

California Fish and Wildlife Strategic Vision Project
Suggested Recommendations to Accompany the Strategic Vision
Supported by Members of the SAG

March 29, 2012 DRAFT

This document contains suggested recommendations to accompany the California Fish and Wildlife Strategic Vision (CFWSV) that were discussed and supported by members of the CFWSV Stakeholder Advisory Group (SAG) during a March 28, 2012 meeting. The 20 SAG members in attendance on March 28 represented a variety of interests: Agriculture and ranching, business and industry, commercial fishing, hunting, local government, marine resources, non-consumptive recreation, nonprofit conservation, private land ownership, sport fishing, labor, state government, and tribal government. Most participants were present for the entire meeting.

Unless otherwise noted, the suggested recommendations were unanimously supported by those SAG members in attendance on March 28, 2012. The suggested recommendations presented in this document will also be discussed by the CFWSV Blue Ribbon Citizen Commission on March 30, 2012 during its final meeting.

Foundational Strategy #2: Commit to Formal and Informal Collaboration and Partnerships

Collaboration and Partnerships Recommendation: Following the CFWSV process, the SAG recommends that a stakeholder group continue as an advisory body to DFG and F&GC.

Description: Membership would potentially include existing SAG members and others with an interest in DFG and F&GC activities. The purpose of the group would be to:

1. Facilitate enhanced communication among DFG, F&GC and the diverse stakeholder community;
2. Provide guidance and recommendations on issues of mutual interest and importance, including the DFG strategic planning effort; and
3. Serve as an advocate for DFG and F&GC to the legislature and other decision-making bodies.

The group could meet once or twice a year to discuss issues of importance, and to be convened as needed to present information on critical issues.

Ties to strategic vision: Foundational strategy #1; goal 1, obj 2, goal 2, obj 4, goal 3, obj 2

SAG support: Sixteen members of the SAG support, two abstain, one absent, and one opposes (the current F&GC process works well enough; this change would create dialogue that is one step removed from the public process and could create unintended consequences since, by necessity, the group would have a smaller number and narrower range of representation than the public process allows)

Collaboration and Partnerships Recommendation: Where appropriate, engage in meaningful consultation and collaboration with tribal officials of California Native American Tribes in decision-making processes that affect tribal lands, cultural resources and/or issues of mutual concern.

Description: Tribes are a unique from other government agencies or organizations due to their status as dependent sovereign nations. Many tribes rely on what is commonly referred to as traditional or cultural resources that the United States is obligated to protect and maintain; these resources may include but are not limited to fish, water, burial sites, specific plants and ceremonial sites (historic and contemporary).

A well-crafted tribal consultation process would enable DFG to 1) identify tribes whose traditional and/or cultural resources would be impacted by a given action, 2) work with the affected tribe(s) to mitigate or avoid impacts to those traditional and/or cultural resources, and 3) better understand how local ecosystems work and the consequences and impacts of a particular action .

Ties to Strategic Vision: Goal 1 (Strong Relationships with Other Agencies, Tribes, Organizations and the Public), objective 2 (Proactively engage other agencies, organizations and stakeholders as partners and collaborators), objective 3 (Understand stakeholder challenges and expectations), objective 5 (Embrace and support diversity among stakeholders and the public), objective 6 (Share data, processes, tools, knowledge, expertise and information), and objective 9 (Find collaborative, place-based solutions)

SAG support: Seventeen members of the SAG support and three abstain

California Fish and Game Commission

Fish and Game Commission Recommendation: No change to the powers and duties of the California Department of Fish and Game (DFG) and F&GC.

Description: The SAG deliberated the merits of realigning the power and duties of the F&GC and determined that a citizen's commission with today's powers and duties is preferable to changing it at this time. The committee/workshop process recommended in the interim strategic vision will allow for greater public input during the deliberative process and enhance informed decision-making by F&GC." At a time when the SAG is recommending improved transparency and improved management of all wildlife and habitats, it seems questionable to recommend narrowing the management oversight of F&GC.

