

**Department of Fish and Game**  
**Selected Unfunded and Under-Funded Mandates**  
March 1, 2012  
Strategic Vision Stakeholder Advisory Group

Over the past several months, the Strategic Vision Stakeholder Advisory Group (SAG) requested of the Department an analysis of unfunded and under-funded mandates based on an initial list of these mandates prepared by Department staff. The initial list was prepared by staff in various Department functions and represents an initial, but not comprehensive, assessment of unfunded and under-funded mandates.

Following the SAG request, Senator Pavley and Assembly member Huffman formally requested the California Law Review Commission (CLRC) take on the project of assessing the Fish and Game Code in order to make recommendations on changes to update, clarify and improve the Code. Although a formal resolution will be required to authorize the CLRC, the Department has begun discussing the process with CLRC in anticipation of a multi-year process beginning in 2013.

The high likelihood of a CLRC review prompted the Department to re-consider the approach to fulfilling the SAG request for assessing unfunded and under-funded mandates. Many of the mandates included in the initial Department assessment can now be better addressed through the CLRC process. The Department submits the most appropriate use of the SAG in the context of mandate review is to focus on a limited number of mandates that have continued relevance and a constituency but are under-funded leaving other issues related to mandates to the CLRC process.

Therefore, the following are a series of under-funded mandates the Department is submitting to the SAG as a subset of the initial mandate assessment document for consideration by the SAG for additional funding support. A useful outcome of the SAG's deliberation of these items would be majority or consensus support for inclusion in a legislative package requesting funding increases sufficient for an adequate program.

*Under-Funded Mandates for SAG Consideration*

**Fish and Game Code section 1725 et seq.** – Trout and Steelhead Conservation and Management Planning Act of 1979

§ 1726.4

a) It is the intent of the Legislature that the department, in administering its existing wild trout program, shall conduct a biological and physical inventory of all California trout streams and lakes to determine the most suitable angling regulations for each stream or lake. The department shall determine for each stream or lake whether it should be

managed as a wild trout fishery, or whether its management should involve the planting of native trout species to supplement wild trout populations. In making that inventory, the department shall give priority to those streams and lakes where public use is heaviest, which have the highest biological potential for producing sizeable wild trout, which are inhabited by rare species, or where the quality of the fishery is threatened or endangered. Biological and physical inventories prepared for each stream, stream system, or lake shall include an assessment of the resource status, threats to the continued well-being of the fishery resource, the potential for fishery resource development, and recommendations, including necessary changes in the allowed take of trout, for the development of each stream or lake to its full capacity as a fishery.

#### §1727

(a) In order to provide for a diversity of available angling experiences throughout the state, it is the intent of the Legislature that the commission maintain the existing wild trout program, and as part of the program, develop additional wild trout waters in the more than 20,000 miles of trout streams and approximately 5,000 lakes containing trout in California.

(b) The department shall prepare a list of no less than 25 miles of stream or stream segments and at least one lake that it deems suitable for designation as wild trout waters. The department shall submit this list to the commission for its consideration at the regular October commission meeting.

(c) The commission may remove any stream or lake that it has designated as a wild trout fishery from the program at any time. If any of those waters are removed from the program, an equivalent amount of stream mileage or an equivalent size lake shall be added to the wild trout program.

(d) The commission shall in January of each year submit a report to the Legislature regarding progress in implementing this chapter. In that report, the commission shall state its reasons why any stream or lake listed by the department as suitable for consideration as a wild trout water was or was not included in the program. The commission shall also state its reasons for removing and replacing any waters within the program.

(e) The department shall prepare and complete management plans for all wild trout waters not more than three years following their initial designation by the commission, and to update the management plan every five years following completion of the initial management plan.

#### §1726.5

The Legislature further finds and declares that activities and programs mandated by this chapter are a continuation and perpetuation of the department's existing wild trout program and other programs, and as such they shall be funded from existing budgetary resources.

