



GAINES & ASSOCIATES

“SPECIAL REPORT”

CALIFORNIA FISH AND GAME COMMISSION UPDATE

WILDLIFE RESOURCES COMMITTEE & PREDATOR WORKGROUP MEETING SUMMARIES

OCTOBER 19, 2016

This *Gaines & Associates* “*California Fish and Game Commission Update*” will provide our clients with the current status of the California Fish and Game Commission activity – including a briefing on what to expect at this week’s meeting in Eureka, a recap of what took place on agenda items of concern at the Commission’s August 2016 meeting in Folsom, and highlights of the Commission’s Wildlife Resources Committee and Predator Policy Workgroup meetings held late last month.

This “*Special Report*” is provided as a service to clients of *Gaines & Associates*. For more information on any of the below issues of concern, please contact *Gaines & Associates* at info@gainesandassociates.net

CALIFORNIA FISH & GAME COMMISSION – October 2016 Meeting Agenda

The October 2016 meeting of the California Fish and Game Commission is scheduled for October 19th and 20th at the:

*Red Lion Hotel
1929 Fourth Street
Eureka, CA*

Under the Commission’s “two-day” meeting format, marine fishery related items are slated for the October 19th meeting agenda, with all wildlife and sport fish related issues scheduled for the October 20th meeting agenda. Agenda items of concern to clients of *Gaines & Associates* are highlighted below.

To view the full agenda, click [FGC - October 2016 Mtg Agenda](#)

Day 2 – October 20th, 2016

Agenda Item 23 – Wildlife Resources Committee

(A) September 21, 2016, Meeting Summary

I. Receive and Adopt Recommendations

(B) Work Plan Development

I. Update on Work Plan and Draft Timeline

II. Discuss and Approve New Topics

Because the Wildlife Resources Committee (WRC) serves as a subcommittee of the Commission, its topic areas and Work Plan are subject to Commission discussion and approval. Commissioners Williams and Burns serve as Commission Co-Chairs of the WRC.

Under this agenda item, expect Commission staff, Erin Chappell, to briefly highlight the September 21st meeting of the WRC, which covered the following regulations and topic areas.

- Mammals - 2017/18 Regulations
- Waterfowl - 2017/18 Regulations
- Central Valley Salmon - 2017 Regulations
- Klamath River Sportfish – 2017 Regulations
- Wild Pig Management
- Predator Policy Workgroup
- Hatchery and Inland Fisheries Fund

In addition, Ms. Chappell should also briefly note that two petitions were received by the Commission for consideration of inclusion in the 2017/18 mammal regulations: one related to archery-only antlerless deer tags and the addition of a tradition archery season that will be included as an alternative in the 2017/18 regulatory package; and a second related to bear hunting in Modoc County, that will not be included as an alternative in the 2017/18 package due to insufficient data on the bear population in Modoc County. Ms. Chappell should note that DFW is planning to conduct a two-year study to gather that data.

Following her opening comments on the above issues, expect Ms. Chappell to bring forward to the full Commission for consideration the WRC recommendation that Commission staff be authorized to work with DFW to prepare the rulemaking packages for 2017/18 mammal, waterfowl, Central Valley salmon and Klamath River sportfish regulations.

For a detailed summary of the September 21st meeting of the WRC, see “*WILDLIFE RESOURCES COMMITTEE - September 21st Meeting Recap*” presented later on in this *Special Report*.

For a detailed summary of the September 28th meeting of the Predator Policy Workgroup, see “*PREDATOR POLICY WORKGROUP - September 28th Meeting Recap*” presented later on in this *Special Report*.

To review the Commission staff summary on Agenda Item 23 regarding the WRC, including the WRC Work Plan, click [FGC Staff Summary - Agenda Item 23 - WRC](#)

Agenda Item 24 – Adopt Proposed Regulations to Establish an Upland Game Bird Special Hunt Drawing and Fee

Currently, big game and waterfowl hunt drawings are conducted through the Automated License Data System (ALDS). However, the drawing for Upland Game Bird Special Hunt is still conducted by DFW's Wildlife Branch staff. Under this agenda item, the Commission will consider final adoption of proposed regulations which would establish an electronic random drawing for Upland Game Bird Special Hunt reservations in the ALDS to provide the public with an up-to-date method to apply for game bird hunting opportunities.

Although this topic is largely uncontroversial, the proposed regulation DFW brought forward to the Commission at their June and August meetings included an application fee of \$5.00 – raising the concern of some hunting interests. In response, at this meeting DFW will propose to reduce their proposed drawing application fee from \$5.00 to \$2.25.

To view the Commission staff summary on Agenda Item 24 regarding upland game bird special hunt drawing, click [FGC Staff Summary – Agenda Item 24 – Upland Game Bird Hunt Draw](#)

Agenda Item 26 – Authorize Publication of Notice of Intent to Amend Regulations Concerning Use of GPS Collars for Hunting Dogs

At their April 2016 meeting, the Commission adopted regulatory changes which authorized the use of GPS collars and treeing switches for hunting dogs. Following that action, the *Public Interest Coalition* filed a petition in Superior Court in Sacramento County seeking to invalidate the Commission's action based on the failure of the Commission and DFW to comply with the procedural requirements of the California Environmental Quality Act (CEQA). Placing notice of this item back on the October Commission meeting agenda will allow for the Commission and DFW to complete the necessary CEQA documentation.

This item must also be placed on the Commission's December agenda for further discussion, with possible adoption set for the Commission's February 2017 meeting in Santa Rosa. *Gaines & Associates* and the *California Houndsmen for Conservation* are actively working this issue to ensure that this "second" Commission review of this issue goes smoothly and that the use of GPS collars remains legal for all hunting dogs in our state. Note that during this follow-up review of this issue, GPS collars will remain legal, pursuant to the Commission's authorizing their use at the April 2016 meeting.

To view the Commission staff summary on Agenda Item 26 regarding use of GPS collars for hunting dogs, click [FGC Staff Summary – Agenda Item 26 – GPS Collars](#)

Agenda Item 27 – Discuss Proposed Changes to Sport Fishing Regulations for 2017

With the Commission having authorized DFW to publish notice of their proposed 2017 changes to sport fish regulations at their August meeting, this agenda item will serve as the second, or "discussion" hearing on the topic.