SAG support: Fifteen members of the SAG support, four members abstain, and one member opposes (the BRCC recommendation warrants additional discussion; this topic of powers and duties should be part of the mandates discussion and a change to F&GC responsibilities may emerge from that discussion)

Fish and Game Commission Recommendation: Increase the number of California Fish and Game Commission members from five to seven.

Description: This recommendation is proposed to address existing and future workload for the F&GC members, including committee responsibilities. Implementing this recommendation also increases the ability to meet the need to reflect the diversity of the people of California.

Ties to the strategic vision: Goal 1, Objective 7; Goal 2, Objective 7

Fish and Game Commission Recommendation: Keep the name of the California Fish and Game Commission consistent with any changes made to the name of DFG; the SAG's preference is the "fish and wildlife" nomenclature.]

Description: The SAG recognizes that there is existing legislation in the works...explain why the need. Jennifer to help MMH here and with ties to strategic vision.

Ties to strategic vision:

SAG support: Fifteen members of the SAG support, three abstain, and two absent

Fish and Game Commission Recommendation: The SAG deliberated the merits of requiring that individual commissioners reflect particular qualifications and decided against that approach in favor of the following: Amend California Fish and Game Code Section 101 et seq. to require the Governor when making appointments and California State Senate when confirming said appointments to 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 wildlife-dependent recreational activities, whether consumptive or non-consumptive***

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 and state law are 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. Although the CFWSV Stakeholder Advisory Group considered creating a defined set of qualifications including education, expertise, geographic origin, and experience, it determined that such a prescriptive approach would require a constitutional amendment and could stifle the governor's ability to find qualified people for appointment to the designated positions. However, creating a new statute to help guide the Governor's selection of appointees and the senate's confirmation process could enhance commission membership 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."

FISH AND GAME CODE Section 101 et seq. address items affecting the Commission that are not Constitutional, such as: It is in the Resources Agency; it shall elect one member as president and one as vice president; its members shall be paid per diem compensation; it shall form a marine resources subcommittee, etc.

New statutory language that suggests what the governor and Senate Rules Committee should "consider" when making and confirming appointments would reside appropriately in this area of law as guidance for the future appointment of Fish and Game Commissioners. The new language requires consideration but does not require that the criteria be used. Ties to Strategic Vision: Goal 1 (Strong Relationships with Other Agencies, Organizations and the Public), Objective 5 (Embrace and support diversity among stakeholders and the public); Goal 3 (An Effective Organization), objective 6 (Develop knowledgeable, capable and experienced employees and commissioners) and objective 7 (Demonstrate credibility)

SAG support: Eighteen members of the SAG support, one abstains, one absent

Statutes and Regulations

Statutes and Regulations Recommendation: Evaluate potential statutory changes to the California Endangered Species Act (CESA) to improve the permitting process, consistent with existing protections: Uniformity in permitting process, efficiency in permitting, consistency in the application of CESA standards, and opportunity for applicants to appeal DFG decisions.

Implementation actions include:

- Convene a task force of CESA experts (those who deal with CESA on a daily basis) to advise and inform implementation of the recommendation.

- Provide the ability for DFG to allow incidental take for threatened species through regulations (as opposed to individual permits), similar to federal 4(d) rule and incidental take for candidates.
- Amend Title 14, Section 783.8, [Reconsideration and Appeal Procedures], to provide for appeals of proposed permit standards, terms or conditions.
- Allow arbitration similar to 1600 arbitration for incidental take permits issued under CESA (consistency of application of standards).

SAG support: Fourteen members of the SAG support and six abstain

Ties to strategic vision: Goal 2, Objective 4; Goal 3, Objective 3; Goal 4, Objective 2

Statutes and Regulations Recommendation: Seek statutory changes to the Fully Protected Species Act to allow the incidental take of fully protected species under specified circumstances related to certain management activities as defined by DFG.