**Fish and Game Code section 1740 et seq.** – Black Bass Conservation and Management Act of 1980

§1743

(a)The department's black bass management program shall include, but not be limited to, the following components:

(1)The department shall determine the angler harvest of black bass populations and shall recommend to the commission the changes in angling regulations for black bass that would be necessary to prevent or correct overharvest.

(2)The department shall consider recommending to the commission catch and release regulations for black bass, including minimum or maximum size restrictions and management for trophy-sized black bass in some waters.

(3)The department shall consider the suitability of the many different species, subspecies, and strains of black bass when management programs are formulated.

(4)The department shall improve shoreline habitat for black bass in waters where insufficient habitat exists and shall encourage reservoir operating agencies to carry out shoreline habitat improvement projects.

§1742

The Legislature further finds and declares that the black bass management program components specified in this chapter are a continuation of the department's existing warmwater fisheries program, and, as such, shall be funded from existing department budgetary resources.

**Fish and Game Code section 1801 (g)** - Policies and Objectives *(Note – this is the source of authority for the Department's Nuisance Wildlife program.)*

(g)To alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c).

**Fish and Game Code section 2050 et seq.** – California Endangered Species Act

§2070 – List of Endangered and Threatened Species

The commission shall establish a list of endangered species and a list of threatened species. The commission shall add or remove species from either list if it finds, upon the receipt of sufficient scientific information pursuant to this article, that the action is warranted.

§2073.5 – Time Period of Evaluation; Recommendations

(a) Within 90 days of receipt of the petition, the department shall evaluate the petition on its face and in relation to other relevant information the department possesses or receives, and submit to the commission its written evaluation report with one of the following recommendations to the commission.

#### §2074.6 – Status Review by Department of Species Listed in Petition

The department shall promptly commence a review of the status of the species concerned in the petition. Within 12 months of the date of publication of a notice of acceptance of a petition for consideration by the commission pursuant to paragraph (2) of subdivision (a) of Section 2074.2, the department shall provide a written report to the commission, based upon the best scientific information available to the department, which indicates whether the petitioned action is warranted, which includes a preliminary identification of the habitat that may be essential to the continued existence of the species, and which recommends management activities and other recommendations for recovery of the species.

#### §2077 – Periodic Review of Listed Species

(a) The department shall review species listed as an endangered species or as a threatened species every five years to determine if the conditions that led to the original listing are still present. The review shall be conducted based on information which is consistent with the information specified in Section 2072.3 and which is the best scientific information available to the department. The review shall include a review of the identification of the habitat that may be essential to the continued existence of the species and the department's recommendations for management activities and other recommendations for recovery of the species. The department shall notify any person who has notified the commission, in writing with their address, of their interest, and the department may notify any other person.

(b) Review of species that are listed by both the commission and the United States Department of Interior will be conducted in conjunction with the five-year review process of the United States Department of Interior.

(c) Initial review of those species listed by the commission before January 1, 1982, that are not listed by the federal government shall be undertaken and completed by July 1, 1987. Initial review of those species listed by the commission after January 1, 1982, that are not listed by the federal government shall be undertaken and completed within five years of the date the species was originally listed by the commission.

(d) Notwithstanding any other provision of this section, the commission or the department may review a species at any time based upon a petition or upon other data available to the department and the commission.

(e) The department shall report in writing to the commission the results of its five-year review for each listed species. The commission shall treat any report of the department under this subdivision which contains a recommendation to add a species to, or remove

a species from, the list of endangered species or the list of threatened species as a department recommendation submitted pursuant to Section 2072.7.

#### §2079 - Status of Listed Species – Annual Summary Report

The department shall, by January 30 of every third year, beginning January 30, 1986, prepare a report summarizing the status of all state listed endangered, threatened, and candidate species, and shall submit the report to the commission, the Legislature, the Governor, and all individuals who have notified the commission, in writing with their address, of their interest. This report shall include, but not be limited to, a listing of those species designated as endangered, threatened, and candidate species, a discussion of the current status of endangered, threatened, or candidate species, and the timeframes for the review of listed species pursuant to this article.

