

**California Fish and Wildlife Strategic Vision Project**  
**Four Recommendations Supported by SAG Members *after* February 3 for**  
**Potential Inclusion in the Interim Strategic Vision**

*February 14, 2012*

The California Fish and Wildlife Strategic Vision (CFWSV) Blue Ribbon Citizen Commission (BRCC) and Stakeholder Advisory Group (SAG) met on February 3, 2012 to discuss a suggested interim strategic vision for the California Department of Fish and Game (DFG) and California Fish and Game Commission (F&GC), as well as potential recommendations to help achieve the goals and objectives of that vision.

At the February 3 meeting, participating SAG members indicated that they could “live with” forwarding for consideration a number of recommendations for how the goals of the strategic vision could be achieved; approximately ten other recommendations were not discussed due to lack of time. Subsequently, several SAG members took it upon themselves to inquire with their colleagues who participated on the 3rd (and represent less than a quorum of the SAG) to ask whether they could “live with” four more recommendations moving forward; the SAG members requested that these four recommendations be submitted for CFWSV Executive Committee consideration.

This document contains the four recommendations that identified SAG members indicated they could live with forwarding for consideration in this phase; the recommendations are related to statutes and regulations, permitting, enforcement and the Fish and Game Commission. The supporting SAG members are identified at the beginning of each recommendation and their affiliations are identified at the end of this document. The text of the recommendations is identical to that suggested on February 3, with three exceptions; those exceptions are identified in tracked changes.

### **Statutes and Regulations Recommendation**

SAG members who indicated they could “live with” this recommendation moving forward for consideration: Bob Bertelli, Karen Buhr, Brenda Burman, Debbie Byrne, Noelle Cremers, Kim Delfino, Jennifer Fearing, Kaitlin Gaffney, Curtis Knight, Cliff Moriyama, Margo Parks, Mark Rentz, Eileen Reynolds, Jason Rhine, April Wakeman, and Jay Ziegler.

***Recommendation: Review the California Fish and Game Code and Title 14 of the California Code of Regulations to identify and make recommendations to: (1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate unused and outdated code sections; (4) consolidate sections creating parallel systems and processes; and (5) restructure codes to group similar statutes and regulations.***

Implementation steps include:

- Make legislative request to the California Law Revision Commission to review and recommend, in cooperation with the work group, “clean-up” of Fish and Game Code and Title 14.
- Establish a work group made up of DFG staff and stakeholders.
- Obtain priorities for regulatory and statutory review from stakeholders.
- Review Title 14 of California Code of Regulations.
- Review California Fish and Game Code.

Description: The California Fish and Game Code and Title 14 of the California Code of Regulations both need to be reviewed to reduce redundancy and improve consistency and clarity. The director of DFG should create a work group to consist of a representative each from the DFG Legislative Office, the DFG Office of General Counsel, and the DFG Law Enforcement Division, as well as several (4-6) individuals from different programs within DFG (e.g., wildlife, fisheries, marine, habitat conservation, etc.) to review the DFG/F&GC portions of Title 14 of the California Code of Regulations and, subsequently, the California Fish and Game Code.

At the outset of this process and periodically throughout, the work group would meet with stakeholders to ascertain their opinions and suggestions for “clean-up” of the Fish and Game Code and Title 14 pursuant to this recommendation amending, repealing, consolidating, and simplifying the codes. For particularly complicated or controversial areas, it may be useful to establish ad hoc groups comprised of both DFG staff and stakeholders to work through possible revisions. The work group would also consult with and utilize other DFG staff as needed and, where appropriate, with representatives of state and federal agencies with parallel or overlapping jurisdiction to identify opportunities to coordinate different statutory schemes.

The work group would ultimately prepare a proposed plan for revising the codes. Although the subject matter expertise of DFG staff and stakeholders would be critical at the earlier phases, it is advisable to consult the California Law Revision Commission (CLRC) early in the process to ensure the approach followed is appropriately structured to facilitate a large-scale code revision. At a minimum, once the plan is prepared and approved by DFG management the work group would consult and work with CLRC to determine the best approach to and to draft the actual code revision to follow.

