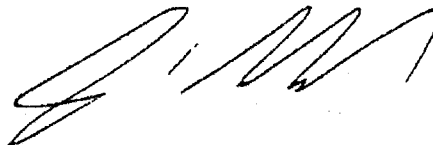
Article 1, § 25 of the California Constitution vests the right to fish in “the people” generally, and Article 1, § 7 specifically declares that “a citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens” and generally provides “equal protection of the laws”. Simply put, even if the Legislature had purported to grant the Commission or Department power to grant special fishing rights to a class of California citizens without regard to any special federal rights—here the Karuk Tribe—the California Constitution would not permit such special treatment.

Such special treatment also runs afoul of federal supremacy principles insofar as the grant of unrestricted rights to harvest endangered and other federally regulated salmon would interfere with the policies of the federal regulatory scheme over tribal harvest. *Cf., e.g., White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980) (federal supremacy displaces Arizona attempt to levy taxes on federally-regulated tribal harvest activities).

Conclusion

For the foregoing reasons, it is imperative to eliminate the Karuk Tribal fishery at Ishi Pishi Falls unless and until an Act of Congress provides federally-protected fishing rights for members of the Tribe. It is our understanding that pursuant to Government Code § 11340.7(a) or otherwise, the Department should notify petitioners of its response to the petition within 30 days. Petitioners will take the lack of a response after that time period as a denial of the Petition, or if the Petition is otherwise denied, commence legal proceedings against the Department and Commission. We urge the Commission and Department to accept the Petition and move forward with appropriate rulemaking proceedings to remove the Karuk fishery exemption from its sportfishing regulations. This notice is also issued pursuant to § 388 of the Code of Civil Procedure and § 21167.7 of the Public Resources Code.

Sincerely,



James L. Buchal
Counsel to Petitioner The New 49'ers, Inc.

cc: Jerry Brown, Attorney General

**Sate of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of April 8-9, 2009

This is staff's best effort to summarize the actions of the meeting.
For more specific information go to www.Cal-span.org.

Pursuant to the call of the President, the Commission met at Wine and Roses Country Garden Inn, Garden Ballroom, 2505 W. Turner Road, Lodi, California, on April 8, 2009. The meeting was called to order at 10:15 a.m. by President Gustafson.

FISH AND GAME COMMISSION

Cindy Gustafson	President	Present
Jim Kellogg	Vice-President	Present
Richard Rogers	Member	Present
Michael Sutton	Member	Present
Daniel Richards	Member	Present

Persons present:

COMMISSION STAFF

John Carlson, Jr.	Executive Director
Jon K. Fischer	Deputy Executive Director
Adrianna Shea	Deputy Executive Director
Sherrie Fonbuena	Associate Governmental Program Analyst
Anita Biedermann	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

OFFICE OF THE ATTORNEY GENERAL

Deborah Barnes	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Donald Koch	Director
John McCamman	Chief Deputy Director
Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Nancy Foley	Deputy Director, Law Enforcement Division
Dr. Eric Loft	Chief, Wildlife Branch (RMPD)
Neil Manji	Chief, Fisheries Branch (RMPD)
Philip Bairrington	Northern Region

The following persons were present and heard:

Ed Schultz	Marin County Fish and Wildlife Commission
Jim Martin	Recreational Fishing Alliance
Ray Yee	Coastside Fishing
Jim Haussenen	California Marine Affairs
Ed Tavasieff	Commercial Fisherman

