

STAFF SUMMARY FOR OCTOBER 9-10, 2019

10. WILDLIFE AND INLAND FISHERIES NON-REGULATORY REQUESTS**Today's Item**Information Action

This is a standing agenda item for FGC to act on non-regulatory requests from the public that concern wildlife and inland fisheries. For this meeting:

- (A) Action on non-regulatory requests received for the Aug 2019 meeting
- (B) Update on pending non-regulatory requests referred to FGC staff or DFW for review – *none scheduled*

Summary of Previous/Future Actions

- (A)
 - FGC receipt of requests Aug 7-8, 2019; Sacramento
 - **Today's action on requests** **Oct 9-10, 2019; Valley Center**
- (B)
 - N/A

Background

FGC provides direction regarding requests from the public received by mail and email and during general public comment at the previous FGC meeting. Public requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration.

- (A) **Non-regulatory requests.** Non-regulatory requests scheduled for consideration today were received at the Aug 2019 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public comment.

Today, five non-regulatory requests received at the Aug 2019 meeting are scheduled for action. Exhibit A1 summarizes and contains staff recommendations for each request, and one original written request is provided as Exhibit A2.

- (B) **Pending non-regulatory requests.** This item is an opportunity for staff to provide a recommendation on non-regulatory requests that were scheduled for action at a previous meeting and referred by FGC to staff or DFW for further review.

There are no pending non-regulatory requests for today.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt staff recommendations for Aug 2019 non-regulatory requests (Exhibit A1).

Exhibits

1. [List of non-regulatory requests and staff recommendations for requests received through Aug 7, 2019, dated Sep 30, 2019](#)

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2. [Email from Danny Offer, Platinum Advisors, on behalf of Chairman Curt Hagman, San Bernardino County Board of Supervisors, received Aug 7, 2019](#)

Motion/Direction

(A) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on August 2019 non-regulatory requests.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on August 2019 non-regulatory requests, except for item(s) _____ for which the action is _____.

CALIFORNIA FISH AND GAME COMMISSION
REQUESTS FOR NON-REGULATORY ACTION 2019 - SCHEDULED FOR ACTION
Revised 09-30-2019

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Grant: FGC is *willing to consider* the request **Deny:** FGC is *not willing to consider* the request **Refer:** FGC *needs more information* before deciding whether to grant or deny the request

Green cells: Referrals to DFW for more information
Lavender cells: Accepted; no further action needed

Blue cells: Referrals to FGC staff or committee for more information
Yellow cells: Current action items

Date Received	Name of Petitioner	Request category (Marine or Wildlife)	Subject of Request	Short Description	FGC Decision	Staff / DFW Recommendations
7/1/2019	Chris Clardy City of Colfax	Wildlife	Petition to list foothill yellow-legged frog under the California Endangered Species Act (CESA)	Request for FGC to find that the petitioned action to list foothill yellow-legged frog under CESA is not warranted and the petition process be ended.	Receipt: 8/7-8/2019 Action: 10/9-10/2019	The request is contrary to CESA statute. No further action recommended.
7/15/2019	Tim Dummer	Wildlife	Public access for fishing in waters impounded by dams	Request for FGC to take legal action against the San Francisco Public Utilities Commission for violations of several statutes, including Fish and Game Code Section 5943 concerning public access for fishing in waters impounded by dams.	Receipt: 8/7-8/2019 Action: 10/9-10/2019	FGC does not enforce violations of the Fish and Game Code. No further action recommended.
7/16/2019	Donald Baldwin	Wildlife	Security of personal and confidential information	Request to secure access to personal and confidential information housed in DFW's Automated License Data System (ALDS).	Receipt: 8/7-8/2019 Action: 10/9-10/2019	DFW controls the access to and maintenance of ALDS content, not FGC; DFW has been notified of the request and taken appropriate action. No further action recommended.
7/25/2019	Tom and Patricia Randolph	Wildlife	Use of seasonal dam and swimming hole at Trinity Alps Resort	(1) Request to approve a permit for Trinity Alps Resort's continued use of a seasonal dam and swimming hole while the status of foothill yellow-legged frog under CESA is being determined, and (2) a request to consult with the California Attorney General about the legality of CESA proceedings and potential liability to FGC and DFW of denying permits during those proceedings.	Receipt: 8/7-8/2019 Action: 10/9-10/2019	FGC received several similar letters on this issue; staff has responded with letters to commenters clarifying that the permits in question are approved by DFW, and that FGC does not have a role. No further action recommended.
8/7/2019	James Stone NorCal Guides and Sportsmen's Association	Wildlife	Guide licensing application	Request that DFW revise the application form for guide licensing, and require that necessary documentation to be a guide be provided by applicants.	Receipt: 8/7-8/2019 Action: 10/9-10/2019	Requests for form revision, documentation requirements, or a change in guide qualifications would require regulatory changes and should be submitted on form FGC 1. Other concerns should be directed to DFW. The requestor has been notified; no further action recommended.
8/7/2019 8/7/2019	Danny Offer, Platinum Advisors, on behalf of Curt Hagman, Chair, San County Board of Supervisors. and Steve Wallauch, on behalf of San Bernardino County Board of Supervisors	Wildlife	Petition to list San Bernardino kangaroo rat under the California Endangered Species Act (CESA)	Request for FGC to either reject DFW's evaluation of the petition to list San Bernardino kangaroo rat under CESA and reopen the public comment period on the petition, or continue consideration of the petition to a meeting subsequent to the scheduled August 7-8, 2019 FGC meeting.	Receipt: 8/7-8/2019 Action: 10/9-10/2019	FGC determined in August 2019 that listing the San Bernardino kangaroo rat under CESA may be warranted. Comments may be submitted during the CESA comment period. No further action recommended.

