

California Fish and Game Commission

June 26, 2008

Statement regarding *Coalition for Sustainable Delta et al. v. Carlson et al.*, E.D. Cal. Case No. 08-397.

Good morning President Rodgers and members of the Commission. My name is Paul Weiland, and I represent a number of parties that have filed legal action against the Commission and Department for adopting and enforcing regulations to maintain an artificially high population of non-native striped bass in the Bay-Delta.

Striped bass are voracious feeders. Unfortunately, they prey upon a number of federally and state listed fish species including delta smelt and juvenile salmon.

Your own Department of Fish and Game has estimated that non-native striped bass consume approximately 5 percent of the population of delta smelt in the Bay-Delta annually and in excess of 5 percent of the population of certain salmon species. In addition, the U.S. Fish and Wildlife Service has concluded that striped bass predation of delta smelt could foreclose recovery of that species. And the National Marine Fisheries Service recently identified striped bass predation as a threat to listed salmon and steelhead.

The prominent role of striped bass in the decline of native Bay-Delta species has come up repeatedly during the past several weeks in hearings in front of federal district court Judge Wanger regarding an interim remedy in the case regarding salmonid species and the export pumps. (*Pacific Coast Federation of Fishermen's Associations v. Gutierrez*, E.D. Cal. Case No. 06-

245.) Recent media coverage has also documented the significant impediment that striped bass are to state and federal salmon restocking programs. It is beyond dispute that this non-native species is posing a very real and significant threat to the continued survival of a number of fish species native to the Bay-Delta.

Knowing that striped bass are harming native fishes and the overall Bay-Delta ecosystem, on behalf of our clients, we sent a notice of intent to sue the Commission and Department. There was no response.

Thereafter, we filed a complaint in federal court. We discussed the prospect of a settlement with attorneys from the Attorney General's office, but they expressed no interest in addressing this issue. Instead, the Attorney General – along with the Commission and Department – are trying desperately to avoid addressing the serious allegations through procedural maneuvering and avoidance.

Apparently, the Commission and Department have decided that – despite the uncontroverted evidence that sports fishes are causing harm to the Bay-Delta system – the best course of action is to continue to prop up populations of striped bass and other invasive sports fishes. In this circumstance, the people of the State of California stand to lose three times over.

First, the native fishes of the Bay-Delta estuary – an invaluable resource of the State entrusted to the Commission and Department – will continue to decline and perhaps go extinct,

Second, water exports from the Bay-Delta – which are vital to the economy of the State – will continue to face restrictions without resulting in any appreciable benefit to native species due to the failure of regulatory authorities to address striped bass predation and numerous other real causes of ecosystem decline, and

Third, valuable state resources, taxpayer dollars, are being wasted to unnecessarily litigate this issue at a time when the state can least afford it.

The Administration of Governor Schwarzenegger has shown great foresight and resolve to address the ailing Delta and the myriad of stressors that impact the estuary and its fisheries. The actions of this Commission are wholly inconsistent with the Governor's leadership.

In conclusion, we sincerely hope you will reconsider your doing nothing position in the face of the growing crisis over the Bay-Delta and come to the table to negotiate a resolution to the current dispute that will enhance the lot of native fishes of the Delta and of the people of California.