Under this agenda item, expect Karen Mitchell, Regulations Specialist from DFW Fisheries Branch staff, to provide a brief overview of the changes DFW is proposing for the 2017 sport fish regulations, which include:

- Eastman Lake - Removal of existing closures to open the lake to fishing year-round:
Under current regulations, there is a portion on the lake that is closed between August 1st

- and November 30th to protect nesting bald eagles. DFW is proposing to remove this closure because bald eagles are no longer nesting in the closure area.*
- **San Clemente Reservoir - Remove from Special Fishing Regulations:**
San Clemente Reservoir no longer exists since the dam was removed in 2015. As such, DFW is proposing to remove the reservoir from special fishing regulations.
 - **Close Las Garzas Creek and Tributaries to Fishing:**
Las Garzas Creek is a tributary to the Carmel River. All other tributaries to the Carmel River are closed to fishing to protect steelhead trout. DFW is proposing to also close Las Garzas Creek and its tributaries to fishing to protect steelhead and to be consistent with the closures currently in place on other tributaries to the Carmel River.
 - **Los Padres Reservoir - Prohibit Take of Rainbow Trout:**
Los Padres Dam has had a fish trap located downstream where adult steelhead are captured and trucked upstream of the dam. A floating fish collector was constructed last summer in Los Padres Reservoir that is designed to allow downstream passage of steelhead trout, from kelts to juveniles. Since Los Padres is accessible to steelhead, DFW would like to eliminate take of rainbow trout which, with access to the ocean, can become anadromous. To address this concern, DFW is proposing to prohibit the take of rainbow trout by limiting take in the reservoir to brown trout only.
 - **Increase Fishing Opportunity for Kokanee Salmon:**
DFW is proposing an increase in the daily bag limit of landlocked salmon on select waters from five to ten fish per day, and a possession limit increase from ten to twenty fish, with no more than five being Chinook salmon. Waters for which the bag and possession limits are being recommended for change include: Trinity Lake, Lake Pardee, New Bullards Bar Reservoir, Bucks Lake, and Scotts Flat Reservoir.

Following Ms. Mitchell's presentation, the Commission will take public testimony, but no action will be taken. Final Commission adoption of 2017 sport fishing regulations will be take place at the Commission's December 2016 meeting in San Diego.

To review the Commission staff summary on Agenda Item 27 regarding Sport Fish, click [FGC Staff Summary - Agenda Item 27 - Sport Fish](#)

Agenda Item 28 – Discuss Proposed Changes to Falconry Regulations

In spite of lengthy testimony expressing concerns at their August meeting, the Commission authorized DFW to publish notice of their proposed falconry regulations. As such, this agenda item will serve as the Department's "discussion" hearing on the Department's proposal.

At the Commission's June and August meetings, *Gaines & Associates*, and the *California Hawking Club (CHC)* expressed serious concerns with several of the provisions within DFW proposed revisions to the falconry regulations. Testimony of *Gaines & Associates*, *CHC* and other falconers at these Commission hearings – combined with meetings between *Gaines & Associates*, *CHC* and DFW and Commissioners over the past several months – has resulted in some positive progress in several areas. However, following the August Commission meeting, two major issues remained at play – DFW's proposed language associated with documentation required in the field and, at center stage, the Department's proposal to allow unannounced inspections of a falconer's facilities without the licensee present.

Since the August Commission meeting, *Gaines & Associates* and *CHC* have worked closely with DFW staff in trying to reach consensus on these two remaining areas, including a meeting with DFW Director Chuck Bonham, Chief of Enforcement David Bess and DFW Legal Counsel.

Under this agenda item, expect Carie Battistone of the DFW Wildlife Branch, and Chief of Enforcement David Bess to give a brief presentation on the provisions within the falconry package deemed priorities by the Commission at their June and August meetings, including:

- ✓ Unannounced inspections;
- ✓ Documentation required while in the field;
- ✓ Clarification of how violations relate to the timing of permit revocation;
- ✓ Clarifying the unauthorized/Incidental take of listed species.

Further, as a result of our most recent meeting with DFW leadership and subsequent conference calls, we expect DFW to propose new amendments to their proposed language for documentation required in the field and unannounced inspections which satisfies our concerns.

As this is the “discussion” hearing on the proposed falconry regulations, no action will be taken by the Commission. The “adoption” hearing on this issue will take place at the Commission’s December hearing in San Diego.

To review the Commission staff summary on Agenda Item 28 regarding falconry regulations, click [FGC Staff Summary - Agenda Item 28 - Falconry](#)

For greater detail on this topic, our concerns and actions, see Agenda Item 31 from the Commission’s August meeting, below.

CALIFORNIA FISH & GAME COMMISSION – August 2016 Meeting Recap

The August 2016 meeting of the California Fish and Game Commission was held in Folsom on August 24th and 25th. Under the Commission’s “two-day” meeting format, marine fishery related items were considered on the August 24th meeting agenda, with all wildlife and sport fish related issues of importance considered on the August 25th meeting agenda. Notable activity associated with agenda items of concern is highlighted below.

To view the full agenda, click [FGC - August 2016 Mtg Agenda](#)

Day 2 – August 25th, 2016

The second day of the Commission’s August meeting was gaveled open by Commission President Eric Sklar with four Commissioners present. In addition to President Sklar, Vice-President Jacque Hostler-Carmesin, and Commissioners Anthony Williams and Peter Silva were present. Commissioner Russell Burns was absent.

Agenda Item 19 – Commission Recognition of Former Commissioner Jim Kellogg for his Commitment and Service to the California Fish and Game Commission

Under this agenda item, the Commission formally recognized retired Commissioner Jim Kellogg for his lengthy public service on the Commission in a touching and enjoyable ceremony. In addition to presenting Commissioner Kellogg with a resolution and a gift, they announced that they had renamed the Commission’s conference room the *The Jim Kellogg Conference Room* and provided the former Commissioner with a brass nameplate.

Commissioner Kellogg was appointed to Commission on January 31, 2002 by Governor Gray Davis, and then reappointed by Governors Arnold Schwarzenegger and Jerry Brown. Serving for nearly 13 years – no Commissioner has ever served longer, nor has any ever been a stronger advocate for our outdoor traditions. Commissioner Kellogg resigned his seat in December 2015.

