

Member, Board of Supervisors
District 8



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City and County of San Francisco

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SCOTT WIENER

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DATE: January 2, 2014
TO: Angela Calvillo
Clerk of the Board of Supervisors
FROM: Supervisor Scott Wiener
Chairperson
RE: Land Use and Economic Development Committee
COMMITTEE REPORT

Scott Wiener

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on January 7, 2014, as a Committee Report:

131085 Planning Code - Fulton Street Grocery Store Special Use District

Ordinance amending the Planning Code, Section 249.35A, to extend the effective date for the Fulton Street Grocery Store Special Use District; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on January 6, 2014 at 1:30 p.m.

From: Board of Supervisors
To: BOS-Supervisors
Subject: Resolution to ban butterfly releases

From: Jim Nero [mailto:jnero@neo.rr.com]
Sent: Tuesday, December 31, 2013 8:24 AM
To: Board of Supervisors
Subject: Resolution to ban butterfly releases

To: San Francisco Board of Supervisors
Subject: Proposed ban on releasing commercially raised butterflies

Dear Supervisors:

I am writing to you today concerning the proposal to ban the release of commercially raised butterflies in San Francisco.

As the manager of a native butterfly exhibit (Beech Creek Butterfly House, Alliance, Ohio) for six years and an avid volunteer naturalist (Ohio Certified Volunteer Naturalist) I am involved with many aspects of the butterfly issue: purchasing butterflies from breeders, breeding and raising butterflies for our exhibit, creating interactive displays for public education, creating habitat for butterflies and releasing butterflies at the end of the season in September.

First, let me say that I have purchased butterflies from at least six different breeders, several whom I have met. These are conscientious people who take great interest and pride in raising butterflies in a disease free and predator free environment. Most of them are also educators who teach the public about the butterflies, their life cycle, and the plants they need to survive. Many also raise and sell both nectar and host plants that can be used to create butterfly habitat.

When shipped (always next day shipping), the butterflies are packaged in a manner to keep them protected and cool, so when I receive them nearly 100% are alive and healthy. The breeders have always acted professionally and answered any questions I may have.

So, in my experience, there is a very low chance that commercially bred butterflies would spread disease or weaken the gene pool.

Second, exhibiting and releasing butterflies provides a wonderful opportunity to educate about the many aspects of butterflies and the natural world. The opportunity to observe a butterfly up close, have one rest on your hand, or watch her feed from a flower you are holding is an experience that brings smiles and glowing eyes to the faces of children from 9 months to 99 years old. When having such an experience, people ask questions and want to know more about butterflies' lives and behaviors.

Whether it is a bride, a nature lover, a child, or someone mourning the loss of a loved one, I believe it would be unfortunate to deny them the opportunity to release a butterfly and I urge you:

Do not implement the ban to release butterflies in San Francisco!

Sincerely,
Jim Nero

Author: *Butterflies & Blooms of Beech Creek*
Louisville, Ohio
December 31, 2013

From: Chapin-Rienzo, Shanda [shanda.chapin-rienzo@sfgov.org] on behalf of Reports, Controller [controller.reports@sfgov.org]
Sent: Tuesday, December 31, 2013 12:17 PM
To: Calvillo, Angela; BOS-Supervisors; BOS-Legislative Aides; Howard, Kate; Falvey, Christine; Elliott, Jason; Rose, Harvey; Gabriel Metcalf; Bob Linscheid; sfdocs@sfpl.info
Subject: Issued: Results of the San Francisco Film Rebate Program

The Office of the Controller's Budget and Analysis Division and the San Francisco Film Commission today issued a report on the results of the San Francisco Film Rebate Program.

To date, the program has awarded \$2.5 million in rebates to 17 productions, which have collectively spent \$44.2 million while filming in San Francisco. Rebated productions have paid \$14.1 million in wages to San Francisco residents, including 1,441 regular cast and crew positions.

To view the full report, please visit our website at: <http://openbook.sfgov.org/webreports/details3.aspx?id=1648>

This is a send-only email address.

For questions about the memorandum, please contact Acting Director of Budget and Analysis Michelle Allersma at Michelle.Allersma@sfgov.org or 415-554-4792.

Follow us on Twitter [@sfcontroller](https://twitter.com/sfcontroller)



MEMORANDUM

TO: Mayor Edwin Lee
Members, Board of Supervisors

FROM: Deric Licko, Controller's Office
Susannah Greason Robbins, San Francisco Film Commission

CC: Ben Rosenfield, Controller
BR

DATE: December 31, 2013

SUBJECT: Report from the Controller's Office and Film Commission Regarding
the Results of the San Francisco Film Rebate Program

AUTHORITY:

San Francisco Administrative Code Section 57.8(e)(2) requires the San Francisco Film Commission and the Controller's Office to submit a report to the Board of Supervisors on the current results of the Film Rebate Program, addressing the objectives of the program.

SUMMARY OF FINDINGS:

- The total amount of rebates authorized under the Film Rebate Program through FY 2014-15 is \$4.8 million, with \$3.2 million appropriated and \$2.5 million in rebates awarded through December 2013.
- Approximately \$720,000 is currently available for rebates, with another \$1.6 million allocated that could be made available through annual appropriation.
- Since the Film Rebate Program was created in 2006, the 17 productions that have received rebates from the City are estimated to have collectively spent \$44.2 million locally, including \$14.1 million in wages paid to San Francisco residents.
- Rebated productions represent nine percent of all filming permitted by the San Francisco Film Commission from FY 2006-07 through December 2013, and wages paid to San Francisco residents by rebated productions represent only two percent of total wages in the San Francisco film production industry, thus rebated productions represent only a small portion of the economic impact of film production in San Francisco.
- While employment in the San Francisco film production industry has grown since 2006, it is unclear what effect the Film Rebate Program has had in this growth.
- Filmmakers receiving rebates report that the Film Rebate Program has been a key factor in choosing San Francisco as their production location.

BACKGROUND:

In 2006, the “Scene in San Francisco” Film Rebate Program was created to increase the number of film productions in San Francisco, increase the number of San Francisco residents employed in the filmmaking industry, and encourage the resulting economic benefits of increased local film production. At that time, the industry was experiencing declining employment in film production in San Francisco. In the preceding decade, a number of US states, and countries such as Canada, Australia, and most EU nations, began to offer generous incentives to film producers willing to film within their borders. These incentives took various forms, but most often provided tax credits on local spending ranging from 5 to 25 percent. Film production in California—which offered few incentives to film producers—became comparatively more expensive and the state’s share of the US film production market declined. By 2005, employment in San Francisco’s film production industry had fallen by 29 percent from 2001 levels.

The Film Rebate Program gives qualifying productions a dollar for dollar refund of: (a) fees or taxes paid into the City's general fund; (b) moneys paid to the City for use of City property, equipment, or employees, including additional police services; and (c) use fees for film production in the City. In 2006, \$1.8 million was allocated to be spent over three years, subject to annual appropriation. In 2009, the program was extended for three more years through June 30, 2012 and the total rebate per production was capped at \$600,000. In May 2012, the program was extended for another two years, through June 30, 2014, with a new allocation of \$2 million subject to annual appropriation. In November 2013 the program was extended for another year, through June 30, 2015, with an additional allocation of \$1 million subject to annual appropriation. Of the \$3.2 million appropriated for the program to date, approximately \$720,000 is currently available for rebates. Refer to Exhibit 1 below.

Exhibit 1. Film Rebate Program allocations, appropriations and rebates			
Fiscal Year	Amount Allocated by Ordinance	Amount Appropriated	Total Value of Rebates Awarded
2006-07	\$ 1,800,000	\$ 600,000	\$ 42,151
2007-08		\$ 600,000	\$ 10,364
2008-09		\$ 200,000	\$ 160,650
2008-09 ^a		\$ (1,051,588)	\$ -
2009-10		\$ 400,000	\$ 699,489
2010-11		\$ 400,000	\$ 550,715
2011-12	\$ 2,000,000	\$ 651,588	\$ 76,416
2012-13		\$ 700,000	\$ 231,025
2013-14 ^b	\$ 1,000,000	\$ 700,000	\$ 708,668
Total	\$ 4,800,000	\$ 3,200,000	\$ 2,479,478

a. Decreased appropriation transferred back to the General Fund.

b. Value of rebates awarded through December 2013. Includes estimated rebate amount of approximately \$550,000 for one production completed in 2013 with rebate anticipated in early January 2014.

Source: San Francisco Film Commission.

To qualify for the rebate, a production must be a feature length film, documentary, web series or television production (i.e. commercials are ineligible) and film primarily in San Francisco. Productions with budgets less than \$3 million must expend at least 55 percent of their principal photography days in San Francisco, and productions with budgets greater than \$3 million must film at least 65 percent of their principal photography days in San Francisco. In 2009, the Board of Supervisors added a requirement that productions show demonstrated efforts to hire vulnerable San Francisco residents through the First Source program. In September 2012, the Board of Supervisors voted to include unscripted television episodes (reality) and feature length documentaries in the types of productions eligible to apply for the rebate. Legislation approved in 2013 clarified the definition of productions that qualify for the rebate program and the definition of qualified production cost, and included a new section related to the authority to lease private property for use during film production.

In 2009, California created its own incentive program to contend with the domestic and global competition. It now offers a 20 to 25 percent tax credit on most in-state spending by qualified productions, with a cap of \$100 million annually through FY 2013-14. According to the Film Commission, 45 states and Puerto Rico currently offer motion picture incentives of up to 35 percent, and 32 foreign jurisdictions also offer generous film incentives, including tax credits, rebates and exemptions. Participating in California's incentive program does not disqualify a production from receiving a rebate through San Francisco's Film Rebate Program, which typically refunds about 3.5 percent of a production's local spending.

METHODOLOGY:

The data used for this analysis and report includes permitting, rebate, local expenditure, filming days, local hire, and other data collected by the San Francisco Film Commission. The Controller's Office analyzed this data in the context of publicly available information from the Bureau of Labor Statistics and data from the Oakland Film Office. The San Francisco Film Commission also gathered testimonials about the program from filmmakers whose productions have received rebates.

CONTROLLER'S OFFICE REPORT ON PERFORMANCE

1. Rebate amounts, local hiring and local spending:

The City has spent approximately \$2.5 million on rebates to qualified productions under the Film Rebate Program since its inception in 2006 through December 2013, with the 17 productions receiving rebates having spent approximately \$44.2 million while shooting in San Francisco. This translates to approximately \$18 of local spending for every dollar of rebate provided. A total of \$3.2 million of the \$4.8 million authorized has been appropriated to date, resulting in approximately \$720,000 currently available for rebates, with an additional \$1.6 million that could be appropriated through June 30, 2015 if necessary.

Through FY 2012-13, average annual local spending by rebated productions is approximately \$5.8 million. The value of rebates awarded and local spending by rebated productions have varied widely from year to year, peaking in FY 2009-10 when a television series filmed a full season in the City. Production in the first half of FY 2013-14 is strong, with six productions receiving over \$700,000 in rebates and generating approximately \$3.6 million in local spending through December 2013. Refer to Exhibit 2 below. Refer to Attachment A for a list of rebated productions since implementation of the Film Rebate Program.

Rebated productions have paid approximately \$14.1 million in total wages to San Francisco residents through December 2013. The wage total includes 1,441 regular cast and crew positions as well as background actor positions and individuals hired through the First Source Hiring Program (FSHP). Rebated productions in the first half of FY 2013-14 have provided 179 regular cast and crew positions to San Francisco residents, with approximately \$861,000 in local wages. Refer to Exhibit 2 below.

The FSHP requirement was added to the Film Rebate Program in 2009, and productions receiving rebates have paid \$53,107 in wages to 144 positions from 2009 through 2011. It is important to note that these positions are often for a few days of work and are not typically full-time jobs, and that productions are not required to hire through FSHP, only to show a good faith effort.

Since the FSHP requirement was added, three out of four rebated productions through FY 2011-12 hired First Source applicants and one was excused because it was a low budget production which used many volunteer cast and crew; since 2011-12, only three of the nine rebated productions hired First Source applicants. According to the Film Commission, in the past, production companies have typically hired First Source applicants as security personnel. The majority of these employment opportunities have come through partnerships with the Treasure Island Homeless Development Initiative and the Treasure Island Job Corps. Since early 2013, however, new resources available for First Source hires with film production experience has translated into more production assistant positions being offered, and more satisfaction from the productions using FSHP employees.

Exhibit 2. Rebates awarded, local spending, and employment by rebated productions

Fiscal Year	Total Feature Film and TV Series Productions	Rebated Productions	Total Value of Rebates Awarded	Estimated Total Local Spending by Rebated Productions (including wages) ^a	SF Residents Employed in Rebated Productions ^b	Total SF Resident Wages Paid by Rebated Productions	First Source Hires Employed in Rebated Productions ^c	Total First Source Wages Paid by Rebated Productions
2006-07	68	1	\$ 42,151	\$ 311,711	47	\$ 61,004	N/a	\$ -
2007-08	96	1	\$ 10,364	\$ 646,840	86	\$ 370,341	N/a	\$ -
2008-09	71	2	\$ 160,650	\$ 10,371,312	436	\$ 6,775,512	N/a	\$ -
2009-10	81	1	\$ 699,489	\$ 20,938,428	305	\$ 3,324,469	32	\$ 20,638
2010-11	83	1	\$ 550,715	\$ 6,091,502	118	\$ 1,614,710	2	\$ -
2011-12	92	2	\$ 76,416	\$ 305,441	143	\$ 292,955	54	\$ 12,740
2012-13	101	3	\$ 231,025	\$ 1,938,979	127	\$ 762,395	52	\$ 11,234
2013-14 ^d	44	6	\$ 708,668	\$ 3,559,880	179	\$ 861,060	4	\$ 8,496
Total	636	17	\$ 2,479,478	\$ 44,164,094	1,441	\$ 14,062,446	144	\$ 53,107
Annual Average^e	85	1.6	\$ 252,973	\$ 5,800,602	180	\$ 1,885,912	20	\$ 6,373

a. The Film Commission has collected data on production budgets and spending on local wages since 2006, but only began collecting data on other local expenditures in 2010. Local spending data was used to estimate spending for the rebated productions before 2010.

b. These positions are regular cast and crew positions, which typically last several weeks or months, but do not include background actor positions, as these jobs often last only one or two days and the wages paid per background actor typically do not exceed \$200. Wages paid for all position types are included in wage and local spending totals.

c. The First Source hiring requirement was implemented in 2009. First Source wage amounts are included in wage and local spending totals.

d. Through December 2013. Includes local spending, rebate, employment, and wage amounts for one production completed in 2013 with rebate anticipated in early January 2014.

e. Through FY 2012-13, as FY 2013-14 is a partial year and the number of productions in the first 6 months may not be representative of the annual total.

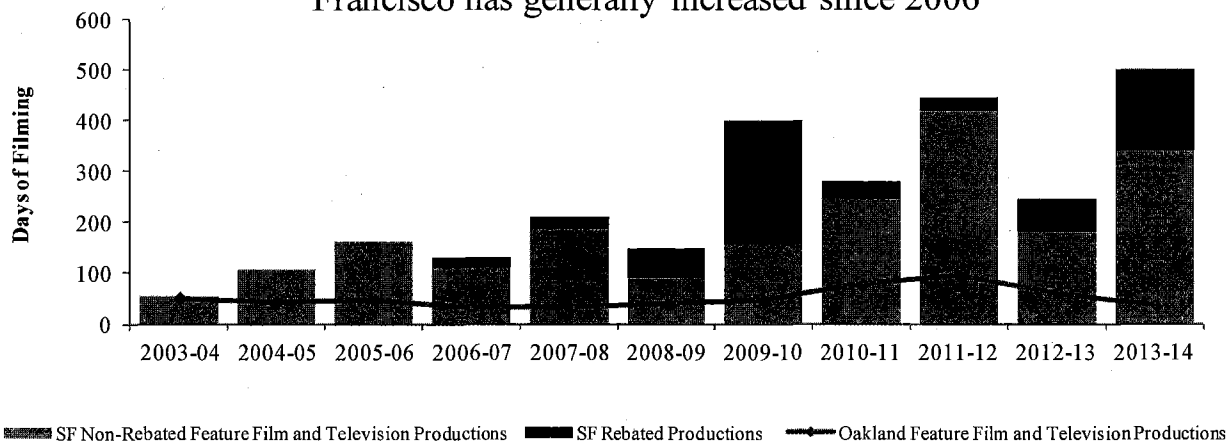
Source: San Francisco Film Commission.

2. Film productions, permitted shooting days, and film industry employment:

The quantity of filming by feature film and television productions has increased in San Francisco since 2006, although it is unclear how much of this increase can be credited to the Film Rebate Program. The share of filming days by rebated productions is inconsistent, although it has increased in the past two fiscal years. Also, trends in Oakland suggest that while San Francisco's Film Rebate Program may have increased film production in the City, Oakland does not have an incentive program and experienced an increase in filming through FY 2011-12 before declining in the past two years. Thus, filming days may be related to other factors. Refer to Exhibit 3 below.

The Film Commission reports 7,224 total permitted days of shooting in San Francisco between FY 2006-07 and December 2013, with 637 (8.8 percent) by rebated productions. This low percentage is partially due to the types of productions eligible for the rebate—feature-length films and television productions comprise 29 percent of total shooting days from FY 2006-07 through December 2013, and the rebate applies only to those production types that film the majority of their shooting days in the City. Other productions not eligible for the rebate include commercials, still photo shoots, web productions, and corporate and short films, all of which make up significant portions of the local film production industry.

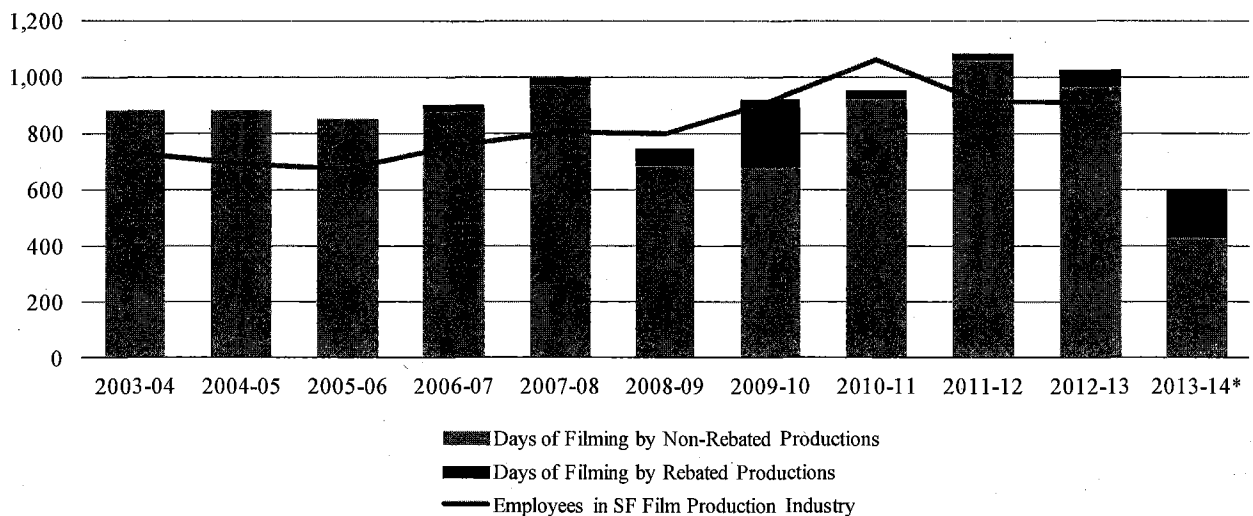
Exhibit 3. Filming of feature film and television productions in San Francisco has generally increased since 2006



Source: San Francisco Film Commission and Oakland Film Office.

According to Bureau of Labor Statistics (BLS) employment data and Film Commission data on shooting days, San Francisco employment in motion picture and video production industries has generally increased along with an increasing number of filming days in San Francisco. The first half of FY 2013-14 has been especially strong. Refer to Exhibit 4 below.

