



requirements of the certified local coastal program of that city or county. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

AB 1374 (Hauser). Under existing law, the Department of Parks and Recreation is authorized to collect fees for the use of any state park system area, the amounts to be determined by the Department. As introduced March 7, this bill would make the establishment or adjustment of fees for the use of any state park system area within the coastal zone subject to the jurisdiction of the Coastal Commission. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1426 (Gotch). Existing law prescribes the grounds for an appeal to the Coastal Commission of an action taken by a local government on a coastal development permit under the California Coastal Act of 1976. As introduced March 7, this bill would revise these grounds for appeal. This bill is pending in the Assembly Natural Resources Committee.

SB 851 (Hart), as introduced March 7, would require the Commission to carry out a public education program regarding conservation and use of coastal resources, to the extent that its resources permit. The bill would encourage the Commission to use prescribed methods of funding the program, and would require the Commission to report to the legislature regarding that funding and the progress of the program. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 154 (McCorquodale). The California Coastal Act of 1976 provides for the planning and regulation of development within the coastal zone, based on various coastal resources planning and management policies set forth in the Act. As introduced January 9, this bill would include in those policies a declaration that the economic, commercial, and recreational importance of fishing activities shall be recognized and protected. This bill is pending in the Senate Appropriations Committee.

SB 904 (Hart), as introduced March 8, would prescribe within the Coastal Act of 1976 coastal resources planning and management policies concerning the transportation of oil and gas, require pipeline transportation of oil and gas unless such a method is determined not to be feasible, and permit an alternative mode of transportation under specified circumstances. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 909 (Hart). Existing law authorizes the Commission, on an appeal, to approve, modify, or deny a proposed development. As introduced March 8, this bill would additionally authorize the Commission to remand the matter to the local government or port governing body which took the action, if there is new information. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 1 (Winter 1991) at page 124:

AB 10 (Hauser), which would prohibit the Commission from leasing, for oil and gas purposes, all state-owned tide and submerged lands situated in Mendocino County and Humboldt County not within a specified area, is pending in the Assembly Ways and Means Committee.

AB 72 (Cortese), which would enact the California Park, Recreation, and Wildlife Enhancement Act of 1992, is pending in the Assembly Committee on Water, Parks and Wildlife.

LITIGATION:

In November 1990, the San Francisco-based environmental group, Earth Island Institute Inc., filed suit in federal district court against Southern California Edison, alleging violations of the federal Clean Water Act stemming from operations at the San Onofre Nuclear Power Plant. The suit is based primarily on a 1989 report of the Coastal Commission's Marine Review Committee, which concluded after a 15-year study that the operation of the San Onofre plant kills tons of fish and kelp each year. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 124 for background information.) In March, plaintiff filed a motion for preliminary injunction against Edison, alleging that the utility is stalling in its duty to provide a mitigation plan for damage caused by the release of cooling water from the power plant, and asking the court to "hold Edison's feet to the fire." Edison has in turn requested that U.S. District Court Judge Rudi Brewster postpone any ruling on the case until after the Regional Water Quality Control Board has held hearings and acted upon the Marine Review Committee's report. Earth Island Institute claims that this request is merely another delay tactic by Edison to avoid producing the mitigation plan and implementation timeline. The motion was scheduled for a hearing on April 22.

Coastal Commission staff are currently working on a mitigation plan which will require Southern California Edison to complete some form of habitat restoration to atone for the damages.

This mitigation plan will likely include some combination of artificial reef creation, wetland restoration, or plant modifications (although Edison is resisting the last as cost-prohibitive). The Earth Island suit alleges that such mitigation cannot compensate for the permit violations because the permits were conditioned on a guarantee of no significant harm to the marine environment.

FUTURE MEETINGS:

July 16-19 in Huntington Beach.
August 13-16 in Eureka.
September 10-13 in Marina del Rey.
October 8-11 in Monterey.
November 12-15 in San Diego.
December 10-13 in Los Angeles.