Following the Commission’s ceremony, several members of the public stepped up to the podium to thank Commissioner Kellogg for his service. *Gaines & Associates* was pleased to testify and publicly thank Commissioner Kellogg for his long-tenured commitment to our state’s natural resources and the preservation of our outdoor traditions.

To view the Commission staff summary on Agenda Item 19 honoring Commissioner Kellogg, click [FGC Staff Summary - Agenda Item 19 - Kellogg](#)

Agenda Item 20 – Commission Recognition of Newly Inducted Members to California Waterfowler’s Hall of Fame

Each year, the Commission annually recognizes new inductees into the California Waterfowler’s Hall of Fame with Commission signed resolutions. During this agenda item, the Commission recognized the 2016 class of Hall of Fame inductees named below:

- 1) Mr. Howard N. Ellman;
- 2) Mr. Bill Pinches;
- 3) Mr. Thomas A. Seeno;
- 4) Dr. John Y. Takekawa; and
- 5) Mr. C. Jeff Thomson.

As a member of the California Hall of Fame Nominating Committee, Bill Gaines of *Gaines & Associates* was pleased to nominate Mr. C. Jeff Thomson for this well-deserved honor, and to also offer strong support of the nominations of the other four inductees during our Nominating Committee meeting. *Gaines & Associates* was also pleased to step to the podium during public comment on this agenda item to again provide our strong support of these five very deserving individuals.

To view the Commission staff summary on Agenda Item 20 honoring new inductees into the California Waterfowler’s Hall of Fame, including drafts of the Commission resolutions, click [FGC Staff Summary - Agenda Item 20 – CA Hall of Fame](#)

Agenda Item 26 – Wildlife Resources Committee

(A) Work Plan Development

I. Update on Work Plan and Draft Timeline

II. Discuss and Approve New Topics

Erin Chappell of Commission staff opened this agenda item by quickly going over the agenda items assigned to the WRC by the Commission for consideration, noting that the annual rulemaking packages on agenda for the September 21st WRC meeting were:

- Mammals for 2017/18
- Waterfowl for 2017/18
- Central Valley Salmon for 2017
- Klamath River Sportfish for 2017

Ms. Chappell then handed the floor off to DFW Director Chuck Bonham to provide the Commission with an update on the Hatchery and Inland Fisheries Fund (HIFF) – the account which, among other things, largely funds the Department’s hatchery operations. The Director started by noting that the Department had received a letter signed by “maybe a dozen” Legislators from the California State Legislature Outdoor Sporting Caucus who were concerned about a “possible imbalance” in the HIFF, and that he was aware that several important constituencies in the angling community were also worried.

The letter, which expressed serious concern about the solvency of the fund, requested that the Department provide a detailed analysis of the revenues and expenditures of HIFF at the September 21st WRC meeting. In his comments, the Director first told the Commission that he supported the letter’s request that a report from DFW on the financial status of the fund be placed on agenda for the September WRC. He then continued by telling the Commission that the Department had crunched all the numbers and that DFW does not project an imbalance in the HIFF at all.

Following the Director’s comments, WRC Co-Chair, Commissioner Williams, agreed to place the DFW report of HIFF on the September 21st WRC agenda.

President Sklar then noted that the Commission had also received a letter from several State Legislators stating concerns regarding predation, noting that topic would also be added to the WRC Work Plan for a future meeting.

The floor then shifted back to Ms. Chappell who commented that the Predator Policy Workgroup had met in July and was reviewing existing policies and identifying issues. She stated that the Workgroup was “making good progress” in coming up with a draft predator policy, and that they would meet again on September 28th.

Following public testimony, the Commission approved the agenda for the September 2016 WRC meeting, and also approved discussion of the below five new topics at future WRC meetings:

- Falconry
- Hatchery and Inland Fisheries Fund
- Lead Ammunition Ban Implementation
- Predator-prey Relationships in the Sacramento/San Joaquin River Delta; and
- Wild Pig Management

To review the Commission staff summary on Agenda Item 26 regarding the WRC, including the Work Plan, associated draft timeline, and the letter received from the California State Legislature Outdoor Sporting Caucus, click [FGC Staff Summary - Agenda Item 26 - WRC](#)

For a detailed summary of the results of the September 21st meeting of the WRC, see “*WILDLIFE RESOURCES COMMITTEE - September 21st Meeting Recap*” presented later on in this *Special Report*.

Agenda Item 30 – Authorize Publication of Notice of Intent to Amend Sport Fishing Regulations

With the Commission’s authorization to publish notice, this meeting would serve as the first of three Commission meetings at which 2017 sport fishing regulations are discussed. This agenda item opened with Karen Mitchell, Regulations Specialist from DFW Fisheries Branch staff,

providing an overview of the changes DFW is proposing for the 2017 sport fish regulations, including:

- Eastman Lake - Removal of existing closures to open the lake to fishing year-round:
Under current regulations, there is a portion on the lake that is closed between August 1st and November 30th to protect nesting bald eagles. DFW is proposing to remove this closure because bald eagles are no longer nesting in the closure area.
- San Clemente Reservoir - Remove from Special Fishing Regulations:
San Clemente Reservoir no longer exists since the dam was removed in 2015. As such, DFW is proposing to remove the reservoir from special fishing regulations.
- Close Las Garzas Creek and Tributaries to Fishing:
Las Garzas Creek is a tributary to the Carmel River. All other tributaries to the Carmel River are closed to fishing to protect steelhead trout. DFW is proposing to also close Las Garzas Creek and its tributaries to fishing to protect steelhead and to be consistent with the closures currently in place on other tributaries to the Carmen River.
- Los Padres Reservoir - Prohibit Take of Rainbow Trout:
Los Padres Dam has had a fish trap located downstream where adult steelhead are captured and trucked upstream of the dam. A floating fish collector was constructed last summer in Los Padres Reservoir that is designed to allow downstream passage of steelhead trout, from kelts to juveniles. Since Los Padres is accessible to steelhead, DFW would like to eliminate take of rainbow trout which, with access to the ocean, can become anadromous. To address this concern, DFW is proposing to prohibit the take of rainbow trout by limiting take in the reservoir to brown trout only.
- Increase Fishing Opportunity for Kokanee Salmon:
DFW is proposing an increase in the daily bag limit of landlocked salmon on select waters from five to ten fish per day, and a possession limit increase from ten to twenty fish, with no more than five being Chinook salmon. Waters for which the bag and possession limits are being recommended for change include: Trinity Lake, Lake Pardee, New Bullards Bar Reservoir, Bucks Lake, and Scotts Flat Reservoir.