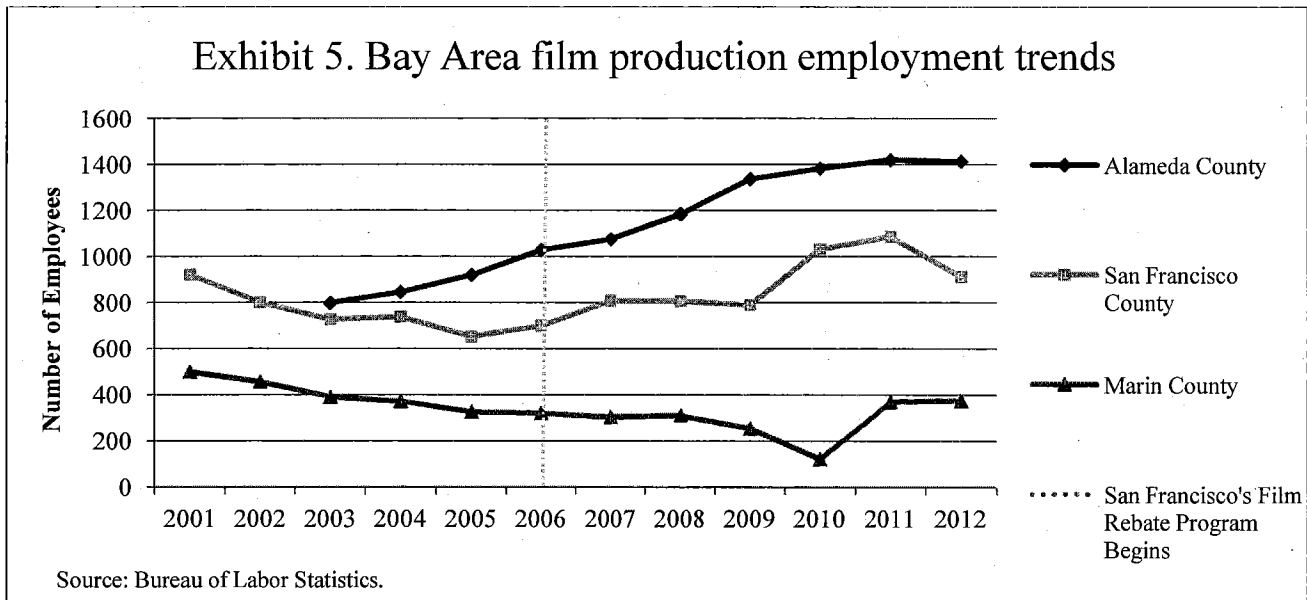
Exhibit 4. Rebated productions comprise a small portion of total filming in San Francisco



* Through December 2013.

Source: Bureau of Labor Statistics and San Francisco Film Commission.

According to BLS data, San Francisco and Bay Area film production employment has generally increased since the rebate program was created (with a decline in 2012). However, comparing San Francisco production employment trends with Alameda County, which does not have an incentive program, shows that employment there has increased similarly since 2006, and without the decline in 2012. Thus, it is not clear whether it is the Film Rebate Program or other factors (or a combination) that account for the increase in San Francisco film production employment. Refer to Exhibit 5 below for film production employment trends.



3. Economic impact:

When a production films in San Francisco, it contributes to the local economy in two major ways: 1) purchases of local goods and services, such as set materials and other supplies, construction services, food services, hotel rooms, restaurant meals, and entertainment; and 2) employing San Francisco residents on the production, which provides local residents with additional income to spend on local goods and services. This spending by film productions produces secondary spillover or multiplier effects in the local economy, much like a growth in tourism or technology exports.

Economic expansion also generates new tax revenue for the City, as new spending leads to new sales tax revenue, and new employment leads to new payroll tax revenue.¹ Wages paid to San Francisco residents by rebated productions, however, represent a relatively small portion of total wages in the City’s film production industry. According to BLS data for San Francisco, total wages paid to motion and video production workers were \$703.6 million between 2006 and 2012. The \$13.0 million in wages paid to San Francisco residents by rebated

¹ Eliminating the Total Tax Cap on Film Rebates – Economic Impact Report, 2008. San Francisco Controller’s Office of Economic Analysis.

productions during this time represents two percent of that total.² Therefore, an increase in overall shooting days in San Francisco provides additional economic benefit beyond the wages paid to rebated productions. The Film Rebate Program has not only been beneficial to the production companies, but to the local crew and background extras who are employed by these productions. Productions which have used the Film Rebate Program generally have hired San Francisco and Bay Area locals for production crew and background extras.

The Film Commission collected little data prior to implementation of the Film Rebate Program regarding how much money productions spend while filming in the City. In order to better determine exactly which sectors of the San Francisco economy benefit from film productions, the Film Commission in 2010 improved its processes to collect more comprehensive information regarding film production in San Francisco. Refer to Attachment B for an example of the required local expenditure reporting. Similarly, although the number of shooting days has generally increased since the rebate program was implemented, and is on pace to exceed prior year totals in FY 2013-14, the Film Commission does not have data on the number of films that used San Francisco as their primary shooting location prior to 2006 to make a comparison. Even if such a comparison with current data could be made, however, determining whether it was the Film Rebate Program or other economic factors that affected the number of film productions would be difficult to demonstrate.

San Francisco film production employment has generally increased since the rebate program was created, and rebated productions are clearly resulting in local spending and local hiring, which boost the San Francisco economy. It is unclear, however, to what extent this increase is attributable to the Film Rebate Program. Because wages paid by the rebated productions account for just two percent of total wages in the film production industry in San Francisco, it is unlikely that the Film Rebate Program has been the primary driver of this upward trend. Nevertheless, according to the Film Commission, the Film Rebate Program has resulted in additional shooting days, which in turn results in additional local spending, and is necessary to prevent film production companies from choosing other large city locations where more lucrative state tax credits exist.³ The program helps enable productions to base in San Francisco by lowering the cost of filming in the City, which allows some productions to shoot their entire time in San Francisco rather than shoot just a few days of location shots.⁴ Refer to Attachment C for testimonials from producers of rebated films regarding the importance of the Film Rebate Program in their decision to choose San Francisco.

² Including productions in FY 2012-13 completed in calendar year 2012. Note that two percent is likely an overestimate because the BLS "Motion Picture and Video Production" category (NAICS Code 512110) does not include all the types of positions to which rebated productions might pay wages. Specifically, it does not include wages paid to employees in sound recording, independent artists, and other self-employed individuals. Including these occupations would increase the estimate of total wages in the film production industry, and thereby make the \$13.0 million paid in wages by rebated productions represent a smaller percentage of the total wages paid.

³ New York offers a 30-35 percent tax credit; Louisiana and Georgia offer a 30 percent tax credit.

⁴ According to the San Francisco Film Commission, Dawn of the Planet of the Apes was shot primarily in Louisiana and only four days in San Francisco, although the entire film takes place in the Bay Area, mainly San Francisco.

ATTACHMENT A

List of rebated productions by fiscal year:

Statistics by Rebated Production								
Production	Year	Shooting Days	Estimated Total Local Spending ^a	Rebate Awarded	SF Residents Employed in Rebated Productions ^b	Total SF Resident Wages Paid by Rebated Productions	First Source Hires Employed in Rebated Productions ^c	Total First Source Wages Paid by Rebated Productions
A	2006-07	23	\$ 311,711	\$ 42,151	47	\$ 61,004	N/a	\$ -
B	2007-08	25	\$ 646,840	\$ 10,364	86	\$ 370,341	N/a	\$ -
C	2008-09	39	\$ 7,668,653	\$ 99,180	188	\$ 4,880,933	N/a	\$ -
D	2008-09	19	\$ 2,702,659	\$ 61,470	248	\$ 1,894,579	0	\$ -
E	2009-10	243	\$ 20,938,428	\$ 699,489	305	\$ 3,324,469	32	\$ 20,638
F	2010-11	36	\$ 6,091,502	\$ 550,715	118	\$ 1,614,710	2	\$ -
G	2011-12	10	\$ 42,093	\$ 10,045	38	\$ 113,571	0	\$ -
H	2011-12	17	\$ 263,348	\$ 45,523	105	\$ 179,384	54	\$ 12,740
I	2012-13	33	\$ 1,366,506	\$ 164,136	64	\$ 538,969	50	\$ 10,335
J	2012-13	7	\$ 474,067	\$ 65,271	29	\$ 166,157	2	\$ 899
K	2012-13	25	\$ 98,406	\$ 1,618	34	\$ 57,269	0	\$ -
L	2013-14	16	\$ 42,763	\$ 2,575	18	\$ 17,360	0	\$ -
M	2013-14	15	\$ 30,379	\$ 8,860	33	\$ 14,734	0	\$ -
N	2013-14	3	\$ 67,863	\$ 5,643	4	\$ 2,050	0	\$ -
O	2013-14	29	\$ 758,209	\$ 87,236	36	\$ 154,217	0	\$ -
P ^d	2013-14	37	\$ 1,700,906	\$ 553,276	67	\$ 645,118	4	\$ 8,496
Q	2013-14	76	\$ 959,760	\$ 51,078	21	\$ 27,582	0	\$ -
Total		653	\$ 44,164,094	\$2,479,478	1441	\$ 14,062,446	144	\$ 53,107

a. The Film Commission has collected data on production budgets and spending on local wages since 2006, but only began collecting data on other local expenditures in 2010. Local spending data was used to estimate spending for the rebated productions before 2010.

b. These positions are regular cast and crew positions, which typically last several weeks or months, but do not include background actor positions, as these jobs often last only one or two days and the wages paid per background actor typically do not exceed \$200. Wages paid for all position types are included in wage and local spending totals.

c. The First Source hiring requirement was implemented in 2009. First Source wage amounts are included in wage and local spending totals.

d. Estimated local spending, rebate, resident employment, and wage amounts. Rebate anticipated early January 2014.

Source: San Francisco Film Commission.

ATTACHMENT B

In 2010, the San Francisco Film Commission expanded its efforts to collect detailed data on local spending by rebated productions. The following is an example of the information the Film Commission now requires all rebated productions to report:

San Francisco Film Commission Film Rebate Program Local Expenditures Report

PROJECT TITLE:

WOODY ALLEN SUMMER PROJECT 2012

Please indicate the amount spent by the production in the City and County of San Francisco in the following categories.

Spending Type		Total Spent
1	Hotels Room Days: <u>399</u>	<u>83,767.00</u>
2	Car Rental Rental Days: <u>982</u>	<u>46,915.00</u>
3	Catering, Bakery Goods & Other Food Items	<u>115,584.00</u>
4	Hardware and Lumber Supplies	<u>5,154.00</u>
5	Office Supplies (copy machine, phones, etc)	<u>10,749.00</u>
6	Wardrobe Purchases	<u>1,204.00</u>
7	Dry Cleaning	<u>0.00</u>
8	Gasoline	<u>32,827.00</u>
9	Location Fees	<u>188,922.00</u>
10	Security	<u>73,475.00</u>
11	Per Diem Payments	<u>38,623.00</u>
12	Vendors	<u>0.00</u>
13	Equipment Rentals	<u>102,520.00</u>
14	Hotel Tax Paid	<u>11,309.00</u>
15	Local Sales Tax Paid	<u>116,488.00</u>
16	Other Purchases	<u>0.00</u>

TOTAL: **\$827,537.00**

ATTACHMENT C

Producers of rebated films state that the Scene in San Francisco Film Rebate Program has been a key factor in choosing San Francisco as their production location:

"The NBC Television Pilot and Series *Trauma* would not have happened in San Francisco without the Rebate Program offered by the City. *Trauma* employed over 125 people every week for a year, at quality union wages, plus thousands of dollars spent every day with local vendors. Each episode of *Trauma* qualified for a \$30,000 to \$50,000 rebate from San Francisco. The series would have gone to another city without this type of support offered through the rebate program." **Dean Jones, Co-Producer, Trauma**

"The San Francisco City rebate of \$600,000.00 was a key factor in our decision to bring the movie *Hemingway & Gellhorn* to the Bay Area. Shooting in San Francisco wasn't necessarily an obvious choice for us, as the film is not set here, but the rebate, coupled with the wonderful resources the city had to offer, (i.e. talented actor pool, experienced crew, and gorgeous "period-looking" locations) made it an easy sell to the studio. The rebate, combined with the California State Tax Incentive, makes San Francisco a real draw for filming. It's particularly helpful for mid-size budgets where every dollar counts. When choosing between shooting locations, the extra \$600k really helps San Francisco to edge out the competition." **Trish Hofmann, Executive Producer, Hemingway & Gellhorn**

"Had it not been for the rebate program and the amazing support of the SF Film Commission, we would likely have shot in LA and come to San Francisco for no more than 3-5 days. The program was key to our production coming to San Francisco for the full run of pre-production and principal photography, a total of 4 months." **Catherine Davila, Producer, Knife Fight**

"Low budget independent films like ours have to count every penny when considering a location. Before the rebate program was in full effect, we were thinking of shooting *La Mission* in New Mexico. After meeting with a very supportive SF Film Office and learning about the rebate program, we decided we couldn't make our film anywhere else. **Peter Bratt, Director, La Mission (Mission Rhapsody)**

"The rebate program through the San Francisco Film Commission was a major factor in our deciding to locate our production in The City. In particular, the rebate helped to off-set the payroll tax, putting San Francisco on better footing to compete with the other Bay Area locations we considered. This program, along with the other services provided by the (always helpful) SF Film Commission, was a key motivator in our choosing San Francisco." **Mark Miller, Producer, Untitled Henry Selick Project for Disney**

"The San Francisco tax incentive has done a lot to open up production possibilities in SF. The incentive has made a big difference in helping our production shoot and hire locally in San Francisco. Thanks to the Film Office for their attention and help to our production." **Producers of Quitters**

BOS-11 Electronically

Commissioners
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Richard Rogers, Vice President
Santa Barbara
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Fish and Game Commission



December 24, 2013

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the American pika which will be published in the California Regulatory Notice Register on December 27, 2013.

Sincerely,

Sheri Tiemann
Sheri Tiemann
Associate Governmental Program Analyst

Attachment

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NOTICE OF FINDINGS
American pika
(*Ochotona princeps schisticeps*)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), at its May 22, 2013 meeting in Los Angeles, California, made a finding pursuant to Fish and Game Code section 2075.5, that the petitioned action to add the American pika (*Ochotona princeps schisticeps*) to the list of threatened or endangered species under the California Endangered Species Act (CESA)(Fish & G. Code, § 2050 et seq.) is not warranted. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1).)

NOTICE IS ALSO GIVEN that, at its December 11, 2013, meeting in San Diego, California, the Commission adopted the following findings outlining the reasons for its rejection of the petition.

I.
BACKGROUND AND PROCEDURAL HISTORY

Petition History

The Center for Biological Diversity (Petitioner) submitted a petition to the Commission on August 21, 2007, to list the American pika (*Ochotona princeps*) as a threatened species, pursuant to CESA. As an alternative, the Petitioner asked that the Commission list each of the then recognized five subspecies of the American pika occurring in California as, variously, either endangered or threatened species. The Commission received the petition on August 22, 2007. The Commission referred it for evaluation to the Department on August 30, 2007. On September 12, 2007, the Department asked the Commission to grant the Department an additional 30 days, for a total 120 days, to evaluate the petition pursuant to Fish & Game Code section 2073.5. On October 19, 2007, the Commission granted this request.

The Department evaluated the petition, using the information in that document and other relevant information available at that time, and found that the scientific information presented in the petition was insufficient to indicate that either of the petitioned actions may be warranted. That is, the Commission found in its independent judgment at the time that the petition did not provide sufficient scientific information to indicate that the following actions may be warranted: 1) State listing of the pika as a threatened species, or 2) State listing of any of the five subspecies of the pika occurring in California as, variously, either endangered or threatened species. The Department's review of additional scientific information supported these findings. The Department recommended in its December 21, 2007, evaluation report to the Commission, pursuant to Fish and Game Code section 2073.5, subdivision (a), that the Commission reject the petition.

On April 10, 2008, the Commission determined that the petition provided insufficient information to indicate the petitioned action may be warranted. On June 24, 2009, the Commission set aside its April 10, 2008 decision, and again determined that the petition did not provide sufficient information to indicate the petitioned action may be warranted. The Petitioner challenged the Commission's actions on both occasions in related litigation. As a result of the litigation, the Commission reconsidered Petitioner's petition to list the American pika as threatened or endangered under CESA, including a new submission by Petitioner dated May 15, 2009. The Commission treated the petition, including Petitioner's new submission, as an amended petition pursuant to Fish and Game Code section 2073.7, and also determined the amendment to be substantive. At its February 3, 2011 meeting, the Commission transmitted the amended petition to the Department for review.

The Petitioner submitted another comment letter to the Commission on March 31, 2011. The Commission voted at its May 4, 2011, meeting that the March 31, 2011, letter submitted by the Petitioner amounted to yet another substantive amendment of the petition. The Commission indicated in a memorandum to the Department dated May 13, 2011, that the Department's evaluation report should be submitted to the Commission on or before August 2, 2011. On June 27, 2011, the Department requested that the Commission grant the Department an additional 30 days, for a total 120 days, to evaluate the amended petition, pursuant to Fish and Game Code section 2073.5, subdivision (b). On August 3, 2011, the Commission granted this request.

The Department submitted its initial evaluation of the amended petition to the Commission on August 23, 2011, with a recommendation to reject the petition. At the October 19, 2011, Commission meeting, the Department presented a summary of its evaluation of the petition. At that meeting, the Department Director presented a new recommendation to the Commission, indicating the Commission should accept the petition, designate the American pika as a candidate species under CESA, and direct the Department to conduct a 12-month review of the status of the species in California. The Commission voted to accept the petition based on its determination that there was sufficient information to indicate that the petitioned action may be warranted. On November 11, 2011, the Commission published notice of its findings to accept the amended petition for further review under CESA, as well as notice of the American pika's designation as a candidate species under State law (Cal. Reg. Notice Register 2001, No. 45-Z, p. 1826). With related notice of its candidacy, the CESA prohibition against unauthorized "take" of the American pika is currently in effect. (Fish & G. Code, § 2080, 2085).

Consistent with the Fish and Game Code and controlling regulation, the Department commenced a 12-month status review of the American pika following published notice of its designation as a candidate species under CESA. As part

of that effort, the Department solicited data, comments, and other information from interested members of the public, and the scientific and academic community; and the Department submitted a preliminary draft of its status review for independent peer review by a number of individuals acknowledged to be experts on the American pika, possessing the knowledge and expertise to critique the scientific validity of the report. (Fish & G. Code, §§ 2074.4, 2074.8; Cal. Code Regs., tit. 14, § 670.1, subd. (f)(2).) The effort culminated with the Department's final Status Review of the American pika (*Ochotona princeps schisticeps*) in California (February 25, 2013) (Status Review), which the Department submitted to the Commission at its meeting in Santa Rosa, California, on April 17, 2013. The Department recommended to the Commission based on its Status Review and the best science available to the Department that designating the American pika as a threatened or endangered species under CESA is not warranted. (Fish & G. Code, § 2074.6; Cal. Code Regs., tit. 14, § 670.1, subd. (f).) Following receipt, the Commission made the Department's Status Review available to the public, inviting further review and input. (*Id.*, § 670.1, subd. (g).)

On May 22, 2013, at its meeting in Los Angeles, California, the Commission considered final action regarding the Center's petition to designate American pika as an endangered or threatened species under CESA. (See generally Fish & G. Code, § 2075.5; Cal. Code Regs., tit. 14, § 670.1, subd. (i).) In so doing, the Commission considered the petition, as amended, public comment, the Department's 2008 Candidacy Evaluation Report, the Department's 2013 Status Review, and other information included in the Commission's administrative record of proceedings. Following public comment and deliberation, the Commission determined, based on the best available science, that designating American pika as an endangered or threatened species under CESA is not warranted. (Fish & G. Code, § 2075.5(1); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).) At the same time, the Commission directed its staff in coordination with the Department to prepare findings of fact consistent with the Commission's determination for consideration and ratification by the Commission at a future meeting.