DEPARTMENT OF FISH AND GAME

Director: Pete Bontadelli
(916) 445-3531

The Department of Fish and Game (DFG), created pursuant to Fish and Game Code section 700 *et seq.*, manages California's fish and wildlife resources (both animal and plant). Created in 1951 as part of the state Resources Agency, DFG regulates recreational activities such as sport fishing, hunting, guide services, and hunting club operations. The Department also controls commercial fishing, fish processing, trapping, mining, and gamebird breeding.

In addition, DFG serves an informational function. The Department procures and evaluates biological data to monitor the health of wildlife populations and habitats. The Department uses this information to formulate proposed legislation as well as the regulations which are presented to the Fish and Game Commission.

The Fish and Game Commission (FGC), created in section 20 of Article IV of the California Constitution, is the policymaking board of DFG. The five-member body promulgates policies and regulations consistent with the powers and obligations conferred by state legislation in Fish and Game Code section 101 *et seq.* These regulations concern the taking and possession of birds, mammals, amphibians, reptiles, and fish. Each member is appointed to a six-year term. FGC's regulations are codified in Division 1, Title 14 of the California Code of Regulations (CCR).

As part of the management of wildlife resources, DFG maintains fish hatcheries for recreational fishing, sustains game and waterfowl populations, and protects land and water habitats.



DFG manages 506,062 acres of land, 5,000 lakes and reservoirs, 30,000 miles of streams and rivers, and 1,300 miles of coastline. Over 648 species and subspecies of birds and mammals and 175 species and subspecies of fish, amphibians, and reptiles are under DFG's protection.

The Department's revenues come from several sources, the largest of which is the sale of hunting and fishing licenses and commercial fishing privilege taxes. Federal taxes on fish and game equipment, court fines on fish and game law violators, state contributions, and public donations provide the remaining funds. Some of the state revenues come from the Environmental Protection Program through the sale of personalized automobile license plates.

DFG contains an independent Wildlife Conservation Board which has separate funding and authority. Only some of its activities relate to the Department. It is primarily concerned with the creation of recreation areas in order to restore, protect and preserve wildlife.

MAJOR PROJECTS:

Drought Affects Fish and Wildlife. During January and February, DFG Director Pete Bontadelli participated on Governor Wilson's Drought Action Team, which was created by an early February executive order. Along with 18 other Team members, Bontadelli assisted in the preparation of a report released on February 15 summarizing the state's actions to cope with the drought.

At a January 29 presentation before the Water Resources Control Board, Bontadelli presented a bleak picture of the effects of the five-year drought on the state's fish and wildlife:

-Fall-run chinook salmon populations in the San Joaquin river system have declined from 70,000 fish in 1985 to less than 1,000 adults in 1990; DFG expects 1991 to be as bad or worse.

-Spring-run chinook are at dangerously low levels. In the Sacramento and Trinity rivers, as well as their minor tributaries, DFG expects low flows and high temperatures to further deplete the stocks of this race of salmon.

-The winter-run chinook salmon has been declared endangered by DFG and threatened by the federal government; DFG is making extra efforts to prevent the extinction of this species (see *infra* for details).

-Along the central coast, the Carmel River and many other rivers and streams have not flowed to the sea during any of the last five years; no steelhead trout

have migrated into or out of these streams.

-The 1990 striped bass index established an all-time low; DFG expects 1991 to be worse.

-The drought has contributed to the decline of species such as the delta smelt, tidewater goby, and red-legged frog to the point that they are currently being considered for listing as threatened or endangered species.

-Last fall's deer harvest, which is an indicator of populations levels and herd health, dropped significantly.

-Recreational opportunities and use and commercial harvest of fish and wildlife have declined considerably. Localized economic losses are severe, and may continue for several years.

