



REGULATORY AGENCY ACTION

line public access requirements and policies, provided the new development, by itself, does not place a verifiable and nonpecuniary burden on public access.

AB 883 (McClintock) would declare the intent of the legislature that the Coastal Conservancy give priority to the use of specified funds received pursuant to the Federal Coastal Zone Management Act of 1972 for the preparation of site reclamation plans for the restoration of impacted industrial sites.

LITIGATION:

On March 24, the U.S. Supreme Court upheld the authority of the Coastal Commission to require an environmental protection permit from a private company conducting mining operations on federal lands under a federal permit. In a 5-4 opinion in *Coastal Commission v. Granite Rock Co.*, the Court held that "the language and legislative history of the Coastal Zone Management Act expressly disclaim an intent to preempt state regulation." Granite Rock seeks to mine limestone in the Big Sur region of Los Padres National Forest, and must now seek a state permit from the Coastal Commission in order to continue operations.

RECENT MEETINGS:

The Senate Rules Committee announced on January 28 that Commissioner Leo King's appointment to the Commission had been terminated and that a replacement would be appointed at a future date. Mr. King, a Baldwin Park City Council member for the last nine years, was appointed to the Commission in 1982. He was reappointed in 1984 and elected Vice-Chairperson in 1985. He is currently a member of the general assembly of the Southern California Association of Governments, a director of the League of California Cities, and a former six-year member of the Baldwin Park Planning Commission.

FUTURE MEETINGS:

To be announced.

DEPARTMENT OF FISH AND GAME

Director: Jack Parnell
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The Department of Fish and Game (DFG) manages California's fish and wildlife resources. 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 is the policy-making board of DFG. The five-member body promulgates policies and regulations consistent with the powers and obligations conferred by state legislation. Each member is appointed to a six-year term.

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 100 million acres of land, 5,000 lakes, 30,000 miles of streams and rivers and 1,100 miles of coastline. Over 1,100 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. Its main concern is with the creation of recreation areas in order to restore, protect and preserve wildlife.

MAJOR PROJECTS:

Mountain Lion Hunt Considered. DFG has suggested the resumption of mountain lion hunting in its proposed 1987 mammal hunting regulations. The controversial proposal, currently under consideration by the Fish and Game Commission, would allow up to 210 mountain lions to be taken by licensed hunters in one season. The 210 permits would be issued for five designated zones with a set number of permits for

each zone. Each permit would sell for \$75.

If adopted, the fall lion hunt would mark the end of a legislative moratorium imposed from 1972 to 1986. Until 1963, there was a bounty on mountain lions in California which allowed private and government hunters to bring in the animals for compensation. In 1969, the mountain lion was reclassified as a game mammal by the Legislature. During the first regulated hunting season in 1970-71, more than 4900 tags were issued by the DFG, which resulted in the killing of 118 lions.

In 1972, concerned citizens convinced the legislature that the mountain lion should be reclassified as a protected nongame mammal. At that time, a four-year moratorium was imposed on the killing of lions, which was extended several times and finally expired at the end of 1986. Under the moratorium, lions have been legally taken only under specific circumstances to alleviate damage to livestock and other property.

A bill to extend the moratorium further, SB 76 (Presley), was passed by the legislature last year but vetoed by the Governor, who said it is "unnecessary to statutorily treat the mountain lion differently from other game animals." A new bill, AB 467 (Bates), was introduced in February 1987, which would reinstate a ban on hunting the lions except for those that kill livestock or endanger the public.

Part of the controversy centers around the fact that mountain lions are difficult to track and monitor, which has resulted in widely-varying estimates of the number of lions existing in the state. The estimates range from as low as 1,000 to as high as 5,500. DFG estimates that there are approximately 5,100 mountain lions currently in California. In 1972, when the moratorium was first imposed, DFG estimates indicated a mountain lion population of 2,400.

Proponents of the hunt argue that mountain lions are now sufficiently numerous to justify some reduction of their population. In support, they cite increased livestock depredation, depressed deer populations, and two lion attacks on children in 1986 in Orange County's Ronald W. Caspers Wilderness Park. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 84.)

Hunting opponents fear that the existence of the mountain lion in California may follow the path of the grizzly bear and the California Condor if hunting is not prohibited. Specifically, the opponents estimate the California lion



population to be closer to the 1972 figures, when the moratorium was first imposed. Additionally, they suggest that decreased deer populations in certain areas may have more to do with habitat degradation and poaching than with mountain lions.

In a press release issued prior to the February 6, 1987 meeting initiating discussion of the issue, DFG stated that the lions currently inhabit roughly 80,000 square miles in California and that they are not threatened under recognized legal and biological definitions. DFG cited factors such as an increase in annual confirmed livestock depredation incidents (from 4 in 1972 to 138 in 1985); an increase in mountain lion killings under depredation permits; and increased numbers of mountain lion sightings, to support its statistics relating to the current lion population.

The February 6, 1987 meeting in the Long Beach City Council chambers marked the first opportunity to hear public comment on the proposed 1987 regulations. For several hours the Commission and a standing-room-only crowd listened to over fifty speakers (two of them in mountain lion costumes) offer their opinions and arguments on the propriety and wisdom of a regulated mountain lion hunt. The overwhelming majority of the comments received at the February meeting were from citizens and animal defense groups strongly opposing the proposed hunt. Their comments ranged from the impassioned and poetic to the philosophical to the pragmatic.

Bill Yeates, a lobbyist for the Mountain Lion Coalition, stated the group's opposition to a mountain lion hunt, calling for further study on the issue. He stated that the Mountain Lion Coalition has no faith in the DFG population estimate, because the DFG lion population figures seem to increase every time the lion hunt issue is raised.

Many of the speakers stressed the danger of irreparable harm that a hunt could produce. It was suggested that the Commission err on the side of caution, since extinction cannot be reversed. As one Long Beach woman analogized, "We messed up with the condor, gentlemen; let's not do it with the mountain lion." Another recurring theme was survival of the fittest, and the notion that nature should be left alone to regulate itself.

Many speakers were critical of sport-hunting and sporthunters; "California wants mountain lions, not mounted lions;" "[DFG] is selling the life of one

of the highest forms of life in California—the cougar—for seventy-five dollars to one of the lowest forms of life in the world—the headhunter;" and "when man destroys a creation of man, he is called a vandal; when man destroys a creation of God, he is called a sportsman."

Among the hunt proponents who testified were representatives from various sports organizations who presented the Commission with petitions signed by their constituents. One former lion bounty hunter testified that few people actually realize what a rigorous sport lion hunting is or truly appreciate the mountain lion's elusive nature. He argued that these factors would prevent all but very few of the permit holders from actually succeeding in killing a mountain lion. Another hunter stated: "I don't want to see senseless killings of mountain lions; I want to hunt them."

The final speaker on the mountain lion issue was Paul Watson of the Sea Shepherd Conservation Society in British Columbia, Canada. He warned the Commission of international implications which could result from lifting the ban. If mountain lion hunting is allowed, his organization—which also has offices in Australia, Sweden, Great Britain, and Ireland—will call a tourist boycott of California. Commission president Albert C. Taucher responded angrily, "I'm generally a pretty patient sort of guy, but I just hate like hell to be threatened." An anonymous voice in the audience replied, "So does the mountain lion."

Further public comment was heard at subsequent meetings on March 6 in Redding and April 10 in Sacramento. At the April meeting in Sacramento the Commission was scheduled to rule on the proposal.

LEGISLATION:

AB 33 (Harris and Brown) would eliminate the line on current California state income tax forms which allows California taxpayers to contribute amounts tax free in excess of their tax liability to the Rare and Endangered Species Fund. The bill is currently in the Committee on Revenue and Taxation.

AB 212 (Condit) would exempt persons over the age of 65 from the requirement of obtaining a sport fishing license to take, other than for profit, fish, reptiles, or amphibians anywhere in the state. This bill is currently in the Commission on Water, Parks, and Wildlife.

AB 253 (Kelley) would make a legislative finding that the duties of the law

enforcement members of the Wildlife Protection Branch of the DFG have been expanded to include participation in the eradication of marijuana and the enforcement of water pollution and hazardous waste laws. Because these activities are either indirectly related to unrelated to the protection of fish and game, this bill would require the DFG to include in its budget proposals to the legislature an appropriation request that at least 50% of the allocated costs of the Wildlife Protection Branch of the Department come from the General Fund. This bill is currently in the Committee on Water, Parks, and Wildlife.

AB 271 (Allen) is urgency legislation and would go into effect immediately if passed and signed. Currently, the DFG is required to prepare a report for the legislature at the end of each calendar quarter showing the cost of each of DFG's current activities and programs. This bill would require that the Director of the DFG include with the report a signed certification that the Department has fully administered and enforced the Fish and Game Code, and has complied with certain internal accounting and reporting procedures. If the Director is unable to certify the agency practices, then he/she must include with the required report a plan and schedule for correction any material inadequacy or weakness which prevents the Director from making the required certification. This bill is currently in the Water, Parks, and Wildlife Committee.