#### § 2080.1 - Taking Endangered Species with Federal Incidental Take Statement

(c) Within 30 days after the director has received the notice described in subdivision (a) that an incidental take statement or an incidental take permit has been issued pursuant to the federal Endangered Species Act of 1973, the director shall determine whether the incidental take statement or incidental take permit is consistent with this chapter. If the director determines within that 30-day period, based upon substantial evidence, that the incidental take statement or incidental take permit is not consistent with this chapter, then the taking of that species may only be authorized pursuant to this chapter.

(d) The director shall immediately publish the determination pursuant to subdivision (c) in the General Public Interest section of the California Regulatory Notice Register.

#### § 2080.3 – Taking of Spring run Chinook Salmon; Permit and Requirements

(3) Within 30 days after the director has received the notice specified in paragraph (1), the director shall determine whether the enhancement of survival permit will further the conservation of the species. As used in this paragraph, "conservation" has the same meaning as defined in Section 2061.

(4) The director shall immediately have the determination pursuant to paragraph (3) published in the General Public Interest section of the California Regulatory Notice Register.

#### § 2081 – Exceptions to Section 2080

The department may authorize acts that are otherwise prohibited pursuant to Section 2080, as follows:

(a) Through permits or memorandums of understanding, the department may authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions, to import, export, take, or possess any endangered species, threatened species, or candidate species for scientific, educational, or management purposes.

(b) The department may authorize, by permit, the take of endangered species, threatened species, and candidate species if all of the following conditions are met...

§ 2081.7 – Department may authorize taking of certain species (re: QSA)

(a) Notwithstanding Sections 3511, 4700, 5050, and 5515, and contingent upon the fulfillment of the conditions listed in subdivisions (b), (c), and (d), the department may authorize, under Chapter 1.5 (commencing with Section 2050) or Chapter 10 (commencing with Section 2800), the take of species resulting from impacts attributable to the implementation of the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, on all of the following...

§ 2086 – Department to Adopt Regulations (Voluntary Landowner Program)

(a) The department, shall adopt regulations that authorize locally designed voluntary programs for routine and ongoing agricultural activities on farms or ranches that encourage habitat for candidate, threatened, and endangered species, and wildlife generally...

(c) Any taking of candidate, threatened, or endangered species incidental to routine and ongoing agricultural activities that occurs while the management practices specified by paragraph (1) of subdivision (b) are followed, is not prohibited by this chapter.

(d)(1) The department shall automatically renew the authorization for these voluntary programs every five years, unless the Legislature amends or repeals this section in which case the program shall be revised to conform to this section.

(2) Commencing in 2000, and every five years thereafter, the department shall report to the appropriate policy committees of the Legislature regarding the effect of the programs. The department shall consult with the Department of Food and Agriculture in evaluating the programs and preparing the report. The report shall address factors such as the temporary and permanent acreage benefiting from the programs, include an estimate of the amount of land upon which routine and ongoing agricultural activities are conducted, provide examples of farmer and rancher cooperation, and include recommendations to improve the voluntary participation by farmers and ranchers...

(f) (1) The department may approve an application submitted by an agricultural-based nonprofit organization or other entity registered as a California nonprofit organization to initiate and undertake public education and outreach activities that promote the achievement of the objectives of this chapter. An application submitted pursuant to this subdivision shall include the following...

§ 2089.6 – Department may authorize Acts that are otherwise prohibited (State Safe Harbor Program)

In addition to the other provisions of this article, the department may authorize acts that are otherwise prohibited pursuant to Section 2080 through an agreement, including a programmatic agreement, if all the following conditions are met.

§ 2089.22 – Effect of Federal Safe Harbor Agreement

(a) If a federal safe harbor agreement has been approved pursuant to applicable provisions of federal law and the federal safe harbor agreement contains species that are endangered, threatened, or are candidate species pursuant to this chapter, no

further authorization or approval is necessary under this article for any person authorized by that agreement to take the species identified in and in accordance with the federal Safe Harbor Agreement, if that person and the department follow all of the procedures specified in Section 2080.1, except that the determination of consistency shall be made by the department based only on the issuance criteria contained in this article.