Species Description

The American pika is a small mammal in the Order Lagomorpha. Until recently, the American pika was considered to consist of 356 subspecies belonging to five distinct evolutionary lineages. The five formerly recognized California subspecies are now regarded as one subspecies, *Ochotona princeps schisticeps*. The American pika occurs in most of the western United States and the Canadian provinces of Alberta and British Columbia. In California, it is found from the Oregon border south through the Cascade region to Tulare and Inyo counties in the Sierra Nevada. The American pika inhabits the range above the

mid-montane conifer belt in California's Sierra Nevada and other high elevation mountain ranges. Although often considered to be rare below 2,500 m elevation in California, American pikas have been reported at multiple locations below that elevation in the southern portion of their range, and in northeastern California they have been found as low as 1,250 m in elevation. The American pika primarily lives in high-elevation patches of talus with adjacent herbaceous or shrub vegetation, as well as in old lava formations.

American pikas are predominantly diurnal, although during hot weather they may adjust their daily activity pattern to avoid excessive heat. American pikas are territorial and their populations in many locations function as meta-populations. Dispersal by American pika from a population is generally believed to be more likely at high-elevation (cooler) sites than at warmer low-elevation sites. The American pika is herbivorous and engages in both feeding and haying (haypiling) while foraging. Haying is the caching of food for later consumption. The American pika harvests herbaceous vegetation or tall grasses for storage in hay piles, which allows them to survive harsh winters.

American pikas behaviorally thermoregulate in response to high ambient temperatures by reducing activity on warm days or during mid-day hours. The American pika does not hibernate but remains active throughout the winter, using cover to abate the effects of extremely cold temperatures and to access stored food. High temperature is a primary factor controlling the initial dispersal success of juveniles, primarily at low-elevation sites. In general, temperatures within the rock matrix of talus fields have been found to be lower and less variable than on the surface of the talus in the summer. Generally, winter temperatures within talus are warmer than the external air.

The population size for the American pika in California is uncertain but, based on the best available scientific information, it appears well-distributed and relatively stable.

Federal Status

The American pika is not currently listed as endangered or threatened nor is it a candidate for listing under the federal Endangered Species Act. In October 2007, the Center petitioned the U.S. Fish and Wildlife Service (Service) to list the American pika and conduct a status review of each of the recognized subspecies of American pika. The Service advised the Center that the petition could not be addressed at that time because existing court orders and settlement agreements for other listing actions required nearly all of the listing funding. Subsequently, the Center filed a notice of intent to sue over the Service's failure to publish a petition finding. The Service then entered into a settlement agreement requiring the Service to submit a petition finding to the Federal Register by May 1, 2009, and to submit a status review finding to the Federal Register by February 1, 2010. On February 10, 2010, the Service published the results of its status review, in which

it concluded that the American pika did not meet the criteria for listing under the federal Endangered Species Act (USFWS 2010). The Service acknowledged that the American pika is potentially vulnerable to the impacts of climate change in portions of its range, but that the best available scientific information indicated that the species will be able to survive despite higher temperatures and that there is enough suitable high elevation habitat to prevent the species from becoming threatened or endangered.

II. STATUTORY AND LEGAL FRAMEWORK

The Commission has prepared these findings as part of its final action under CESA regarding the Center's petition to designate American pika as an endangered or threatened species under CESA. As set forth above, the Commission's determination that listing American pika is not warranted marks the end of formal administrative proceedings under CESA prescribed by the Fish and Game Code and controlling regulation. (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.) The Commission, as established by the California Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, § 2070.)¹

The CESA listing process for American pika began in the present case with the Center's submittal of its petition to the Commission in September 2007. (Cal. Reg. Notice Register 2007, No. 38-Z, p. 1572.) The regulatory process that ensued is described above in some detail, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114-116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541-1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600; and
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111-1116.

The "is not warranted" determination at issue here for American pika stems from Commission obligations established by Fish and Game Code section 2075.5.

¹ The Commission, pursuant to this authority, may add, remove, uplist, downlist, or choose not to list any plant or animal species to the list of endangered or threatened species, or designate any such species as a candidate for related action under CESA. (See also Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A)-(C) and (2).) In practical terms, any of these actions is commonly referred to as subject to CESA's "listing" process.

Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether the petitioned action is warranted or is not warranted. Here with respect to American pika, the Commission made the finding under section 2075.5(1) that the petitioned action is not warranted.

The Commission was guided in making this determination by various statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease. (Fish & G. Code, § 2062.)

Similarly, the Fish and Game Code defines a threatened species under CESA as a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. (*Id.*, § 2067.)

Likewise as established by published appellate case law in California, the term "range" for purposes of CESA means the range of the species within California. (*California Forestry Association v. California Fish and Game Commission, supra*, 156 Cal. App.4th at p. 1540, 1549-1551.)

The Commission was also guided in making its determination regarding American pika by Title 14, section 670.1, subdivision (i)(1)(A), of the California Code of Regulations. This provision provides, in pertinent part, that a species shall be listed as endangered or threatened under CESA if the Commission determines that the species' continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

Fish and Game Code section 2070 provides similar guidance. This section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes

of CESA. (Fish & G. Code, § 2055.) This policy direction does not compel a particular determination by the Commission in the CESA listing context. Yet, the Commission made its determination regarding American pika mindful of this policy direction, acknowledging that “[l]aws providing for the conservation of natural resources’ such as the CESA ‘are of great remedial and public importance and thus should be construed liberally.” (*California Forestry Association v. California Fish and Game Commission*, *supra*, 156 Cal. App.4th at pp. 1545-1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish & G. Code, §§ 2051, 2052.)

Finally in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party. (See, e.g., *Id.*, §§ 2071, 2074.4, 2078; Cal. Code Regs., tit. 14, § 670.1, subd. (h).) The related notice obligations and public hearing opportunities before the Commission are also considerable. (Fish & G. Code, §§ 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; Cal. Code Regs., tit. 14, § 670.1, subds. (c), (e), (g), (i); see also Gov. Code, § 11120 et seq.) All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a 12-month status review of the candidate species culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science. (Fish & G. Code, §§ 2073.4, 2073.5, 2074.4, 2074.6; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (f), (h).)

III.

FACTUAL AND SCIENTIFIC BASES FOR THE COMMISSION’S FINDING

The factual and scientific bases for the Commission’s finding that designating American pika as an endangered or threatened species under CESA is not warranted are set forth in detail in the Commission’s administrative record of proceedings. The evidence in the administrative record in support of the Commission’s determination includes, but is not limited to, the Department’s 2008 Candidacy Evaluation Report and 2013 Status Review, and other information specifically presented to the Commission and otherwise included in the Commission’s administrative record as it exists up to and including the Commission meeting in Los Angeles, California, on May 22, 2013, and up to and including the adoption of these findings.

The Commission finds the substantial evidence highlighted in the preceding paragraph, along with other evidence in the administrative record, supports the Commission’s determination that the continued existence of American pika in the State of California is not in serious danger of becoming extinct or threatened by one or a combination of the following factors:

1. Present or threatened modification or destruction of its habitat;

2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human-related activities.

The Commission also finds that the same evidence constitutes sufficient scientific information to establish that designating American pika as an endangered or threatened species under CESA is not warranted. The Commission finds in this respect that the American pika is not in serious danger of becoming extinct throughout all, or a significant portion, of its range. Similarly, the Commission finds that, although the dynamics and effects of climate change due to global warming are real, the American pika is not presently threatened with extinction and it is also unlikely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by CESA.

The following Commission findings highlight in more detail some of the scientific and factual information and other evidence in the administrative record of proceedings that support the Commission's determination that designating American pika as an endangered or threatened species under CESA is not warranted:

1. The primary threat to the continued existence of the species is considered to be future climate change, which may reduce the area available as suitable habitat for American pika in California. However, some data suggest the American pika may be able to contend with a generally warmer and drier future climate.
2. The species is currently widely distributed in California and is thought to be common where it occurs. Although climate change has occurred and will continue to occur, the American pika has existed in western North America for millennia, during a period characterized by repeated periods of warming and cooling, suggesting the species may be able to persist during projected future changes.
3. The overall population size for the American pika in California is unknown and cannot be accurately determined because of the lack of available data on population numbers, densities, and trends over time across their range. However, resurveys of distribution at historically-occupied pika sites have been conducted in several areas in California, as well as in the Great Basin ranges of Nevada. In California, these studies have found pikas occupying some but not all of the historical sites. More study is necessary to fully understand the American pika's re-colonization behavior of historical sites. A recent meta-analysis of several resurvey projects found that the amount of talus habitat in the vicinity of the historical site had the

strongest ability to predict whether pikas still occupied the site. Elevation was another significant factor, with low elevation sites more likely to have lost pikas than high elevation sites. However, the extent of low elevation talus habitat available to American pika in California is not presently known.

4. The climate modeling studies reviewed by the Commission as part of its analysis of the pika CESA listing petition, as amended, do not typically consider aspects of a species' ecology other than the apparent correlations of species occurrence with (typically) coarse-scale climate variables. Nor do the models consider the capacity of the species to behaviorally or physiologically adapt to different climatic conditions. Additionally, the studies do not consider changes in human adaptation that could influence the model projected climate change. In sum, a number of survey studies on American pikas in California and elsewhere have explored the relationships between pika occurrence and climate variables. Although climate has been implicated in recent loss of pikas from some historically-occupied sites in some studies, other studies have not found such a pattern.
5. Because of the American pika's thermoregulatory characteristics, it has been suggested that several climate change effects could threaten the continued existence of the species, including mortality and stress associated with increasing temperatures; changes in foraging and dispersal behavior; mortality and stress associated with more extreme cold in the winter; changes in nutrient and water availability in forage plants; increased competition or predation; and combined effects of all these factors. However, American pika have been found in low-elevation areas (for example, Lava Beds National Monument) and studies on talus temperatures show ameliorative benefits of the talus ecology for the American pika (warmer in winter, cooler in summer), both of which suggest that American pika may be sufficiently adaptable to rising temperatures to persist despite global warming.
6. Other potential indirect effects on pikas due to climate change, such as how climate change may affect disease dynamics and predator-prey relations are presently unknown. Livestock grazing near talus habitat may affect pika habitat and cause pikas to change their foraging behavior. Mining may disturb or directly injure pikas. However, these potential impacts are not clearly understood.
7. The Commission considered factors such as overexploitation, predation, competition, and disease to not be a serious threat to the American pika currently or in the foreseeable future.

IV.

ADDITIONAL CONSIDERATIONS INFORMING THE COMMISSION'S FINAL DETERMINATION

The Commission's determination that designating American pika as an endangered or threatened species under CESA is not warranted is informed by various additional considerations. In general, the Fish and Game Code contemplates a roughly 12-month long CESA listing process before the Commission, including multiple opportunities for public and Department review and input, and peer review specifically whenever possible. (See generally Fish & G. Code, § 2070 et seq.; Cal. Code Regs., tit. 14, § 670.1.) The CESA listing process for American pika, in contrast, is approaching the 7-year mark. This length of time is not unusual compared to other recent CESA listing actions by the Commission.² What the length of time does underscore in the present case, however, is the depth, breadth, and complexity of the scientific and legal issues that the Commission has considered in making its final determination regarding American pika. This section highlights some of those issues to more fully document the Commission's final determination in the present case.

From the initial receipt of the Center's petition in August 2007 through the Commission's decision in May 2013 that listing is not warranted, the Commission received numerous comments and other significant public input regarding the status of American pika from a biological and scientific standpoint, and with respect to the petitioned action under CESA, including the listing process generally. Similarly, the Commission received many comments focusing on the current and historical status of American pika throughout all or a significant portion of its range. The Commission also received comments regarding the status of American pika under the federal Endangered Species Act (ESA)(16 U.S.C. § 1531 et seq.). Finally, the Commission received various comments and other important information regarding a number of scientific issues related to the status of American pika in California. The Commission, as highlighted below, was informed by and considered all of these issues, among others, in making its final determination that designating American pika as an endangered or threatened species under CESA is not warranted. (Fish & G. Code, § 2075.5(1); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).)

SCIENTIFIC DETERMINATIONS REGARDING THE STATUS OF THE AMERICAN PIKA IN CALIFORNIA

CESA directs the Department to prepare this report regarding the status of the American pika in California based upon the best scientific information. Key to the Department's related analyses are relevant factors highlighted in regulation.

² For example, with respect to the California tiger salamander, a species recently designated as endangered or threatened under CESA, the Commission received the petition on January 30, 2004, and adopted findings that listing is warranted on May 20, 2010. (See Cal. Reg. Notice Register 2004, No. 9-Z, p. 270; Cal. Reg. Notice Register 2010, No. 23-Z, p. 855).

Under the pertinent regulation, a “species shall be listed as endangered or threatened ... if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors: (1) present or threatened modification or destruction of its habitat; (2) overexploitation; (3) predation; (4) competition; (5) disease; or (6) other natural occurrences or human-related activities.” (Cal. Code Regs., tit. 14, § 670.1 (i)(1)(A)).

Also key from a scientific standpoint are the definitions of endangered and threatened species, respectively, in the Fish and Game Code. An endangered species under CESA, for example, is one “which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish & G. Code, § 2062.) A threatened species under CESA is one “that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of special protection and management efforts required by [CESA].” (Id., § 2067.)

Present or Threatened Modification or Destruction of Habitat

Projections of the effects human-caused climate change would have on the American pika are predicted based on climatic models and models of future habitat extent. These models indicate a possible reduction in the amount of suitable habitat for the American pika in California by the end of this century (2100). However, some of the models that predict American pika habitat failed to predict currently occupied habitat. Alternatively, some of the reduction in climatically suitable habitat conditions for the American pika in California may be ameliorated by behavioral and physiological mechanisms. In summary, the best available scientific information suggests a substantial reduction in the geographic range of the American pika in California could occur by 2100, but the effect on the species' future existence at that time is currently uncertain. A generally warming climate with more extreme weather conditions may have several impacts to American pika populations, including reduced opportunities for successful dispersal between habitat islands, reduced overwinter survival (reduced winter snowpack will reduce insulation cover and create harsher winter conditions or, conversely, heavier snowpack from extreme winters could delay spring emergence of forage vegetation), and these factors may interact with others to increase population impacts. There is significant, current uncertainty about the degree of continued warming and the effect of this continued warming on the ability of the American pika to persist in California during and after the timeframe current modeling suggests climate change may pose a significant threat to the species (2100 and after). In short, the Commission considers future habitat impacts of projected climate change may be a threat to the continued existence of the American pika in California by the end of the century, but not

until then at the earliest based on the best scientific information currently available.

Overexploitation

The American pika in California is designated as a nongame mammal, and therefore may not be legally taken. (See, e.g., Cal. Code Regs., tit. 14, § 472). There is no indication that American pikas have been harvested for recreational or commercial purposes. A few individual American pikas have been captured over the past several years for research purposes; only one mortality from these studies has occurred. The Commission determines based on the best scientific information available, there is not a threat to the species' continued existence due to overexploitation.

Predation

American pikas are subject to predation by a variety of native predators and are adapted to contend with predation pressure by several characteristics, such as vigilant behavior, central-place foraging with good escape cover, and relatively moderate reproduction rate. It is possible climate change may affect the predator-prey relationships for the pika, either by allowing additional predator species to move into areas occupied by the pika or by negatively impacting some current pika predators by altering their preferred prey. Climate change may force individual pikas to contend with greater predation risk while foraging or dispersing, or may relieve them of some predation risk. The Department concluded, and the Commission so finds, that the effects of predation as a threat to pika populations are uncertain, as are any climate change change-induced effects on predation, to American pikas. There is not sufficient scientific evidence to indicate that predation is a current threat to the continued existence of the species in California or that it will be in the foreseeable future

Competition

The Commission does not consider native competitors to the American pika in California to be a threat to the continued existence of the species. However, climate change may allow additional competitor species to move into areas occupied by the American pika and to impact those American pika populations. Additional or new competitors may reduce the fitness of individual pikas and reduce the viability of American pika populations where the competitors invade. However, it is also possible that some native competitors will be adversely affected by climate change, thus relieving American pikas of some competition from these species. The Department concluded, and the Commission so finds, that the effect and magnitude of climate change on species competition with American pikas are currently unknown. There is not sufficient, current scientific evidence to indicate that competition is a threat to or that it will be a threat in the foreseeable future to the continued existence of the American pika in California.

Disease

Diseases occur naturally in American pika populations. Health assessments of American pika populations in California are just beginning. As with the other factors, however, it is possible that climate change may facilitate the transmission or increase the virulence of diseases currently endemic in American pika populations. The Commission could not currently determine the magnitude of the risks to pika populations from disease, nor from the interaction of climate change and disease. The best scientific information available to the Department and the Commission from disease studies in other pika populations suggests this factor is not currently a threat nor will it be a threat in the foreseeable future to the continued existence of the species in California.

Other Natural Occurrences or Human-related Activities

The Commission does not consider mining or grazing to be significant threats to the continued existence of the American pika in California. Other human-related activities contribute to global climate change (e.g. fossil fuel emissions, land use practices, agricultural practices), and therefore indirectly threaten American pika populations in California through the habitat, competition, predation, and disease pathways discussed above. Most human-related (anthropogenic) contributions to global climate change are projected to increase in the future. The Commission finds that anthropogenic contributions to climate warming may pose a threat to the species by the end of the 21st century, but that the species is not currently in serious danger of becoming extinct throughout all or a significant portion of its range in California and the same is true of the foreseeable future.

Summary of Key Findings

Based on the criteria described above, the best scientific information available to the Commission indicates the American pika is not currently in serious danger of becoming extinct in California in the next few decades, nor at any time by the end of the century even if existing climate change models and the currently predicted trajectory of suitable pika habitat in California comes to fruition at that time. At the present time, in contrast, the species is widespread through its known range in California and the uncertainty of the models precludes the ability of the Commission to categorically know or state the danger of the threat to the species. Models predict reduction in American pika habitat and therefore populations, distribution, and abundance, but not extinction.

It will be imperative for the Department and for the conservation community to study and monitor the distribution and abundance of the American pika over the next few decades, and as climate change models become more data driven, to be able to better assess the foreseeable future. Such monitoring will ultimately inform the Department from a scientific basis whether the American pika is

trending toward a serious danger of becoming extinct, or not. In that regard, the Department has made a number of future management recommendations, including:

- Habitat-specific demographic information for the American pika, as per Kreuzer and Huntly (2003), should be collected by the Department and its partners. Such studies would inform conservation planning for the American pika by allowing better evaluation of habitat areas needing protection, as well as adaptation planning for climate change.
- Comprehensive genetic studies of American pika populations in California and adjacent states should be conducted to provide a better understanding of the genetic structure of the schisticeps subspecies. Such information is essential for conservation planning.
- Research and consider implementing management activities that would ensure that American pika populations persist despite projected climate change impacts.
- Continue and expand monitoring efforts for pika populations and their habitat as part of comprehensive climate change monitoring and adaptation planning for high-elevation small mammal communities in California.³
- Assess and recommend measures to reduce potential significant impacts to American pika populations associated with activities such as mining and livestock grazing, as part of the environmental review process for such projects.
- Assess the greenhouse gas emissions associated with proposed projects and activities reviewed under the California Environmental Quality Act. Such assessments and associated recommendations should be made by the Department as part of its general approach to the issue of climate change.
- Adaptation planning for climate change impacts on California's wildlife is an on-going task of the Department. See the California Climate Change

³ The Department, along with federal and academic partners, led the formation in 2009 of the California Pika Consortium (CPC). The CPC consists of pika researchers, wildlife and land management agency representatives, and non-government organization members with its major purpose of facilitating communication on issues related to the American pika and other high-elevation small mammals in California. The group has generally met once or twice a year since its first meeting in 2009 to share information, prioritize research topics, discuss standardized field techniques, and to visit natural and human-made pika sites in the eastern Sierra Nevada and western Great Basin. The CPC served as the model for the formation of the North American Pika Consortium (NAPC), which pursues similar goals throughout the geographic range of pikas in North America; CPC members are actively engaged with NAPC activities. These two organizations provide a forum for discussions of American pika biology, conservation, and adaptation planning. The Department will continue to rely on the CPC for information related to the American pika.

