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November 14, 2011

Jim Kellogg, President
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

RE: Fish Stocking Regulations

Dear President Kellogg:

I am writing in regards to the upcoming Commission meeting to hear the proposed regulations the Department of Fish and Game wants the Commission's support on dealing with hatchery stocking of fish. I am asking for you and the Commissions support in denying the Departments request for these additional regulations and doing so on several grounds.

Firstly, these regulations were created in a virtual vacuum from within the Department. Several opportunities existed allowing for a dialog between the industry and the Department during the development of their proposed regulations, but any input from the industry was summarily ignored. In the end, their proposed new language was presented before the Aquaculture Development Committee, not for input or a discussion on the merits of the proposed regulations, but on a take it or leave it perspective.

Secondly, the industry has asked several times for scientific documentation that a problem exists. To date, the best answer the Department has been able to supply is "...we don't know. we haven't looked yet...". Yet many of the species they are writing these "protections" around are in a critical stage of decline, and are either listed or proposed for listing, and thus they have been studied enough to give some indication as to the factors leading to their decline. These entire regulations were not proposed or written around scientific findings of issues already identified with hatchery stocking of fish, but on the theory that a problem must exist because there are species in decline. That is an absurd position to take.

Thirdly, when early on in this process the Department was asked why they were taking such a draconian step in writing regulations on an industry that they could not demonstrate had created any problems in the long history of stocking fish in private and state waters, their answer was to avoid getting sued again. Again this is an absurd way of making public policy, subjugating their role as a regulatory agency to one of "...Which language will get us sued the least". And in the end, the Department is getting sued again anyway.

Fourth is that the Department has broken their rule making process into two parts. After acceptance of these proposed regulations they propose to come back with further regulations on invasive species and disease. They want to put in place the mechanism of control over the industry without benefit to the industry of knowing fully what they will be trying to control. That is like saying we will put the police force in charge and write the laws of what they should be enforcing later, later is too late, you have built a bureaucracy waiting for regulations to enforce. The industry cannot live with the unknowns of accepting one set of regulations, bad as they are, waiting for the second set to come later which may make the first regulations even worse or impossible to live with.

And lastly, given the importance of sport and recreational fishing to the well being of citizens of the State of California as well as the importance to the Department in terms of revenue generated from the sale of sport fishing licenses, this will severely affect both the industry as well as the Department. The proposed regulation will put many small time fish stockers out of business, it will end many farm stockings from taking place, it will increase illegal fish imports to get around complying with the regulations and it will end up costing the Department many unsold fishing licenses, putting further budget constraints upon the Department.

Thank you for your attention and again I urge the Commission to not accept the regulations proposed by the Department.

Sincerely,

A handwritten signature in black ink that reads "Peter Struffenegger".

Peter Struffenegger
Manager