§ 2098

The department shall pay the costs of administration of this chapter from the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

**Fish and Game Code section 2271 – Written Approval and Exceptions for Importation**

(a) No live aquatic plant or animal may be imported into this state without the prior written approval of the department pursuant to regulations adopted by the commission. A written application for the importation, submitted in conformance with the procedural requirements established by the commission, is deemed approved where it has not been denied within 60 days...

**Fish and Game Code section 4181.1 – Take Bear, or Wild Pig in Act of Injuring Livestock; Reporting Requirement, etc.**

(c) The department shall make a record of each report made pursuant to subdivision (a) or (b) and may have an employee of the department investigate the taking or cause the taking to be investigated. The person taking a wild pig shall provide information as deemed necessary by the department. Upon completion of the investigation, the investigator may, upon a finding that the requirements of this section have been met with respect to the particular bear or wild pig taken under subdivision (a) or (b), issue a written statement to the person confirming that the requirements of this section have been met. The person who took the wild pig may transfer the carcass to another person without compensation.

**Fish and Game Code section 4181.2 – Damage by Wild Pigs Defined**

For the purposes of this article relating to damage caused by wild pigs, "damage" means loss or harm resulting from injury to person or property. The department shall develop statewide guidelines to aid in determining the damage caused by wild pigs. The guidelines shall consider various uses of the land impacted by pigs.

**Fish and Game Code section 4181.5 – Take Deer Damaging or Destroying Land; Permit, etc.**

(a) Any owner or tenant of land or property that is being damaged or destroyed or is in immediate danger of being damaged or destroyed by deer may apply to the department for a permit to kill those deer. The department, upon satisfactory evidence of that damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of those deer for a designated period not to exceed 60 days under regulations promulgated by the commission.

(b) The regulations of the commission shall include provisions concerning the type of weapons to be used to kill the deer. The weapons shall be those as will ensure humane killing, but the regulations of the commission shall provide for the use of a sufficient variety of weapons to permit the designation of particular types to be used in any particular locality commensurate with the need to protect persons and property. Firearms using .22-caliber rimfire cartridges may be used only when authorized by the director or his designee. No pistols shall be used. The caliber and type of weapon to be used by each permittee shall be specified in each permit by the issuing officer who shall take into consideration the location of the area, the necessity for clean kills, the safety factor, local firearms ordinances, and other factors that apply. Rifle ammunition used shall have expanding bullets; shotgun ammunition shall have only single slugs, or, if authorized by the department, 0 or 00 buckshot.

(c) The department shall issue tags similar to those provided for in Section 4331 at the same time the permit is issued. A permittee under this section shall carry the tags while hunting deer, and upon the killing of any deer, shall immediately fill out both parts of the tag and punch out clearly the date of the kill. One part of the tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached until 10 days after the permit has expired. The other part of the tag shall be immediately sent to the department after it has been countersigned by any person authorized by Section 4341.

**Fish and Game Code section 4800 *et seq.* – Mountain Lions**

§ 4801

The department may remove or take any mountain lion, or authorize an appropriate local agency with public safety responsibility to remove or take any mountain lion, that is perceived to be an imminent threat to public health or safety or that is perceived by the department to be an imminent threat to the survival of any threatened, endangered, candidate, or fully protected sheep species.

§ 4802

Any person, or the employee or agent of a person, whose livestock or other property is being or has been injured, damaged, or destroyed by a mountain lion may report that fact to the department and request a permit to take the mountain lion.

§ 4803

Upon receipt of a report pursuant to Section 4802, the department, or any animal damage control officer specifically authorized by the department to carry out this responsibility, shall immediately take the action necessary to confirm that there has been depredation by a mountain lion as reported. The confirmation process shall be completed as quickly as possible, but in no event more than 48 hours after receiving the report. If satisfied that there has been depredation by a mountain lion as reported, the department shall promptly issue a permit to take the depredating mountain lion.