While acknowledging that the drought's impact on fish and game is but one of the many concerns facing the state's population, resources, and economy, Bontadelli and DFG have established a priority list within the Department, which would enable it to at least maintain baseline populations. For determining the importance of fish, amphibians, wildlife, and botanical resources threatened by drought, DFG established the following priorities:

(1) critical habitat for species that are designated endangered, threatened, or of special concern;

(2) anadromous fisheries, with special emphasis on stocks which have exhibited a lack of resiliency;

(3) managed natural wetlands;

(4) anadromous fish hatcheries which can support baseline populations;

(5) wild streams which support native nongame and game species;

(6) trout and warm water fish hatcheries which will provide use and diversity;

(7) reservoir fisheries with priority based on recreational use and diversity; and

(8) the provision of artificial or augmented drinking water for wildlife where food supply limitations do not cancel out benefits.

At the January 29 hearing, Bontadelli also expressed concern that the state not repeat a mistake it made after the drought of 1977. Following the end of that drought, major fishery impacts occurred when water supplies returned to normal and exports from the Delta were restored. In a natural response to salinity encroachment, fish were concentrated in the upper Delta in close proximity to the pumps. When the pumps went on, these fish were lost. Bontadelli urged the state to plan for the end of the drought now, and to consider, when the current drought ends, a short delay in

return to normal storage and diversions by major water rights holders.

Additional Measures Taken to Protect Winter-Run Chinook Salmon. At its February 1 meeting, FGC adopted amendments to regulatory section 27.80, to provide further protection for the endangered winter-run chinook salmon. The amendments conform California regulations with those adopted by the Pacific Fishery Management Council in November 1990, shortly after the federal government listed the winter-run chinook salmon as threatened. These amendments expand the block closure area off the Golden Gate Bridge in San Francisco Bay to more than twice its original size, and reduce the open season by about 27 days. These regulation changes were approved by the Office of Administrative Law (OAL) on February 22.

The winter-run is a distinct race of chinook salmon; they spawn only in California, with virtually all fish limited to the Sacramento River system. Adults migrate past the Red Bluff Diversion Dam (RBDD) on the Sacramento River beginning in mid-December and continuing into mid-August. Most fish spawn in May and June upstream from Red Bluff. Downstream migrant smolts move past Red Bluff beginning in August and continuing through October.

The winter-run chinook salmon population in California has declined greatly in recent years. Annual runs total less than 1,000 fish, compared with the 60,000-120,000 spawners typical of the 1960s. According to DFG, the 1989 and 1990 runs appear to be the lowest on record. About 500 fish were recorded past the RBDD in each of these years. The runs could decline even further as a result of the current drought. A state-federal task force has been assembled to implement a ten-point plan to restore the winter-run to historical levels. Ongoing DFG management actions including (1) regulation changes to protect spawners; (2) timed raising of the gates at the RBDD to allow adults access to areas where spawning and nursery conditions are best; (3) improvements in the operation of the Coleman National Fish Hatchery; (4) addition of gravel to important spawning areas; and (5) improvements in the stilling basin at Keswick Dam. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 154; Vol. 9, No. 4 (Fall 1989) p. 119; and Vol. 9, No. 3 (Summer 1989) p. 108 for background information.)

Closure of Frenchman Reservoir. In November 1990, FGC adopted an emergency regulation closing Frenchman Reservoir in Plumas County to all fishing,



because it has been illegally stocked with northern pike. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 126 for background information.) At that time, the Commission also proposed to close the lake indefinitely, so DFG could chemically treat the lake to rid it of northern pike; thus, it scheduled a public hearing on the issue for December 6 and an adoption hearing on February 1, prior to the expiration of the emergency regulation on March 20.

However, in December, Plumas County resident Harry Reeves filed suit and obtained a writ of mandate preventing DFG from chemically treating the reservoir before appropriate environmental impact studies are conducted and released for public comment. In settlement of that lawsuit, DFG agreed to prepare a subsequent environmental impact report (EIR) by March 4, with public circulation until April 4. During its environmental studies, DFG intends to focus on (among other things) climate, runoff, water levels, and the presence or absence of bald eagle chicks in the area. If all goes according to plan, the chemical treatment could begin by mid-April, and the lake should be ready for restocking by mid-May.