Following Ms. Mitchell's presentation, the Commission authorized DFW's request for publication of the notice, as presented. With notice authorized, the "discussion" hearing on this topic will be take place at the Commission's October 2016 meeting in Eureka, and final adoption taking place at the Commission's December meeting in San Diego.

To review the Commission staff summary on Agenda Item 30 regarding Sport Fish, click [FGC Staff Summary - Agenda Item 30 - Sport Fish](#)

Agenda Item 31 – Authorize Publication of Notice of Intent to Amend Falconry Regulations

This agenda item served as the Department's *second* attempt to bring forward a request to the Commission for authorization to publish notice of DFW's proposed amendments to falconry regulations.

DFW initially brought their package of proposed amendments forward to the Commission to request authorization to publish notice at their June Commission meeting. However, due to serious concerns with several provisions within the proposal, *Gaines & Associates* – in partnership with the *California Hawking Club (CHC)* and others in the falconry community –

successfully requested that the Commission's deny the request in order to allow time for us to collaborate with DFW on a revised proposal to be brought back to the Commission at this August meeting. Along with the denial, the Commission directed DFW to revise their proposed language to address the below concerns we highlighted in meetings prior to, and during testimony at the June meeting:

- ✓ Need to clarify the types of documentation falconers are required to carry in the field;
- ✓ Need to clarify unauthorized/incidental take of threatened, endangered, candidate, or fully protected species with more specific language.
- ✓ Need to clarify how violations relate to the timing of permit revocation
- ✓ Need to confine inspections to "facilities" instead of "premises";
- ✓ Need to require a reasonable attempt to contact the permittee when conducting inspections;

At this meeting, the agenda item was opened by Carie Battistone of the DFW Wildlife Branch, who gave a presentation on changes made to DFW's proposed regulations to address the above concerns in response to the Commission's request at their June meeting.

In response to concerns we raised in June regarding the need to clarify the types of documentation required, Ms. Battistone noted that DFW was proposing that the regulation specifically state that – in addition to a hunting license and all applicable stamps necessary to harvest the game they were pursuing – falconers would also be required to carry with them: permission to fly with another falconer's bird; permission to fly a raptor for rehabilitation purposes, or a department approved exemption from banding when transporting or flying an un-banded raptor.

In regards to our concerns relating to the topic of unauthorized/incidental take of listed species, Ms. Battistone stated that DFW had deleted previously proposed language that would have required that falconers "must ensure" that take of listed species does not occur.

On the issue of suspension/revocation, at the June Commission meeting we stated our serious concerns regarding regulations that would result in a falconer losing their permit following a single violation. In response, the Commission asked DFW to provide more specificity on what violations would *not* trigger immediate revocation. In response, Ms. Battistone commented that DFW did not want to put an exhaustive list of specific violations in the regulation. Rather, they preferred to add language which generally states that a suspension or revocation shall take effect immediately *if* the violation pertains to conduct that threatens native wildlife, agricultural interests, welfare of the birds, the safety of the general public, or if a licensee has been previously convicted of violating any of the above or has had their license previously revoked.

But, by far the most controversial falconry regulation issue at the June Commission meeting was that of unannounced inspections. Of greatest concern was DFW's proposed language which would have allowed for the Department to conduct unannounced inspections of the falconer's home or facilities without a warrant and without the licensee present. *Gaines & Associates, CHC* and others provided detailed testimony on this issue at the June meeting, causing the Commission to direct DFW to change their proposed language to state that they may inspect "facilities" not "premises". At this meeting Ms. Battistone noted that that change had been made, and that the Department was also proposing to add language which stated that the Department would make a "reasonable effort to contact the licensee prior to conducting the inspection".

Following Ms. Battistone's presentation – somewhat satisfied with the proposed language changes she brought forward relating to unauthorized/incidental take of listed species and the issue of suspension/revocation – *Gaines & Associates* and *CHC* focused our testimony on the revised language associated with documentation required in the field and unannounced inspections.

On the topic of unannounced inspections, *Gaines & Associates*, *CHC* and others expressed serious concern regarding the Department's proposed language which would allow DFW to conduct unannounced inspections without the licensee present – especially taking issue with stress placed on birds due to wardens handling them to inspect band numbers and for other reasons without the licensee present. In response to testimony and subsequent Commission questions regarding whether the Department had authority to conduct “searches or inspections where the licensee is not present”, DFW brought forward Deputy General Counsel Ann Malcomb. In a somewhat lengthy statement, Ms. Malcomb emphatically stated that DFW *did* have the authority to conduct inspections without a warrant, and when a member of the regulated community is not present pursuant to not only statute, but also a body of case law which deals with “highly regulated industries”.

Gaines & Associates, *CHC* and other falconers present took serious issue with Ms. Malcomb's arguments, including applying the “highly regulated industry” classification to falconry and how this precedent might give DFW enforcement similar authority to inspect on other fishing and hunting activities. However, no further public testimony was allowed.

Meanwhile, on the issue of documentation required in the field, *Gaines & Associates* and *CHC* expressed concern over the fact that the language would hold falconers to a higher standard than any other hunter and require them to carry an unreasonable amount of information on their person in the field.

Following lengthy public testimony – and the comments from DFW staff legal counsel related to 4th Amendment concerns – the Commission authorized DFW to publish the notice of their proposed language, as presented. However, in doing so, the Commission requested that DFW continue to work with *Gaines & Associates*, *CHC* and others to address remaining concerns.

With notice on the proposed falconry regulations now authorized, the “discussion” hearing on this topic will be take place at the Commission's December 2016 meeting in San Diego, with final adoption taking place at the Commission's February 2017 meeting in Santa Rosa.