AB 302 (Floyd) would exempt persons over the age of 65 from the requirement of obtaining a sport fishing license to take, other than for profit, fish, reptiles, or amphibians anywhere in the state. When fishing, persons over the age of 65 would only be required to carry a driver's license or proof of age.

AB 354 (Costa) would require that the DFG provide, at Department expense, consultations and findings through July 1, 1989 to lead agencies (including local agencies) regarding the impact an agency project may have on endangered or threatened species. Currently, the law requires the Department provide such findings and consultation to state lead agencies through July 1, 1988. The bill would also appropriate funding for DFG's administration of the Endangered Species Act from the Off-Highway Vehicle Fund. The bill is currently in the Committee on Water, Parks and Wildlife.

AB 369 (Allen) establishes that the enhancement and preservation of recreational fishing in California is state policy. The bill directs that the state



work closely with fishermen and members of the recreational fishing industry, such as charter boat operators, to conserve and develop recreational fishing. Moreover, the bill also directs the Commission and the DFG to restore and enhance California's recreational fisheries and the habitat on which they depend; redirect fishing pressure from overexploited fisheries to areas which can support additional fishing; maintain a high quality and diversity of recreational opportunities; reduce limits and promote conservation measures such as catch and release regulations; encourage a viable recreational fishing industry; and promote tourism. The bill is currently in the Committee on Water, Parks and Wildlife.

SB 4 (Presley), the Wildlife and Natural Areas Conservation Act of 1988, is an urgency statute which would provide for the submission of an \$85 million bond sale to the voters at the June 7, 1988 primary election. If the voters approve the bond sale, the proceeds of the sale would be available for appropriation to the Wildlife Appropriations Board for the acquisition, enhancement, restoration, or protection of lands supporting endangered plants or animals.

SB 496 (Davis), introduced February 23, would permit the Fish and Game Commission to authorize the taking of tule elk if the total statewide population exceeds 2,000 or if the Commission makes a specified determination regarding habitat based on a specified biennial report from the Director of the DFG to the Governor and legislature.

AB 345 (Allen), as amended February 24, would require the DFG to develop and maintain an automated information system containing the name and current address of each person who purchases a sport fishing, hunting, or trapping license, license stamp, or license tag, and to make information from the system available to law enforcement agencies and legislators upon written request. The bill would also appropriate \$750,000 from the Fish and Game Preservation Fund for expenditure during the 1987-88 fiscal year for the automated information system.

SB 40 (Marks), as amended February 17, would change existing law regarding the use of gill nets in several northern California counties.

AB 467 (Bates) would repeal existing law which authorizes the licensed taking of mountain lions, and would restore the lions to their prior status as a specially protected mammal.

AB 512 (Allen) would require the

Fish and Game Commission to establish guidelines for determining the value of each fish, reptile, bird, or mammal which is unlawfully killed, caught, taken, possessed, wasted, or injured; and would authorize courts, after July 1, 1988, to levy a penalty assessment not to exceed \$10,000 on each conviction or forfeiture of bail for such a violation of the Fish and Game Code.

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. 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: Jean Atkisson, Harold Walt (chair), Carlton Yee, Clyde Small, and Franklin L. "Woody" Barnes.

Forest Products Industry: Roy D. Barridge, 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 is 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:

Hardwoods. At its February meeting, the Board heard final recommendations from interested parties on the hardwood regulation issue and the two Board-commissioned reports recently presented to the Board. (See CRLR Vol. 7, No. 1 (Winter 1987) pp. 85-86 for background information.) Comments received are as follows:

-The Department of Forestry and Fire Protection (CDF) recommended non-regulation except for hardwoods on conifer lands, where the Forest Practice Act already applies. CDF supports the recommendations set forth in the Board's staff-prepared *Policy Options for California's Hardwoods* paper, believing that a program of regulation would be slower and less effective than the actions proposed by staff. CDF plans an internal education program to make its personnel aware of the importance of the hardwood issue.

-The Range Management Advisory Committee (RMAC), designated by the Board as an advisory committee representing range industry interests, suggested that the impact of regulation has not been adequately assessed. Therefore, RMAC does not recommend regulation at this time. Alternative methods of addressing the issue proposed by RMAC include leaving the issue to local government intervention when necessary and educating landowners on hardwood conservation.

-The Department of Fish and Game (DFG) recommended establishing a reliable system for monitoring hardwood removal, citing specific areas as most valuable to the protection of hardwood habitat, and suggested that the Board set interim stocking standards. Once sufficient information is gathered to indicate desirable stocking requirements, the Board should implement more permanent standards. The standards, both interim and permanent, should serve as guidelines for local governments and not as regulations per