§ 4807

(a) Any mountain lion that is encountered while in the act of pursuing, inflicting injury to, or killing livestock, or domestic animals, may be taken immediately by the owner of the property or the owner's employee or agent. The taking shall be reported within 72 hours to the department. The department shall investigate the depredation, and, if the mountain lion was captured, injured, or killed, the mountain lion or the entire carcass of the mountain lion which has been recovered shall be turned over to the department. Upon satisfactorily completing the investigation and receiving the mountain lion or the carcass, if recovered, the department shall issue a permit confirming that the requirements of this section have been met with respect to the particular mountain lion taken under these circumstances.

(b) The department shall undertake a complete necropsy on any returned mountain lion carcass and report the findings to the commission. The commission shall compile the reported findings and prepare an annual written report that shall be submitted to the Legislature not later than the January 15 next following the year in which the mountain lion was taken.

**Fish and Game Code section 5930 – Exam of Dams Frequented by Fish**

The department shall, from time to time, examine all dams in all rivers and streams in this State naturally frequented by fish.

**Fish and Game Code section 5931 – Fishways for Free Passage Over or Around Dams**

If, in the opinion of the commission, there is not free passage for fish over or around any dam, the department shall cause plans to be furnished for a suitable fishway, and order in writing the owner of the dam to provide the dam, within a specified time, with a durable and efficient fishway, of such form and capacity and in such location as shall be

determined by the department. Such fishway shall be completed by the owner of the dam to the satisfaction of the department within the time specified.

**Fish and Game Code section 5932 – Additional Fishways**

When Necessary. When all of the provisions of this article have been complied with, if in the opinion of the commission changed conditions make additional structures desirable for the free passage of fish, the department may make such additional structures and may expend such sums of money as it deems necessary for such additional construction, including the cost of insurance against any liability which the department may incur in connection with such structures.

Fish and Game Code section 5980 et seq. – Conduits and Screens: Diversions Over 250 Cubic Feet per Second

**§5981 – Exam of Conduits**

The department shall examine all conduits; and order the owner of a conduit to install, and it is the duty of such an owner to install, a screen on the conduit when, in the opinion of the department, a screen is necessary to prevent fish from passing into the conduit.

Except as provided in Sections 5987, 5988 and 5989, one-half of the expense of constructing or installing a screen shall be paid by the owner of a conduit and one-half by the department.

**§5986 – Payments to Conduit Owner from Fund**

All money paid by the department to the owner of a conduit pursuant to this article shall be paid out of the Fish and Game Preservation Fund.

**§5989 – Screen Malfunction; Remedies**

After acceptance, should the screen fail to function in an efficient manner, no changes in conditions affecting its operation having occurred subsequent to the acceptance of the screen, the owner shall not be required to install a new screen. However, the department may install another screen at the sole cost and expense of the department of a type, size, mesh, and at a location agreed upon by the department and the owner, or approved by the Department of Water Resources, as provided in Section 5992 of this code.

**Fish and Game Code section 6020 et seq. – Conduits and Screens: Diversions Less Than 250 Cubic Feet per Second**

**§6021**

The department shall examine new or existing conduits, and may install, maintain, repair, and replace fish screens, bypasses, or other devices to prevent the passage of

fish through a conduit, when in the opinion of the department such a screen or device is practical and necessary. The owner of a conduit shall grant to the department the right of access to the conduit for the installation and maintenance of the screen, and shall provide the department with an easement for a site for the installation of the screen or device deemed suitable by the department. The owner shall also supply sufficient water for a bypass to carry fish stopped by the screen or device back to the channel from which they were diverted, and an easement for the bypass channel, but such easement shall not require the acquisition or leasing of additional lands by the owner. No water for a bypass shall be required if the channel from which the water is diverted is dry or incapable of supporting fish life below the point of diversion.

#### §6028

All money paid by the department to the owner of a conduit pursuant to this article shall be paid out of the Fish and Game Preservation Fund.

#### **Fish and Game Code section 6100 – Water Deleterious to Salmon and Steelhead; Diversion; Necessity of Screen**

Notwithstanding any provision of Article 3 (commencing with Section 5980) and Article 4 (commencing with Section 6020), on or after the effective date of this article, any new diversion of water from any stream having populations of salmon and steelhead which is determined by the department to be deleterious to salmon and steelhead shall be screened by the owner. The construction, operation, or maintenance costs of any screen required pursuant to this article shall be borne by the owner of the diversion.