From: Laoyan, Gem@Wildlife <Gem.Laoyan@wildlife.ca.gov>

Sent: Wednesday, August 7, 2019 4:42 PM

To: Bonham, Chuck@Wildlife <Chuck.Bonham@wildlife.ca.gov>; Miller-Henson, Melissa@FGC <Melissa.Miller-Henson@fgc.ca.gov>

Cc: Lehr, Stafford@Wildlife <Stafford.Lehr@wildlife.ca.gov>; Thesell, Harold(David)@FGC <Harold.Thesell@FGC.ca.gov>; Ortiz, Jan@Wildlife <Jan.Ortiz@wildlife.ca.gov>

Subject: FW: Letter from San Bernardino County RE: Petition to List the San Bernardino Kangaroo Rat

Good afternoon, please see below an email and attachments from Platinum Advisors regarding a petition to list the San Bernardino Kangaroo Rat. Mr. Thesell will please distribute copies to the Commissioners as well, thank you for your assistance. The letter is from San Bernardino County Board of Supervisor, Curt Hagman.

Gem Laoyan, Administrative Assistant to
Valerie Termini, Chief Deputy Director
CA Department of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-7667



From: Danny Offer <dpo@platinumadvisors.com>

Sent: Wednesday, August 7, 2019 4:26 PM

To: Laoyan, Gem@Wildlife <Gem.Laoyan@wildlife.ca.gov>

Subject: Letter from San Bernardino County RE: Petition to List the San Bernardino Kangaroo Rat

Hi Gem –

I see that Jan is out this week.

Are you able to circulate the attached letters from San Bernardino County to:

Director Bonham
VP Hostler-Carmesian
President Sklar
Commissioner Burns
Commissioner Silva
Commissioner Murray

Thank you in advance!

Danny Offer, Lobbyist
Sacramento | 916.443.8891

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County Administrative Office
Governmental & Legislative Affairs

Josh Candelaria
Director

August 5, 2019

Mr. Eric Sklar
President
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Re: Petition to List the San Bernardino Kangaroo Rat

Dear President Sklar:

The County of San Bernardino wishes to express concern about the petition to list the San Bernardino kangaroo rat (SBKR) under the California Endangered Species Act.

It appears the Department of Fish and Wildlife may have only partially met its statutory requirement for noticing by publishing a notice of receipt of the petition in the California Regulatory Notice Register. However, the California Fish and Game Code §2073.3(b) requires that "(t)he Commission shall notify interested persons pursuant to Section 2078, by mail of the notices prepared pursuant to subsection (a), and shall mail a copy of the notice to those persons."

The County was unaware of the petition until recently. While Fish and Game Code Section 2078 requires interested persons to notify the Commission in writing, it would seem a potential action of this importance and consequence for our County would have merited a more robust notification and outreach effort.

Further, the County of San Bernardino is pursuing a Regional Conservation Investment Strategy, which would provide additional protection in addition to SBKR's current protection of more than two decades under the Federal Endangered Species Act, which has included ongoing mitigation and recovery efforts. There is concern that the County, as provider of public safety infrastructure, and also as the permitting jurisdiction for any number of projects that provide housing and economic development for our residents, would face additional complex and duplicative regulatory requirements, which will provide little, or no, benefit to the SBKR.

Therefore, the County of San Bernardino respectfully requests that the Commission either reject CDFW staff's evaluation and reopen the public comment period on the petition to allow adequate analysis and comment, or that you at least continue your consideration of the petition until a meeting subsequent to your scheduled August 7-8, 2019 meeting.

BOARD OF SUPERVISORS

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Gary McBride
Chief Executive Officer

If you have any questions regarding the County's position, please do not hesitate to contact Josh Candelaria, Director of Governmental and Legislative Affairs at (909) 387-4821 or jcandelaria@sbcountry.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt Hagman", with a long, sweeping horizontal stroke at the end.

Curt Hagman

Fourth District Supervisor
Chairman, San Bernardino County Board of Supervisors

cc: Commission Vice President Jacque Hostler-Carmesin
Commissioner Russell Burns
Commissioner Peter S. Silva
Commissioner Samantha Murray
CDFW Director Charlton Bonham