Adaptation Strategy (California Natural Resources Agency 2009 and DFG's Vision Document, DFG Climate Science Web Page) for more information. The Department, along with its diverse group of stakeholders, is also actively working to address climate change adaptation actions for fish, wildlife, and habitats across the state. Integrating climate change considerations into Department functions, management activities, and conservation planning efforts such as the state Wildlife Action Plan, are serious undertakings by the Department that have placed it on the path towards successfully addressing climate change and the many challenges it presents.

- Complete the Mammal Species of Special Concern update to determine whether the American pika should be designated as a Species of Special Concern.⁴ Conduct the follow-up climate-change analysis for the American pika and other at-risk mammal taxa currently funded by a State Wildlife Grant. Depending on the results of these analyses, the American pika may be among those species prioritized for additional research and monitoring if funding is available.

⁴ "Species of Special Concern" (SSC) is a Department administrative designation intended to alert biologists, land managers, and others to a species' declining status and to encourage them to afford these species additional management consideration. SSCs are defined as species, subspecies, or distinct populations of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, in its primary seasonal or breeding role; is listed as federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not been formally listed; is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status (Comrack et al. 2008).

The Mammal Species of Special Concern (MSSC) list had been in a state of ad hoc revision since the list was established in 1986 (Williams 1986). The American pika is not currently designated as an MSSC. The MSSC list is now undergoing a formal update and revision using an objective, criterion-based method developed by the Department (see Shuford and Gardali 2008 for a recent published example of the current method). As part of the update process, the American pika is being evaluated, scored, and ranked using eight criteria along with all other mammalian taxa naturally occurring in California. It is too early in the evaluation process to ascertain whether the American pika will be on the updated MSSC list. Additional evaluation of climate change impacts to California mammals, including the American pika, will be made in a follow-up analysis for the MSSC project.

Finally, the issues highlighted in this section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for American pika. The issues addressed here in these findings represent some, but not all of the information, issues, and considerations affecting the Commission's final determination. Other issues aired before and considered by the Commission are addressed in detail in the Commission's administrative record of proceedings.

**V.
FINAL DETERMINATION BY THE COMMISSION**

The Commission has weighed and evaluated all information and inferences for and against designating American pika as an endangered or threatened species under CESA. This information includes scientific and other general evidence in the Center's 2007 petition, as amended, the Department's 2008 Candidacy Evaluation Report and 2013 Status Review, and the Department's related recommendations based on the best available science, written and oral comments received from members of the public, various public agencies, and the scientific community; and other evidence included in the Commission's administrative record of proceedings. Based upon the evidence in the administrative record the Commission has determined that the best scientific information available indicates that the continued existence of American pika in California is not in serious danger or threatened in the foreseeable future by present or threatened modifications or destruction of the species' habitat, overexploitation, predation, competition, disease, or other natural occurrences or human-related activities; stated another way, the Commission did not find sufficient evidence of endangerment at this time. (See generally Cal. Code Regs., tit. 14, § 670.1, subd. (i)(1)(A); Fish & G. Code, §§ 2062, 2067.) The Commission finds for the same reason that there is not sufficient scientific information at this time to indicate that the petitioned action is warranted. (See *Id.*, § 2070.) The Commission finds, as a result, that designating American pika as an endangered or threatened species under CESA is not warranted and that, with adoption of these findings, American pika for purposes of its legal status under CESA shall revert to its status prior to the filing of the Center's 2007 petition. (*Id.*, § 2075.5(2); Cal. Code Regs., tit. 14, § 670.1, subd. (i)(2).)

Fish and Game Commission

Dated: December 11, 2013

Sonke Mastrup
Executive Director

BOS-11 electronically

Commissioners
Michael Sutton, President
Monterey
Richard Rogers, Vice President
Santa Barbara
Jim Kellogg, Member
Discovery Bay
Jack Baylis, Member
Los Angeles
Jacque Hostler-Carmesin, Member
McKinleyville

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Fish and Game Commission



December 24, 2013

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the Northern spotted owl which will be published in the California Regulatory Notice Register on December 27, 2013.

Sincerely,

Sheri Tiemann
Sheri Tiemann
Associate Governmental Program Analyst

Attachment

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**CALIFORNIA FISH AND GAME COMMISSION
NOTICE OF FINDINGS**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Fish and Game Code Section 2074.2, the California Fish and Game Commission (Commission), at its August 7, 2013, meeting in San Luis Obispo, accepted the petition filed by the Environmental Protection and Information Center to list the Northern spotted owl (*Strix occidentalis caurina*) as an endangered or threatened species based on a finding that the petition provided sufficient information to indicate that the petitioned action may be warranted. At this meeting, the Commission announced its intention to ratify its findings at a future meeting.

NOTICE IS ALSO GIVEN that, at its December 11, 2013, meeting in San Diego, the Commission adopted the following findings outlining the reasons for the acceptance of the petition.

BACKGROUND

September 7, 2012. The Commission office received a petition from the Environmental Protection Information Center (EPIC) to list the Northern spotted owl as endangered or threatened under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.).

September 10, 2012. The Commission office referred the petition to the Department of Fish and Wildlife (Department) for review and analysis pursuant to Section 2073.5 of the Fish and Game Code.

October 5, 2012. The Commission submitted a notice of receipt of the petition, for publication in the California Regulatory Notice Register, as well as for mailing to interested and affected parties.

November 19, 2012. The Department submitted a written request for a 30-day extension to evaluate the petition.

December 12, 2012. The Commission approved the Department's request for a 30-day extension to evaluate the petition.

February 6, 2013. The Department submitted its written initial evaluation of the petition (report).

March 6, 2013. The Commission announced receipt of the Department's report and indicated its intent to consider the petition, the Department's report, and public comments at the April 17, 2013 meeting.

April 17, 2013. The Commission considered the petition, the Department's report, and took additional related public comments. Thereafter, the Commission postponed further deliberations concerning the petition until the August 7, 2013 meeting in order to receive further information on questions raised during the meeting.

August 7, 2013. The Commission took further comments, deliberated, and accepted the petition, finding that it contained sufficient information to indicate the petitioned action may be warranted. The Commission directed staff to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.

II STATUTORY REQUIREMENTS

A species is endangered under CESA if it "is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease." (Fish & G. Code, § 2062.) A species is threatened under CESA if it is "not presently threatened with extinction [but] is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA]..." (*Id.*, § 2067.) The Commission exercises exclusive statutory authority with respect to whether a species should be listed as endangered or threatened under CESA. (*Id.*, § 2070.)

The Commission makes the determination as to whether a species currently faces a serious danger of extinction throughout all or a significant portion of its range, (or for a listing as threatened whether such a future threat is likely) on a case-by-case basis after evaluating and weighing all available biological and management information.

Non-emergency listings involve a two-step process. First, the Commission considers a petition to list the species and determines whether the petitioned action "may be warranted." (Fish & G. Code, § 2074.2.) If it determines the action "may be warranted," the species is designated as a candidate, related regulatory protection attaches to the species following published notice, and the Department commences a year-long scientific, peer-reviewed study of the species' status in California. (Fish & G. Code, §§ 2074.6, 2084, 2085.) At the second step of the listing process, the Commission considers the Department's status report and information provided by other parties, and makes a final decision whether to formally list the species as endangered or threatened. (*Id.*, § 2075.5.)

To be accepted by the Commission as an initial matter, a petition to list a species under CESA must include sufficient scientific information that listing may be warranted. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subds. (d), (e).) The petition must include information regarding the species' population trend, range, distribution, abundance and life history; factors affecting the species' ability to survive and reproduce; the degree and immediacy of the threat to the species; the impact of existing management efforts; suggestions for future management of the species; the availability and sources of information about the species; information about the kind of habitat necessary for survival of the species; and a detailed distribution map. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).)

Within 10 days of receipt, the Commission forwards the petition to the Department for an initial evaluation. (Fish & G. Code, § 2073.) Within 90 days thereafter, CESA directs the Department to submit an initial report to the Commission evaluating the information for and against the petitioned action, and including a recommendation on whether the petitioned action may be warranted. (Fish & G. Code, § 2073.5.) The Department may request and be granted a time extension of up to 30 additional days to submit its initial evaluation report to the Commission. (*Ibid.*) Upon receipt of the Department's initial report, the Commission schedules the petition for consideration at a noticed public hearing. (*Id.*, § 2074.) At the hearing, the Commission considers the petition itself, the Department's initial written evaluation of the petition, and other comments and information received by the Commission regarding the petitioned action. The Commission, in turn, considers whether there is sufficient scientific information to indicate the petitioned action may be warranted. (*Id.*, § 2074.2.)

The requisite standard of proof to be used by the Commission in deciding whether listing may be warranted was described in *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104 (NRDC). In NRDC, the court determined that “the section 2074.2 phrase ‘petition provides sufficient information to indicate that the petitioned action may be warranted’ means that amount of information, when considered in light of the Department’s written report and the comments received, that would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur[.]” (*Id.* at p. 1125.) This “substantial possibility” standard is more demanding than the low “reasonable possibility” or “fair argument” standard found in the California Environmental Quality Act (CEQA), but is lower than the standard for a preliminary injunction, which would require the Commission to determine that a listing is “more likely than not” to occur. (*Ibid.*) Distinguishing the fair argument standard under CEQA, the NRDC court also noted the “substantial possibility” standard at candidacy under CESA involves an exercise of the Commission’s discretion, and a weighing of evidence for and against listing. (*Ibid.*)

In *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597 (CBD), the court acknowledged “the Commission is the finder of fact in the first instance in evaluating the information in the record.” (*Id.* at p. 611, citing NRDC, 28 Cal.App.4th at p. 1125.) The court explained:

“If the information clearly would lead a reasonable person to conclude that there is a substantial possibility that listing could occur, rejection of the petition is outside the Commission’s range of discretion under section 2074.2. (*Id.* at p. 611.)

[T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department[.]”

(*Ibid.*)

Thus at candidacy, without choosing between conflicting inferences, the Commission must objectively evaluate and weigh the information both for and against the listing action and determine whether there is a substantial possibility that the listing could occur. (*Id.* at p. 612.) In order for the Commission to reject a petition, the scientific evidence viewed as a whole must establish the absence of a substantial possibility that the listing could occur.

III REASON FOR FINDING

The following discussion sets forth and provides an explanation of the bases for the Commission’s determination that the petition provides sufficient information to indicate that the petitioned action to list the Northern spotted owl (NSO) as threatened or endangered may be warranted. The discussion below is not a comprehensive overview of all information considered by the Commission in reaching its determination. However, all written and oral comments, and other information presented to the Commission regarding the petition are considered part of the administrative record of proceedings. The Commission made its determination based upon and after considering its administrative record of proceedings.

Guided by the *NRDC* and *CBD* cases, the Commission now finds, pursuant to Fish and Game Code section 2074.2, subdivision (a)(1), that the petition and other information provide sufficient information to indicate that the petitioned action may be warranted. The Commission also finds that the information before the Commission would lead a reasonable person to conclude that there is a substantial possibility that the listing could occur.

The specific bases for these findings are as follows:

1. Population Size and Abundance:

The petition (pages 12-15) does not include direct information about the population size or abundance of NSO populations in California, nor does it discuss abundance range-wide. The Department deemed the relevant information found in the literature cited in the petition and other scientific documents consulted for its evaluation report to be inconclusive to determine the abundance of NSO range-wide or in California, and concluded that further research and analysis is required to determine the abundance for NSO populations in California. (Evaluation Report, page 6.)

Based on information in the petition and other data available to the Department at the time of its evaluation, the Department's report states that there is uncertainty about whether the declining population trends from specific study areas has translated into an overall decrease in abundance of NSO in California. (Evaluation Report, page 6.) However, based on the studies and the potential threats, the Department acknowledges that abundance may have declined. (Evaluation Report, page 6.)

Comments received from Humboldt Redwood Company (HRC) assert that HRC has, "through our surveys and monitoring over time, found that HRC's forestlands contain a very high density of NSO occurring on the managed landscape." (4/4/13 letter to FGC, page 1.)

2. Population Trend:

The petition summarizes the population trend of NSO (pages 3, 12-15), but does not assess the species' current population trend in California specifically. The petition describes declining population trends over the entire range of NSO, including California, Oregon, and Washington in the United States, and British Columbia, Canada. The petition (pages 13-14) primarily cites a recent study (Forsman et al. 2011) that analyzed eleven study areas spanning Washington, Oregon and northern California cumulatively comprising approximately 9% of the NSO's range. This study indicates an average annual decline of 2.9% for the entire population from 1985 to 2006. For California, two of the three study areas identified declining annual population trends over the analysis period; 1.7% for NSO in Northwest California (1988-2006) and 2.8% for NSO within Green Diamond (1990-2006) land ownership. The third California study area (Hoopa: 1992-2006) is apparently stable, with a point estimate of decline that is not statistically significant.

The evaluation report notes that, while the Department maintains a spotted owl occurrence database that consists of occurrences for both NSO and California spotted owls, until recently the database has not been regularly updated due to budget constraints and therefore population trend data for northern spotted owl populations in California are not readily available to the Department. (Evaluation Report, page 5.) Reports from Mendocino Redwood Company (MRC 2010), Humboldt Redwood Company (HRC 2012), and Green Diamond Resource Company (Green Diamond 2011)

summarized survey results over at least a 10-year period and estimated population trend as characterized by territory occupancy. Respectively, the first report indicated a stable occupancy rate; the second, a varying but apparent overall downward trend; and the third a downward trend over the 10+ year time frame. (Evaluation Report as amended, page 5.) The annual progress report for federal lands in Northwestern California shows a fairly stable NSO population over the last 15 years, however, a body of recent research indicates that increasing threats from barred owls and other factors may negatively influence this trend in the future (Franklin et al. 2012) (Evaluation Report, page 5.)

The petition also discusses and cites literature that indicates population trends on public land declined at a slightly lower rate than those on privately owned and managed lands (Anthony 2006, Davis et al. 2011, Forsman et al. 2011) (page 14). These studies consider the difference to be largely due to the management guidelines developed in the Northwest Forest Plan including the retention of late seral forest stands and other high quality NSO habitats required in the plan. For 8 sites located on federal lands in portions of California, Oregon and Washington from 1985 to 2008, the NSO population trend shows a 2.8% decline each year. The annual decline for just the Northwestern California NSO study area during this period was 1.7% (Davis et al. 2011).

Comments received from HRC assert that “there does not appear to be evidence of a steady decline, and to the contrary there appears to be a stable or slightly increasing number of NSO.” (4/4/13 letter to FGC, page 1.) Comments received from Mendocino Redwood Company (MRC) assert that “occupancy estimates for NSO territories show, at a minimum, a dynamically stable population trend over the past 13 years” and “territory occupancy remained relatively constant over this time and increased slightly during the past three years.” (4/5/13 letter to FGC, page 1.) Comments received from Sierra Pacific Industries (SPI) cite a “5-year landscape survey strategy” on “170,000 acres of SPI ownership,” the results of which “indicated over the 23 years to date since 1989, the study area...demonstrates a stable population...” (4/5/13 letter to FGC, page 2.) Campbell Timberland Management (CTM) asserts that, “[a]lthough we have not conducted an analysis of annual rates of population change for the NSO on the [approximately 165,000 acres of industrial timberlands] ownerships, other analyses have been conducted suggesting the populations of NSOs occurring on the ownerships are stable.” CTM concludes that “[e]ven though our analyses are not robust indicators of annual rates of population change as they do not consider contributions of variables such as immigration, productivity, and other vital rates in open populations, it provides evidence of no discernible decline of NSOs in the study area regardless of contributory effects.” (4/5/13 letter to FGC, pages 1-2.) Crane Mills asserts that “[b]ased on our analysis, we can safely conclude that the NSO population in and around our Main Block ownership is stable and has been over the last 24 years.” (4/11/13 letter to FGC, page 3.)

Based on information in the petition and other data consulted for the petition evaluation, the Department concluded in its report that there is sufficient evidence to conclude that population trends are declining and warrant further evaluation to determine the extent of the decline in terms of the population’s threat of extinction. (Evaluation Report, page 5.)

3. Population Range and Distribution:

The petition (pages 7-10) accurately describes the known historic and current NSO range in California that runs south from Siskiyou to Marin County in Northwestern California. It also discusses that the ranges of the NSO and California spotted owl meet at the southern end of the Cascade Range, near the Pit River area (Gutiérrez and Barrowclough 2005). The petition (Figure 1 on page 8) identifies all

the occupied physiographic provinces in the U.S. occupied by NSO, including three in California: California Coast, California Klamath, and California Cascades (USFWS 2008b).

The petition does not discuss a recent restriction or contraction of the species range or any changes or stability of the range in California; however, the factors identified as contributors to range reduction in the northern part of the species' range may also be factors in many California locations. (Evaluation Report, page 6.)

The petition (pages 9-10) includes very limited information addressing NSO distribution. The current distribution map included with the Department's report shows an increase in the total number of known records, but does not readily impart any new information about the distribution of NSO in California. (Evaluation Report, page 6 and Appendix B.)

The Department did not find evidence to indicate that the distribution of NSO has changed during the time period of years for which surveying/monitoring of the species distribution has occurred. (Evaluation Report, page 6.)

4. Kind of Habitat Necessary for Survival:

The petition (pages 11-12) lists general, range-wide habitat characteristics necessary for NSO survival, including relatively large areas of complex, older forests for breeding, foraging, roosting and dispersal life history functions (Forsman et al. 2011). However, the petition does not specifically describe habitats that exist in California, nor how available habitat types influence NSO populations found in the state. The only habitat information related to California in the petition attributed to Franklin et al. (2000) is nonspecific to habitat types (page 12).

The petition cites research supporting the assertion that both the amount and the spatial distribution of nesting, roosting, foraging, and dispersal habitat influences NSO reproductive success and long-term population viability (pages 11-12). The petition and the Department's report agree that there have been extensive studies supporting a strong association of northern spotted owls with older forests throughout its range. (Evaluation Report, page 8.)

Citing Diller and Thome (1999), the petition states that breeding occupancy is related to the presence of mature and old-growth forests in Northwestern California, as NSO usually occur in the oldest forests available on private lands (page 12). Then, citing several studies (Carey et al. 1992, Rosenberg and Anthony 1992, Buchanan et al. 1995, LaHaye and Gutiérrez 1999, Lehmkuhl et al. 2006) the petition identifies understory structural characteristics of late-successional forest habitats as important for NSO and its prey (page 12). These conclusions are supported by the referenced studies and the information the Department has in its possession. (Evaluation Report, page 8.)

The petition states that NSO fecundity, production, survival, and recruitment are positively correlated to a larger proportion of older forest habitats in a pair's home range (Forsman et al. 2011, Bart and Forsman 1992, Franklin et al. 2000, Dugger et al. 2005, Olson et al. 2004)(page 12). Additionally, the effects of barred owls have been found to increase with a decrease in the proportion of old forest habitat in a home range (Dugger et al. 2011); however, most of these studies cited are associated with habitats in Southern Oregon and would need further analyses to determine how strongly this correlates with habitats found in California. (Evaluation Report, page 8.)

The petition describes dispersal habitat (page 12) as forested stands with adequate tree size and canopy closure to provide for foraging opportunities and protection from avian predators. The Petition asserts that population growth can occur only if there is adequate habitat in an appropriate configuration to allow for the dispersal of owls across the landscape; including dispersing juveniles, nonresident sub-adults, and adults that have not yet recruited into the breeding population (page 12). The Department's report cites studies (e.g., Davis and Lint 2005) showing a distinct lack of dispersal habitat connectivity within two of the three California Provinces (California Coast and Cascades Provinces). (Evaluation Report, page 8.) However, the Department notes that this and other studies show that a variety of habitats are used for dispersal, and more information is needed to determine what key elements of dispersal habitat structure are required for a sustainable population range-wide and in California (LaHaye and Gutiérrez 1999, Thome et al. 1999, Franklin et al. 2000, Gonzales 2005, Phillips et al. 2010). (Evaluation Report, page 8.)