The department within 30 days of receipt of a notice of such diversion, or within the time determined by mutual written agreement, shall submit to the owner its proposals as to measures necessary to protect the salmon and steelhead. The department shall notify the owner that it shall make onsite investigation and shall make any other investigation before it shall propose any measure necessary to protect fishlife.

The department, or any agency of the state, shall provide the owner of the diversion any available information which is required by such owner in order to comply with the provisions of this article.

The diversion shall not commence until the department has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion.

#### Fish and Game Code section 6420 et seq. – Artificial Reefs

#### §6422

The department shall administer the California Artificial Reef Program...

#### §6424

The amount allocated for the administration of the program in any fiscal year may not exceed the amount authorized by applicable state and federal policy guidelines.

§6425

(a) It is the intent of the Legislature that not more than five hundred thousand dollars (\$500,000) shall be allocated to the program for the 1985-86 fiscal year.

(b) It is the intent of the Legislature that future sources of funding for the program may include, but are not limited to, the Fish and Game Preservation Fund, the California Environmental License Plate Fund, the Wildlife Restoration Fund, recreational bond act funds, federal grants-in-aid, county fish and game propagation funds, and private donations.

**Fish and Game Code section 6440 et seq. – Triploid Grass Carp**

§6450 – Aquatic Plant pests; use of Grass Carp for Control

The Department shall adopt regulations that provide for the control of aquatic plant pests using artificially introduced triploid grass carp under a permit issued by the department...

§6454 – Permit and Inspection Fees

The department shall establish permit and inspection fees sufficient to recover, but not exceed, the initial and ongoing costs of the program under this article.

**Fish and Game Code section 6902**

The Legislature, for purposes of this chapter, declares as follows:

(a) It is the policy of the state to significantly increase the natural production of salmon and steelhead trout by the end of this century. The department shall develop a plan and a program that strives to double the current natural production of salmon and steelhead trout resources.

(b) It is the policy of the state to recognize and encourage the participation of the public in privately and publicly funded mitigation, restoration, and enhancement programs in order to protect and increase naturally spawning salmon and steelhead trout resources.

(c) It is the policy of the state that existing natural salmon and steelhead trout habitat shall not be diminished further without offsetting the impacts of the lost habitat.

**Fish and Game Code section 6920 et seq. – Program for Protection**

§ 6920

(a) The department shall, with the advice of the Advisory Committee on Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory Committee, prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries.

(b)The department shall consult with every public agency whose policies or decisions may affect the goals of this program to determine if there are feasible means for those public agencies to help the department achieve the goals of this program.

§ 6922

The program shall include, but is not limited to, all of the following elements:

(a)Identification of streams where the natural production of salmon and steelhead trout can be increased primarily through the improvement of stream and streambank conditions without effect on land ownership, land use practices, or changes in streamflow operations.

(b)Identification of streams where the natural production of salmon and steelhead trout can be increased only through the improvement of land use practices or changes in streamflow operations.

(c)Identification of streams where the protection of, and increase in, salmon and steelhead trout resources require, as a result of significant prior loss of stream habitat, the construction of artificial propagation facilities.

(d)A program element for evaluating the effectiveness of the program.

(e)Recommendations for an organizational structure, staffing, budgeting, long-term sources of funding, changes in state statutes and regulations and federal and local government policy and such other administrative and legislative actions as the department finds to be necessary to accomplish the purposes of this chapter.

(f)Identification of measures to protect and increase the production of other anadromous fisheries consistent with policies set forth in Section 6902.

(g)Identification of alternatives to, or mitigation of, manmade factors which cause the loss of juvenile and adult fish in California's stream system.

§ 6924

The department shall determine the initial elements of the program and transmit a report describing those elements to the Legislature and the Advisory Committee on Salmon and Steelhead Trout within six months of the effective date of this chapter.