Finally this recommendation only addresses review of existing regulations and code. Further discussion is necessary to improve the regulatory development process for DFG/F&GC and stakeholders. In addition, because this recommendation is limited to “clean-up” of the code and regulations, and does not address the prioritization, consolidation or elimination of mandates, whether funded, underfunded, or unfunded, it may be necessary to create a future complementary process to address the tougher issues of substantively reforming the codes and regulations.

Ties to Strategic Vision: Goal 3, objectives 1 and 3

### **Permitting Recommendation**

SAG members who indicated they could “live with” this recommendation moving forward for consideration: Bob Bertelli, Karen Buhr, Brenda Burman, Debbie Byrne, Noelle Cremers, Kim Delfino, Jennifer Fearing, Kaitlin Gaffney, Curtis Knight, Cliff Moriyama, Margo Parks, Mark Rentz, Eileen Reynolds, Jason Rhine, April Wakeman and Jay Ziegler.

**Recommendation: As part of a broader improvement to the permitting process, provide adequate resources to DFG for assisting applicants with pre-project planning in advance of submitting a permit application (e.g. state incidental take permits and streambed alteration agreements)**

Implementation actions include:

- A. DFG staff holds regular workshops for members of the public to inform project planning and permit applications.
- B. ~~Fund-d~~Dedicated staff time ~~for pre-project planning to serve as project pre-planners to aid with planning and application preparation.~~
- C. DFG permitting staff holds “office hours” to allow dedicated time to interface with project proponents.
- D. Create a user-friendly manual and or on-line information that helps guide project applicants through the planning and permitting process including information on when best to engage with DFG staff.
- E. Update and maintain appropriate DFG contact information on the DFG website.

Description: Efficiencies are captured when DFG and project proponents communicate about projects often and well in advance of preparing and submitting a permit application (e.g. state incidental take permits and streambed alteration agreements). During such early consultations, DFG staff is able to visit proposed project sites and clearly communicate project features necessary to meet statutory requirements and permit issuance criteria; project proponents are better able to submit successful applications. Both DFG and applicants spend less time and resources during application preparation, submittal, and review and during the permit preparation process.

Constraints: At current staffing levels DFG staff does not have adequate time to spend with project proponents engaging in such proactive and desirable actions. This is because of the statutory time limits for permit review; available staff must focus on permit issuance to satisfy permitting deadlines as opposed to pre-project planning. In addition, for state incidental take permits issued to satisfy the California Endangered Species Act (CESA), there is insufficient funding of staff for review or issuance of these permits (with the exception of some renewable energy projects); the number of staff funded by General Fund (GF) or Environmental License Plate Fund (ELPF) have dwindled due to past cuts. These GF and ELPF funded positions have multiple responsibilities and time for the above potential actions is limited. Additional staffing and/or alternate allocation of staff time is needed to realize the strategic goals of better communication, efficiency, collaboration, and transparent decision making.

Ties to Strategic Vision: Goal 4, Objective 1; Goal 4, Objective 2

## **Enforcement Recommendation**

SAG members who indicated they could “live with” this recommendation moving forward for consideration: Bob Bertelli, Karen Buhr, Brenda Burman, Debbie Byrne, Noelle Cremers, Kim Delfino, Jennifer Fearing, Kaitlin Gaffney, Curtis Knight, Cliff Moriyama, Margo Parks, Mark Rentz, Eileen Reynolds, Jason Rhine, April Wakeman and Jay Ziegler.

***Recommendation: Seek statutory changes to create effective deterrents to illegal take.***

Some ideas discussed as ways to deter illegal take include:

- (1) establish egregious and illegal commercialization cases as felony statutes;
- (2) increase penalties for certain misdemeanors up to and include lifetime privilege revocation;
- (3) include FGC violations in criminal histories; and,
- (4) limit diversion to once per ~~two years~~ eighteen months per violator.