Comments received from the California Forestry Association (CFA) assert that "Habitat for the NSO is abundant and of high quality on California's private forestlands. The dynamic yet stable population of [NSO] on private forestlands in California is indicative of the high-quality habitat that is present on these lands. California's private forestlands are some of the most productive in the nation, for not only the sustainable production of forests and their products, but also for the production of prey and food sources for the [NSO]. This abundant food source actually results in a smaller home range for many [NSOs], quite often resulting in higher densities of NSO on private forestlands than public." (4/12/13 letter to FGC, page 2.)

Comments received from the Sierra Club's Redwood Chapter and Sierra Club California criticize the "U.S. Fish and Wildlife Service strategy for spotted owl recovery centered on the creation of a network of federally-owned 'late-successional reserves' as habitat islands for [NSO], while largely ignoring habitat destruction elsewhere. As a result, [NSO] have been nearly extirpated on state and private lands throughout the region, and their population status on federal lands remains precarious." (4/10/13 letter to FGC, page 1, 4/16/13 letter to FGC, page 1.)

5. Degree and Immediacy of Threat:

The petition (page 3 and pages 15-25) discusses the degree and immediacy of threat to NSO, relying on sources ranging from USFWS federal listing documents to specific focused studies. The petition provides information that spans potential or documented threats to NSO range-wide, including impacts to the owl populations and prey base, loss of critical habitats by fire, logging and urban development, and other potentially increasing impacts by barred owls, predation, and disease.

The Department's report notes that while the petition did not discuss potential impact and degree of threat from climate change, the research readily available suggests it poses a threat that warrants a full evaluation (Franklin et al. 2000, Spies et al. 2010, Glenn et al. 2011). (Evaluation Report, page 10.)

While loss of late-seral forest and other required habitat elements across the NSO's range is well-documented (USFWS 2011a, Moeur et al. 2005, Raphael 2006, Courtney et al. 2004), the petition describes extensive habitat loss in Washington and Oregon over the last 20 years (Courtney et al. 2004, Davis and Lint 2005, Campbell et al. 2010) but does not cite studies discussing historic or recent habitat loss for California. The petition instead identifies twenty-seven Sierra Pacific Industries (SPI) timber harvesting plans (THPs) (Table 3 in the Petition) as activities "destroying northern spotted owl habitat in violation of the ESA Section 9 'Take' prohibition" (pages 16-17), and

concludes that over 2833 ha (7000 ac) of NSO habitat have been or will be destroyed by these plans. However, no supporting data was provided with the petition for the information in the table, and the Department's report concludes that a more in-depth evaluation is needed to assess the impacts of timber harvest activities in California for direct, indirect and cumulative effects to NSO populations. (Evaluation report, page 10.)

The petition and the Department's report agree that one of the greatest threats to the NSO, both in California and across its range, is the increasing competition by the barred owl. Barred owls have expanded westward and now completely overlap the range of the NSO. The barred owl is known to prey upon, hybridize with, displace and out-compete northern spotted owls (USFWS 2011a). The petition and the Department's report agree that the barred owl poses an increasing threat to NSO due to competition for breeding and foraging habitats, and the associated significant negative effects on NSO reproduction and survivorship. (Evaluation report, page 11.)

The Department's report shows a north to southward trend in the expansion of the barred owl range, with this threat recently moving into California. Studies cited in the Department's report indicate that the barred owl may be the primary reason for the near-extirpation of NSO in Canada, as well as the factor in the marked declines in Washington and Oregon (Forsman 2011, USFWS 2011a, USFWS 2012b, Dark et al. 1998, Kelly et al. 2003). (Evaluation report, page 11.) After a period of initial invasion, barred owl populations increase as do their potential impacts to NSO. Currently, the California portion of the NSO's range is experiencing the post-invasion increase in barred owls. As in other parts of the NSO's range, the barred owl may be the primary reason for recent declines in California. Recent scientific information (Diller et al. 2010) cited in the Department's report suggests a strong negative link between barred and NSO. The related research cited above on Green Diamond Resource Company land found in most cases that NSO reoccupied areas where barred owls were removed. (Evaluation report, page 11.)

The petition further identifies predation and West Nile Virus as potential threats that may have a negative impact on the northern spotted owl populations in the future (page 18). A more thorough evaluation of current research is required to determine the extent to which these factors may influence owl population viability in California. The Department's report identifies Trichomoniasis as a disease that has been recently identified in NSO carcasses (CDFG 2012b) but which requires more analysis prior to understanding the disease or its impact on the species. (Evaluation report, page 11.) While the petition suggests certain correlations regarding predation and disease impacts to NSO, the Department's report concludes that, in the absence of research specific to diseases and predation effects in California, the scientific uncertainty limits conclusions regarding the importance of these factors in affecting the viability of NSO populations without further evaluation. (Evaluation report, page 11.)

Much of the information included in the petition supporting the degree and immediacy of threat was derived from studies conducted outside of California. However, the Department's report points out that, while the magnitude and mechanisms of the threats may differ between California and other portions of the NSO's range, the non-California studies provide useful information regarding potential in-state threats. (Evaluation report, page 11.)

Comments received from the Sustainable Forest Action Coalition raise the threat of fire and state that "[w]ithout the flexibility to properly manage our public and private forest land, our state faces even more issues that are at least as or more critical than this current NSO issue...Allowing management on these forest lands is our only hope for reduction in size, number and intensity of wildfires...It is common that these fires are destroying more NSO, Goshawk, fisher and other

species habitat than has ever been impacted by proper forest management.” (4/11/13 letter to FGC, page 2.)

Comments received from the Sierra Club’s Mother Lode Chapter list “habitat loss due to aggressive logging practices, competition from the barred owl, and the absence of species recovery efforts” as threats “heavily impact[ing]” NSO. (4/15/13 letter to FGC, page 1.) Comments received from Forests Forever assert that “[c]oupled with continued habitat loss is the very significant threat posed by the barred owl, which displaces [NSO] and thrives in the highly fragmented and simplified industrial forest landscapes.” (7/19/13 letter to FGC, page 1.)

6. Existing Management Efforts:

The petition (pages 19-23) asserts that there are overall regulatory and management inadequacies between federal lands, non-federal lands, and within each U.S. state within the NSO’s range. The petition points to the inadequacy of federal protections to stop declines in NSO populations in California, noting that the NSO population has not stabilized since the 1990 Federal Endangered Species Act (ESA) listing in spite of the protections afforded by the Northwest Forest Plan (NWFP) (Davis et al. 2011, USFWS 2011a). The Petition concludes that this is due to insufficient protections and a lack of recovery planning outside of late-successional reserves established on federal lands by the NWFP (page 19).

The petition cites DellaSala 2011 for the proposition that management deficiencies occur in the following areas:

- (a) variable and often inadequate protection given to owls and owl habitat;*
- (b) lack of landscape-scale planning, especially on non-federal lands;*
- (c) use of survey protocols and other standards that fail to incorporate current relevant science;*
- (d) prevalence of discretionary guidelines and/or unclear or unsuitable direction;*
- (e) failure to consistently require involvement of personnel with biological expertise in evaluating/assessing ecological information. (page 19.)*

The Department’s report explains that, while it conducted “take” consultations of all THPs until June 1999, its involvement in biological assessment and evaluation for the species in THP review has been limited in the last few years. Subsequently, the U.S. Fish and Wildlife Service (USFWS) picked up the work until about spring 2008, when the California Department of Forestry and Fire Protection (CAL FIRE) began reviewing THPs following USFWS guidelines and supported by technical assistance from USFWS regarding specific plans and issues. Beginning January 1, 2013, the Department will resume full participation in the THP review process. (Evaluation report, page 12.)

The petition asserts that NSO’s federal threatened designation under ESA, which prohibits all non-permit take, is insufficient to ensure the long-term survival of NSO in California (page 19). The Department’s report indicates that the USFWS has issued survey guidance, including updates (most recently, USFWS 2011b) to identify situations where a development project may take an NSO. (Evaluation report, page 12.)

The Department’s revised report indicates that NSO is currently designated a species of special concern in California, and governmental entities and land managers are required to evaluate any potential impacts to native biological resources during CEQA review. Projects that have the

potential to impact NSO are required to comply with the California Environmental Quality Act (CEQA) or an equivalent Certified Regulatory Program such as the Forest Practices Act. (Evaluation report, pages 12-13.) To comply with CEQA dictates, projects must avoid “take” under the federal ESA and must be developed to identify and mitigate significant direct and cumulative significant impacts. CAL FIRE has also developed guidance specific to California to avoid take of NSO by timber harvest (CALFIRE 2012). (Evaluation report, page 13.)

Comments received from Green Diamond Resource Company (GDRCo) assert that “[e]xisting management efforts to protect and conserve the NSO in California have been and continue to be effective because of the direct requirements of the ESA, and because of the response of the State of California and landowners to the federal ESA listing of the NSO that has been in place for over 20 years.” (4/12/13 letter to FGC, page 3.) GDRCo additionally states that “listing of the NSO under the CESA will not improve on the existing procedures and standards for the protection and conservation of NSO that apply to federal actions and state and local projects in California,” however, such a listing “does have the potential to interfere with existing conservation efforts dedicated to NSO in California” by interfering with the implementation of habitat conservation plans. (4/12/13 letter to FGC, page 5.) Comments received from the CFA laud “California’s robust regulatory process” which ensures that timber harvesting plans “contain provisions for the protection of NSO individuals, nests, related activity centers, and the surrounding forest habitat.” (4/12/13 letter to FGC, page 2.)

Comments received from the Sierra Club’s Redwood Chapter assert that, “[a]lthough listed as ‘threatened’ under the federal ESA for more than 20 years, [NSO] populations continue to decline, with an acceleration of the trend in recent years. In California, vast areas that once offered prime habitat no longer support any [NSO] at all. Relentless habitat loss, competition from the invasive barred owl, and inadequate regulatory mechanisms are combining to push this species ever closer to extinction.” (4/10/13 letter to FGC, page 1.) Comments received from Forests Forever cite the “inadequacy of regulatory mechanisms, especially the lack of recovery efforts on state and private lands,” for the conclusion that “[w]ithout CESA protections, a more holistic view of species recovery and landscape-scale conservation that includes private and state owned lands, the [NSO] is likely to go extinct in the foreseeable future.” (4/11/13 letter to FGC, page 1.) Forests Forever additionally states that “[t]he heavy reliance on fragmented reserves on federal lands without a comprehensive approach to [NSO] conservation on non-federal lands has proven to be a critical error, and one of the primary reasons why recovery has failed.” (7/19/13 letter to FGC, page 1.)

IV FINAL DETERMINATION BY COMMISSION

The Commission has determined and hereby finds based on its administrative record of proceedings that there is sufficient scientific information to indicate that listing NSO as endangered or threatened may be warranted. In making this determination, the Commission finds its administrative record includes sufficient scientific information to lead a reasonable person to conclude there is a substantial possibility that the listing could occur. In short:

- Data indicates the NSO population trends in California may be in decline and warrant further examination to determine the extent of the decline in terms of the threat of extinction;

- Information indicates the loss of suitable habitat from either timber management activities, catastrophic wild fires, or both may be a threat to the northern spotted owl across its entire range. Again, however, further examination of the loss of suitable habitat is warranted to assess the impacts of, among other things, timber harvest activities in California for direct, indirect, and cumulative effects to northern spotted owl populations;
- Information indicates that another threat to the northern spotted owl in California may be increased competition by the barred owl (*Strix varia*). Evidence indicates barred owls may pose a threat to northern spotted owls due to competition for breeding and foraging habitats, and the associated significant negative effects on northern spotted owl reproduction and survivorship; and
- Disease and effects of climate change on habitat are uncertain, but pose potential new threats to the northern spotted owl in California that also merit further consideration to assess existing science regarding the species' status in California.

Fish and Game Commission

Dated: December 11, 2013

Sonke Mastrup
Executive Director

BDS-11 electronically

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Sonke Mastrup, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
(916) 653-5040 Fax
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Commissioners
Michael Sutton, President
Monterey
Richard Rogers, Vice President
Santa Barbara
Jim Kellogg, Member
Discovery Bay
Jack Baylis, Member
Los Angeles
Jacque Hostler-Carmesin, Member
McKinleyville

Fish and Game Commission



RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
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AK

December 24, 2013

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Findings regarding the Townsend's big-eared bat (*Corynorhinus townsendii*) which will be published in the California Regulatory Notice Register on December 27, 2013.

Sincerely,

Sheri Tiemann
Sheri Tiemann
Associate Governmental Program Analyst

Attachment

RECEIVED
CALIFORNIA
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COMMISSION

CALIFORNIA FISH AND GAME COMMISSION

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NOTICE OF FINDINGS

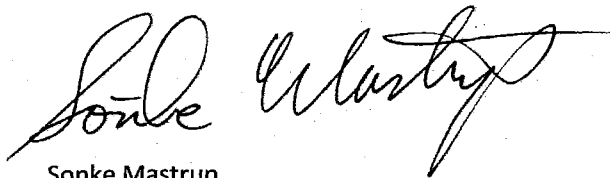
Townsend's Big-eared Bat

(*Corynorhinus townsendii*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its June 26, 2013, meeting in Sacramento, California, accepted for consideration the petition submitted to list the Townsends Big-eared Bat as a threatened or endangered species. The Commission determined, based on the best available science, the extensive information contained in the petition, the Department of Fish and Wildlife petition evaluation report, and oral testimony that designating Townsend's Big-eared Bat as an endangered or threatened species under CESA may be warranted (see Sections 2073.5 and 2074.2 of the Fish and Game Code).

Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Wildlife shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the June 26, 2013, Commission meeting, are on the Commission web site or available for public review from Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned Action should be directed to the Commission at the aforementioned address.



Sonke Mastrup

Executive Director

California Fish and Game Commission

From: Board of Supervisors
To: BOS-Supervisors
Subject: SFPD Vs Cab Drivers in SF

-----Original Message-----

From: David K [mailto:david_khan415@yahoo.com]
Sent: Monday, December 30, 2013 9:37 PM
To: Richholt, Eric; Hayashi, Christiane; javis.murray@sfmta.com; Lee, Mayor; Cityattorney; Gonzalez, Matt
Cc: Boomer, Roberta; Board of Supervisors; Trevor Johnson; Ed Healy; John Han; info@yellowcabsf.com; Myo Khine
Subject: SFPD Vs Cab Drivers in SF

Hello,

I am David Khan; making honest living and trying to keep my family under the roof by driving cab in San Francisco. I have swallowed all the abuses and mistreatments from every part as a law abiding citizen. I refused to get involve in illegal activities such driving with UberX, Lyft and sidecar while the Mayor and other officials praising them.

The ignorance and misconduct towards law abiding citizens are getting worse everyday.

I have seen a SFPD at Mission and 2nd street waiting for vehicles to turn left from 2nd to Mission (westbound) at 5:54pm. While I was waiting for my passenger, I was watching what is going to happen as I have had a ticket at the same place. A Honda Civic turned left and the cop started his motorcycle and did not go after that vehicle. Then a Desoto cab turned and he was pulled over and given a ticket for illegal left turn.

The intersection was posted no left turn between 4-7 pm very recently and the signs were not visible unless the drivers get out of the car and look around. One was on top of the intersection and one on the right side for no left turn. There is none on the left side and the police were there almost everyday targeting cabs since all can drivers turn left at the light for so many years.

It is a scheme the city put up to extort the lowest earned people without any benefits. So many drivers had the citations and most of the just pay the fines since everyone just keep in their mind as "I won't be able to do anything as a cab driver".

When I was stopped, I asked the police when it was posted and where , he said that there was a lot of complaint about traffic congestion by cabs turning left and they are enforcing it. I was amazed that when we complaint about Lyft, sidecar and UberX nothing had been done. But some people complaint about traffic, they started to enforce it by setting up as a trap just to generate revenue.

It seems like a particular group of people has been discriminated while complying with regulations and others got away with all the illegal activities without any problem and the SFPD seems like ignoring it intentionally.

I am started to convince myself as I am living in a Fascist state with the dictators influenced by Willie and Smith. The whole city hall is just a group that think they are above the law and no one else's voices were heard.

I am requesting to have some people with integrity and dignity to handle the matters and bring justice to the people.

I would love to have the chance to live in a society that treat everyone equally.

David Khan
408-431-1874

From: Chapin-Rienzo, Shanda on behalf of Reports, Controller
Sent: Tuesday, December 31, 2013 1:56 PM
To: Calvillo, Angela; Nevin, Peggy; BOS-Legislative Aides; BOS-Supervisors; Kawa, Steve; Howard, Kate; Falvey, Christine; Elliott, Jason; Campbell, Severin; Newman, Debra; Rose, Harvey; sfdocs@sfpl.info; Gabriel Metcalf; Chu, Carmen; Magee, Allison; Nguyen, Zoon; Fuchs, Kurt; CON-EVERYONE; CON-CCSF Dept Heads; CON-Finance Officers
Subject: Memorandum Issued: Audit of the Assessor-Recorder's Social Security Number Truncation Program

The Office of the Controller's City Services Auditor Division (CSA) today issued a memorandum on its audit of the Assessor-Recorder's Social Security number truncation program (truncation program). The audit found that the Recorder correctly documents truncation program revenue and truncated Social Security numbers on official records recorded on and after January 1, 2009. The audit also found that the Recorder has not truncated Social Security numbers on all official records recorded from 1980 through 2008 and did not properly allocate expenses to the truncation program.

To view the full memorandum, please visit our Web site at:
<http://openbook.sfgov.org/webreports/details3.aspx?id=1649>

This is a send-only e-mail address.


For questions about the memorandum, please contact Director of City Audits Tonia Lediju at tonia.lediju@sfgov.org or 415-554-5393 or the CSA Audits Unit at 415-554-7469.

Follow us on Twitter [@sfcontroller](https://twitter.com/sfcontroller)



MEMORANDUM

TO: Carmen Chu, Assessor-Recorder
Office of the Assessor-Recorder

FROM: Tonia Lediju, Director of City Audits
City Services Auditor Division 

DATE: December 31, 2013

SUBJECT: Audit of the Assessor-Recorder's Social Security Number Truncation Program

EXECUTIVE SUMMARY

The Office of the Assessor-Recorder (Recorder) created a Social Security number (SSN) truncation program (truncation program) pursuant to the California Government Code (Code), which requires each county's recorder to establish such a program to create a public record version of each official record. According to the Code, the Recorder has until December 31, 2017, to fully implement the truncation program. The Recorder contracts with its systems vendor (AtPac) to provide SSN truncation services. The Recorder correctly documents truncation program revenue and truncated SSNs on official records recorded on and after January 1, 2009. The audit also showed that:

- The Recorder has not truncated SSNs from official records recorded from 1980 through 2008.
- The Recorder could not demonstrate that truncation program fees are always used only for direct truncation program purposes.
- Indirect costs are not properly allocated to the truncation program.
- The Recorder inadequately protects recorded documents from unauthorized access or damage.

The Recorder needs to:

- Truncate SSNs from official records recorded from 1980 through 2008.
- Conduct a competitive solicitation process and include the truncation of official records recorded from 1980 through 2008 in the agreement with the selected contractor.
- Ensure truncation program fees are only used for direct truncation program purposes.
- Properly allocate indirect costs to the truncation program.
- Enhance its controls to adequately protect recorded documents from unauthorized access or damage.