By way of background, in 2013, California's falconry regulations were substantially amended to conform to federal guidelines which required the states to adopt their own regulations to govern the sport for the first time. The proposal DFW is bringing forward to the Commission for consideration at this time is an attempt to “clean-up” that initial effort.

Gaines & Associates and *CHC* representatives met with DFW staff numerous times for nearly four years in an effort to reach agreement on necessary amendments to the 2013 package. Following the June Commission meeting, *Gaines & Associates* and *CHC* again met with DFW and Commission staff to discuss our concerns and to try to agree upon a path for reaching consensus on the revised proposal before bringing it back to the Commission again in August. However, regardless of these efforts, numerous serious concerns with the DFW proposal package still remained.

Following the August Commission meeting, in our continuing effort to address our remaining issues, *Gaines & Associates* and *CHC* continued negotiations with DFW, and met with directly with Director Bonham, DFW Chief of Enforcement David Bess and DFW Legal Counsel to discuss concerns and offer suggested amendments to their proposed language. We are hopeful that our suggested amendments will be included in the language brought forward by the Department at the October Commission meeting.

To review the Commission staff summary on Agenda Item 31, including the Department's proposed falconry regulations, click [FGC Staff Summary - Agenda Item 31 - Falconry](#)

Agenda Item 32 – Authorize Publication of Notice of Intent to Adopt Regulations Concerning Enhanced Penalties for Illegal Take of Game

This agenda item served to allow DFW to bring before the Commission their request for authorization to publish “notice” of their proposed regulations which would enhance penalties for the illegal take of “trophy” game species.

This item was launched by Captain Patrick Foy of DFW's Law Enforcement Division who gave a presentation which began by noting that legislation passed in 2012 (AB 1162/Chesbro) added section 12013.3 to the Fish and Game Code which provides for an increase in fines associated with the illegal take of trophy deer, elk, antelope, bighorn sheep, and wild turkey; and which requires the Commission to adopt regulations which establish trophy designations and monetary value based on the size or related characteristics of these species. The intent of this bill – which was sponsored by staff now with *Gaines & Associates* – was to increase the fines associated with the illegal take of trophy animals of these species in order to provide a greater deterrent to “would be” poachers.

Specifically, Fish and Game Code Section 12013.3 states that “*the punishment for a person who knowingly violated and has been convicted of the following provisions where the violation involved a trophy deer, elk, antelope, or bighorn sheep shall be a fine of not less than five thousand dollars (\$5,000) nor more than forty thousand dollars (\$40,000), and where the violation involved a wild turkey, a fine of not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment...*”. Further, the code section states that: a) revenue from the increased fines on big game violations shall be deposited into the Big Game Management Account and used for big game management; b) fine monies from wild turkey violations shall be deposited into the Upland Game Bird Account and used for upland game bird conservation; and c) 50% of the revenues shall be paid to the county in which the offense was committed (pursuant to Section 13003) and that the county shall first use revenues to reimburse the costs incurred by the district attorney or city attorney, with remaining revenues expended in accordance with Section 13103 – including to assist County Fish and Game Commissions with their wildlife conservation efforts.

In his presentation, Captain Foy stated that, in their effort to determine what trophy designations should be, DFW surveyed nine western states who, with the exception of turkeys, had already established similar standards. He noted that DFW also sought input from wildlife conservation organizations that specialized in these species.

Following Captain Foy's presentation, and public testimony in support from *Gaines & Associates* and others, the Commission authorized DFW's proposed regulations for enhanced penalties for the illegal take of trophy game species, as presented.

Prior to the passage of AB 1162, wildlife related violations were predominantly misdemeanors with a penalty of a six-month sentence in county jail and up to a \$1,000 fine. The courts rarely sentenced convicted poachers to jail terms and had little authority to assess greater penalties for more severe poaching violations. AB 1162 now provides the courts with the authority to assess a greater penalty for an egregious violation, or multiple violations – relative to other minor violations that may be simply poor judgment or a mistake by an individual with no previous poaching convictions.

To review the Commission staff summary on Agenda Item 32, including Captain Foy's presentation regarding these enhanced penalties for illegal take, click [FGC Staff Summary - Agenda Item 32 – Enhanced Penalties](#)

Agenda Item 33 – Discuss Proposed Regulations to Establish an Upland Game Bird Special Hunt Drawing and Fee

Currently, big game and waterfowl hunt drawings are conducted through the Automated License Data System (ALDS). However, the drawing for Upland Game Bird Special Hunts are still conducted by DFW's Wildlife Branch staff. In an effort to provide the general public with an up-to-date method to apply for wild bird hunting opportunities, this proposed regulation would establish an electronic random drawing for Upland Game Bird Special Hunt reservations in the ALDS. With the Commission having already authorized DFW to publish notice of their proposed regulation at their June meeting in Bakersfield, this agenda item served as the "discussion" hearing on the topic.

The item kicked off with Scott Gardner, Supervisor of DFW's Upland Game Program, providing a very brief summary of the topic and its status. After Mr. Gardner's opening comments, public testimony was largely supportive, but did take issue with the proposed application fee of \$5.00. Following public testimony, the Commission requested that the Department review the proposed special hunt fee of \$5.00, and instead possibly consider a fee of "up to \$5.00."

The Commission will consider possible adoption of the DFW proposal at the October meeting.

To review the Commission staff summary on Agenda Item 33 regarding upland game bird special hunt drawing, click [FGC Staff Summary - Agenda Item 33 – Upland Game Special Hunt](#)

Agenda Item 34 – Adopt Proposed Changes to Department Lands Pass Program and Lands Public Uses Regulations, and Certify the Addendum to the Final 2012 Environmental Document

DFW's proposal to make changes to the existing Land's Pass Program was originally noticed at the Commission's April meeting, and discussed at the Commission's June meeting. Under this agenda item, the Commission first considered certifying the addendum to the 2012 environmental document, then considered final adoption of DFW's proposed changes to their Lands Pass Program and Lands public use regulations.