At its March 1 meeting, FGC adopted section 7.50(b)(68.5), which will close Frenchman Reservoir to fishing permanently (or until the regulation is repealed). At this writing, FGC staff is preparing the rulemaking file on the regulation for submission to OAL.

Implementation of AB 3158. On January 22, FGC adopted new section 735.5, Title 14 of the CCR, to implement AB 3158 (Costa) (Chapter 1706, Statutes of 1990). AB 3158 requires DFG to impose and collect filing fees to defray the cost of managing and protecting fish and wildlife resources, including the cost of consulting with other public agencies, reviewing environmental documents submitted to the California Environmental Quality Act (CEQA), recommending mitigation, and other activities protecting those resources. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 155 for background information on AB 3158.) Filing fees are to be collected during the environmental review process, and are to be paid at the time lead agencies file a Notice of Approval or Determination with the county clerk of the county or counties in which the project is located. Because confusion has arisen over how these fees are to be collected, which projects are subject to the fee and which are not, and how certain projects are to be exempted from the fee, FGC adopted section 735.5. The new section:

- provides a filing fee schedule for local government-approved projects —the fee for projects for which an EIR is required is \$850; for projects for which a Negative Declaration is required, the fee is \$1,250;

- clarifies that de minimis projects, as determined by lead agencies, are not subject to the fee requirement;

- clarifies that the party responsible for paying the fee is the private or public project proponent;

- provides that a lead agency's finding of fact determining a project de minimis shall include a description of the project, a statement that an initial study has been conducted so as to evaluate the potential for adverse environmental impact, and a declaration that there is no evidence that the project will have potential for adverse effect on fish and wildlife;

- provides that at the time a local agency approves a project it shall, if appropriate, complete a Certificate of Fee Exemption, including the finding specified above;

- specifies an efficient fee collection procedure consistent with the intent of the statute;

- specifies the reporting requirements of local governments and the responsibilities of local governments in the case when fees that are due are not paid;

- requires, consistent with the statute, that reports and fees collected shall be remitted monthly within 30 days after the end of each month;

- authorizes, consistent with statute, a county clerk to charge a handling fee of \$25 per filing of all Notices of Approval or Determination; and

- authorizes, consistent with statute, DFG to assess a 10% penalty for failing to remit fees when due.

FGC subsequently published notice of its intent to adopt this regulation on a permanent basis, and held a public hearing on February 28. The Commission was scheduled to adopt the permanent regulation at its April 4 meeting.

1991-92 Mammal Hunting and Trapping Regulations. In preparation for its final adoption hearing on April 25, FGC announced at its March 1 meeting the regulatory changes it will propose for the 1991-92 mammal hunting and trapping seasons:

- Sections 350 and 369 will be amended to delete provisions regarding a mountain lion hunting season.

- Changes to sections 360-61 will create additional deer hunts, including muzzle-loading rifle hunts, junior deer hunts, and antlerless deer hunts; further, some deer hunting zones have been expanded.

- Amended section 362 will increase the number of Nelson bighorn sheep tags

from six to eight and extend the hunting season.

- Changes to section 363 adjust the number of tags issued for the hunting of pronghorn antelope, based on current population, and add a junior hunt.

- Amendments to sections 364 and 364.5 will allow DFG to postpone or relocate the drawing for hunt tags, increase tag fees, and lower the minimum age for tag application from 16 to 12.

- Amended 465.5 proposes the use of padded-jaw traps statewide, with the exception of traps used in aquatic environments. This action is consistent with FGC's adoption of emergency regulations last fall to protect the endangered San Joaquin kit fox and the Sierra Nevada red fox. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 125 for background information.)

FGC accepted written comments on the proposed regulatory changes until April 15, and was expected to adopt the changes on April 25. The hunting and trapping regulations become effective on July 1.

Civil Penalties Proposed to Deter Poaching. At its March 1 meeting, FGC adopted new sections 747 and 748, Title 14 of the CCR, which establish procedures for imposing penalties and for conducting license and permit revocation and suspension actions. The purpose of the regulations is to "inhibit, deter, and reduce unlawful poaching for profit or personal gain," and to partially compensate the people of California for losses of fish and wildlife resources.

