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review of the candidate species, and, at that hearing, to determine if the petitioned action is warranted or not. If FGC determines that the listing is warranted, it is then required to publish a notice of proposed rulemaking, and conduct further proceedings pursuant to the Administrative Procedure Act. This bill would require FGC to publish the notice of proposed rulemaking in conjunction with scheduling the petition for final consideration, which is to be at its first meeting occurring at least 45 days after receiving a report on the petition from DFG, and to adopt the rule or regulation at the final hearing if the petitioned action is warranted. This bill is pending in the Senate Appropriations Committee.

SB 1208 (Keene) would authorize the DFG Director to close any waters or to restrict the taking under a commercial fishing license in state waters of any species or subspecies of fish that is likely to pose a human health risk from high levels of carcinogens. The closure or restriction would be required to be adopted by emergency regulation. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 756 (Marks) would prohibit the use or sale of any type of leghold steel-jawed trap in California. Violation of this prohibition would be a misdemeanor. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 763 (Green) would authorize the FGC to require the owner and operator of a commercial fishing vessel, the holder of a commercial fishing permit, and the owner and license holder of a commercial passenger fishing boat to keep and submit a complete and accurate record of fishing activities in a form prescribed by the DFG. The bill would authorize the revocation or suspension of those licenses for failure to keep and submit those records. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

AB 317 (Allen) would require every person, when engaged in taking any bird, mammal, fish, amphibian, or reptile, to have on his/her person or in his/her immediate possession the license, tag, stamp, or permit required for the taking of the bird, mammal, fish, amphibian, or reptile. Violation of this provision would be an infraction with prescribed minimum and maximum fines. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 371 (Condit) would exempt any resident 62 year of age or older from the requirement for a sport fishing license. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

SB 212 (Nielsen) would exempt any resident 62 years of age or older from the requirement for hunting licenses. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

AB 860 (Costa) would return the mountain lion to specially protected status, and would provide for the issuance of special permits by the DFG to take mountain lions which have injured or destroyed livestock, or damaged property. Violation of this provision would be a misdemeanor. This bill 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. 9, No. 1 (Winter 1989) at page 91:

AB 1 (Allen), which would establish the Marine Protection Resources Zone around the Channel Islands, and would prohibit the use of gill nets and trammel nets in the Zone on and after January 1, 1993 (with specified exceptions), is pending in the Assembly Committee on Water, Parks and Wildlife.

SB 211 (Nielsen), which would exempt any resident 62 years of age or older from the requirement for a sport fishing license, is pending in the Senate Committee on Natural Resources and Wildlife.

AB 178 (Floyd) was amended on April 11 to specifically direct the FGC to rewrite its sport fishing and hunting regulations in simple English, and would state that the regulatory changes made pursuant to this bill are exempt from the regulatory program requirements of the California Environmental Quality Act. This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 196 (Allen) was amended on April 13. This bill would make it unlawful, except as specifically authorized by the Fish and Game Code or regulations thereunder, to pursue, drive, herd, or harass any bird or mammal (with prescribed exceptions). This bill is pending in the Assembly Committee on Water, Parks and Wildlife.

AB 197 (Allen), which would provide for unspecified fines for persons who unlawfully export, import, transport, sell, possess, receive, acquire, or purchase any bird, mammal, amphibian, reptile, fish, or any listed endangered or threatened species in violation of the Fish and Game Code, is also pending in the Assembly Committee on Water, Parks and Wildlife.

RECENT MEETINGS:

At its January meeting, the Commission delayed a hearing on proposed regulations regarding the importation, possession, transportation, care, and treatment of wild animals and prohibited species.

The proposed regulations focus primarily on caging requirements, but also apply to the overall general health of the animals while in transit and at their final destination. Currently, no comprehensive set of standards for the care of these animals exists in the state. FGC noted the complexity of these regulations as a reason for delaying the hearing until August 3, 1989.

In February, the Commission designated 2,254 acres of land located in Hope Valley, Alpine County, as a state wildlife area. Previously held by the Wildlife Conservation Board, an agency of DFG, this land was not subject to local tax assessment until the designation by the Commission. By declaring this area a wildlife area, Alpine County is now able to assess and collect property taxes against the state-held land.

In March, the Commission heard a proposal from the Department to list the Sacramento River Winter-Run King Salmon as endangered. The FGC refused to follow DFG's recommendation, stating that the listing of this species is unjustified at the present time because fisheries currently have a stock of over 1,000 of these fish. The Commission noted that if the fishery's stock were to decline, or if the population of the fish in the wild were shown to be in great danger, the Commission could then take this issue up again at a later date. At the present time, however, the Commission found no need to list this fish as endangered.

FUTURE MEETINGS:

August 3-4 in Santa Rosa.
August 29-30 in Sacramento.
October 5-6 in San Diego.
November 6-7 in Redding.
Nov. 30-Dec. 1 in Long Beach.

BOARD OF FORESTRY

Executive Officer: Dean Cromwell
(916) 445-2921

The Board of Forestry is a nine-member Board appointed to administer the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code section 4511 *et seq.*). The Board serves to protect California's timber resources and to promote responsible timber harvesting. Also, the Board writes forest practice rules and provides the Department of Forestry and Fire Protection (CDF) with policymaking guidance. Additionally, the Board oversees the administration of California's forest system and wildland



fire protection system. The Board members are:

Public: Harold Walt (chair), Carlton Yee, Clyde Small, Franklin L. "Woody" Barnes, and Elizabeth Penaat.

Forest Products Industry: Roy D. Berridge, Clarence Rose and Joseph Russ, IV.

Range Livestock Industry: Jack Shannon.

The Forest Practice Act requires careful planning of every timber harvesting operation by a registered professional forester (RPF). Before logging operations begin, each logging company must retain an RPF to prepare a timber harvesting plan (THP). Each THP must describe the land upon which work is proposed, silvicultural methods to be applied, erosion controls to be used, and other environmental protections required by the Forest Practice Rules. All THPs must be inspected by a forester on the staff of the Department of Forestry and, where appropriate, by experts from the Department of Fish and Game and/or the regional water quality control boards.

For the purpose of promulgating Forest Practice Rules, the state is divided into three geographic districts—southern, northern and coastal. In each of these districts, a District Technical Advisory Committee (DTAC) is appointed. The various DTACs consult with the Board in the establishment and revision of district forest practice rules. Each DTAC in turn required to consult with and evaluate the recommendations of the Department of Forestry, federal, state and local agencies, educational institutions, public interest organizations and private individuals. DTAC members are appointed by the Board and receive no compensation for their service.

MAJOR PROJECTS:

Environmental Impact of New Site Preparation Regulations. Under the provisions of AB 1629 (Sher) (Chapter 987, Statutes of 1987), the Board was required to develop new regulations pertaining to site preparation activities before timber harvests. On February 8, the Board formally adopted numerous amendments to its rules governing site preparation, following a December hearing at which the Board had approved the regulations subject to minor changes and a fifteen-day notice period. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 92-93 and Vol. 8, No. 4 (Fall 1988) p. 107 for detailed background information.) The amendments to these rules in Title 14, California Code of Regulations (CCR), were adopted

unanimously by the Board and are currently awaiting review by the Office of Administrative Law (OAL).

However, behind the scenes, a serious debate is being waged regarding the environmental effects of these rules and the possible need for future legislative and/or regulatory changes. The debate centers on the language contained in three specific rule changes which allows the CDF Director to make exceptions to the standard of protection for "threatened or endangered" wildlife in approving a THP. Specifically, the standard set forth in sections 915.3, 935.3, and 955.3, Title 14 of the CCR, states that "[s]ite preparation shall be performed in a manner which does not deleteriously affect species which are threatened, endangered, or designated by the Board as species of special concern." The adopted amendments to these sections provide that "the Director may allow exceptions to this standard, if explained and justified in the plan, after consultation with the Department of Fish and Game pursuant to the California Endangered Species Act (Fish and Game Code sections 2050-2098)."

Concern over the adoption of these new amendments has drawn the attention of environmental groups and legislators. Assemblymember Byron Sher, sponsor of the bill being implemented by these regulations, expressed concern in a January 4 letter to the Board that the exceptions extend inappropriate discretion to the Director and conflict with current statutory intent and language. Under the provisions of the California Endangered Species Act, the legislature has declared it to be the policy of the state that state agencies not approve projects that would "...jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available... which would prevent jeopardy." (Fish and Game Code section 2053.) Although the recently adopted amendments make reference to the California Endangered Species Act, the language of the amended regulatory sections does not clarify whether section 2053 must be followed.

It is the Board's position that the amended sections fully comply with the standards set forth in the Endangered Species Act. The questions raised by Assemblymember Sher in response to the adoption of these new amendments are now in the hands of OAL.

Old-Growth Timber and the Spotted Owl. At its March 7 meeting in Sacra-

mento, the Board held a public forum in order to better understand the issues involved in the cutting of old-growth timber on privately-owned timberlands. The purpose of the meeting was to examine questions related to old-growth dependent wildlife species and the possible need for future legislative and regulatory action to protect those species. Specifically, the Department of Fish and Game has named the following "indicator species" for consideration in its review of THPs: the spotted owl, the marble murrelet, the red tree vole, the tailed frog, the Del Norte salamander, the Olympic salamander, and the Pacific fisher.

Although many issues were discussed, the single most important issue addressed at the meeting was the effect of cutting old-growth timber on the habitat of rare or endangered species which live within these virgin stands. The Board heard testimony from representatives of the Department of Fish and Game, the U.S. Forest Service, the timber industry, and environmental protection groups. A wide array of conflicting scientific studies regarding the necessity of old-growth stands for the species' survival was also submitted as evidence for the Board's evaluation.

Although the Board did not formally adopt any position regarding the cutting of old-growth timber at its March meeting, the issue promises to remain a hot topic at future Board meetings. The import of the old-growth controversy is reflected in the recent filing of lawsuits by environmental protection groups which have halted efforts of the timber industry to cut virgin timberlands (*see infra* LITIGATION).

Wildland Fire Safe Regulations. SB 1075 (Chapter 955, Statutes of 1987), authored by Senator Don Rogers, authorized the Board to develop and implement a set of wildland fire protection standards, including emergency road access, emergency water supplies, street signs, structure addresses, and fuel modification. This legislation was codified as Public Resources Code section 4290. In October 1988, the Board released a preliminary draft of its proposed implementing regulations to the public, explaining that the purpose of the statute is to "provide a basic level of built-in wildlife protection for all new homes and developments in the wildlands while refocusing wildland fire suppression resources back on the wildfires."

After receiving numerous public comments since the release of the preliminary draft, it became apparent to the Board that a number of new issues have emerged, requiring the Board to revise



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and issue at least one more informal draft to the public for comment. The formal rulemaking comment period and hearing will not be scheduled until the second draft has been release and discussed.

Proposed Language for RPF Regulations. At its February 7 meeting, the Board discussed proposed language for numerous amendments to sections 1601-1647, Title 14 of the CCR, regarding RPF licensing. The proposed changes are being made for two reasons: (1) to improve clarity or readability of the regulations; and (2) to adopt the policy recommendations of the Professional Foresters Examining Committee (PFEC), which will be applied generally and interpret or make specific the Professional Foresters Licensing Law, Public Resources Code sections 750-783.

Specific topical areas of the licensing regulations which will be modified are mailing deadlines; license expirations; the withdrawal of licenses; delegation of authority to the Board's Executive Officer and PFEC; disciplinary guidelines for RPFs; qualification work experience standards for the examination; qualifying educational experience; criteria for supervision in qualifying experience; criteria for the use of contracting as qualifying experience; criteria for the denial of examination applications; criteria and procedures during the examination; and examination appeal procedures.

The Board was scheduled to adopt these proposed amendments at its April 4 meeting.

LEGISLATION:

SCR 17 (McCorquodale) would request all state agencies having land use planning duties and responsibilities to undertake to assess and determine the effects of their land use decisions or actions on any oak woodlands that may be affected by their decisions or actions. The resolution would request those state agencies to undertake to preserve and protect native oak woodlands to the maximum extent feasible and consistent with their responsibilities and duties. The agencies affected include, but are not limited to, the Board of Forestry, the Department of Fish and Game, CDF, the Department of Parks and Recreation, the State Lands Commission, the California Coastal Commission, and the Office of Planning and Research. At this writing, this measure is pending on the Senate floor.

SB 27 (Campbell) would require the Office of Emergency Services, in cooperation with CDF and the State Fire Mar-

shal, to establish and administer the FIRESCOPE Program (FIrefighting REsources of California Organized for Potential Emergencies). The program is designed to maintain and enhance the efficiency and effectiveness of managing multiagency firefighting resources in responding to fires. Under existing law, CDF provides fire protection only on those lands within state responsibility areas, unless a county has elected to assume responsibility for prevention and suppression of all fires on all land in the county. The Board supports this bill, which is pending in the Senate Appropriations Committee.

SB 28 (Campbell) would require the State Fire Marshal to establish and maintain an arson information system, to be known as the Statewide Arson Information Management System, to function as a central repository of arson investigation data which would be submitted by and accessible to designated arson investigators and law enforcement personnel statewide. This bill would also authorize the State Fire Marshal to enter into an interagency contract with the state Department of Justice to establish the aforementioned information system. The Board supports this bill, which is pending in the Senate Appropriations Committee.

SB 133 (Campbell). Under existing law, a person convicted of arson or attempted arson is required to register with the local law enforcement agency in which that person resides only if the sentencing court finds that the person in committing the offense exhibited compulsive behavior and the record states the reason for the court's findings. This bill, which would become operative on July 1, 1990, would recast the above provision to provide that the court shall require the person to register with the local law enforcement agency if (1) the offense has resulted in death, great bodily injury, or property damage in excess of \$50,000; (2) the person committing the offense has previously been convicted of a violation of arson or certain arson-related offenses; (3) the person is convicted of multiple counts of arson or certain arson-related offenses; or (4) the person in committing the offense exhibited compulsive behavior. The Board supports this bill, which is pending in the Senate Judiciary Committee at this writing.

SB 134 (Campbell). Existing law requires the Department of Justice to furnish to specified persons and entities records of convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment

or volunteers for a position which involves supervisory or disciplinary power over a minor. This bill would include crimes involving arson within these statutory provisions. The Board supports this bill, which is also pending in the Senate Judiciary Committee.

SB 186 (Dills) would require cities and counties to identify in their general plans areas subject to wildland fire, and would permit counties to include measures to reduce the effects of wildfires. The Board supports this bill, which is pending in the Senate Local Government Committee.

SB 201 (McCorquodale). Under the Forest Practice Act, CDF is required to provide, at specified times, inspections of an area in which timber operations are conducted. This bill would authorize the Department of Fish and Game, the regional water quality control boards, and the state Water Resources Control Board, if accompanied by CDF personnel and after 24-hour advance notification is given to the landowner, to enter and inspect land during normal business hours at any time after commencement of timber harvesting plan activities on the land and before the director issues a report of satisfactory stocking or before the end of the first winter period after the filing of a stocking work completion report, whichever is later. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

SB 254 (Bergeson) would delete the repeal date (January 1, 1991) of existing law which allows local agencies which provide fire suppression services directly or by contract with the state or a local agency to act by ordinance to levy an assessment to pay for fire suppression services according to specified procedures. This bill passed the Senate on March 16 and is pending in the Assembly Local Government Committee.

SB 360 (Campbell) would require the CDF to study, in conjunction with other agencies, methods to control the dieback of chapparral in southern California and submit annual progress reports on the research study to the Joint Committee on Fire, Police, Emergency, and Disaster Services, and a final report to the legislature by June 30, 1993. This bill would appropriate \$100,000 annually from the Cigarette and Tobacco Products tax account. At this writing, SB 360 is pending in the Senate Committee on Natural Resources and Wildlife.

SB 377 (Campbell) would require the State Fire Marshal to establish and administer a program for the statewide implementation and coordination of pub-



lic fire safety and burn prevention education program with specified objectives. The measure, which would be funded by \$190,000 from the Cigarette and Tobacco Products tax account, is pending in the Senate Governmental Organization Committee.

SB 427 (Torres) would require CDF to study the causes of tropical rain forest destruction worldwide and the detrimental effects on the ozone layer within the state of California, and to report to the legislature by January 1, 1991. The Board supports this bill so long as CDF is able to obtain the necessary funding and the finished report is submitted to the Board as well. SB 427 is pending in the Senate Committee on Natural Resources and Wildlife.

AB 339 (Hauser) would require disclosure as part of a sale report for property if adjacent lands are zones for timber harvest, thereby putting buyers on notice in advance that adjacent lands may be used for timber production. The Board supports this bill.

AB 433 (Waters). Existing law provides that arson of a structure or forest land is a felony punishable by imprisonment in the state prison for two, four, or six years. This measure would increase the maximum prison sentence to eight years. The Board supports this bill, which is pending in the Assembly Ways and Means Committee.

AB 470 (Farr) would expand the use of the Forest Resources Improvement Fund to fund CDF administration of demonstration forests held in trust by the State. This measure is specifically aimed at the Soquel Demonstration Forest. The Board supports this bill, which is pending in the Assembly Ways and Means Committee.