**Fish and Game Code section 7050 *et seq.* – Conservation and Management of Marine Living Resources**

§ 7055 The Legislature finds and declares that it is the policy of the state that:

(a)California's marine sport and commercial fisheries, and the resources upon which they depend, are important to the people of the state and, to the extent practicable, shall be managed in accordance with the policies and other requirements of this part in order to assure the long-term economic, recreational, ecological, cultural, and social benefits of those fisheries and the marine habitats on which they depend.

(b) Programs for the conservation and management of the marine fishery resources of California shall be established and administered to prevent over-fishing, to rebuild depressed stocks, to ensure conservation, to facilitate long-term protection and, where feasible, restoration of marine fishery habitats, and to achieve the sustainable use of the state's fishery resources...

§ 7059(b)

(b) In order to fulfill the intent of subdivision (a), the commission and the department shall do all of the following:

(1) Periodically review marine life and fishery management operations with a view to improving communication, collaboration, and dispute resolution, seeking advice from interested parties as part of the review.

(2) Develop a process for the involvement of interested parties and for fact-finding and dispute resolution processes appropriate to each element in the marine life and fishery management process. Models to consider include, but are not limited to, the take reduction teams authorized under the Marine Mammal Protection Act (16 U.S.C. Sec. 1361 et seq.) and the processes that led to improved management in the California herring, sea urchin, prawn, angel shark, and white seabass fisheries.

(3) Consider the appropriateness of various forms of fisheries co-management, which involves close cooperation between the department and fishery participants, when developing and implementing fishery management plans.

(4) When involving fishery participants in the management process, give particular consideration to the gear used, involvement of sport or commercial sectors or both sectors, and the areas of the coast where the fishery is conducted in order to ensure adequate involvement.

§ 7060

(a) The Legislature finds and declares that for the purposes of sustainable fishery management and this part, essential fishery information is necessary for federally and state-managed marine fisheries important to the people of this state to provide sustainable economic and recreational benefits to the people of California. The Legislature further finds and declares that acquiring essential fishery information can best be accomplished through the ongoing cooperation and collaboration of participants in fisheries.

(b) The department, to the extent feasible, shall conduct and support research to obtain essential fishery information for all marine fisheries managed by the state.

(c)The department, to the maximum extent practicable and consistent with Section 7059, shall encourage the participation of fishermen in fisheries research within a framework that ensures the objective collection and analysis of data, the collaboration of fishermen in research design, and the cooperation of fishermen in carrying out research.

(d)The department may apply for grants to conduct research and may enter into contracts or issue competitive grants to public or private research institutions to conduct research.

#### §7065

a) The director shall report annually in writing to the commission on the status of sport and commercial marine fisheries managed by the state. The date of the report shall be chosen by the commission with the advice of the department. Each annual report shall cover at least one-fourth of the marine fisheries managed by the state so that every fishery will be reported on at least once every four years. The department shall, consistent with Section 7059, involve expertise from outside the department in compiling information for the report, which may include, but need not be limited to, Sea Grant staff, other marine scientists, fishery participants, and other interested parties.

(b)For each fishery reported on in an annual report, the report shall include information on landings, fishing effort, areas where the fishery occurs, and other factors affecting the fishery as determined by the department and the commission. Each restricted access program shall be reviewed at least every five years for consistency with the policies of the commission on restricted access fisheries...

#### § 7072

(a)Fishery management plans shall form the primary basis for managing California's sport and commercial marine fisheries...

#### § 7073

(a)On or before September 1, 2001, the department shall submit to the commission for its approval a master plan that specifies the process and the resources needed to prepare, adopt, and implement fishery management plans for sport and commercial marine fisheries managed by the state. Consistent with Section 7059, the master plan shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons...

#### §7074

(a)The department shall prepare interim fishery research protocols for at least the three highest priority fisheries identified pursuant to paragraph (2) of subdivision (b) of Section 7073. An interim fishery protocol shall be used by the department until a fishery management plan is implemented for that fishery...