Bill Bernard	Abalone Advisory Group
Dan Bacher	Editor, Fish Sniffer
Arch Richardson	Concerned Citizen
Tom Pedersen	California Rifle and Pistol Association
John Fields	California Rifle and Pistol Association
George Osborn	Concerned Fisherman
Tom Raftican	The Sportfishing Conservancy
E. B. Duggan	Trinity River Guide Association/In-River Sports Fishing
Steve Shimek	Monterey Coastkeeper
Steve Scheiblaue	City of Monterey, Harbor Masters
Paul Weakland	Commercial Fisherman
Bill Gaines	California Outdoor Heritage Alliance
Jay Yokomizo	MLPA Stakeholder
Karen Reyna	Gulf of the Farallones National Marine Sanctuary
Bob Wilson	Farallones Marine Sanctuary Association
Thomas Lyons	California Coastkeeper Alliance
Bob Bow	Coastside Fishing Club
Don Peoples	Concerned Citizen
Robin King	Concerned Citizen
Jessica Luo	Point Reyes National Seashore
Paul Hobi	Ocean Conservancy
Jim Bulger	Concerned Fisherman
Laura Kasa	Save Our Shores
Bob Breen	Concerned Citizen
Bill Johnson	Coastside Fishing Club
Rick Johnson	Concerned Citizen
Scott Tibbedeaux	Concerned Citizen
Karen Garrison	Natural Resources Defense Council
Vern Goehring	California Fisheries Coalition
Dennis Long	Monterey Bay Sanctuary Foundation
Gilbert Higbee	Recreational Fisherman
Bob Fletcher	Sportfishing Association of California
Doug Wilgis	Concerned Citizen
Eric Holthouse	Recreational Fisherman
Jim Higuchi	Recreational Fisherman
Matthew Plut	Coastside Fishing Club
Michael Starr	Coastside Fishing Club
Francesca Koe	NCC Stakeholder/Diver
Cyndi Dawson	Science Reef Check of California
Kaitilin Gaffney	Ocean Conservancy
Steven Fukuto	United Anglers of Southern California
Tom Weseloh	California Trout
Ben Taylor	PCF
Charles Bucaria	Federation of Fly Fishers
Pamela Flick	Defenders of Wildlife
Bill Snyder	Department of Forestry and Fire Protection
Justin Augustine	CBD
Gary Rynearsen	Green Diamond Resource Co.
Steven Self	Sierra Pacific Industries
Ed Worley	National Rifle Association

The following agenda items were heard on April 9, 2009: 6, 8(C), 8(F), 8(G), 8(H), 10(A) & (B), 11, 12, 13 & 14.

1. PUBLIC FORUM.

Received public testimony from the following: Ed Schultz, Jim Martin, Ray Yee, Jim Haussenen, Ed Tavasieff, Bill Bernard, Dan Bacher, Arch Richardson, Tom Pedersen, John Fields, George Osborn, Tom Raftican, E. B. Duggan, Steve Shimek, Steve Scheiblaue, and Paul Weakland.

President Gustafson reported that DFG would be providing an update on the MLPA funding issue in the next agenda item.

2. UPDATE ON MARINE LIFE PROTECTION ACT (MLPA) FOR NORTH CENTRAL COAST STUDY REGION.

(A) REGULATION TIMELINE AND CALIFORNIA ENVIRONMENTAL QUALITY ACT DOCUMENT.

(B) ESTIMATED COSTS AND ANTICIPATED FUND SOURCES.

Received report from the Department; Final EIR to be completed in for the August FGC Meeting. Received public testimony. All Commissioners agreed on the following suggested timeline: FGC to publish notice as soon as it receives the appropriate paperwork from DFG, including Form 399; receive public comments at the Commission's May 13-14, 2009, meeting and possible adoption, including receipt of public testimony, at the Commission's August 5-6, 2009, meeting.

3. RECEIPT AND POSSIBLE ACTION ON THE DEPARTMENT OF FISH AND GAME DRAFT NEGATIVE DECLARATION REGARDING DELISTING THE AMERICAN PEREGRINE FALCON.

Received the Department's report. No public testimony.

MOVED BY J. KELLOGG, SECOND BY R. ROGERS, TO RELEASE DOCUMENT FOR PUBLIC REVIEW. TO MAY 09 MEETING FOR PUBLIC COMMENTS AND ADOPTION AT AUGUST 5-6, 2009, MEETING.

AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.

4. UPDATE ON SMITH RIVER ISSUES AND MANAGEMENT.

Cal Trout provided an update. Received the Department's update. Received public testimony.

5. (A) CONSIDERATION AND POSSIBLE ADOPTION OF FINDINGS ON THE PETITION TO DESIGNATE PACIFIC FISHER (*Martes pennanti*) AS AN ENDANGERED OR THREATENED SPECIES CANDIDATE.

Received the Department's report. Received public testimony.

MOVED BY R. ROGERS, SECOND BY M. SUTTON, TO ADOPT PROPOSED DRAFT FINDINGS TO DESIGNATE PACIFIC FISHER AS AN ENDANGERED OR THREATENED SPECIES CANDIDATE.

AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON. MOTION PASSED UNANIMOUSLY.

- (B) CONSIDERATION AND POSSIBLE EMERGENCY ACTION TO ADD SECTION 749.5, TITLE 14, CCR, RE: SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF PACIFIC FISHER DURING CANDIDACY PERIOD.
Received the Department's report. Received public testimony.