Section 747 set the monetary ranges of DFG-imposed civil penalties: where the violation in the aggregate is valued at less than \$400 and involves certain conduct, the civil penalty shall be the lesser of the maximum criminal fine or \$10,000. The section also specifies aggravating and mitigating factors which allow DFG to increase or reduce the penalty; requires the imposition of penalties on a per item basis, unless mitigating or aggravating factors are present; and specifies penalties for paperwork violations.

Section 748 outlines the procedures DFG will follow in imposing civil penalties and revoking and suspending certain licenses and permits. The section provides for the issuance of a complaint by DFG, a Notice of Hearing, limited discovery, prehearing conferences, and issuance, service, and appeal of the final decision.

This regulatory package awaits review and approval by OAL.



LEGISLATION:

SB 403 (L. Greene), as introduced February 19, would require DFG to publish a notice in the *California Regulatory Notice Register* of the receipt of a petition, or the commencement of an evaluation, to add a species to or remove a species from the list of endangered species or the list of threatened species pursuant to the California Endangered Species Act, and would specify the information required to be in the notice. The bill would also require DFG to establish a list of persons or organizations interested in receiving these notices by mail, and would require DFG to mail a copy of the notice to those persons or organizations. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 795 (Rogers). **AB 3158 (Costa)** (Chapter 1706, Statutes of 1990) requires DFG to establish and collect filing fees for departmental actions subject to the California Environmental Quality Act (CEQA), and requires that the filing fees be proportional to the cost incurred by the Department. As introduced March 7, this bill would specify that the fees are to be calculated in an amount necessary to defray the cost to DFG in providing the particular service, and would also prohibit the inclusion of any surcharge or amount intended to permit DFG to establish a reserve. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

AB 2030 (Allen), as introduced March 8, would require **AB 3158** filing fees to be proportional to the cost incurred by DFG in reviewing environmental documents for projects which have a significant impact on trust resources of the Department; the bill would also delete the requirement that a fee be paid for projects for which a negative declaration is prepared. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 203 (Farr). Under **SB 2040 (Keene)** (Chapter 1248, Statutes of 1990), the Administrator of the Office of Oil Spill Prevention and Response within DFG is required to establish rescue and rehabilitation stations for sea birds, sea otters, and other marine mammals affected by an oil spill in marine waters and to consult with specified agencies in the design, planning, construction, and operations of the stations. As introduced January 8, this urgency bill would require the Administrator to establish rescue and rehabilitation stations by January 1, 1992, and to consult with the specified agencies by July 1, 1991. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 353 (Hauser), as introduced January 29, would require FGC to designate additional fish spawning or rearing waterways that it finds necessary to protect fishlife. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 355 (Hauser). Existing law authorizes DFG to clean up or abate the effects of any petroleum or petroleum product deposited in the waters of the state and to recover any costs incurred as a result of the clean-up or abatement. As introduced January 29, this bill would authorize DFG to order the responsible party to repair and restore all loss or impairment of fishlife, shellfish, and their habitat; authorize DFG to use available funds to seek full remuneration for the costs of all repair and restoration incurred by the Department from those individuals or entities responsible for the damage and destruction; and require DFG to adopt regulations to carry out the bill by June 30, 1992. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 977 (Mountjoy). FGC is permitted to adopt all regulations necessary to provide for the biologically sound management of Nelson bighorn sheep, and may authorize sport hunting of mature Nelson bighorn rams found in specified areas of San Bernardino County. As introduced March 4, this bill would permit FGC to authorize sport hunting of mature Nelson bighorn rams without regard to area.

Existing law requires FGC to annually direct DFG to issue not more than one of the license tags available for issuance in a year to take one Nelson bighorn ram for the purpose of raising funds for programs and projects to benefit bighorn sheep; this one license tag is not subject to the fee limitation of \$500. This bill would increase from one to three the permissible number of license tags to be issued pursuant to this provision, and would require DFG, not less than every other year, to designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of these tags. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1389 (Cortese). Under existing law, any person who takes, mutilates, or destroys any bird or mammal lawfully in the possession of another is guilty of a misdemeanor. As introduced March 7, this bill would deem that a bird or mammal is in possession when it is in the physical possession of another or, if wounded or maimed, when the person who wounded or maimed the bird or

mammal is in direct pursuit. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 1641 (Sher), as introduced March 8, would enact the Fish and Wildlife Habitat Enhancement Act of 1991. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 2172 (Kelley), as introduced March 8, would declare that it is the policy of the state to protect lands for habitat for endangered or threatened species. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

ACR 35 (Wyman), as introduced March 14, would request DFG to seek funding to conduct a study to determine the status of the Mohave Ground Squirrel. This resolution is pending in the Assembly Committee on Water, Parks and Wildlife.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 1 (Winter 1991) at page 127:

AB 51 (Felando), which would require DFG to conduct a study of existing marine resource management activities and impacts, make recommendations on activities to maintain and increase the abundance of these resources, and report the results of the study and its recommendations to the Governor and the legislature by January 1, 1993, is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 72 (Cortese), which would enact the California Park, Recreation, and Wildlife Enhancement Act of 1992, is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 89 (Felando), which would prohibit the taking of sea cucumbers and hagfishes for sport or commercial purposes until DFG determines that the harvest of these resources can be conducted without adversely impacting the state's policy with respect to ocean resources, is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 145 (Harvey), which would increase from \$100 to \$500 the minimum fine for willful interference with the participation of any individual in the lawful activity of shooting, hunting, fishing, falconry, or trapping at the location where that activity is taking place, where the person is convicted of the violation and the offense occurred within two years of another separate violation of the same provision which resulted in a conviction, is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 172 (Felando), which would prohibit the taking of any species of marine fish for sport or commercial purposes until DFG determines that the harvest of these resources can be conducted with-



out adversely impacting the state's ability to meet certain policies and objectives relating to the conservation, maintenance, and utilization of the policy with respect to ocean resources, is pending in the Assembly Committee on Water, Parks and Wildlife.

LITIGATION:

On February 19, the Committee to Ban Gill Nets, Dolphin Connection, Earth Island Institute, Assemblymember Doris Allen, and Leo Cronin petitioned the Alameda County Superior Court for a writ of mandate commanding DFG, DFG Director Pete Bontadelli, and FGC to enforce Proposition 132, which bans the use of gill and trammel nets, out to 200 miles offshore (instead of the three-mile limit enforced by DFG). (See CRLR Vol. 11, No. 1 (Winter 1991) p. 126 for background information on Proposition 132.) This case was dismissed by stipulation on March 5, after DFG agreed to enforce the initiative out to 200 miles.

However, on March 15, DFG was sued in *Vietnamese Fisherman Association of America, et al. v. California Department of Fish and Game, et al.*, No. C910778-DLJ, in the U.S. District Court for the Northern District of California. In this case, plaintiffs claim that DFG's interpretation of Proposition 132 conflicts with and is preempted by federal law, and that the state is forbidden from enforcing its laws in the area between three and 200 miles offshore. On March 18, the court issued a temporary restraining order prohibiting DFG from enforcing Proposition 132 beyond the three-mile state waters limit. At this writing, this case is on hold while the Pacific Fishery Management Council holds hearings on the issue. The Committee to Ban Gill Nets and Assemblymember Allen have intervened in this case in support of DFG.

In *California Native Plant Society v. Manuel Lujan, Secretary of the Interior*, No. 91-0038EJG-JFM, the Native Plant Society is attempting to force the U.S. Fish and Wildlife Service (USFWS) to list 159 California plants as endangered. The complaint was filed on January 9 in the U.S. District Court for the Eastern District of California by the Sierra Club Legal Defense Fund. USFWS had until March 15 to respond to the suit. According to the suit, USFWS studies have determined that the plants are at risk of extinction, and should be listed as endangered. A similar lawsuit filed in Hawaii resulted in the government's addition of 186 plant species to the endangered list in three years.