Description: The fully protected species statute is outdated and needs addressing. Until the statutory change made in 2011, there was no way to allow for take of fully protected species. This caused challenges for projects throughout California and deterred habitat improvement projects that could benefit fully protected species because of the risk of take during the restoration project. While some would support abolishing the fully protected species statutes completely, broader support could be gained by moving species needing protection to CESA and eliminating it for those that don't warrant protection. However, DFG has stated that its workload would be significantly less it would be much easier for DFG if the statutes were eliminated, rather than requiring the review and listing of current fully protected species.

Ties to Strategic Vision: Goal 3, Objective 3; Goal 4, Objective 2

SAG support: Fourteen members of the SAG support, two members abstain, and two oppose (there should not be any effort to weaken the Fully Protected Species Act at a time when so many species are in trouble and need additional protections)

Funding and Efficiencies

Vision: Successful natural resource stewardship depends upon stable, adequate funding.

Funding and Efficiencies Recommendation: Require open and transparent accounting within DFG to build public confidence in how funds are managed.

Description: As noted in the Treanor Report (page 26-27), the California State Legislature realizes that DFG has been underfunded for at least the last three decades. (See Fish and Game Code Sections 710, 710.5, 710.7). Fish and Game Code Section 711 states "It is the intent of the legislature to ensure adequate funding from appropriate sources for the department." Unfortunately, while there appears to be near universal recognition that DFG and F&GC do not have the resources they need, increasing funding is politically challenging. There is a need to both review the adequacy/appropriateness of

existing funding streams and broaden the base of funding for DFG to include additional funding sources to include all who benefit from DFG's programs.

Specific funding streams each have their own limitations: general funds can vary from year-to-year, bonds are also variable and can only be spent on capital costs, and fees are typically constrained to very specific uses and can result in very high administrative costs. DFG staff identified the burden of administering multiple, highly specialized accounts and noted that it would be preferable to consolidate fees into relatively fewer accounts with more flexibility in terms of how monies can be spent. Public support for continued (or increased) DFG funding depends on both transparent accounting and the sense that funds are being used efficiently. SAG participants therefore believe it is important that the stable funding and efficiencies recommendations work in concert and be advanced together.

Implementation Assessment

- Method: Administrative, regulatory, statutory
- Timeline: Long term

Ties to Strategic Vision: Goal 4, Objective 3

Funding and Efficiencies Recommendation: As part of its strategic planning effort, DFG will evaluate and implement program efficiencies.

Implementation actions include:

- Create workgroup of DFG/FGC staff and stakeholders to evaluate program efficiencies.
- Implement new, innovative ways to improve program efficiencies.
- Work with other state and federal agencies to investigate coordination of programs to improve program efficiencies.

Description: DFG's broad mandates have, at times, prevented it from reviewing programs with the intent of improving efficiencies. It is necessary to review DFG's programs to improve efficiencies. Such an analysis should include identification of DFG/FGC capabilities given current resources, including staff and funding. These efficiencies could be found both through internal changes and through improved coordination with other agencies and departments.

Implementation Assessment

- Method: Administrative, regulatory, statutory
- Timeline: Mid-term, long-term

Ties to Strategic Plan: Goal 3, Objectives 1; Goal 4, Objectives 3 and 4

Funding and Efficiencies Recommendation: In the future, when the legislature enacts legislation, it identifies a specific means by which the new mandate can be paid for.

Description: This recommendation... MMH to contact SAG members about text and ties to strategic vision

Ties to strategic vision:

SAG support: Fourteen members of the SAG support, three members abstain, and two oppose (MMH to obtain language from those opposed)

Other Topics

Recommendation: Request a report from DFG and F&GC to the legislature and governor by June 1, 2013 to identify progress in implementing recommendations within the strategic vision. Recommend that the chairs of those legislative committees with jurisdiction over fish and wildlife hold a joint hearing following the release of the report.

Description: This recommendation... MMH to contact SAG members about text and ties to strategic vision

Ties to strategic vision: