language authorizing an unspecified fee for the issuance of a raptor propagation permit. The bill is pending in the Senate Appropriations Committee at this writing.

AB 2007 (Kelley), concerning duties of persons licensed by DFG to use their property for recreational purposes, is scheduled for an August 2 hearing in the Senate Judiciary Committee.

AB 2324 (Killea), authorizing DFG to carry out a California condor preservation project, has been chaptered (Chapter 88, Statutes of 1988).

AB 2605 (Seastrand), concerning damages to commercial fishermen whose vessels operate in areas impacted by oil and gas development, has been amended to provide for the creation of a local Marine Fisheries Mitigation Program. The bill would also authorize the Secretary of Environmental Affairs to make grants, contract for services or research, or enter into interagency agreements. This bill is pending in the Senate Committee on Natural Resources and Wildlife at this writing.

AB 2725 (Chacon), which was amended in May, would no longer allow the commercial taking of crayfish from lakes or reservoirs. Instead, it would require the DFG to conduct a study on the impact of commercial crayfishing on lakes and reservoirs. This bill is pending in the Assembly Committee on Water, Parks, and Wildlife.

AB 2020 (Green) was substantially amended in April, at which time all of its original text was deleted. The bill would now create the Southern California Citizens Advisory Committee on Ocean Habitat and Fishery Restoration within DFG. The Committee would be required to develop a plan to restore fishery resources south of Point Conception.

The bill would also require that each panel of a gill net or trammel net be permanently identified, as specified, with the permit number of the owner. SB 2020 would further require the Department to fill all vacancies in its Wildlife Enforcement Branch by a specified date. Finally, the bill would appropriate an unspecified amount for DFG to obtain a patrol aircraft to patrol specified waters. SB 2020 is pending in the Senate Appropriations Committee.

SB 2021 (Green), as amended, would now amend—as opposed to repeal—a provision of existing law which restricts or prohibits the taking or possessing of giant sea bass for those sea bass incidentally taken in commercial fishing operations. The restriction would be lowered from two to one fish per vessel. SB 2021 is awaiting the Governor's signature at this writing.

SB 2022 (Green), as amended, now includes a prohibition against the taking of rockfish and lingcod in waters less than 70 fathoms in depth along the mainland shore and in waters less than 100 fathoms in depth at the sixty Mile Bank. This bill was sent to the Assembly consent calendar in late June.

The following bills were last reported in CRLR Vol. 8, No. 1 (Winter 1988) at page 95:

ACA 44 (Campbell), concerning qualifications of Commission members; AB 33 (Harris, D. Brown), concerning tax-free contributions to the Rare and Endangered Species Fund; and AB 369 (Allen, Chacon), regarding redirection of fishing from overexploited to underutilized areas, have all died in committee.

AB 253 (Kelley), which would require the DFG to report to the legislature on or before January 1, 1990 on warden staffing patterns and responsibilities, as specified, remains pending in the Senate Committee on Natural Resources and Wildlife.

AB 271 (Allen, Killea), requiring that all state agencies comply with certain administrative reporting procedures, is pending in the Senate Committee on Governmental Organization.

AB 212 (Condit, et al.) has been amended several times. In addition to exempting any state resident 62 years of age or older from the requirement for a sport fishing license, this bill would also authorize a disabled veteran to receive a hunting license from DFG for a fee of $2. AB 212 was scheduled to be heard in the Senate Appropriations Committee on August 8.

AB 512 (Allen) was amended for the eighth time in late June. Upon adoption of specified guidelines by the FGC, this bill would authorize the Department to impose civil liability on persons who perform specified acts in violation of the Fish and Game Code or related regulations. The bill would provide exemptions for forestry, agricultural, or governmental permitted development or maintenance activities. It would further provide that flight from the state to escape prosecution for violations of the bill's provisions would constitute a felony. AB 512 passed the Senate Committee on Natural Resources and Wildlife in late June.

LITIGATION:

In June, and for the second consecutive year, the Mountain Lion Preservation Foundation filed a lawsuit in San Francisco Superior Court to block the FGC's efforts to allow mountain lion hunting in the state. (See supra MAJOR PROJECTS; for information on the previous litigation, see CRLR Vol. 8, No. 1 (Winter 1988) p. 95; Vol. 7, No. 4 (Fall 1987) p. 95; and Vol. 7, No. 3 (Summer 1987) p. 118.)

On June 8, San Francisco Superior Court Judge Lucy McCabe, who blocked the hunt last year, ruled that the dispute will be decided in the San Francisco court—and not in Sacramento, where Commission attorneys had filed suit against the Foundation in April. That suit was dismissed by the Sacramento court on June 1. Judge McCabe commented that she has continuing jurisdiction "in that this is the same issue" as was litigated last year, as far as she is concerned.

Opponents of the hunt hailed Judge McCabe's ruling as a victory, with petitioner Mountain Loin Preservation Foundation claiming that in filing its own suit in Sacramento, the Commission simply wanted the case to be heard by a more sympathetic court.

FUTURE MEETINGS:

To be announced.

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 southern forest districts. 

For the purpose of regulating restocking in the coastal, sections 912, 932, and 952 of Title 14, the state is divided into three geographic districts—southern, northern, and southern forest districts. A portion of its filing. The Office of Administrative Law (OAL) found that the proposed fees exceeded the maximums established in section 782 of the Public Resources Code. OAL does not plan to resubmit the rejected application.

OAL gives mixed review to RPF Fee Increases. On May 23, the Office of Administrative Law (OAL) partially disapproved the Board's proposed amendments to section 1605(b), Title 14 of the California Code of Regulations (CCR). Specifically, OAL rejected a proposed fee increase for RPF applications and an increase in the penalty for late renewal of licenses and specialty certificates. OAL approved an increase in the RPF annual license renewal fee, which was proposed in the same filing.

In disapproving the application fee and late renewal penalty, OAL found that the proposed fees exceeded the maximums established in section 782 of the Public Resources Code. The Board does not plan to resubmit the rejected portion of its filing.

Status Update on Regulatory Changes. At this writing, the Board is compiling its rulemaking files on proposed amendments to section 1038(b), Title 14 of the CCR, concerning activities exceeding minimum impact; and sections 912, 932, and 952 of Title 14, regarding restocking in the coastal, northern, and southern forest districts. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 109 and Vol. 8, No. 1 (Winter 1988) pp. 95-96.)

Board THP Review Retained. On April 6, the Board defeated an amendment to permanently repeal section 898.1(f) from Title 14 of the CCR. Section 898.1(f) requires CDF to "withhold decision" on a THP which "threatens to cause immediate, significant and long-term harm to the natural resources of the state" in order for the Board to review the THP. On February 2, the Board had approved the emergency repeal of section 898.1(f). (See CRLR Vol. 8, No. 2 (Spring 1988) p. 109 for background information.) OAL subsequently approved the emergency repeal on February 19.

The Statements of Reason supporting the emergency repeal and the proposed permanent repeal have remained consistent. The Statements assert that section 898.1(f) creates an inescapable "loop" when CDF defers decision upon a Board-approved plan. Moreover, a March 20 background memo from Board staff contends that Board THP review is contrary to the intent of the Forest Practice Act to grant CDF final decisionmaking authority regarding THP approval.

Gail Lucas, Sierra Club State Task Force Chairperson, argued that the Board should empower CDF to disapprove THPs without Board review if, when implemented, they would likely cause "immediate, significant and long-term damage." Therron O'Dell, Forest Operations Manager for Simpson Timber Company, argued that the administrative remedy of Board review is less expensive than litigation.

The Board voted to allow the emergency repeal of section 898.1(f) to lapse at the end of the 120-day effective period (as established in the Administrative Procedure Act), thus effectively voting to retain the provision for the time being. (For a discussion of a legal challenge to CDF's emergency repeal of section 898.1(f), see infra LITIGATION.)

LEGISLATION:

SB 1641 (Keene), as amended in late June, would authorize the Director of the Department of Fish and Game (DFG) or the Chair of the state Water Resources Control Board (WRCB) to file an appeal with the Board of Forestry upon the Board's approval of a THP to which either of those entities objects. The bill would establish an appeals process for such challenges to THPs. SB 1641 remains pending in the Assembly Natural Resources Committee, where it has failed passage twice prior to its recent amendment.

SB 1835 (Ayala), which would amend section 4203 of the Public Resources Code to change the requirement from 45 to 60 days for CDF to notify boards of supervisors in contract counties before CDF may alter the fire hazard severity classification, is pending before the Senate Committee on Natural Resources and Wildlife.

SB 2190 (Dills) would amend sections 65302, 65303.4, and 66418 of the Government Code to require cities and counties to identify areas subject to wild land fires in their state-mandated land use planning. The bill would also authorize CDF to develop information and policies to assist local agencies in implementing general plan requirements to plan for wild land fire hazards. SB 2190 passed the Senate on May 26 and is pending in the Assembly Natural Resources Committee.

AB 3601 (Sher), which would add sections 4524.5 and 4581.5 to the Public Resources Code to prohibit the clear-cutting of any virgin old growth timber stand, is pending in the Assembly Natural Resources Committee.

AB 3623 (Sher) would amend sections 4681 and 4683 of the Public Resources Code to specify that CDF may purchase and distribute stock and seed for replanting of native trees and plant species threatened with extinction. AB 3623 passed the Assembly on May 2 and is pending in the Senate Appropriations Committee.

AB 3630 (Sher), as amended, would add section 4593 to the Public Resources Code to require those submitting THPs to notify CDF, within fifteen days before but not later than one day prior to the start of timber operations each year, of the specific locations and dates of timber operations. The bill's annual notification requirement is in addition to the existing THP notice requirement. AB 3630 passed the Assembly on June 2 and is pending in the Senate Committee on Natural Resources and Wildlife.

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 2 (Spring 1988) at page 109:

SB 1572 (Campbell), pertaining to county reimbursement for county assumption of fire prevention and control responsibility in state responsibility areas, is under reconsideration in the Assembly Committee on Natural Resources at this writing, after failing passage in that committee in May.

SB 1335 (McCormquodale) has been
amended so that in its current form, it authorizes DFG, the regional water quality control boards, and the WRCB to enter and inspect lands where timber operations are conducted, if accompanied by CDF personnel. The bill is pending before the Assembly Committee on Natural Resources.

SB 1577 (Campbell), authorizing the Department of Justice to furnish records of arson convictions to requesting employers, died in committee.

AB 2079 (Baker), an appropriations measure to fund the training of firefighters and arson investigators, is pending in the Senate Appropriations Committee at this writing.

AB 2720 (Sher), which would appropriate funds for reforestation and capital improvements to the state's nonindustrial forestland, passed the Assembly on April 18 and is pending in the Senate Appropriations Committee. As amended, the bill would also authorize the utilization of camp inmates and wards, other inmates, and wards housed in forestry camps for performing reforestation projects and other specified work on nonindustrial forestland.

AB 2721 (Sher), which would appropriate funds for early activation of firefighting crews and equipment due to current drought-related hazardous conditions, was signed by the Governor (Chapter 247, Statutes of 1988).

LITIGATION:

In April, a Humboldt County Superior Court judge granted a temporary restraining order to block timber cutting on 700 acres of trees near Eureka. Pacific Lumber Company's harvesting plan for the region had already been approved by CDF when petitioners filed Environmental Protection Information Center (EPIC) v. Maxxam Corporation, et al. (No. 79879) in March. A hearing on whether the temporary restraining order should be made permanent was expected to occur before the end of July. In the meantime, Pacific Lumber, which is owned by respondent Maxxam Corporation, announced in late May that it would return to selective-cutting methods in harvesting thousands of acres of old growth redwood stands it owns in Humboldt County. Although good news to environmentalists groups who have long opposed clear-cutting (the cutting of all timber within a specific area, as was planned for the Eureka acreage), the announcement had no immediate effect on EPIC's lawsuit.

In seeking to permanently enjoin the implementation of Maxxam/Pacific Lumber's CDF-approved THP, EPIC is attacking the way in which CDF approved the plan as much as it is criticizing the plan itself. Specifically, EPIC claims that CDF abused its discretion under section 898.2(c), Title 14 of the CCR, by failing to require Pacific Lumber Company and Simpson Timber Company to "submit data and information about the past, present, and probable future logging activities in the same area." Moreover, EPIC asserts that section 1037.8, Title 14 of the CCR, deprives it of due process under the state and federal constitutions by enabling CDF to grant approval of immediate THP execution, whereas it must wait up to ten days under section 1037.8 for CDF's official response to public comments. Finally, EPIC claims that the Board's February emergency repeal of section 898.1(f) deprived it of its Public Resources Code section 21080.5 rights to publicly challenge regulatory programs such as CDF-approved THPs which "may have a significant effect on the environment." (See supra MAJOR PROJECTS for discussion of the Board's decision to forego permanent repeal of section 898.1(f).)

RECENT MEETINGS:

At the April 6 meeting, Executive Director Cromwell presented for the Board's approval a resolution commending Jean Atkinson for her six years of service as a DTAC member and four years as a Board member. The resolution acknowledges Atkinson's outstanding attendance and articulate participation in championing fire protection and timber development. The Board unanimously approved the citation, which will be presented to Atkinson at a yet-undetermined time.

FUTURE MEETINGS:

September 7 in Chico.

WATER RESOURCES CONTROL BOARD

Executive Director: James L. Easton
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 appropropriate 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 lease 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.

On June 3, WRCB Executive Director James L. Easton announced that he is resigning for personal reasons effective August 5. Easton, a former assistant director of the Los Angeles County Department of Public Works, has served as the Board's Executive Director since July 1, 1986.

MAJOR PROJECTS:

Kesterson Reservoir Clean-Up. On May 24-25, the WRCB conducted a public hearing to consider the U.S. Bureau of Reclamation's proposed alternatives to the Board's Clean-up and Abatement Work Order WQ 87-3. The Bureau requested the hearing to present new evidence regarding the reliability and permanence of alternative methods for cleaning up selenium contamination at the Kesterson National Wildlife Refuge and Reservoir. (See CRLR Vol. 8, No.