AB 579 (Jones) would require CDF to adopt minimum fire safety standards to apply to construction approved within state responsibility areas after January 1, 1991, instead of the current date of July 1, 1989. The bill would declare that it is to take effect immediately as an urgency statute. The Board supports this bill, which is pending in the Assembly Ways and Means Committee.

AB 639 (Quackenbush) would authorize the Director of the Department of Corrections and the Department of the Youth Authority to allow the CDF Director to use prisoners and wards during declared fire emergencies, for fire protection efforts outside of the state along the borders of Oregon, Nevada, or Arizona. This bill is pending in the Assembly Public Safety Committee.

The following is a status update on

ills reported in detail in CRLR Vol. 9, No. 1 (Winter 1989) at page 93:

AB 348 (Sher), which would enact the California Reforestation and Urban Forestry Act of 1990 and authorize the issuance of bonds in the amount of \$300,000,000 for purposes or financing a specified reforestation and urban forestry program, is pending in the Assembly Ways and Means Committee.

AB 390 (Sher), which would prohibit the clearcutting of any virgin timber stands or the use of any other silvicultural methods that have the same effect of a clearcut on virgin timber stands, is pending in the Assembly Natural Resources Committee. The Board opposes this bill.

LITIGATION:

On January 30, in *Environmental Protection Information Center (EPIC) v. Maxxam Corp., et al.*, No. 79879, Humboldt County Superior Court Judge John E. Buffington ruled that the Pacific Lumber Company (Maxxam Corporation) is enjoined from harvesting in implementation of the THP at issue until such time as the Board is able to clarify its findings upon initial review of Maxxam's THP. In a prejudgment interlocutory remand, the court returned three questions to the Board which must be answered before a proper ruling can be made on the THP. The Board must answer the following questions: (1) Will this harvest cause an adverse impact? (2) What mitigation measures suggested by the Department of Fish and Game should be implemented before this harvest occurs? (3) If there is any adverse environmental impact, is it overcome by economic considerations? At this writing, the Board is steadfastly working on the answers to these questions. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 94 and Vol. 8, No. 4 (Fall 1988) p. 108 for background information on this case.)

FUTURE MEETINGS:

To be announced.

WATER RESOURCES CONTROL BOARD

Executive Director: James W. Baetge
Chairperson: W. Don Maughan
(916) 445-3085

The Water Resources Control Board (WRCB), established in 1967 by the Porter-Cologne Water Quality Control Act, implements and coordinates regulatory action concerning California water quality and water rights. The Board consists

of five full-time members appointed for four-year terms. The statutory appointment categories for the five positions ensure that the Board collectively has experience in fields which include water quality and rights, civil and sanitary engineering, agricultural irrigation and law.

Board activity in California operates at regional and state levels. The state is divided into nine regions, each with a regional board composed of nine members appointed for four-year terms. Each regional board adopts Water Quality Control Plans (Basin Plans) for its area and performs any other function concerning the water resources of its respective region. All regional board action is subject to state Board review or approval.

Water quality regulatory activity includes issuance of waste discharge orders, surveillance and monitoring of discharges and enforcement of effluent limitations. The Board and its staff of approximately 450 provide technical assistance ranging from agricultural pollution control and waste water reclamation to discharge impacts on the marine environment. Construction grants from state and federal sources are allocated for projects such as waste water treatment facilities.

The Board administers California's water rights laws through licensing appropriate rights and adjudicating disputed rights. The Board may exercise its investigative and enforcement powers to prevent illegal diversions, wasteful use of water and violations of license terms. Furthermore, the Board is authorized to represent state or local agencies in any matters involving the federal government which are within the scope of its power and duties.

MAJOR PROJECTS:

Phase II of the Bay-Delta Workplan Stalled. Because of the controversy created by the recommendations contained in the WRCB's October 1988 draft Water Quality Control Plan for salinity and draft Water Quality Policy for pollutants, the Board has indefinitely suspended much of its Workplan for the San Francisco Bay/San Joaquin Delta Estuary hearings. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 94-95; Vol. 8, No. 4 (Fall 1988) p. 109; and Vol. 7, No. 2 (Spring 1987) p. 96 for background information.)

The center of controversy is the WRCB's "flow" proposal, which called for some cuts in water exports to southern California and the creation of a "California water ethic." Diversions of the freshwater supply in the Delta have increased pollution and salinity levels in the watershed. The Board's proposal was