***MOVED BY R. ROGERS, SECOND BY D. RICHARDS, TO TAKE EMERGENCY ACTION TO ADD SPECIAL ORDER RELATING TO INCIDENTAL TAKE OF PACIFIC FISHER DURING CANDIDACY PERIOD.
AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.
MOTION PASSED UNANIMOUSLY.***

6. SCOPING OF POSSIBLE DEPARTMENT AND COMMISSION 2009 UPLAND GAME REGULATION CHANGE PROPOSALS.
Received the Department's update. Received public testimony. At the Commission's direction, DFG to evaluate turkey hunting on State Wildlife Areas and to include an option for a complete ban of lead ammo for upland game, small mammal, hunting in the condor range.
7. DEPARTMENT OF FISH AND GAME LEGISLATIVE REPORT UPDATE AND POSSIBLE CONSIDERATION OF COMMISSION POSITIONS ON PROPOSED LEGISLATION.
Received the Department's report. Received public testimony.
8. RECEIPT OF DEPARTMENT OF FISH AND GAME INFORMATIONAL ITEMS.
- (A) RECEIPT OF DEPARTMENT OF FISH AND GAME DIRECTOR'S REPORT.
Received the Department's report. No public testimony.
- (B) UPDATE ON THE AUTOMATED LICENSE DATA SYSTEM.
Received the Department's report. No public testimony.
- (C) STATUS UPDATE ON THE REPORT REGARDING LEVELS OF LEAD FOUND IN CALIFORNIA CONDORS DURING 2008. (Note: The Commission is required to issue this report by June 2009, pursuant to Section 3004.5 of the Fish and Game Code.)
Received the Department's status update and that the report will be available at the Commission's May meeting. Received public testimony.
- (D) UPDATE ON AQUACULTURE.
Received the Department's report. Received public testimony.
- (E) RECEIPT OF DEPARTMENT TEMPLATE FOR STATE BOTTOM LEASE.
Received the Department's report. No public testimony.
- (F) UPDATE ON ENFORCEMENT.
Received the Department's report. All Commissioners agreed to send letter of support to Counties District Attorneys. No public testimony.
- (G) UPDATE ON PACIFIC FISHERY MANAGEMENT COUNCIL ISSUES.
Department to report under the salmon items. No public testimony.

- (H) OTHER.
Department provided a status of the Herring fishery.
9. RECEIPT OF COMMISSION INFORMATIONAL ITEMS.
Received report from Executive Director Carlson. No public testimony.
10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS.
- (A) MARINE RESOURCES COMMITTEE.
Received reports from Commissioners Sutton and Rogers. Received public testimony.
- (B) AL TAUCHER'S PRESERVING HUNTING AND SPORT FISHING OPPORTUNITIES ADVISORY COMMITTEE.
Received report from Deputy Executive Director Fischer. Next meeting scheduled for June 22 or 23, 2009. Received public testimony.
11. RECEIPT OF FEDERAL AGENCIES INFORMATIONAL ITEMS.
Received report from Tony Morton. No public testimony.
12. FISH AND GAME COMMISSION/DEPARTMENT OF FISH AND GAME WORKLOAD PLANNING AND COORDINATION.
Received update from Executive Director Carlson. Meeting to be scheduled in conjunction with Commission's June meeting.
13. RECEIPT OF LEGAL COUNSEL INFORMATIONAL ITEMS.
No report.
14. NEW BUSINESS.
None.
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EXECUTIVE SESSION
(NOT OPEN TO PUBLIC)

PURSUANT TO THE AUTHORITY OF GOVERNMENT CODE SECTION 11126(a)(1) AND (e)(1), AND SECTION 309 OF THE FISH AND GAME CODE, THE COMMISSION WILL MEET IN CLOSED EXECUTIVE SESSION. THE PURPOSE OF THIS EXECUTIVE SESSION IS TO CONSIDER:

- A. PENDING LITIGATION TO WHICH THE COMMISSION IS A PARTY.
- I. SAN LUIS AND DELTA-MENDOTA WATER AUTHORITY AND WESTLAND WATER DISTRICT; STATE WATER CONTRACTORS; KERN COUNTY WATER AGENCY; AND OTHER REAL PARTIES IN INTEREST vs. CALIFORNIA FISH AND GAME COMMISSION RE: LONGFIN SMELT.
- II. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: TIGER SALAMANDER.
- III. BIG CREEK LUMBER COMPANY AND CENTRAL COAST FOREST ASSOC. vs. CALIFORNIA FISH AND GAME COMMISSION RE: COHO LISTING, SOUTH OF SAN FRANCISCO.