#### § 7075

(a)The department shall prepare fishery management plans and plan amendments, including any proposed regulations necessary to implement plans or plan amendments, to be submitted to the commission for adoption or rejection. Prior to submitting a plan or plan amendment, including any proposed regulations necessary for implementation, to the commission, the department shall submit the plan to peer review pursuant to Section 7062, unless the department determines that peer review of the plan or plan amendment may be exempted pursuant to subdivision...

#### § 7090

(a)The Legislature finds and declares that a proactive approach to management of emerging fisheries will foster a healthy marine environment and will benefit both commercial and sport fisheries and other marine-dependent activities. Therefore, the commission, based upon the advice and recommendations of the department, shall encourage, manage, and regulate emerging fisheries consistent with the policies of this part.

#### **Fish and Game Code section 7123 – Monitoring Taking of Marlin – Volunteer Observers**

The department shall develop a voluntary participation program for the use of departmental observers on board vessels to monitor the taking of marlin by sportfishermen. The department shall, in accordance with Section 1012, procure insurance against the liability of the owners or operators of vessels boarded by observers in the event of injury to or death of any such observer in the course and scope of employment as an observer.

#### **Public Resources Code sections 10000 – 10005**

#### §10001

The Director of Fish and Game shall identify and list those streams and watercourses throughout the state for which minimum flow levels need to be established in order to assure the continued viability of stream-related fish and wildlife resources. The director shall include in this identification list those streams and watercourses the director determines are significant, along with a statement of findings as to why that stream or watercourse was selected. The identification list required by this section shall rank the streams and watercourses beginning with those where the need for establishing

minimum flow levels is the greatest. The director, at his discretion, may revise the list and may add or delete streams or watercourses as circumstances require. The initial identification list required by this section shall be completed no later than January 1, 1984.

#### §10002

The Director of Fish and Game shall prepare proposed streamflow requirements, which shall be specified in terms of cubic feet of water per second, for each stream or watercourse identified pursuant to Section 10001. In developing the requirements for each stream, the director shall consult with the Director of Water Resources, the Director of Boating and Waterways, the Director of Parks and Recreation and with all affected local governments. The Director of Fish and Game may also consult with any private individuals, groups, or organizations as the director deems advisable. Upon completion of the proposed streamflow requirements for any individual stream or watercourse, the Director of Fish and Game shall transmit these proposed requirements to the State Water Resources Control Board. The State Water Resources Control Board shall consider these requirements within a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and Game shall complete the preparation of proposed requirements for the initial streams not later than July 1, 1989.

The Department of Fish and Game may contract for temporary services for purposes of preparing the proposed streamflow requirements.

#### §10003

The Director of Fish and Game, on his or her own motion or at the request of the State Water Resources Control Board, may review any streamflow requirement and may propose revision or modification thereof. The proposed revision or modification shall be transmitted to the State Water Resources Control Board.

#### §10004

The Department of Fish and Game shall initiate studies to develop proposed streamflow requirements for those streams or watercourses in each fiscal year for which funds are appropriated and shall complete studies on each stream or watercourse within three years. It is the intent of the Legislature that the department develop a program that will initiate studies on at least 10 streams or watercourses in each fiscal year.

#### §10005

(a)The Department of Fish and Game shall impose and collect a filing fee of eight hundred fifty dollars (\$850) to defray the costs of identifying streams and providing

studies pursuant to Division 10 (commencing with Section 10000) of the Public Resources Code.

(b)The filing fee shall be proportional to the cost incurred by the Department of Fish and Game and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the costs of the Department of Fish and Game as specified in subdivision (a).

(c)Any user of water, including a person or entity holding riparian or appropriative rights, shall pay the filing fee to the Department of Fish and Game upon application to the State Water Resources Control Board for any permit, transfer, extension, or change of point of diversion, place of use, or purpose of use, if there is a diversion of water from any waterway where fish reside. No permit, or other entitlement identified in this section is effective until the filing fee is paid. The State Water Resources Control Board shall, every six months, forward all fees collected to the department and provide the location for each entitlement for which a filing fee has been collected.