BACKGROUND, OBJECTIVES & METHODOLOGY

Background

The Office of the Controller's (Controller) City Services Auditor Division (CSA) audited the Recorder's truncation program. State law¹ requires the county recorder of each county to establish a truncation program to create a public record version of each official record recorded since 1980. Section 27361(d)(1) authorizes county recorders to charge a fee of one dollar (\$1) for recording the first page of every instrument, paper, or notice required or permitted by law to be recorded, as authorized by each county's board of supervisors. The collected fees are to be used solely for truncation program implementation. Section 27301(c) requires that the county recorders not charge any new fee or increase any existing fees to fund the truncation program, except as provided in Section 27361(d).

On July 22, 2008, the San Francisco Board of Supervisors of the City and County of San Francisco (City) approved Ordinance Number 163-08, pursuant to Section 27301, which requires the Recorder to establish a truncation program. The ordinance authorizes the Recorder to collect an additional \$1 for recording the first page of all documents except governmental liens. The ordinance provides that the fee shall discontinue after December 31, 2017, unless reauthorized by the Board of Supervisors.

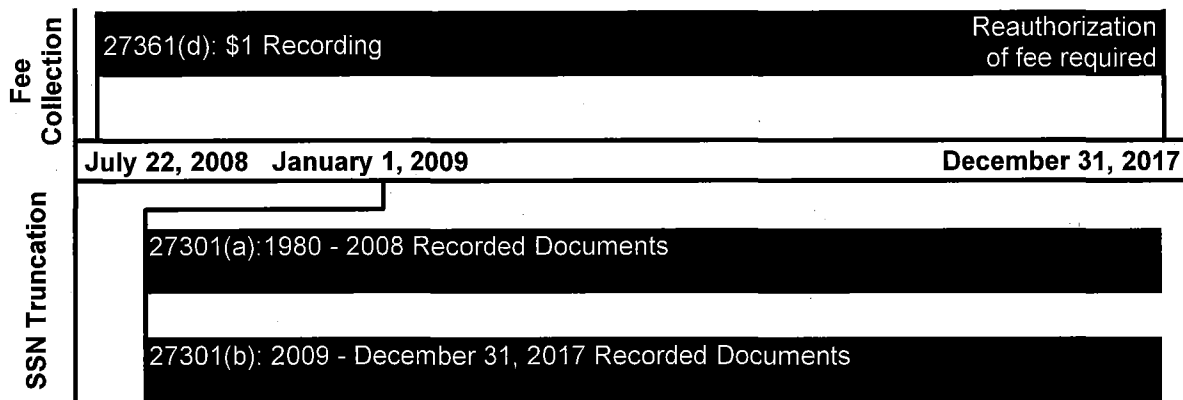
The ordinance further states that the Controller shall conduct two reviews to verify that the funds generated by this truncation program fee are used only for truncation program purposes as required by Section 27361(d)(4). The first review must be completed between June 1, 2012, and December 31, 2013, and the second review must be completed between June 1 and December 31, 2017. The reviews shall state the progress of the Recorder in truncating official records in accordance with Section 27301(a) and estimate any ongoing costs of complying with Section 27301, subdivisions (a) and (b).

Section 27301(a) requires the Recorder to create an electronic version of each official record recorded from 1980 through 2008 and truncate all SSNs contained in those records. The Recorder contracts with its systems vendor (AtPac) to provide SSN truncation services. Section 27301(b) requires the Recorder to create a copy of each official record recorded on or after January 1, 2009, in electronic format and truncate any SSN contained in that record. The truncation program is to include both Section 27301 (a) and (b) components, which the

¹ All code sections cited in this memorandum refer to the California Government Code.

Recorder shall implement concurrently.² Exhibit 1 presents a timeline for implementing the truncation program in accordance with the California Government Code.

EXHIBIT 1 **Timeline for Truncation Program Implementation**



Source: Auditor analysis of data from Assessor-Recorder.

Objectives

The objectives of this audit were to:

- Verify that the funds generated by the truncation program fees are used only for truncation program purposes and for the Controller to conduct two reviews, as required by Section 27361(d)(4).
- Determine the Recorder's progress in truncating SSNs on official records, in accordance with Section 27301(a).
- Estimate any ongoing costs of complying with Section 27301, subdivisions (a) and (b).

The audit's subobjectives were to:

- Verify that the Recorder accurately reports truncation program fees.
- Confirm the Recorder's plan to implement new software for truncating SSNs on official records recorded from 1980 through 2008.
- Determine whether truncation program fees sufficiently cover truncation program costs.
- Estimate truncation program revenue and expenditures through December 31, 2017.

² Section 27301(d): "Notwithstanding subdivisions (a) and (b), a county recorder shall not be required to create a public record version of an official record if the fee authorized in Section 27304 is determined by the recorder to be insufficient to meet the cost of creating the public record version. In that case, the county recorder shall determine whether the fee is sufficient to meet the cost of creating a public record version of only a fraction of the official records described in subdivisions (a) and (b). If the fee is sufficient to meet the cost of creating a public record version of a fraction of the official records, the recorder shall be required to create a public record version of that fraction only."

Methodology

This audit focused on the period of January 1, 2008, through June 30, 2013. The audit team researched the relevant laws, interviewed key truncation program personnel, observed the truncation and fee collection/recording processes, and reviewed truncation program records including fee collections, expenditures, and documents sent for redaction. CSA then documented the results of the fieldwork.

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. CSA believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

RESULTS

Finding 1 –The Recorder has not truncated Social Security numbers from all official records recorded from 1980 through 2008.

According to the Recorder, it began truncating SSNs from official records in 2009, but has not done so on all official records recorded from 1980 through 2008. The Recorder stated that documents recorded from 1980 through 2008 have been digitized, but have not been truncated. The Recorder contracted with AtPac on November 7, 2008, to provide SSN truncation services for documents recorded from January 1, 2009. The Recorder is in the process of issuing a request for proposal for contractors to implement a new software system for the Recorder to truncate recorded documents going forward that also includes the truncation of SSNs from official records recorded from 1980 through 2008. The Recorder plans to have a new contract in place with the selected vendor by June 30, 2014.

Recommendations

The Assessor-Recorder should:

1. Further develop its Social Security number truncation program to cover official records recorded from 1980 through 2008.
2. Conduct a competitive solicitation process and include the truncation of official records recorded from 1980 through 2008 in the agreement with the selected contractor.

Finding 2 – The Recorder effectively implemented a process for reviewing and truncating Social Security numbers from official records recorded as of January 1, 2009.

Of all official records recorded, 39,531 were scanned by Recorder personnel using AtPac's optical character recognition software and then flagged and sent for manual verification that SSNs were properly truncated. CSA sampled 86 of these official records to test whether they contain truncated SSNs. (Of the 86 records, 43 were chosen from a list of redacted documents and the other 43 were sampled from a list of documents that did not require redaction.)

To determine the effectiveness of the truncation process and to verify that official records available to the public do not contain SSNs, CSA also sampled 4 documents from a list of official records provided by the Recorder. All official records recorded by the Recorder are available to the public at the counter in the Recorder's office, provided that the records do not contain SSNs. This list contained recorded documents processed by the AtPac software and found by AtPac to not have any SSNs. CSA collected these samples from the counter at the Recorder's office and tested to confirm that the official records do not contain unredacted SSNs.

The audit found that SSNs from the tested official records were properly truncated or did not require redaction, as shown in Exhibit 2.

EXHIBIT 2		Test Results of Sampled Official Records Recorded as of January 1, 2009, Sent for Manual Verification and Truncation of Social Security Numbers			
Document Type	Sample Population	Sample Number	Confidence Level	Errors	
Redacted	14,520	43	95%	None	
Sent for Verification	25,011	43	95%	None	
Unredacted	992,256	4	95%	None	
Total	1,031,787	90			

Source: Auditor analysis of data from Assessor-Recorder.

Finding 3 – The Recorder correctly records truncation program fees.

All funds generated by truncation program fees are correctly recorded in the City's accounting system under the proper internal accounting (index) code. This index code corresponds to the special fund established to record revenue only from truncation program fees. From September 1, 2008, through June 30, 2013, the Recorder collected \$948,541 in truncation program fees.

Finding 4 – The Recorder needs to appropriately allocate expenses to the truncation program.

Although money from the truncation program's special fund is used to pay truncation program expenses, the Recorder also uses the funds to pay expenses for the division that are not directly related to the truncation program. Of the \$142,676 of expenses the Recorder paid from the truncation program's special fund during January 1, 2009, through June 30, 2013, \$58,653 (41 percent) could not be shown to be directly related to the truncation program.

Section 27361(d)(4) states that the funds generated by the truncation program fee are to be used only for truncation program purposes. According to the Recorder, its operating expenses come from the general fund first and, when that budget allocation is depleted, the practice is to use the revenue generated through truncation program fees to fund other expenditures. This may include indirect truncation program costs. The Recorder could not provide documentation to show the approved methodology by which the Recorder division's indirect costs are allocated to the truncation program. Also, the Recorder does not pay the truncation program's personnel expenses with the revenue generated by truncation program fees. Because truncation program expenses are not only paid from truncation program revenue, it is difficult to accurately estimate them.

Recommendations

The Assessor-Recorder should:

3. Determine the total amount of truncation program funds used to pay Recorder division expenses that were not directly related to the truncation program and reallocate that amount to the truncation program fund.
4. Develop and implement a method for allocating and documenting indirect costs of the truncation program, including personnel expenses.
5. Use funds generated by truncation program fees only for truncation program expenses.

Finding 5 – The truncation program's fees exceed its identified expenditures, and the surplus exceeds the estimated cost of truncating documents.

Exhibit 3 shows that from September 1, 2008, through June 30, 2013, the Recorder collected \$948,541 in truncation program fees and made \$142,676 in truncation program expenditures, yielding surplus truncation program fees of \$804,865.

EXHIBIT 3		Social Security Number Truncation Program Revenues, Expenditures, and Surplus		
		September 1, 2008, Through June 30, 2013		
Fiscal Year	Revenues	Expenditures^a	Surplus	
2008-09 ^b	\$122,965	\$42,585	\$81,380	
2009-10	175,452	9,937	165,515	
2010-11	194,086	53,876	140,210	
2011-12	209,586	30,706	178,880	
2012-13	246,452	6,572	239,880	
Total	\$948,451	\$142,676	\$805,865	

Note:
^a Expenditures shown include only those made from the program index code. Truncation program personnel expenses are excluded because the Recorder does not pay those expenses with revenue generated by truncation program fees.
^b Collection of truncation program fees began September 1, 2008.

Source: Assessor-Recorder

Recommendations

The Assessor-Recorder should:

6. Develop, document, and implement a method for accurately recording truncation program revenue and expenditures.
7. Estimate the cost to truncate official records recorded from 1980 through 2008, determine whether truncation program revenue sufficiently covers program costs, and adjust the truncation program's budget as needed.

Finding 6 – The truncation program will generate an estimated surplus of \$737,784 by the end of 2017.

The Recorder is projected to have revenues that will exceed expenditures, resulting in an estimated cumulative surplus of \$737,784 by December 31, 2017. As noted in Exhibit 3, the truncation program collected a surplus of \$805,865 through June 30, 2013. And, as displayed in Exhibit 4, the program is expected to continue to generate surpluses each year other than in fiscal year 2013-14, when the implementation of the backward truncation of official records³ will cause expenses to exceed revenues by \$732,928. The surplus revenue may be used to pay for the truncation of these records.

³ As stated in Finding 1, the Recorder needs to truncate official records recorded from 1980 through 2008.

EXHIBIT 4 Social Security Number Truncation Program Actual and Projected Revenues, Expenditures, and Surplus or Deficit September 1, 2008, Through December 31, 2017			
Fiscal Year	Revenues^d	Expenditures^e	Surplus
2008-09 ^a	\$122,965	\$41,585	\$81,380
2009-10	175,452	9,937	165,515
2010-11	194,086	53,876	140,210
2011-12	209,586	30,706	178,880
2012-13	246,452	6,572	239,880
2013-14 ^b	219,958	952,887 ^f	(732,928)
2014-15 ^b	230,956	54,307	176,649
2015-16 ^b	242,504	55,817	186,687
2016-17 ^b	254,629	57,343	197,286
July – Dec 2017 ^{b,c}	133,680	29,455	104,225
Total	\$2,030,270	\$1,292,486	\$737,784

Notes:
^a Collection of truncation program fees began September 1, 2008.
^b Estimates made for these periods.
^c Ordinance 163-08 states that the fee shall discontinue after December 31, 2017, unless reauthorized by the Board of Supervisors.
^d Revenues are based on an estimated 5 percent annual increase in document volume and the fact that fees were collected, on average, for 85 percent of document volume from fiscal years 2008-09 through 2012-13.
^e Expenditures are based on estimated personnel expenses, estimated ongoing program costs, and estimated cost to truncate official records from 1980-2008.
^f Includes estimated cost to truncate official records from 1980-2008.

Source: CSA analysis

CSA performed the following test and analysis to determine estimated revenues and expenses of the program:

- Estimated Revenue Increases**
 CSA estimates future truncation program revenue based on the percentage change in the average number of documents recorded each year from fiscal year 2008-09 to 2012-13. Other than liens, for which there is no filing fee, the amount of revenue the Recorder collects is directly related to document volume, which, according to the Recorder, is directly related to economic conditions. Based on this analysis, CSA estimated a 5 percent growth in document volume each year. CSA then extrapolated the estimated revenue increase based on the ratio of documents recorded to fees collected from fiscal year 2008-09 to 2012-13. By applying this average from fiscal year 2013-14 to the end of the truncation program on December 31, 2017, CSA projects that the truncation program will collect \$737,784 from September 2008 through December 2017, as shown in Exhibit 4.
- Estimated Personnel Expenses**
 As discussed in Finding 4, personnel expenses are not paid from the truncation program's index code. To estimate the total personnel expenses of the program,

CSA obtained from the Recorder a percentage estimate of the time spent by employees on the truncation program. CSA then multiplied the percentage of time spent by each employee to the total estimated cost of each employee.⁴

- Estimated Ongoing Program Costs for Truncation Services
The Recorder's contract with AtPac for truncation services provides that, regardless of the number of pages redacted, the truncation program incurs costs of \$28,275 in fiscal year 2013-14 and a 2.5 percent increase in fees annually after that year, for the use of the contractor's redaction processing system. The contract also limits annual cost increases to a maximum of 2.5 percent beginning in fiscal year 2013-14. CSA estimates program costs based on these current contract terms with AtPac.
- Estimated Cost to Truncate Official Records from 1980 through 2008
Due to the unpredictability of the not-yet-incurred cost to redact documents from 1980 through 2008, CSA used an estimate provided by the Recorder for this cost.

Recommendation

8. The Assessor-Recorder should use surplus revenue generated from the truncation program to pay for the ongoing costs to truncate official records and the unanticipated costs of the backward truncation of official records recorded from 1980 through 2008, as per the California Government Code, Section 27301(a) and (b).

Finding 7 – The Recorder does not adequately protect recorded documents from unauthorized access or damage.

Documents submitted to the Recorder for recording, which may contain SSNs, are initially stored in open mail boxes near the examiners' work stations. The Recorder stated that the examiners' workstations are in a locked area and only Recorder staff is allowed to access the documents. However, the confidentiality of the documents may be compromised when the documents are transferred from the work stations to the scan room because the transference area is not a secured area.

Recorded documents are also inadequately protected while in the scan room because the door to the scan room is sometimes left open although the room is unattended. The room holds documents that need to be scanned, or documents that have been scanned and indexed, and are awaiting being returned to their owners or city departments. The Recorder stated that it does not have written policies and procedures for the security of the room or its documents, but only authorized personnel are allowed in the scan room and the room is locked when not in use.

According to the Internal Revenue Service, its employees must be responsible for the protection and proper disposition of all information, documents, and property in their possession or control. They must make every effort to protect information, documents, and other properties entrusted to their care and prevent unauthorized entry into areas where the information, documents, and

⁴ CSA did not calculate the total increase in labor time for the truncation of documents from 1980-2008.

property are located. This guideline is equally applicable to city operations, including the Recorder's, because the Recorder also handles and maintains information and documents.

Recommendation

9. The Assessor-Recorder should develop and implement written policies and procedures to enhance the security and safekeeping of documents in its possession.

The Assessor-Recorder's response is attached. CSA will work with the Recorder to follow up on the status of the recommendations in this memorandum. CSA extends its appreciation to you and your staff who assisted with this audit. If you have any questions or concerns, please contact me at (415) 554-5393 or tonia.lediju@sfgov.org.

cc: Assessor-Recorder

Carmen Chu
Zoon Nguyen
Allison Magee

Controller

Ben Rosenfield
Irella Blackwood
Irene Chiu
Sandeep Rajbhandari
Sandra Chen

Board of Supervisors
Budget Analyst
Citizens Audit Review Board
City Attorney
Civil Grand Jury
Mayor
Public Library

APPENDIX A: DEPARTMENT RESPONSE

CARMEN CHU
ASSESSOR-RECORDER



SAN FRANCISCO
OFFICE OF THE ASSESSOR-RECORDER

December 27, 20013

Tonia Lediju
Director of Audits
City Hall, Room 476
1 Dr. Carlton B. Goodlett Place
San Francisco, CA. 94102

Re: Office of the Assessor-Recorder's Responses to the Controller's audit report of the Social Security Number Truncation Program

Dear Ms. Lediju:

The Office of the Assessor-Recorder is in receipt of the Controller's draft audit report entitled "Audit Results of the Assessor-Recorder's Social Security Number Truncation Program." Thank you for providing our office the opportunity to review and to respond to the report.

Attached, for your review, are the Office of the Assessor-Recorder's responses to the recommendations detailed in the audit report.

The Office of the Assessor-Recorder appreciates the time and effort that was spent on this audit and will implement the recommendations proscribed in the attached response form.

If you have any questions or need additional information, please do not hesitate to contact me at (415) 554-4999, or Ms. Zoon Nguyen, Deputy Assessor-Recorder at (415) 554-4734.

Sincerely,

A handwritten signature in black ink that reads "Carmen Chu".

Carmen Chu
Assessor-Recorder

cc: Ben Rosenfield
Irella Blackwood
Irene Chiu
Sandeep Rajbhandari
Sandra Chen

For each recommendation, the responsible agency should indicate whether it concurs, does not concur, or partially concurs. If it concurs with the recommendation, it should indicate the expected implementation date and implementation plan. If the responsible agency does not concur or partially concurs, it should provide an explanation and an alternate plan of action to address the identified issue.

RECOMMENDATIONS AND RESPONSES

Recommendation	Response
<p>The Assessor-Recorder should:</p> <ol style="list-style-type: none"> Further develop its Social Security number truncation program to cover official records recorded from 1980 through 2008. 	<p>The Office of the Assessor-Recorder concurs with this finding.</p> <p>As referenced in the report, the Office of the Assessor-Recorder is in the process of issuing a request for proposal (RFP) to implement a comprehensive Commercial Off The Shelf ("COTS") Recorder system to replace its current system with one fully integrated, turnkey software solution. "Backdate" truncation (1980 to 2008) of official records is part of the RFP requirement.</p> <p>The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 14-15.</p>
<ol style="list-style-type: none"> Conduct a competitive solicitation process and include the truncation of official records recorded from 1980 through 2008 in the agreement with the selected contractor. 	<p>The Office of the Assessor-Recorder concurs with this finding.</p> <p>The Office of the Assessor-Recorder is in the process of conducting a competitive solicitation process by issuing a request for proposal (RFP) to implement a comprehensive Commercial Off The Shelf ("COTS") system to replace its current system with one fully integrated, turnkey software solution. "Backdate" truncation (1980 to 2008) of official records is part of the RFP requirement.</p> <p>The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 14-15.</p>

Recommendation	Response
3. Determine the total amount of truncation program funds used to pay Recorder division expenses that were not directly related to the truncation program and reallocate that amount to the truncation program fund.	The Office of the Assessor-Recorder concurs with this finding. The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 13-14.
4. Develop and implement a method for allocating and documenting indirect costs of the truncation program, including personnel expenses.	The Office of the Assessor-Recorder concurs with this finding. The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 13-14.
5. Use funds generated by truncation program fees only for truncation program expenses.	The Office of the Assessor-Recorder concurs with this finding. The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 13-14.
6. Develop, document, and implement a method for accurately recording truncation program revenue and expenditures.	The Office of the Assessor-Recorder concurs with this finding. The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 13-14.