- IV. LINDY O'LEARY vs. CALIFORNIA FISH AND GAME COMMISSION RE: R.R.S.A.C. AND R.R.S.S. PERMIT DENIALS.
- V. NATURAL RESOURCES DEFENSE COUNCIL, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: CALIFORNIA CONDORS EXPOSURE TO LEAD AMMUNITION.
- VI. COALITION FOR SUSTAINABLE DELTA, ET AL., vs. CALIFORNIA FISH AND GAME COMMISSION RE: SPORTFISH REGULATIONS AND TAKE OF LISTED SPECIES.
- VII. JAMES BUNN AND JOHN GIBBS vs. CALIFORNIA FISH AND GAME COMMISSION RE: SQUID PERMITS.
- VIII. CENTER FOR BIOLOGICAL DIVERSITY vs. CALIFORNIA FISH AND GAME COMMISSION RE: AMERICAN PIKA.

- B. POSSIBLE LITIGATION INVOLVING THE COMMISSION.
 - C. STAFF PERFORMANCE AND COMPENSATION.
 - D. RECEIPT OF HEARING OFFICER RECOMMENDATIONS ON LICENSE AND PERMIT ITEMS:
-

There being no further business, the meeting recessed at 5:17 p.m. to reconvene on April 9 at 8:30 a.m.

**State of California
FISH AND GAME COMMISSION**

Staff Summary, Meeting of April 9, 2009

This is staff's best effort to summarize the actions of the meeting.
For more specific information go to www.Cal-span.org.

Pursuant to the call of the President, the Commission met at Wine and Roses Country Garden Inn, Garden Ballroom, 2505 W. Turner Road, Lodi, California, on April 9, 2009. The meeting was called to order at 8:40 a.m. by President Gustafson.

FISH AND GAME COMMISSION

Cindy Gustafson	President	Present
Jim Kellogg	Vice-President	Present
Richard Rogers	Member	Present
Michael Sutton	Member	Present
Daniel Richards	Member	Present

Persons present:

COMMISSION STAFF

John Carlson, Jr.	Executive Director
Jon K. Fischer	Deputy Executive Director
Adrianna Shea	Deputy Executive Director
Sherrie Fonbuena	Associate Governmental Program Analyst
Anita Biedermann	Associate Governmental Program Analyst
Carol Horn	Executive Assistant

OFFICE OF THE ATTORNEY GENERAL

Deborah Barnes	Deputy Attorney General
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DEPARTMENT OF FISH AND GAME

Donald Koch	Director
Sonke Mastrup	Deputy Director, Resources Management & Policy Division (RMPD)
Nancy Foley	Deputy Director, Law Enforcement Division
Dr. Eric Loft	Chief, Wildlife Branch (RMPD)
Neil Manji	Chief, Fisheries Branch (RMPD)
Scott Barrow	Senior Biologist Specialist, Fisheries Branch
James Baugus	Law Enforcement Division
Erica Hacche	Law Enforcement Division
Tony Straw	System Analyst

The following persons were present and heard:

Bill Gaines	California Outdoor Heritage Alliance
Paul Weakland	Commercial Fisherman
Ed Worley	National Rifle Association
Tom Pedersen	California Rifle and Pistol Association

Tony Morton	NOAA
E. B. Duggan	Trinity River Guide Association/In-River Sports Fishing
Bob Boucke	Johnson's Bait and Tackle
George Badasci	Concerned Fisherman
Leon Lesicka	Desert Wildlife Unlimited
Randy Rister	Imperial County Fish and Game Commission
Fred Worthley	Desert Wildlife Unlimited
Peter Meyer	Concerned Hunter
Ron LaRochelle	Concerned Hunter
Josh Brones	California Houndsmen for Conservation
Dan Tichenor	North Central California Houndsmen
Jeff Kuyper	Los Padres Forestwatch
Sunny Hammonds	Concerned Hunter
Dick Dasmann	Arroyo Grande Sportsmen's Club
Mike McCorkle	Southern Ca. Trawlers Association
James Buchal	The New 99'ers Inc.
James Foley	Coalition Petitioners
Steve Kleszyk	Concerned Citizen
Walt Wegner	Public Lands for the People
Daniel Effman	Members of the Karuk Tribe
Kathryn Updike	Concerned Citizen
Craig Tucker	Karuk Tribe
Robert Goodwin	Karuk Tribe

The following items were scheduled for April 8 and heard on April 9, 2009: 6, 8(C), 8(F), 8(G), 8(H), 10(A) & (B), 11, 12, 13 & 14.