Description: Current criminal penalties are not sufficient to deter illegal wildlife crimes, particularly when the resource has a high commercial value. In many cases, the illegal take penalty is far less expensive than a legal means to take a species. Some traffic fines are more expensive than fines for bear poaching. While a felony statute is the priority, given the legislature’s past resistance to creating new crimes leading to state prison, other ideas are included here to create additional deterrents and to assure our laws and their enforcement are improved to allow for adequate protection of the resources. A serious wildlife poacher would rather pay a fine than to lose his or her privilege to hunt or to lose their prized firearm.

The option of diversion is practiced in many counties. When a prosecutor sends a person caught violating wildlife laws to diversion, they pay a small fee to the DA’s office, pay a nominal fee to take an ethics course (like “traffic school”) and avoid a conviction for a wildlife crime. The violation therefore does not count toward a possible loss of privileges if caught in subsequent years.

Ties to Strategic Vision: Goal 2, Objective 1

## **Fish and Game Commission Recommendation**

SAG members who indicated they could “live with” this recommendation moving forward for consideration: Brenda Burman, Debbie Byrne, Jennifer Fearing, Kaitlin Gaffney, Curtis Knight, Margo Parks, Mark Rentz, Jason Rhine, April Wakeman and Jay Ziegler.

***Recommendation: Request that the Governor when making appointments and California State Senate when confirming said appointments consider these criteria for potential members to the California Fish and Game Commission:***

- A. The degree to which the appointee will enhance the diversity of background and geographic representation of the Commission**
- B. The appointee's demonstrated interest and background in wildlife and natural resources**
- C. The appointee's previous experience in public policy decision making**
- D. Potential conflicts of interest of the appointee with subject matter under the jurisdiction of the F&CG**
- E. A commitment by the appointee to both prepare for and attend meetings and subcommittee meetings of the F&GC**
- F. The diversity of knowledge of natural resource issues and related scientific disciplines, including outdoor recreation ~~and related scientific disciplines~~**

Description: The California State Constitution decrees the existence of FG&C, its size (five members), terms (six years), and appointment authority (Governor with California State Senate approval). [See California State Constitution, Article 4(b) below.] The California State Constitution is silent, however, regarding the qualifications of the appointed members. The scope and responsibilities of F&GC have significantly expanded over the years as the size and diversity of California's population has grown. The five volunteer F&GC members are expected to make complex public policy and biological decisions on behalf of all Californians based on volumes of often very technical information.

Creating a defined set of qualifications including education, expertise, and experience to help guide the Governor's selection of members and the senate's confirmation process may elevate the discussion and result in decisions that improve the public's and legislature's confidence. A Little Hoover Commission report [1990] specifically noted this lack in that there was "no clear publicly understood criteria for selection and appointment of Fish and Game Commissioners."

"CALIFORNIA CONSTITUTION, ARTICLE 4 (b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring."

Ties to Strategic Vision: Goal 1, Objective 5; Goal 3, objectives 6 and 7

## **Affiliations of SAG Members Identified in this Document**

Bob Bertelli, *California Sea Urchin Commission / California Fisheries Coalition*

Karen Buhr, *California Association of Resource Conservation Districts*

Brenda Burman, *State Water Contractors*

Debbie Byrne, *Yuba County Fish and Game Commission*

Noelle Cremers, *California Farm Bureau Federation*

Kim Delfino, *Defenders of Wildlife*

Jennifer Fearing, *The Humane Society of the United States*

Kaitlin Gaffney, *Ocean Conservancy*

Curtis Knight, *California Trout*

Cliff Moriyama, *California Building Industry Association*

Margo Parks, *California Cattlemen's Association*

Mark Rentz, *Association of California Water Agencies*

Eileen Reynolds, *Tejon Ranch Company*

Jason Rhine, *California Outdoor Heritage Alliance*

April Wakeman, *The Sportfishing Conservancy*

Jay Ziegler, *The Nature Conservancy*