RECENT MEETINGS:

At its January 8 meeting in Palm Springs, FGC approved a Captive Raptor Propagation Permit to the Folsom City Zoo for a pair of golden eagles which are unable to be released. Golden eagles are a species of special concern in California, although not considered threatened or endangered. The male eagle was at risk of being euthanized if the permit had not been approved.

At its January 31 meeting, the Commission heard comments regarding the proposed renewal of the Memorandum of Understanding (MOU) between the Bighorn Research Institute and DFG. DFG works with the Institute, a nonprofit organization which conducts a research, recovery, and release program intended to increase the bighorn sheep population in California. Bighorn Research Institute conducts helicopter surveys of bighorn sheep populations in southern California mountain areas, captures sick lambs to nurse them back to health for re-release into wild populations, researches the causes of mortality of adult and baby bighorn sheep, monitors the survival of re-released sheep, and monitors the status of bighorn populations.

The Institute's neighbor, Bighorn Ventures, a real estate development company, appeared before FGC and asked the Commission to require Bighorn Research Institute to prepare an EIR before renewing the MOU. Bighorn Ventures seeks to build 484 homes and a golf course on the land adjoining the Institute. Last year, the City of Palm Desert contacted Bighorn Research Institute to determine whether it had any objections regarding the proposed development by Bighorn Ventures. The Institute empaneled a group of experts, which subsequently determined that an environmental buffer zone between the development and the Institute is necessary to protect the sheep present on Institute property. The Institute reported its findings to the City of Palm Desert, which then required Bighorn Ventures to pay for the preparation of an EIR. The EIR requires Bighorn Ventures to leave a 100-acre environmental buffer zone between the development and the Institute. However, experts retained by the development concluded that no environmental buffer zone is needed. Bighorn Ventures filed a lawsuit against the Institute after it contacted the City of Palm Desert with the determination of its expert panel.

At the January 31 hearing, Bighorn Ventures, represented by its attorney Richard Zejlenga, expressed concerns about the research and presence of

bighorn sheep at the Institute, claiming the sheep at the Institute have contagious ecthyma, which will cause skin lesions on the skin of children playing nearby; the Institute uses toxic chemicals; the Institute is illegally landing helicopters at the site; and it uses electric cattle prods on the sheep. Dr. Jenner, a veterinarian associated with the Institute, explained that contagious ecthyma is rarely transmitted to people. Jim DeForge of the Institute addressed the remaining concerns, explaining the Institute keeps formaldehyde for the purpose of conducting necropsies, uses helicopters as an emergency tool to rescue sick lambs, and that personnel carry cattle prods when they enter holding pens containing 250-pound rams. At the request of both parties, DFG postponed its decision on the renewal of the MOU to its April 4 meeting.

Simian Aides, represented by Dr. M.J. Willard, appeared before the Commission at its January 31 meeting, requesting permission to place two capuchin monkeys in foster homes in California. The monkeys are bred at Disney World in Florida, and reared in foster homes for several years. They are trained using a reward-punishment system to perform tasks as companion helpers to quadriplegics. Because the monkeys usually bond with and are protective of the person they live with, their teeth are extracted to avoid injuries caused by bites. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 128 for background information.)

DFG opposed the request. Representatives of several animal rights groups also testified in opposition to the program. They stated the capuchin monkey is social, aggressive, and gregarious, characteristics not compatible with assisting the handicapped. Further, teeth extraction and castration means the monkey can never socialize with or live in a monkey group. FGC denied Dr. Willard's request.

FUTURE MEETINGS:

August 1-2 in Newport Beach.
August 29-30 in Long Beach.
October 1-3 in Redding.
October 31-November 1 in San Diego.
December 5-6 in Sacramento.

BOARD OF FORESTRY

Executive Officer: Dean Cromwell
(916) 445-2921

The Board of Forestry is a nine-member Board appointed to administer the