This agenda item opened with Kari Lewis of the Department's Wildlife Branch giving a presentation on the proposed expansion of the program – including DFW adding 28 wildlife areas and eight ecological reserves to the Lands Pass Program; requiring visitors who are not licensed anglers or hunters to purchase a daily or annual pass via the ALDS, a license agent or by phone; and noting that revenues would go towards supporting land management. Ms. Lewis then noted that comments received and discussed at the June Commission meeting included some visitors not wanting to pay, the program restricting visitor use, and that the proposed program would be

impractical to operate. Ms. Lewis continued by commenting that program features included: fees that would support wildlife, habitat, facilities, public outreach and signage to inform visitors; no fees required licensed hunters/anglers, for visitors under 16, organized youth or school groups, or to access rights of way; and that DFW believed that fees – at \$4.32 for a daily pass and \$24.33 for an annual pass – fees are very reasonable for the areas included. Ms. Lewis continued her presentation by briefly commenting on changes made to the proposal specifically in regards concerns raised related to its implementation on the Upper Newport Bay Ecological Reserve.

Her presentation was closed by noting that the Department’s proposal includes updating the regulations for Fish and Game Code changes for non-lead ammunition, the increase in age for possessing a junior hunting license, to improve consistency with federal regulations pertaining to National Wildlife Refuges that are also designated as wildlife areas, and other changes for clarity, consistency and enforceability of the lands regulations.

Following Ms. Lewis’ presentation and some brief comments by Director Bonham, the Commission certified the Addendum to the 2012 Final Environmental Document and adopted the proposed changes, as recommended by DFW staff.

To provide some background, prior funding necessary for DFW to manage its lands was almost entirely derived from the sale of hunting licenses, stamps, passes, and taxes on equipment for hunting, fishing and trapping. Non-consumptive users who visited these lands for bird watching, hiking and other uses were required to contribute through the purchase of a “Lands Pass” for entry on only seven DFW properties that participate in the Lands Pass Program.

Legislation passed in 2012, however, mandated DFW to require these non-consumptive users to purchase an entry permit for all DFW lands where it was deemed practical and cost effective to do so. After extensive review, DFW determined it would propose that a Lands Pass for non-consumptive visitor entry be required on not all, but several additional wildlife areas and ecological reserves.

To review the Commission staff summary on Agenda Item 34 regarding the DFW Lands Pass Program, click [FGC Staff Summary - Agenda Item 34 - Lands Pass Program](#)

Agenda Item 36 – Adopt Proposed Changes to Upland Game Bird Hunting Regulations

DFW’s proposed changes to Upland Game Bird regulations were originally noticed at the Commission’s April meeting, and discussed at the Commission’s June meeting. This agenda item provided for possible final adoption of DFW’s proposed upland game bird regulations for the upcoming 2016 hunting season.

This agenda item opened with Scott Gardner, Supervisor of the DFW Upland Game Bird Program, providing a slideshow on the below five notable regulations proposed by DFW for the upcoming 2016/17 season:

- 1) Sage grouse: No change from 2015 (i.e. zero permits allocated to the two Lassen Zones and the South Mono Zone to allow populations more time to recover from habitat loss and drought. 30 permits allocated to the North Mono Zone).
- 2) Delete the current white-tailed ptarmigan hunting zone description and add a new statewide area allowing ptarmigan to be taken anywhere they are found in California in accordance with the authorized season, bag limit, and possession limit.

- 3) Require the use of broad head blades which will not pass through a hole seven-eighths inch in diameter on hunting arrows and crossbow bolts for the take of wild turkey.
- 4) Authorize possession of a firearm during archery-only seasons by hunters authorized to carry concealable firearms via a Carry Concealed Weapon (CCW) permit or peace officer endorsement. Use of a firearm to hunt during archery only seasons remains a violation.
- 5) Suspension or revocation of hunting or fishing privileges for any violation of Section 311 (dealing with method of take).

Note that DFW's proposal to require that broad heads be used for hunting wild turkeys with a bow or crossbow was brought forward at the request of *Gaines & Associates*, in close partnership with the *California Bowmen Hunters/State Archery Association* and the *National Wild Turkey Federation*.

Following Mr. Gardner's presentation – which largely focused on DFW's rationale in support of their controversial proposal to issue 30 sage grouse permits in the North Mono Zone – public testimony was taken. Following the expected opposition to the proposed allocation of sage grouse permits, *Gaines & Associates* was pleased testified in support of the Department's sage grouse proposal, as well as the proposal we brought forward to require broad head blades for the taking of wild turkey.

At the end of public testimony, the Commission certified the Negative Declaration and adopted DFW's proposed changes to Upland Game Bird regulations, as presented.

To review the Commission staff summary on Agenda Item 36 regarding 2016 upland game regulations – including full detail on the topic of sage grouse – click [FGC Staff Summary - Agenda Item 36 - Upland Game Regs](#)

WILDLIFE RESOURCES COMMITTEE - September 21st Meeting Recap

The September 21st meeting of the Wildlife Resources Committee (WRC) was held at the Woodland Public Library. A brief summary of notable discussion and action is provided below:

To view the full agenda for the September 21st meeting, click [WRC – Sept 2016 Mtg Agenda](#)

Agenda Item 3 – Discuss and Approve Recommendations for 2017-2018 Regulations:

- **Mammals - 2017/18 Regulations:**

Craig Stowers of the DFW Wildlife Branch gave a presentation, reporting that DFW will only propose standard adjustments to the tag quotas for the 2017-2018 season. Mr. Stowers also commented that DFW will consider a petition related to archery-only antlerless deer tags and the addition of a traditional archery season as alternatives in the 2017/18 regulatory package, but noted that it would require approval from 37 counties and more data on antlerless deer numbers. Mr. Stowers commented that DFW would not consider a petition received related to bear hunting in Modoc County in the 2017/18 cycle, noting that additional data on the bear population in Modoc County is needed. Mr. Stowers stated that DFW is planning to conduct a two-year study to gather data on the bear population in Modoc County, and results from that study would help inform any proposed changes to those regulations in the future.

To view the WRC staff summary on Agenda Item 3, 2017-2018 Mammal Regulations, click [WRC Staff Summary – Agenda Item 3 – 2017-2018 Mammal Regs](#)

- **Waterfowl - 2017/18 Regulations:**

Scott Gardner of the DFW Wildlife Branch commented that DFW must stay within the regulatory framework brought forth by the U.S. Fish and Wildlife Service, but does not expect any major changes in the 2017/18 waterfowl regulations. Mr. Gardner noted that DFW will again consider a late season for white geese to help alleviate impacts to private property.