15. ANNOUNCEMENT OF RESULTS FROM EXECUTIVE SESSION.
Deputy Attorney General Barnes reported that no announcements were required. No public testimony.
16. RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SUBSECTION (b)(91.1) OF SECTION 7.50, TITLE 14, CCR, RE: KLAMATH-TRINITY SALMON FISHING REGULATIONS. (Note: The Commission will consider adoption of the proposed changes at its April 21, 2009, teleconference meeting.)
Received report from the Department. Received public testimony.
17. RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTIONS 7.00 AND 7.50, TITLE 14, CCR, RE: CENTRAL VALLEY SALMON FISHING REGULATIONS. (Note: The Commission will consider adoption of the proposed changes at its April 21, 2009, teleconference meeting.)
Received report from the Department. Received public testimony.
18. RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTION 27.80, TITLE 14, CCR, RE: OCEAN SALMON FISHING REGULATIONS. (Note: The Commission will consider adoption of the proposed changes at its April 21, 2009, teleconference meeting.)
Received report from the Department. Received public testimony.

19. RECEIPT OF PUBLIC TESTIMONY ON TAG QUOTA CHANGES, CLARIFICATIONS AND URGENCY CHANGES FOR THE 2009-2010 MAMMAL HUNTING REGULATIONS. (Note: The Commission will consider adoption of the proposed changes at its April 21, 2009, teleconference meeting.)
Received report from the Department. Received public testimony.
20. RECEIPT OF PUBLIC TESTIMONY ON PROPOSED CHANGES TO SECTION 124, TITLE 14, CCR, RE: HALIBUT TRAWLING. (Note: The Commission will consider adoption of the proposed changes at its May 14, 2009, meeting in Sacramento.)
Received report from the Department. Received public testimony.
21. CONSIDERATION AND POSSIBLE ADOPTION OF PROPOSED CHANGES TO SUBSECTION (b)(178) OF SECTION 7.50, TITLE 14, CCR, RE: SILVER KING CREEK SPORT FISHING REGULATIONS.
Received report from the Department. No public testimony.
- MOVED BY J. KELLOGG, SECOND BY D. RICHARDS, ADOPTION OF PROPOSED CHANGES TO SILVER KING CREEK SPORT FISHING REGULATIONS.***
AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.
MOTION PASSED UNANIMOUSLY.
22. CONSIDERATION AND POSSIBLE ACTION RELATED TO THE REQUEST OF JAMES L. BUCHAL FOR THE COMMISSION TO AMEND SUBSECTION (b)(91.1)(B)2. OF SECTION 7.50, TITLE 14, CCR, RE: EXEMPTION TO GENERAL AREA CLOSURES ON THE KLAMATH RIVER WHICH ALLOWS THE USE OF HAND-HELD DIP NETS BY THE KARUK INDIAN TRIBE AT ISHI PISHI FALLS.
Received report from the Department. Received public testimony.
- MOVED BY J. KELLOGG, SECOND BY M. SUTTON, TO DENY REQUEST.***
AYES: C. GUSTAFSON, J. KELLOGG, D. RICHARDS, R. ROGERS, M. SUTTON.
MOTION PASSED UNANIMOUSLY.
23. COMMISSION FOLLOW-UP.
President Gustafson summarized the item and requested that Commissioners suggest items to be discussed at future meetings. No suggestions were made by Commissioners.
24. MEETING REVIEW AND STAFF DIRECTION.
Executive Director Carlson reviewed the "to do".
(May not be the complete list.)
Schedule presentation on MPA monitoring at May meeting.
Schedule Aquaculture meeting, May 13.
Schedule MLPA hearings.
Schedule ratification of Longfin Smelt findings for May meeting.
Prepare 5 legislative bill analysis.
Staff to draft letter to District Attorney's Association regarding prosecution of crimes.
Prepare report for May Biodiversity Council.
Schedule ½ day workload meeting in conjunction with June Commission meeting.
Chief Foley to update Commissioners via report on Salinas River enforcement.
Status of salmon/steelhead report cards for youth.

Commissioner Richards is coordinating with Chief Foley for a Warden Shoot on June 2, 2009, in San Bernardino.

OTHER

25. ANNOUNCEMENT OF FUTURE MEETINGS.

**2009 FISH AND GAME COMMISSION
MEETING SCHEDULE
www.fgc.ca.gov**

DATE	LOCATION
April 21 (9:30 a.m.) Confirmed	Sacramento (Via Telephone)
May 13 (Wed.) May 14 (Thurs.) Confirmed	State of California Resources Agency Building 1416 Ninth Street Sacramento
June 24 (Wed.) June 25 (Thurs.)	Yolo Fliers Club 17980 County Road 94B Woodland
August 6 (Thurs.) August 7 (Fri.)	???
September 2 (Wed.) September 3 (Thurs.)	???
September 30 (Wed.) October 1 (Thurs.) Confirmed	Yolo Fliers Club 17980 County Road 94B Woodland
November 4 (Wed.) November 5 (Thurs.) Confirmed	Yolo Fliers Club 17980 County Road 94B Woodland
December 10 (Thurs.) December 11 (Fri.) Confirmed	State of California Department of General Services Auditorium (Ziggurat Bldg.) 707 Third Street, First Floor West Sacramento

April 5-10, 2009, PFMC Salmon
July 10-15, 2009, WAFWA Newport Beach
September 2009, AFWA

There being no further business, the Fish and Game Commission adjourned at 12:23 p.m.

original

DECLARATION OF KEITH R. WALKER

In re: Federal & Vested Rights
Case No. 34-2013-80001439,
Superior Court Of California, Sacramento County;
Coordination Proceeding Special Title (Rule 1550(b))
SUCTION DREDGE MINING CASES
Superior Court of California, County of San Bernardino,
Judicial Council Proceeding No. 4720

I, Keith Robert Walker, am the Petitioner in the above cited Case No. 34-2013-80001439 originally filed in Sacramento County.

I have been a "miner" since about 1972 when I moved here with the intention of mining gold. In that year or the next I staked a mining claim on a "lode" or quartz vein located on Paper Cabin Ridge, which was known as the "Ultima Chanca" mine. About that time I also obtained a blasting permit that allowed me to purchase dynamite and blasting caps.

About 1973 I was issued my first Suction Dredge Mining Permit by the California Department of Fish and Game. My first dredge was a three inch home made dredge with a 5 h.p. motor. The next year I began dredging with Burt Haines on an eight inch dredge. The next year I bought my first of many eight inch dredges. Since that time until today I have at all times been in possession of an eight inch dredge, and have at times put together and operated ten and twelve inch dredges as the depth of the gravel dictated.

Since about 1974 I have mined gold primarily on the "Steiner" claims located about one mile above Parrots Ferry road. However, I have and still do own a commercial raft with a sampling dredge mounted on it, and I have sampled almost every hole on the Stanislaus River from the Camp Nine Bridge to the Old Malonies Bridge. I have also dredged on the Merced River, the Tuolumne River, the Mokelumne River and the Yuba River, also a number of smaller rivers and creeks.

On the "Steiner" placer mining claims, of which I have located the "Steiner No. 1" claim and recorded it with the B.L.M. and Tuolumne County, the gold falls out in a "Gold Run" located pretty much near the center of the river, which ranges in depths of 15-18 feet of water to 25 ft. in the two deep holes located on those cited claims. A "Gold Run" is located on the low pressure side of the current line where the gold runs in a line usually about 6-8 ft. wide, more or less depending upon the depth of the river or it's proximity to a hard "dike" where the gold run narrows before it goes over the dike and into the next hole.

While working these claims, "we" used to average about two ounces of gold per day, and on three occasions I witnesses a pound of gold (12 oz. per pound) being dredged up in one day. When I added up all the gold that I knew about that was dredged up during the 70's it

came to over 80 pounds of gold, that included one ten pound nugget. that is/was put on display at the Nugget Casino in Nevada. That figure does not include what the original locator of the claims, Walt Steiner recovered from 1919 through the early 1960's when he finally retired from dredging.

I have invested large sums of money in the building of four eight inch dredges, a ten inch dredge and a 12 inch dredge along with at least two or more smaller dredges. During the 1970 I purchased two Power Wagon 4x4's. winches, camping equipment, numerous wet suits and diving equipment. I also paid federal income tax on a portion of the gold that I recovered, and paid \$1,000.00 per month for the lease to the mining claim when the price of gold was \$130.00 for an ounce, which is to say that this was not a hobby or done for recreational reasons.

During the 80's until about 1990 the New Melones Lake filled to its capacity and we were no longer able to work the Steiner placer mining claims. When the water receded in about 1991 we again returned to dredge on these claims through 1993 and until we were again shut down by the rising level of the lake. That winter, as the water rose and covered the claims again, we, Kelly Keisling of Hope Alaska and myself, made a valid discovery of a previously overlooked "pocket" of gold which we had planned to come back the next year to dredge it out. However, the rising water covered that area until just recently.

In 2009, I along with Tom Hunter, one of my dredging partners for over 30 years, applied for suction dredge permits from the CDFG, and were denied because of the moratorium imposed by SB 670. I can prove this fact. Both of us are/were computer illiterate and despite this fact were never notified of any of the Fish and Game proceedings that followed despite the fact that we had applied for permits in 2009. Because of this fact, electronic notice was insufficient. I only learned of a local CDFG meeting regarding the proposed regulations after reading in the local newspaper how alleged hobby and recreational dredgers had showed up at this meeting in support of a 50 mile ban on mining around Yosemite National Park. I responded by writing a Letter To The Editor stating that anybody that would believe that these people were any thing other than environmentalists passing themselves off as miners would have to be "stupid, stupid, stupid".

Tom Hunter, one of my dredging partners who had his first Fish and Game permit in 1965 recently died of bone cancer having never recieved the dredging permit he had sought. With his passing I have lost the best mining partner I ever had and also a wealth of mining experience and knowledge that can never be replaced.

At the present time I have in my yard two eight inch dredges and a six inch sampler dredge that are all homemade by me. Because of the moratorium imposed by SB 670, and extended indefinitely by the unconstitutional use of Budget Bills in violation of Art. 4, §9 of the California Constitution, these dredges are now virtually worthless within the State of California and beyond.

I will be 66 years old in May. With each passing year it gets harder and harder to move boulders and rocks and to dive and work at the depths required to reach to gold on my claim. With the current drought conditions and the lake level, I have one last window of opportunity to dredge the last 30-50 feet of unworked material left on the claim. After this window of opportunity closes when the lake rises again my dredging days are over, and if I am denied access to my claim because of the current unconstitutionally extended moratorium I will suffer irreparable harm by the loss of income and property devaluation which I can never recover.

A suction dredge is the only way to profitably mine my claim because the "gold run" is located under water ranging in depths from 15 to 25 feet of water. The FEIR-April 1, 1994, p.2 recognized the existence of a "gold run" by stating ". . . such an operation follows a "streak" and rarely approaches one half the width of the stream." The 1994 FEIR also recognized the difference between "A recreational suction dredger (representing 90 percent of all suction dredgers)", and "Professional or commercial operation . . . " on that cited page. On page 35 of said FEIR under PROJECT OBJECTIVES it is further stated ". . . while providing suction dredging opportunities to commercial and recreational enthusiasts." On page 44 of said FEIR, first paragraph, it is stated "Professional or commercial suction dredgers derive all or most of their income from suction dredging." The 2012 FEIR completely ignores the existence of professional or commercial suction dredge miners and simply reduces us all to the level of "hobby" or "recreational", and does away with the "Special Permit" provisions that provided a process and appeals process by whereby one might assert a claim to federal mining rights.

The Special Permit was a part of the 2009 regulations and existed in 1973 when I applied for my first suction dredge permit, and was also available in about 1976 or 77 when I first applied for one. It is my position that the special permitting process predates the APA and represented a continuing force of law, and is authorized as a special regulation because it serves a legitimate government interest which is that it allows for an on-site inspection in order for the CDFG to identify the spawning beds or other areas of concern. It also allowed entry into Class A river closures which would have avoided all the Federal Preemption problems we are confronted with at this time. PLEASE NOTE that on P.125 of the 1994 FEIR it is stated in the last paragraph "Suction dredgers may apply to suction dredge in specific closed areas through the special permit process. If the potential for take or incidental take exists, the Department may require that a biological assessment be conducted by a competent biologist, . . . ", and on page 134 it states "4. Any rivers, lakes and streams with Department Species of Special Concern dependent on aquatic and riparian ecosystems may be closed to suction dredging. These areas may be opened to suction dredging under special permits on a case by case basis . . . ".

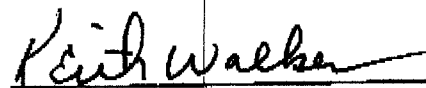
I submit that by the elimination of the special permitting process in the 2012 regulations, in what appears to me to be an attempt to reduce

all suction dredge miners to the ranks of hobby or recreational, the CDFG has destroyed vested and federal mining rights, refused to recognize federal mining rights, and as approved are no longer consistent with controlling law or relevant case history, and therefore do not conform to the requirements of the APA.

I mine for profit not for pleasure or to amuse myself, and I submit that I have been and will continue to be irreparably harmed by the moratorium imposed by SB 670, added to by AB 120, and extended indefinitely by SB 1018 which at first glance would seem to render the bill as first enacted to be vague, ambiguous, and uncertain.

I swear under penalty of perjury, under the laws of the State of California, that the above is true and correct, except as to those matters stated by information or belief, and as to those matters I believe them to be true.

Dated: May 11, 2015, and executed at Sonora, CA.



Keith R. Walker, In Pro Per
9646 Mormon Creek Rd.
Sonora, CA 95370
(209) 914-1656

in re Water Quality Bd.

(c) To perpetuate all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to all persons.

(d) To provide for aesthetic, educational, and nonappropriative uses of the various wildlife species.

(e) To maintain diversified recreational uses of wildlife, including the sport of hunting, as proper uses of certain designated species of wildlife, subject to regulations consistent with the maintenance of healthy, viable wildlife resources, the public safety, and a quality outdoor experience.

(f) To provide for economic contributions to the citizens of the state, through the recognition that wildlife is a renewable resource of the land by which economic return can accrue to the citizens of the state, individually and collectively, through regulated management. Such management shall be consistent with the maintenance of healthy and thriving wildlife resources and the public ownership status of the wildlife resources.

(g) To alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c).

(h) It is not intended that this policy shall provide any power to regulate natural resources or commercial or other activities connected therewith, except as specifically provided by the Legislature. (Amended by Stats 1992 Ch. 279 §1, eff. 1/1/93.)

§1802. Departmental Jurisdiction.

The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. The Department, as trustee for fish and wildlife resources, shall consult with lead and responsible agencies and shall provide, as available, the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used in the California Environmental Protection Act (Division 13 (commencing with Section 21000) of the Public Resources Code). (Added by Stats 1990 ch 1706 §10, eff. 1/1/91.)

§5653. Use of suction dredge equipment.

(a) Before any person uses any vacuum or suction dredge equipment in any river, stream or lake of this state, the person shall submit an application for a permit for a dredge to the Department, specifying the type and size of equipment to be used and other information as the Department may require.

(b) The Department may designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges which may be used, and the time of year when those dredges may be used. If the Department determines that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time which is not

USGS Fleet

§ 30

GENERAL PROVISIONS AND DEFINITIONS
Div. 0.5

Historical and Statutory Notes

Derivation

Former § 2, subd. c., of the Fish and Game Code of 1933, enacted by Stats.1933, c. 73, p. 394, § 2, amended by Stats.1937, c. 455, p.

1399, § 1; Stats.1941, c. 1141, p. 2849, § 1; Stats.1943, c. 592, p. 2175, § 1; Stats.1947, c. 590, p. 1588, § 1; Stats.1951, c. 715, p. 1980, § 2; Stats.1953, c. 287, p. 1442, § 1.

Library References

Fish § 11.
Game § 6.
Westlaw Topic Nos. 176, 187.

C.J.S. Fish § 29.
C.J.S. Game; Conservation and Preservation of Wildlife §§ 7, 23 to 24, 27, 29, 31, 46, 50.

Notes of Decisions

Powers of commission 1

1. Powers of commission

The Fish and Game Commission created by Const. Art. 4, § 25½ (repealed) is the only agen-

cy upon which powers relating to the protection, propagation and preservation of fish and game may be conferred by the Legislature, including the power to administer. 17 Op.Atty. Gen. 98.

§ 32. "County" defined

"County" includes city and county.
(Stats.1957, c. 456, p. 1309, § 32.)

Legislative Counsel Notes

(New).

Library References

Counties § 1.
Westlaw Topic No. 104.
C.J.S. Counties §§ 1 to 7.

§ 33. "Credible science" defined

"Credible science" means the best available scientific information that is not overly prescriptive due to the dynamic nature of science, and includes the evaluation principles of relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation, and peer review of information as appropriate. Credible science also recognizes the need for adaptive management, as defined in Section 13.5, as scientific knowledge evolves.

(Added by Stats.2012, c. 559 (A.B.2402), § 4.)

Historical and Statutory Notes

For legislative findings, declarations, and intent relating to Stats.2012, c. 559 (A.B.2402), see Historical and Statutory Notes under Fish and Game Code § 13.5.

For letter of intent regarding Stats.2012, c. 559 (A.B.2402), see Historical and Statutory Notes under Fish and Game Code § 13.5.

§ 35. "Day" and "week" defined

"Day" means calendar day, and "week" means calendar week.
(Stats.1957, c. 456, p. 1309, § 35.)

GENERAL DEFINITIONS
Ch. 1

No substantive ch

Derivation

Former § 2, subd Code of 1933, enacted 394, § 2, amended

Dates of seasons and

Time § 8.

Westlaw Topic No C.J.S. Time §§ 10

Encyclopedias

CA Jur. 3d Time § CA Jur. 3d Time §

§ 37. "Department"

"Department"

(Stats.1957, c. 456

No substantive ch

For legislative finding relating to Stats. see Historical and Statutory Notes under Fish and Game Code § 1.

For letter of intent 559 (A.B.2402), see Notes under Fish and Game Code § 1.

Derivation

Former § 2, subd Code of 1933, enacted

Fish § 8, 11.

Game § 3.5, 6.

Westlaw Topic No C.J.S. Fish §§ 24

Legislative powers

1. Legislative powers

The Legislature has to take the division department of nature

EXHIBIT 13
PAGE 6 OF 6