Recommendation	Response
<p>7. Estimate the cost to truncate official records recorded from 1980 through 2008, determine whether truncation program revenue sufficiently covers program costs, and adjust the truncation program's budget as needed.</p>	<p>The Office of the Assessor-Recorder concurs with this finding.</p> <p>The Office of the Assessor-Recorder is in the process of issuing a request for proposal (RFP) to implement a comprehensive Commercial Off The Shelf ("COTS") Recorder system to replace its current system with one fully integrated, turnkey software solution. "Back date" truncation (1980 to 2008) of official records is part of the RFP requirement.</p> <p>"Backdate" truncation program costs will be more costly than day forward as the digitized images are managed/owned by multiple vendors, using their own proprietary software.</p> <p>The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 14-15.</p>
<p>8. Use surplus revenue generated from the truncation program to pay for the ongoing costs to truncate official records and the unanticipated costs of the backward truncation of official records recorded from 1980 through 2008, as per the California Government Code, Section 27301(a) and (b).</p>	<p>The Office of the Assessor-Recorder concurs with this finding.</p> <p>The Office of the Assessor-Recorder is in the process of issuing a request for proposal (RFP) to implement a comprehensive Commercial Off The Shelf ("COTS") Recorder system to replace its current system with one fully integrated, turnkey software solution. "Back date" truncation (1980 to 2008) of official records is part of the RFP requirement.</p> <p>"Backdate" truncation program costs will be more costly than day forward truncation program costs. Digitized images are managed by multiple vendors, using different software programs.</p> <p>The Office of the Assessor-Recorder is committed to selecting a vendor who offers "open format and flexible" software solutions versus solutions that are considered "closed" and proprietary.</p> <p>The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 14-15</p>

Recommendation	Response
9. Develop and implement written policies and procedures to enhance the security and safekeeping of documents in its possession.	The Office of the Assessor-Recorder concurs with this finding. The department is working to determine the necessary resources needed to adequately administer this program, and expects to begin implementing the corresponding changes by the end of FY 13-14.



George Gascón
District Attorney

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BAB

December 24, 2013

Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: The San Francisco Sentencing Commission Annual Report

Dear Mrs. Calvillo,

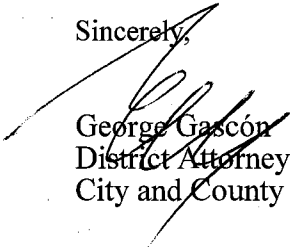
I am honored to present the second annual report of the San Francisco Sentencing Commission in accordance with County Ordinance 10-12. The purpose of the Sentencing Commission is to encourage the development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices and efficiently utilize San Francisco's criminal justice resources.

In 2013, the San Francisco Sentencing Commission completed the first full year of hearings: four meetings were held and included a diverse array of expert presentations on Realignment, Sentencing, Drug Reform, Restorative Justice and Victim Services. Sentencing Commission testimony made it clear that San Francisco is a leader in innovation, diversion, and holding offenders accountable while preserving public safety. The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to develop five recommendations. Two of these recommendations require state level legislative change, and three are directed toward local strategies within the latitude of the current law.

The San Francisco Sentencing Commission strongly urges the Board of Supervisors to consider these recommendations when approving the annual budget and developing legislation directed toward a safer San Francisco. Pursuing an effective, fair and efficient sentencing system for San Francisco enhances public safety and creates a livable, sustainable San Francisco community. When we are thoughtful in our response to crime and set the right consequences for those responsible we preserve the safety of our communities.

Should you have any questions about the Commission's activities, progress and recommendations please do not hesitate to contact me.

Sincerely,


George Gascón
District Attorney
City and County of San Francisco



The City and County of San Francisco
The San Francisco Sentencing Commission

2013 Annual Report San Francisco Sentencing Commission

The first of its kind local Sentencing Commission

December 31, 2013



San Francisco Sentencing Commission
2013 Annual Report

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The activities of the 2013 calendar year of the San Francisco Sentencing Commission are summarized in this annual report as required by County Ordinance 10-12. This is the second of four reports that will be released from the San Francisco Sentencing Commission.

I. EXECUTIVE SUMMARY

The City and County of San Francisco strives to administer criminal justice strategies that lead to lower recidivism rates, create safer communities and ensure that victims are made whole. Through Sentencing Commission testimony, it is clear that San Francisco is a leader in innovation, diversion, and holding offenders accountable while preserving public safety. In 2013, the San Francisco Sentencing Commission completed the first full year of hearings: four meetings were held and included a diverse array of expert presentations on Realignment, Sentencing, Drug Reform, Restorative Justice and Victim Services. The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to develop five recommendations. Two of these recommendations require state level legislative change, and three are directed toward local strategies within the latitude of the current law.

STATE LEVEL RECOMMENDATIONS: Call for State Level Sentencing Reform

Create a state level Sentencing Commission.

A comprehensive state level review of sentencing practices and outcomes is essential to addressing the California prison crisis, reducing recidivism, honoring victims and ensuring our communities are safe.

Change the penalty for drug possession for personal use to a misdemeanor. The San Francisco Sentencing Commission recommends penal code reform legislation to change the penalty for drug possession for personal use from a felony to a misdemeanor. This reform would help reduce spending on prisons and jails and invest additional resources in drug treatment, mental health, and other community-based services.

LOCAL RECOMMENDATIONS: Practical Investments to support San Francisco's Sentencing Strategies

Establish Annual San Francisco Sentencing Data Review and invest in adequate support resources. Criminal justice partners and social service agencies are best equipped to respond to San Francisco crime and sentencing trends with regular review and analysis of crime, arrest, sentencing and supervision trends.

Expand Resources for Alternative Sentencing Strategies. Research has shown that alternatives to the traditional criminal justice sentencing system utilizing evidence-based practices contribute toward cost savings and positive participant outcomes.

Invest in pre-booking and pre-charging diversion programs for drug offenses. The San Francisco Sentencing Commission will continue to review the progress of the pre-booking diversion program Law Enforcement Assisted Diversion (LEAD), based in Seattle, WA and Santa Fe, NM. City and County of San Francisco resources will be needed to explore local feasibility and implementation.

Sentencing strategies are not consistent across the state of California and do not meet public safety goals. Criminal justice agencies and social service partners have a collective responsibility to ensure that individuals receive appropriate sentences and do not re-victimize our communities. The San Francisco Sentencing Commission, created under the leadership of District Attorney George Gascón, is committed to pursuing an effective, fair and efficient sentencing system for San Francisco that enhances public safety and creates a livable, sustainable San Francisco community.

II. BACKGROUND

The San Francisco Sentencing Commission, an initiative of the District Attorney's Office, was created through local legislation to analyze sentencing patterns and outcomes, to advise the Mayor, Board of Supervisors, and other City departments on the best approaches to reduce recidivism, and to make recommendations for sentencing reforms that advance public safety and utilize best practices in criminal justice. Ultimately, through this work the commission will make recommendations that establish a sentencing system that retains meaningful judicial discretion, avoids unwarranted disparity, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options. Over the course of the two year mandate, the Sentencing Commission will:

- Evaluate effective and appropriate sentences for the most violent offenders.
- Explore opportunities for drug law reform.
- Examine inconsistencies in the penal code related to realignment sentencing.
- Identify and define the most important factors that reduce recidivism.

The Sentencing Commission was created by County Ordinance 10-12, which amended the San Francisco Administrative Code by adding Article 25, Sections 5.250 through 5.250-3. The purpose of the Sentencing Commission is to encourage the development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices and efficiently utilize San Francisco's criminal justice resources. The Sentencing Commission is an advisory body to the Mayor and the Board of Supervisors.

Commission Membership

The membership of the Sentencing Commission was developed to ensure representation from City and County partners directly involved in the criminal justice system, and those who come in contact with it. Each seat represents a valuable perspective on criminal justice proceedings; from time of arrest to post release, and the critical access points for support services provided to victims and survivors of crime. In addition to this practical and service experience, the commission includes experts in sentencing and statistical analysis. These are essential components to the commission membership and will contribute to the development of data-informed, sustainable improvements to our sentencing practices. While this membership will serve as a core of the Sentencing Commission's work, they will invite broader participation from practitioners, researchers, and community organizations to inform the proceedings of the Commission.

List of member seats:

District Attorney's Office (Chair), Public Defender's Office, Adult Probation Department, Juvenile Probation Department, Sheriff's Department, Police Department, Department of Public Health, Reentry Council, Superior Court, Member of a nonprofit organization serving victims chosen by the Family Violence Council, Member of non-profit organization working with ex-offenders chosen by the Reentry Council, Sentencing Expert chosen by the Board of Supervisors, and an Academic Researcher with expertise in data analysis appointed by the Mayor.

The San Francisco Sentencing Commission membership was fully formed in July 2012. A current list of commission members and qualifications is found in Appendix A.

III. 2013 MEETINGS

The Sentencing Commission held four meetings in 2013. Full agendas, meeting minutes and materials are available on <http://www.sfdistrictattorney.org/>. Meeting dates and selected subject matter presenters are provided below.

April 4, 2013

Successful National Sentencing Reform

Presenter: Mai Linh Spencer, Legal Consultant, National Council on Crime and Delinquency

California Realignment Sentencing Trends

Presenters: Lizzie Buchen, Post-Graduate Fellow, and Selena Teji, Communication Specialist, Center on Juvenile and Criminal Justice (CJCJ)

San Francisco Realignment Sentencing Trends

Presenter: Chief Wendy Still, San Francisco Adult Probation Department

Alternative Sentencing Planner Overview

Presenter: Luis Aroche, Alternative Sentencing Planner, San Francisco District Attorney's Office

Realignment Research Overview

Presenter: Tara Regan Anderson, San Francisco District Attorney's Office

July 24, 2013

Earned Compliance Credits

Presenter: Mai Linh Spencer, Legal Consultant, National Council on Crime and Delinquency

California Drug Law and Local Practice

Presenter: Sharon Woo, Chief of Operations, San Francisco District Attorney's Office

Design Options for Drug Policy

Presenter: Dr. MacCoun, Goldman School of Public Policy and Berkeley Law, UC Berkeley

Seattle based Law Enforcement Assisted Diversion (LEAD)

Presenters: Lt. Nolette, Seattle Police Department Lisa Daugaard Defender's Association, and Ian Goodhew, Kings County District Attorney's Office.

October 16, 2013

Restorative Justice

Presenter: sujatha baliga, Restorative Justice Project Director, Associate Director National Council on Crime and Delinquency

California Prison Population Reduction Plan

Presenter: Tara Regan Anderson, San Francisco District Attorney's office

December 11, 2013

Victim Services: A Personal and Policy Approach

Presenters: Sonya Shah, Leadership Team Member, Crime Survivors for Safety and Justice and Milena Blake, Policy and Legislative Advocate, Californians for Safety and Justice

Collaborative Outcomes

The San Francisco Sentencing Commission works collaboratively with the Reentry Council and the Community Corrections Partnership in the City and County of San Francisco. Each of these public safety advisory bodies serves a distinct role within the criminal justice system, however there are some issues that overlap and require coordinated analysis and review.

During the 2013 proceedings of the San Francisco Sentencing Commission members received presentations on Earned Compliance Credit programs for community supervision terms initiated in several states. The Reentry Council, the collaborative group facilitating the Justice Reinvestment Initiative, received expert review of San Francisco probation sentencing and completion rates. The analysis found that while 63.5 percent of probationers successfully complete their probation terms, those that fail on probation do so in an average of 1.4 years, with 75 percent of those failing doing so within two years.

Separate from the Sentencing Commission and Reentry Council advisory bodies, but informed by the aforementioned research and analysis, the San Francisco District Attorney and the San Francisco Adult Probation Department developed a Probation Supervision Terms pilot project. The Adult Probation Department and the District Attorney's Office have agreed to embark on this pilot project to reduce the standard length of felony probation sentences in San Francisco from 36 months to 24 months. This pilot is scheduled to begin in 2014. This pilot project is the result of coordinated information sharing both between advisory bodies and public safety departments. The San Francisco Sentencing Commission will continue to work with complementary public safety advisory bodies in 2014.

IV. RECOMMENDATIONS

The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to make five recommendations. Two of these recommendations require state level legislative change and three are directed toward local strategies within the latitude of the current law. Summaries of these recommendations are provided below. The detailed meeting minutes and publications presented to the San Francisco Sentencing Commission are available at <http://www.sfdistrictattorney.org/>.

CALL FOR STATE LEVEL SENTENCING REFORM

Recommendation 1. Create a State Level Sentencing Commission.

A comprehensive state level review of sentencing practices and outcomes is essential to addressing the California prison crisis, reducing recidivism, honoring victims and ensuring our communities are safe. The San Francisco Sentencing Commission was created in the absence of a state level public safety body mandated to provide expert research and analysis to inform and reform sentencing practices. While previous attempts to establish a state public safety body addressing sentencing practices have been unsuccessful, the San Francisco Sentencing Commission, in its first full year of implementation, has benefited from a localized review of sentencing practices, expert presentations on best practices from other states, and data analysis providing a baseline understanding of current justice system conditions. The local success of the San Francisco Sentencing Commission demonstrates the value of thoughtful expert dialogue that encourage well-informed decisions to preserve public safety, hold offenders accountable, support victims and ultimately create safe and livable communities. California's growing

public safety, prosecutorial and correctional needs require that the state again explore the development of a California Sentencing Commission.

This recommendation is supported by over twenty years of research and findings from various commissions, panels, elected officials and advocacy groups. The Blue Ribbon Commission on Population Management, the Corrections Independent Review Panel, and the Little Hoover Commission have all recognized the need for independent review of sentencing law and practice. Approximately 20 states have sentencing commissions or public safety bodies addressing penal code reform. These bodies vary in membership, functions and authority; however one key variable that has led to successful legislative outcomes is the investment in independent review of sentencing practices and structure of the penal code. The San Francisco Sentencing Commission urges the Governor and the Legislature to create a California Sentencing Commission to support and inform structured decision-making in sentencing. The Sentencing Commission further recommends that the Mayor and Board of Supervisors of the City and County of San Francisco submit a letter to the Governor and Legislature urging the inclusion of a Sentencing Commission as a component of the *Plata v. Brown* settlement negotiations.

Recommendation 2. Change the penalty for drug possession for personal use to a misdemeanor.

The San Francisco Sentencing Commission recommends penal code reform legislation to change the penalty for drug possession for personal use from a felony to a misdemeanor. This reform would help reduce spending on prisons and jails and invest additional resources in drug treatment, mental health, and other community-based services. It would also facilitate reentry and reduce recidivism by removing consequences that result from a felony conviction, including barriers to employment, housing, financial aid and public benefits. This reform would align California with 13 other states, the District of Columbia, and the federal government – all of whom currently penalize possession of drugs for personal use as a misdemeanor. The Sentencing Commission further recommends that the Mayor and Board of Supervisors of the City and County of San Francisco formally support any reform to drug sentencing length and enhancements recommended by the commission pursuant to California Health and Safety Code Section 11370.2.

PRACTICAL INVESTMENTS TO SUPPORT SAN FRANCISCO'S SENTENCING STRATEGIES

Recommendation 1. Establish Annual Review of San Francisco's sentencing data and invest in adequate analysis and technology support resources.

Criminal justice partners and support services are best equipped to respond to San Francisco's public safety needs when strategies are based upon comprehensive and reliable data. Regular coordinated review of local crime and sentencing trends, including the analysis of crime, arrest, sentencing, jail population and supervision trends, is an essential tool for the deployment of public safety resources. Many departments are under resourced and need additional staff and technology to support the development of data tracking systems, regular review of those systems and data analysis.

Major findings on San Francisco's sentencing trends presented by the Center on Juvenile and Criminal Justice (CJCJ) indicated that since the implementation of Public Safety Realignment, the prison population is plateauing; however, new prison admissions are rising state-wide. San Francisco had the

lowest percentage, second to Alameda, of new admissions to state prison for non-violent offenses for the 58 counties. In addition, San Francisco was far below the state average of prison admissions for violent, property and drug crime. CJCJ presented the glaring conclusion that if the 15 most state prison dependent counties admitted offenders to state prison at the rate of San Francisco it would result in 820 million dollars of savings and 16,000 fewer prisoners in our state department of corrections.

To ensure that the implementation of Public Safety Realignment is successful, San Francisco has invested in strong partnerships and regular review of data amongst our criminal justice leaders. The San Francisco Adult Probation Department, under the leadership of Chief Wendy Still has invested significant time and resources in both using evidence to inform best practices and developing systems to measure local realignment outcomes. During the April 3, 2013 hearing, Chief Still provided an overview of the 1170(h), Public Safety Realignment sentencing trends from October 2011 to February 2013. During this period, 50percent of 1170h sentences were split, with an average increase in the use of split sentences to approximately 60percent starting in July 2012. This is well above the state average of 27percent split sentences for that same time period.

Regular review of sentencing trends, such as those described above, is essential to inform the distribution of department resources. To conduct regular review, departments must have the resources to review analyze and draw conclusions from data. The San Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget requests that aim to meet San Francisco's evolving public safety data and technology needs.

Recommendation 2. Expand Resources for Alternative Sentencing.

Research has shown that alternatives to the traditional criminal justice sentencing system utilizing evidence-based practices contribute toward cost savings and positive offender outcomes. These outcomes include, but are not limited to, successful completion of treatment programs, reductions in recidivism and successful family reunification. San Francisco's evidence-based alternative sentencing resources should be expanded to meet demand and studied for replication. These resources include, but are not limited to, the *Alternative Sentencing Planner*, which contributes toward thoughtful sentences that address the seriousness of the crime, the criminogenic needs of the offender and the victim restoration; *Family Impact Statements*, completed by the Adult Probation Department, which ensure that family and children of a convicted person are considered as part of the sentencing determination; and Cameo House, which is a alternative sentencing program for pregnant and parenting women. The San Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget requests that aim to expand departmental and program capacity to meet the demand for evidence-based alternative sentencing strategies.

A leader in innovative approaches to criminal justice, the San Francisco District Attorney's Office is embarking on a new approach which will effectively address the causes of crime, hold offenders accountable and preserve public safety. The (ASP) Alternative Sentencing Program gives prosecutors additional information about alternative criminal justice sanctions. The ASP staff is available on all 1170 (h) cases, as well as other selected cases where an alternative to a pure jail or prison sentence may be possible. From February 2012 to October 1, 2013, the Alternative Sentencing Planner conducted 155 in-depth reviews resulting in comprehensive sentencing recommendations to prosecutors. Additionally, the ASP provided 31 case consults, providing a quick review and recommendation for prosecutors at critical junctures in case processing. Preliminary results of the program show that the ASP's recommendations are associated with significant increases in the average amount of time a defendant is sentenced to

rehabilitative programming The Office is pursuing a comprehensive outcome evaluation to further assess program impact on case and defendant outcomes.

Family Impact Statements (FIS) consider the needs of children at the time of sentencing and post disposition. The FIS is utilized by the San Francisco Adult Probation Department as a tool to ensure that the children and families of individuals convicted of a crime are considered as part of the sentencing determination, and in connection with other custodial and non-custodial determinations such as program referrals and supervision terms. FIS can assist the court in making informed decisions about the issues likely to have a substantial impact on children. The FIS does not minimize the actions of the parent, but rather provides an opportunity for the parents to take responsibility for their actions and acknowledge the collateral consequences of their criminal justice involvement on their family.