To view the WRC staff summary on Agenda Item 3, 2017-2018 Waterfowl Regulations, click [WRC Staff Summary – Agenda Item 3 – 2017-2018 Waterfowl Regs](#)

- **Central Valley Salmon - 2017 Regulations:**

Karen Mitchell of the DFW Fisheries Branch staff reported that no changes beyond conformance with the federal regulations are proposed for the 2017-2018 season.

To view the WRC staff summary on Agenda Item 3, 2017 Central Valley Salmon Regulations, click [WRC Staff Summary – Agenda Item 3 – 2017 CV Salmon Regs](#)

- **Klamath River Sportfish – 2017 Regulations:**

Again, Ms. Mitchell of the DFW Fisheries Branch staff reported that no changes beyond conformance with the federal regulations are proposed for the 2017-2018 season.

Ms. Mitchell also provided an overview of the timing and an update on a DFW study on Blue Creek.

To view the WRC staff summary on Agenda Item 3, 2017 Klamath River Sportfish Regulations, click [WRC Staff Summary – Agenda Item 3 – 2017 KR Sportfish Regs](#)

Following presentations and public discussion on each of the above the topic areas, WRC Co-Chairs Commissioners Williams and Burns approved a WRC recommendation to the full Commission that staff be authorized to work with DFW to prepare the rulemaking packages for all of the above items – with the exception of the petition related to bear hunting in Modoc County, which shall be considered by the Commission when the DFW study is complete.

Agenda Item 3 – Wild Pig Management:

(A) Presentation from USDA Animal Plant Health Inspection Service on national and statewide activities, research, and monitoring

(B) Discuss possible management options

Dennis Orthmeyer, California State Director of USDA Wildlife Services, provided a detailed presentation on national and statewide wild pig control activities, research, and disease monitoring.

To view Dennis Orthmeyer’s presentation, click [USDA Presentation – Wild Pig Mgmt](#)

Following Mr. Orthmeyer’s presentation and some comments from the public, Ms. Chappell led a discussion about possible management options, noting that the overarching goal for wild pig

management was to reduce wild pig populations to benefit native species and their habitats and protect private property, all while maintaining hunting opportunities.

Following additional public comments, Ms. Chappell broke the discussion down into six main management areas of concern: 1) status; 2) disposal; 3) method of take; 4) access; 5) import/transport; and 6) revenue. For each these management areas, she provided an overview of the concerns raised, issues in need of further consideration, and possible options to help address those concerns and contribute to achieving the overarching goal.

Following Ms. Chappell's comments regarding the potential option to switch from a pig "tag" to a "validation stamp", *Gaines & Associates* raised serious concerns about the need to protect current annual pig tag revenues that flow into the Big Game Management Account (BGMA) and which provide funding for habitat and research projects which benefit all big game species. After more discussion, Commissioner Williams commented that current pig tag revenues of roughly \$1.2 million annually should be protected and remain available to the BGMA – noting that if the switch is made to a validation stamp it would need to be priced to generate at least \$1.2 million per year.

Following additional comments and discussion, Commissioners Burns and Williams noted that there was so a lot of work to be done in this topic area over the coming months. This topic was closed with a commitment by Ms. Chappell to come back to the WRC with additional data and options that can be discussed at the January 2017 WRC meeting.

To view the WRC staff summary on Agenda Item 4, Wild Pig Management, click [WRC Staff Summary – Agenda Item 4 – Wild Pig Mgmt](#)

Agenda Item 5 – Predator Policy Workgroup:

(A) DFW presentation on current knowledge about mesocarnivores and overview of the Human Dimensions Program

(B) Update on Predator Policy Workgroup activities

DFW opened this agenda item with staff providing three separate presentations on DFW's current knowledge about mesocarnivores (animals, such as coyotes, whose diet consists of mostly of meat, but also includes other foods such as fruits and other plant material), and an overview of DFW's new Human Dimensions Program:

- a) Chris Stermer gave an overview of DFW predator monitoring efforts, ecological relationships between predators, and the statewide camera trap survey efforts.

To view Mr. Stermer's presentation on Predator Monitoring, click [DFW Presentation – Predator Monitoring](#)

- b) Matt Meshriy presented information on the trap and hunting harvest data for the eight priority species under consideration by the Predator Policy Workgroup: coyote, bobcat, long and short-tailed weasel, mink, raccoon, badger, and gray fox.

To view Mr. Meshriy's presentation on Predator Harvest, click [DFW Presentation – Predator Harvest](#)

- c) Marc Kenyon gave an overview of the new DFW "Human Dimensions" Program.

Mr. Kenyon's presentation on the DFW's new Human Dimensions Program was easily the most controversial and of greatest interest to *Gaines & Associates* and many in attendance. The "Human Dimensions" concept got its start a few years ago in the waterfowl world under the North American Waterfowl Management Plan. In a nutshell, the intent of Human Dimensions is to better understand the thoughts, beliefs and perceptions of the general public *so we can better educate them* about how and why we must manage our wildlife based on science, and the critical role of hunting and hunters in wildlife conservation. However, the way it came across at the WRC was that DFW's Human Dimensions Program was targeted at learning more about the uneducated public's thoughts, beliefs and perceptions *so we can better consider and include them* in our wildlife management decision-making. In short, although Human Dimensions is intended to *promote* a strong future for science based wildlife management and hunting, Mr. Kenyon's presentation came across as if the Program was likely to result in quite the opposite. To make matters even worse, Mr. Kenyon confirmed that the Program was funded by a combination of hunter generated Pittman-Robertson Act and Big Game Management Account dollars.

To view Mr. Kenyon's presentation on Human Dimensions, click [DFW Presentation - HD](#)

Note that since the WRC meeting, *Gaines & Associates* has had several discussions with DFW leadership about our concerns regarding the apparent misguided direction of the Human Dimensions Program and its funding streams, and we have been assured that any and all necessary course-correction will be taken care of. *Gaines & Associates* will continue to closely monitor this Program and its direction to ensure that the effort provides only the intended positive future benefits to our wildlife resources and our outdoor traditions.

Following these three presentations, Ms. Chappell gave a brief update on the recent Predator Policy Workgroup activities, also noting that the next meeting was scheduled for September 28, 2016 in Davis. (See "PREDATOR POLICY WORKGROUP - September 28th Meeting Recap" provided below)

To view the WRC staff summary on Agenda Item 5, Predator Policy Workgroup, click [WRC Staff Summary – Agenda Item 5 – PPWG](#)

Agenda Item 6 – Hatchery and Inland Fisheries Fund:

Under this item, Gabe Tiffany of DFW staff gave a presentation on the fiscal status of the Hatchery and Inland Fisheries Fund (HIFF) in response to concerns raised about the solvency of the fund by the California State Legislature Outdoor Sporting Caucus and stakeholders.

Mr. Tiffany stated that one-third of the revenues from sport fishing license sales go into HIFF, with the roughly \$20 million in annually funding used to support the state's trout hatcheries and other trout programs. He followed by stating that the HIFF was very solvent, noting that concerns from the Legislature and stakeholders were generated by an alleged \$2.2 million imbalance between estimated revenue of DFW's budget and an appropriation noted in a Department of Finance analysis. Mr. Tiffany noted that the confusion was due to the "one-time" project funding included for two projects: 1) \$1 million per year for hatchery deferred maintenance projects for the 2015-16, 2016-17 and 2017-18 fiscal years; and 2) \$2 million for a critical drought project at Darrah Springs Hatchery in 2016-17. Mr. Tiffany pointed out that these one-time expenditures will not carry forward beyond 2017-18. He closed by showing a spreadsheet of expected HIFF revenues and expenditures through the 2020/21 fiscal year which indicated that the HIFF would stay in the black.

Following some discussion between the WRC Co-Chairs and the public, staff was directed to prepare a letter of response to the Members of the California State Legislature Outdoor Sporting Caucus which summarize today's discussion and clarified the status of the fund.

To view the WRC staff summary on Agenda Item 6, Hatchery and Inland Fisheries Fund – including copies of letters received from State Legislators, click [WRC Staff Summary – Agenda Item 6 – HIFF](#)

To view Mr. Tiffany's presentation on HIFF, click [DFW Presentation - HIFF](#)

To view a WRC staff summary for the entire WRC meeting, click [WRC - Full Mtg Summary](#)

PREDATOR POLICY WORKGROUP - September 28th Meeting Recap

The September 28th meeting of the Commission's Predator Policy Workgroup (PPWG) was held at the Yolo Wildlife Area in Davis. A brief summary of notable discussion and action is provided below:

To view the full agenda for the September 28th meeting, click [PPWG – Sept 2016 Mtg Agenda](#)

Agenda Item 2 – Discuss and revise draft predator policy

This agenda item opened with Commission staff, Erin Chappell, providing predator Policy Workgroup members with a draft Terrestrial Predators Policy statement that she wanted the group to "wordsmith". The draft policy consisted of a total of five paragraphs, including a one paragraph "Values Statement" and four paragraphs of "Conservation and Management Principles". Although the entire draft statement consisted of little over 300 words, the eleven member PPWG – which consists of appointed representatives from *Gaines & Associates* and other hunting-related interests, ranching and farming interests, and representatives from the Humane Society of the United States, Center for Biological Diversity and other animal-rights groups – spent nearly the entire 5+ hour meeting debating language changes to the staff draft. At the end of the day, the few agreed to changes to the draft policy language were documented, other comments and suggestions were noted, and the package was passed along to the lower-tier Predator Policy Review Group for their consideration and comment.

To view PPWG staff summary of Agenda Item 2, including the initial staff draft predator policy that was presented to the PPWG at the meeting, click [PPWG Staff – Draft Predator Policy](#)

Unfortunately, the results from the long day of wordsmithing are not available in a format that can be linked to this *Special Report*. For a PDF copy of the revised draft resulting from the PPWG's September meeting, contact *Gaines & Associates* at info@gainesandassociates.net

Agenda Item 3 – Review and identify existing predator regulations to propose for revision

Due to the extensive amount of time the PPWG dedicated to agenda item 2, there was minimal time for discussion on this agenda item. Ms. Chappell used the few minutes remaining in the meeting to highlight for the members and others in attendance some of the tough territory that must be discussed by the PPWG in the coming months.

To view PPWG staff summary of Agenda Item 3, including recommended changes to existing predator regulations provided by all PPWG members, click

[PPWG staff summary – Proposed Predator Regs](#)

Following the short discussion on agenda item 3, Ms. Chappell quickly noted that the results from the today's meeting and other appropriate materials would be forwarded to the Review Group for their review and comment. Ms. Chappell then closed the meeting by noting that the next meeting of the PPWG would be held in Redding on November 1st.

To view the detailed Staff Meeting Binder for the entire September PPWG meeting, click [PPWG – Mtg Binder](#)

PLAN AHEAD!!!

BELOW ARE THE DATES AND LOCATIONS OF UPCOMING COMMISSION RELATED MEETINGS!

WILDLIFE RESOURCES COMMITTEE – Next Meeting – January 18, 2017

The next meeting of the Commission's Wildlife Resources Committee will be held on January 18th, 2017 at the following location:

*Redding Library
Community Room
1100 Parkview Ave.
Redding, CA 96001*

PREDATOR POLICY WORKGROUP – Next Meeting – November 1, 2016

The next meeting of the Commission's Predator Policy Workgroup will be held from 9:30 a.m. to 3:30 p.m. on November 1st at the following location:

*Department of Parks and Recreation
Redwood Room
1416 Ninth Street,
14th Floor*

CALIFORNIA FISH & GAME COMMISSION – December 2016 Meeting

The December 2016 meeting of the California Fish and Game Commission is scheduled for December 7th and 8th at the:

*Hilton Garden Inn San Diego Mission Valley/Stadium
3805 Murphy Canyon Road
San Diego, CA 92123*

To submit your own comments to the Commission, the WRC, or the PPWG on any of the above issues of concern, you may email them at fgc@fgc.ca.gov Be sure to include the subject of the regulations in the e-mail subject line. Comments can also be mailed to the Commission's Sacramento office at:

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

For more information on any of the topics discussed above or how Gaines & Associates can help you protect your outdoor interests, contact us at info@gainesandassociates.net

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