The Adult Probation Department has partnered with the Center on Juvenile and Criminal Justice and the Human Services Agency to develop an alternative sentencing program for pregnant and parenting women at Cameo House. Cameo House provides housing, treatment, and supportive services to up to 11 women and 22 children in San Francisco's Mission District. Pregnant and parenting women will be identified and assessed for eligibility prior to sentencing; the Adult Probation Department Investigations Division will make recommendations to the Court regarding a defendant's placement at Cameo House. Women sentenced to Cameo House will be under the supervision of the Adult Probation Department and will be required to participate in a range of treatment, educational, and vocational activities according to their assessed needs. Women whose children have involvement with Child Welfare Services will receive support from Cameo House staff in facilitating reunification plans. The goals of this program include preserving family integrity through decreased time spent in custody by primary care-givers; holding women accountable for criminal behavior by requiring participation in a year-long, residential program; and strengthening community-based alternatives to incarceration.

Recommendation 3. Invest in pre-booking and pre-charging diversion programs for drug offenses.

San Francisco currently operates several innovative practices directed to address substance dependent individuals who come into contact with the criminal justice system. Drug diversion has been a collective priority of the Department of Public Health, Police Department, District Attorney's Office, Public Defender, Courts and the community. This value investment has led to multiple criminal justice options for the substance dependent community. San Francisco operates Drug Diversion for first time offenders, Drug Court through The Superior Court Collaborative Courts, the District Attorney's Back On Track program, an intensive job development program for first time drug offenders, the Community Justice Center which combines the courtroom with a social service center and lastly individuals may be referred to Behavioral Health Court if they have both substance use and serious mental health diagnosis. Even with these exemplary programs, the San Francisco Sentencing Commission chose to solicit expert testimony on promising and evidence informed practices that best meet public safety needs and contribute toward making communities whole.

Seattle's Law Enforcement Assisted Diversion Program, formally implemented in 2011, is a recent example of a jurisdiction taking a mindful approach to ensure that communities are safe, and that those struggling with addiction and poverty are directed toward alternatives to the traditional criminal justice system. Law Enforcement Assisted Diversion (LEAD) is a pre-booking diversion program that identifies low-level drug offenders for whom probable cause exists for an arrest, and redirects them from jail and prosecution by providing linkages to community-based treatment and support services.

Pre-booking diversion programs consist of both a law enforcement and social services component. The San Francisco Sentencing Commission will continue to review the progress of the pre-booking diversion program Law Enforcement Assisted Diversion (LEAD), based in Seattle, WA and Santa Fe, NM. The Sentencing Commission will review findings for evidence of the effectiveness and cost-benefit of pre-booking and pre-charging interventions in reducing drug dependency, drug crimes and broader public safety outcomes. Local county resources will be needed to explore local feasibility and implementation. The San Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget and resource requests that support continued evaluation of the feasibility and benefit of implementing a pre-booking and pre-charging diversion program in San Francisco.

V. MEMBERSHIP UPDATES

Membership Transitions

In the 2013 calendar year the San Francisco Sentencing Commission experienced two member seat transitions. Commission member Minouche Kandel, appointee from the Family Violence Council, accepted a position with the City and County of San Francisco Department of Status of Women in Spring 2013. During the August 2013 meeting of the Family Violence Council members appointed Jerel McCrary Managing Attorney, Bay Area Legal Aid as the new representative of a non-profit serving victims to the Sentencing Commission. During the same time period Juvenile Probation Department Chief William Siffermann retired and Allen Nance was appointed by Mayor Edwin Lee as the new Juvenile Probation Department Chief. The Sentencing Commission is grateful to Ms. Kandel and Chief Siffermann for their leadership, expertise and commitment to the San Francisco Sentencing Commission.

Position of Superior Court

The San Francisco Superior Court is an invited member of the San Francisco Sentencing Commission. After repeated invitations to join the proceedings of the Sentencing Commission the San Francisco Superior Court Presiding Judge the Honorable Cynthia Ming-mei Lee informed the Commission that the court will not participate in the Commission because it is of the opinion that such participation would violate the canons of judicial ethics. In addition, the presiding judge cited concerns involving the separation of powers between the various branches of government as a reason for not practicing in the Commission. The Sentencing Commission will continue to inform the Superior Court of the Commission's research and recommendations and explore the potential for an administrative representative to participate in San Francisco Sentencing Commission proceedings.

VI. FUTURE ACTIVITIES

The San Francisco Sentencing Commission is scheduled to conduct four sessions in 2014. The tentative 2014 session topics are identified below.

Annual Review of San Francisco Sentencing Trends

Penal Code Review: Including enhancements and non-violent felonies.

Collateral Consequences of Convictions

Effective Sentencing for Violent Offenders: with a focused look at 18-24 year olds.

Recidivism Reduction

VII. CONCLUSION

In 2013, the San Francisco Sentencing Commission successfully completed the first full year of hearings including expert presentations on Realignment, Sentencing, Drug Reform, Restorative Justice and Victim Services. The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to make five recommendations to inform and reform the state penal code and support local strategies within the latitude of the current law. While this policy body is locally mandated, members are confident that the findings and recommendations that will come from the remaining proceedings over the next 18 months will support not only San Franciscans, but Californians.

Appendix A: San Francisco Sentencing Commission Members

As of October 16, 2013

Agencies & Bodies	Member
District Attorneys' Office	George Gascón, District Attorney
Public Defender	Jeff Adachi, Public Defender
Adult Probation	Wendy Still, Adult Probation Chief
Juvenile Probation	Allen Nance, Juvenile Probation Chief
Sheriff	Ross Mirkarimi, Sheriff
Police	Greg Suhr, Police Chief
Department of Public Health	Barbara Garcia, Director
Reentry Council	Karen Roye, Director Child Support Services
Superior Court	Honorable Cynthia Ming-mei Lee, Presiding Judge
<i>Member of a nonprofit org serving victims chosen by the</i> Family Violence Council	Jerel McCrary Managing Attorney San Francisco Bay Area Legal Aid
<i>Member of non-profit org working with ex-offenders chosen by the</i> Reentry Council	Catherine McCracken Sentencing Services Program Director Center on Juvenile and Criminal Justice
Sentencing Expert chosen by the Board of Supervisors	Theshia Naidoo Senior Staff Attorney Drug Policy Alliance
Academic Researcher with expertise in data analysis appointed by the Mayor	Steven Raphael PhD Professor Goldman School of Public Policy University of California Berkeley

*Invited

SAN FRANCISCO PUBLIC DEFENDER

JEFF ADACHI – PUBLIC DEFENDER
MATT GONZALEZ – CHIEF ATTORNEY



January 2, 2014

Ms. Angela Calvillo
Board of Supervisors
1 Dr. Carlton B. Goodlett, #244
San Francisco, CA 94102

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Dear Ms. Calvillo,

I am pleased to present you with a copy of the San Francisco Public Defender's 2013 Annual Report and 2014 Calendar, "Symbols of Justice." This report, which was not printed at public expense, highlights our accomplishments over the past year and shows both the people and the numbers behind our work.

In 2013, we provided vigorous legal representation to more than 20,000 clients who could not afford private attorneys. Some of them are included in these pages, along with the attorneys and support staff that fight on their behalf. This year, we also explore symbols of justice from throughout history and across the world. We chose this theme because although the work we do takes place in San Francisco, the concept of justice is universal, part of our shared human heritage.

Thank you for your continued support of the mission of the San Francisco Public Defender's Office.

Very truly yours,

Jeff Adachi
San Francisco Public Defender

**Document is available
at the Clerk's Office
Room 244, City Hall**

Adult Division - HOJ
555 Seventh Street
San Francisco, CA 94103
P: 415.553.1671
F: 415.553.9810
www.sfpublishdefender.org

Juvenile Division - YGC
375 Woodside Avenue, Rm. 118
San Francisco, CA 94127
P: 415.753.7601
F: 415.566.3030

Juvenile Division - JJC
258A Laguna Honda Blvd.
San Francisco, CA 94116
P: 415.753.8174
F: 415.753.8175

Clean Slate
P: 415.553.9337
www.sfpublishdefender.org/services

Community Justice Center
P: 415.202.2832
F: 415.563.8506

Bayview Magic
P: 415.558.2428
www.bayviewmagic.org

MoMagic
P: 415.567.0400
www.momagic.org

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CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

January 2, 2014


Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA. 94102-4689

RE: Certification of Surety Bond Requirements for New and Continuing Supervisors

Dear Ms. Calvillo:

The Controller's Office confirms that all newly elected and continuing Supervisors have been bonded, as of July 1, 2013 – June 30, 2014, as required by the San Francisco Administrative Code.

Sincerely,


Ben Rosenfield
Controller



PUBLIC OFFICIAL POSITION SCHEDULE BOND NUMBER 72BSBAP0252

SCHEDULE

Position	Number In Position	Amount Per Person	Total Aggregate per Position
Health Services Board Member	7	\$50,000.00	\$350,000.00
Assessor	1	\$50,000.00	\$50,000.00
Board of Supervisors	10	\$50,000.00	\$500,000.00
SFLAFCO	4	\$50,000.00	\$200,000.00
Mayor	1	\$50,000.00	\$50,000.00
Public Defender	1	\$50,000.00	\$50,000.00
District Attorney	1	\$50,000.00	\$50,000.00
Sheriff	2	\$50,000.00	\$100,000.00
City Attorney	1	\$50,000.00	\$50,000.00
Vehicle Verifier	2	\$50,000.00	\$100,000.00
Public Guardian	1	\$50,000.00	\$50,000.00
Public Administrator	1	\$50,000.00	\$50,000.00
County Clerk	1	\$50,000.00	\$50,000.00
Disbursing Officer	1	\$50,000.00	\$50,000.00
Supervisor District 9	1	\$50,000.00	\$50,000.00
Agricultural Commissioner/Sealer of Weights and Measures	1	\$50,000.00	\$50,000.00

Continuation Certificate

The Hartford Insurance Group

Surety - Government, Federal and Public Official

The Hartford Fire Insurance Company

(hereinafter called the Company)

hereby continues in force its Bond No. 72BSBAP0252

in the sum of

Two Million (\$2,000,000.00) Dollars,

on behalf of City/County of San Francisco, 1 Dr. Carlton B. Goodlett Place, Room 316, San Francisco, CA 94102

in favor of City/County of San Francisco

for the (extended) term beginning on July 1, 2013

and ending on June 30, 2014

subject to all the covenants and conditions of said Bond, said bond and this and all continuations thereof being one continuous contract.

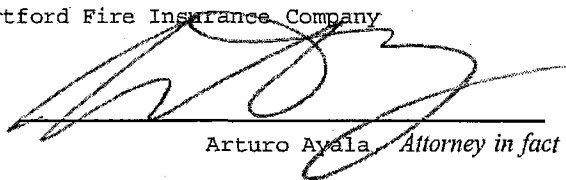
This Continuation is executed upon the express condition that the Company's liability under said Bond and this and all continuations thereof shall not be cumulative and shall in no event exceed the sum of

Two Million (\$2,000,000.00) Dollars.

IN WITNESS THEREOF, the Company has caused this instrument to be signed by its officers proper for the purpose and its corporate seal to be hereto affixed on May 31st, 2013

Hartford Fire Insurance Company

By:



Arturo Ayala, Attorney in fact

Attest:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange

On 5/31/13

Date

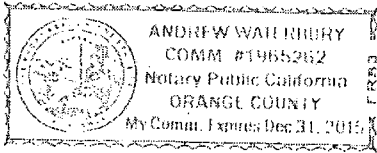
before me, Andrew Waterbury, Notary Public

Here Insert Name and Title of the Officer

personally appeared Arturo Ayala

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature

Signature of Notary Public Andrew Waterbury

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Continuation Certificate

Document Date: 5/31/13

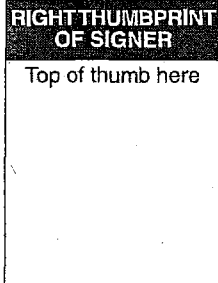
Number of Pages: One

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Arturo Ayala

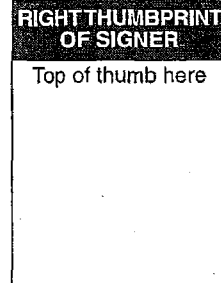
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Direct Inquiries/Claims to:

THE HARTFORD
BOND, T-4
One Hartford Plaza
Hartford, Connecticut 06155

call: 888-266-3488 or fax: 860-757-5835

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Code: 72-181009

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of unlimited:

Daniel Huckabay, Arturo Ayala
of
Orange, CA

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on January 22, 2004 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Wesley W. Cowling

Wesley W. Cowling, Assistant Secretary

M. Ross Fisher

M. Ross Fisher, Assistant Vice President

STATE OF CONNECTICUT }
COUNTY OF HARTFORD } ss. Hartford

On this 3rd day of November, 2008, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

Scott E. Paseka

Scott E. Paseka
Notary Public

My Commission Expires October 31, 2012

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of May 31st, 2013.

Signed and sealed at the City of Hartford.



Gary W. Stumper

Gary W. Stumper, Assistant Vice President



Claims Inquiries Notice

Hartford Fire Insurance Company
Hartford Casualty Insurance Company
Hartford Accident and Indemnity Company
Hartford Underwriters Insurance Company

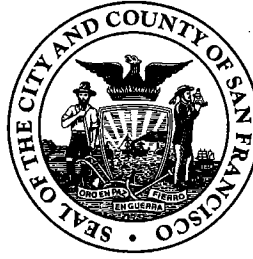
Twin City Insurance Company
Hartford Insurance Company of Illinois
Hartford Insurance Company of the Midwest
Hartford Insurance Company of the Southwest

Please address inquiries regarding **Claims** for all surety and fidelity products issued by The Hartford's underwriting companies to the following:

Phone Number : 888-266-3488
Fax – Claims : 860-757-5835 or 860-547-8265
E-mail : claims@1stepsurety.com

Mailing Address : The Hartford
BOND, T-4
690 Asylum Avenue
Hartford, CT 06115

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

MEMORANDUM

Date: January 6, 2014
To: Honorable Members, Board of Supervisors
From: Angela Calvillo, Clerk of the Board
Subject: Form 700

This is to inform you that the following individual has submitted a Form 700 Statement:

Laura Lane – Legislative Aide – Assuming

From: Board of Supervisors
To: BOS-Supervisors
Subject: Ride Shares. ATTN Jane Kim

From: AT&T Online Services [mailto:sidxd6@sbcglobal.net]

Sent: Monday, January 06, 2014 11:33 AM

To: Board of Supervisors; Amber Hatter; Andrea Neves; Keith Raskin #1137; Barbara Brown-home; Barton Evans; Yvette Castro-Green; Marcelo Fonseca #1389; Bill Funcannon; Margaret Scopazzi; C W. Nevius; Lonnie Pasquini #1300; Chad Green; mailto:Edwin Santiago; Cheryl F. Boyd; Mark Gruberg; Nolan Apostle; David Handley; Michael- Inna's Worker; Lee, Mayor; Edward Moisant; Flywheel-SF; Richard Hybels; Hansu Kim; Henry Dehlinger; Royal Taxi; Sa Ary (Yellow Cab 9037); Inna Novik; Robert A. Narvaez; Iosif Basis; Stacy Lin Menditto; Shawn Nguyen - De 1407; Sf Taxi Cab Talk; Jamshid E. Khajvandi; Tom Scog; TOM Pitts-CW Dispatcher; June L. Bollier

Subject: Ride Shares. ATTN Jane Kim

Dear SF Board of Supervisors:

Last week a driver who drives for the ride share phone app (Uber) killed a predestredian in San Francisco while speeding. After Uber looked into the matter, Uber determined that they weren't liable for the accident because the driver although employed by Uber was not at all on a pickup for an Uber order. Uber stated that their insurance does cover accidents involving their Uber drivers, but not when a driver has no order nor Uber customer in the car.

The problem here is 3 things. 1) the PUC should never have authorized these ride shares (Uber, Lyft etc.) to operate with such a loop hole in their insurance policies. 2) Uber I believe does little or no background checks on their potential hired drivers. Unlike the SF cab industry which requires a driver's DMV printout & a personal interview with the manager. Also Cab companies' insurance is continuous 24/7, whether the cab is for hire or not. 3) The SF Board of Supervisors are to blame as well for not reviewing these ride shares' insurance policy, & banning them from SF til they got continuous insurance 24/7.

Because of this latest ride share terrible accident, the City of San Francisco will pay a huge sum from the victim's family upcoming lawsuit. With Uber skirting away untouched under the veil of an insufficient insurance policy. I among many of our concern residents & workers of San Francisco call on the Board of Supervisors to do the right thing, & suspend ride shares from the city til they get sufficient insurance coverage to operate in the city. Or SF will start to bleed money when the next terrible accident occurs with a ride share.

Truly,
Sid Castro
A concerned San Francisco Taxi Driver

Sent from Yahoo Mail on Android
Sid

From: Jonathan Bonato [jonathanbonato@att.net]
Sent: Sunday, January 05, 2014 7:12 PM
To: Board of Supervisors
Cc: Chiu, David
Subject: Request BOS to investigate City's Termination of Master Lease to Midtown Park Corporation
Attachments: r0325-07.pdf

To the Clerk & President of the Board of Supervisors:

San Francisco Board of Supervisors Resolution 325-07 promised that the tenants would have a say in determining a new ownership structure at 1415 Scott Street, including opportunities to convert to a housing cooperative or condos, but the Mayor's Office of Housing suddenly terminated the master lease just before Christmas and ended all discussion, because the California Tax Credit Allocation Committee refuses to deal with the resident owned non profit Midtown Park Corporation.

I am writing to request the Board of Supervisors review and investigate the Mayor's Office of Housing termination of the longterm lease to Midtown Park Corporation, owned and controlled by the residents of 1415 Scott Street. The termination of the tenant's lease was done during the holidays, causing much distress to the residents, who rightly fear eviction and displacement, especially in view of comments made to the media by Teresa Yanga of MOH, and Supervisor London Breed, who sounds like she might have reversed the strong support residents previously enjoyed from former Supervisors Mirkarimi and Olague.

I am concerned the choice of former Mayor's Office of Housing Director Douglas Shoemaker who resigned to head up Mercy Housing to redevelop Midtown Park Apartments is a conflict of interest. The Mayor's Office should have disqualified Mr. Shoemaker from bidding on this project, and selected either Bernal Heights Neighborhood Center or the San Francisco Community Land Trust. I am asking the Board of Supervisors investigate this conflict of interest. It is wrong for the Director of Mayor's Office of Housing to resign his job, then assume control, development and possibly the ownership of City property which is already leased to the resident owned and controlled non profit corporation, a property the City has promised tenants over many years that someday they could become a resident owned and governed Coop.

The residents have a right to determine whether or not they can/should become a housing cooperative, whether or not they want to include market rate housing in the property, whether or not they can be displaced from San Francisco either temporarily or permanently. The residents have a right to have their voice and concerns heard about Mayor's Office of Housing imposing Tenant Income Certifications upon them, under threat of eviction or huge rent increases. Its wrong for Teresa Yanga and Supervisor Breed to intimidate the residents into compliance demanding Tenant income certifications, under penalty of eviction or huge rent increases, and accusing residents of subletting. At least one of those low income families has lived without a lease in that property for thirty five years - they are just as much legal residents as anyone else. Given the history of horrendous history displacement in the Western Addition, encouraged by SPUR, and the former Redevelopment Agency (MOH is the successor agency) as well as the arrest and detention in concentration camps of Japanese American residents in World War II, it is urgently necessary that Midtown Park remain and truly become resident owned and controlled.

If the City doesn't listen to the tenants at Midtown Park Apartments and Freedom West Cooperative, the City and the California Tax Credit Allocation Committee could well have hundreds residents protesting Mayor's Office of Housing, the Sisters of Mercy & Mercy Housing, and State of California Treasurers Office for terminating their lease and displacing them. Government must be responsive to the 99%, not just to Twitter, Google, Facebook, Larry Ellison and all the other billionaires and millionaires.

I please ask the Board of Supervisors to reinstate the lease of Midtown Park Corporation, and require the Mayor's Office of Housing to fully follow the BOS resolution 325-07. I also ask the Board investigate the awarding of the contract to Mercy Housing, shortly after Doug Shoemaker resigned from MOH to assume control of Mercy Housing as it bid to develop Midtown Park a few weeks later.

Jonathan Bonato

t