

**The California Advisory Committee  
on Salmon and Steelhead Trout:  
An Epic of Stymied Good Intentions**

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*California's salmon runs are a vital component of our great State's resources  
and contribute significant environmental, recreational, commercial, and  
economic benefits to the people. – Governor Arnold Schwarzenegger, 2008*

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- 1847 *The great abundance in which this fish is found gives it an important place among the resources. The salmon crowd in immense numbers ... into every little river and creek.* –John Charles Fremont, *Geographical Memoir Upon Upper California, in Illustration of His Map of Oregon and California,*
- 1878 *Within two years, eastern salmon have been placed in these waters, and occasionally these are caught. California salmon do not take the hook, because people and fish are sharp on this side of the Continent.* –Henry T. Williams, *The Pacific Tourist*
- 1892 *The salmon must surely disappear as did the buffalo of the plains and the Indian of California. The helpless salmon's life is gripped between these two forces—the murderous greed of the fishermen and the white man's advancing civilization—and what hope is there for the salmon in the end?* –Livingston Stone's address to the American Fishery Society
- 1915 *Salmon seeking to scale the ... dam ... to reach the upper canyons and spawn are reported to be exhausting their strength and will die.* –“Salmon to Die of Exhaustion,” *Los Angeles Times*
- 1924 *Were we to sit quiet and see the Klamath dammed, after our cumulative experience of over fifty years as a conservation body, watching natural salmon and trout runs destroyed by ever-higher damming of the rivers carrying them, then we as a commission would be derelict in our duty, and should deserve dismissal by the people.* – M. J. Connell, California Fish and Game Commission
- 1959 *The evidence is overwhelming that the salmon fishery on the San Joaquin River ... is now virtually extinct.* – State Water Rights Board
- 1970 *Salmon and steelhead trout resources are a priceless and irreplaceable resource of this state.* – California State Assembly
- 1976 *Ultimately, the drought could eliminate this year's primary salmon run.* – Robert A. Jones, *Los Angeles Times*
- 1979 *Secretary of the Interior Cecil D. Andrus asked California ... to cancel the rest of this year's commercial salmon fishing season.* – Bill Stall, *Los Angeles Times*
- 1980 *One senses a rising awareness in California of the value of its piscatorial riches and this presages, hopefully, a better day for the salmon and other wild creatures.* – Anthony Netboy, *Salmon, the World's Most Harassed Fish*
- 1988 *What is required is will, money and action. and soon.* – Glen Martin, *San Francisco Chronicle*
- 1992 *Opportunities to correct fishery habitat problems ... exist; and with sufficient support and funding, they will occur.* – J. Terry Mills, California Department of Fish and Game
- 1998 *Wildlife conservation is a sacred responsibility; we have been given stewardship over something precious and irreplaceable.* – Jamie Rappaport Clark, Director, United States Fish and Wildlife Service
- 2002 *Salmon are the center of our tribal culture. If they leave the river system, we don't know what will become of us.* – Barry Wayne McCovey, Jr., Yurok Tribal Fisheries Department, “For the Yurok, Salmon is Everything.”
- 2004 *Nobody ... likes to change ... that's just a hard reality. It happens one of two ways. It happens by crisis, which we saw with September 11.... Or it happens by leadership.* – Leon Panetta
- 2008 *The fish aren't even getting here.* – Anthony Intiso, Upper-Mid Klamath Watershed Council

**Abstract**

*The California Advisory Committee on Salmon and Steelhead Trout (CAC) was originally created in 1970 as an advisory body to the California Legislature and the Department of Fish and Game. The CAC was expected to operate autonomously, helping ensure the political will needed to restore California's declining salmon runs. However, since the early 1990s the CAC has been neither funded nor staffed to conduct the studies and other activities necessary to fully comply with their directive to oversee California's salmon restoration program. Likewise, although annual reporting, accompanied by proposed legislative changes, as needed, was originally anticipated, it has been twenty years since the last full CAC report to the Joint Legislative Committee on Fisheries and Aquaculture was prepared.*

*Although the intent of this paper was to demonstrate the CAC's continuing value, it also reveals a consistent lack of political will to fund and aggressively enforce the Fish and Game Code and legislative mandates as the limiting factors in restoring California's salmon, in general, and in CAC operation, in particular, with apparent political tampering facilitating events which have cost taxpayers millions of dollars while benefiting a select few. In addition, the state's failure to adopt CAC recommendations, coupled with the CAC's inability to maintain staff, has compounded the current West Coast salmon disaster and furthered salmon declines. Salmon restoration suffers incessantly from shortages in funding, enforcement, monitoring, oversight, habitat protection and political will. CAC staff and reporting would alleviate many of the difficulties encountered. Moreover, CAC staffing could potentially have saved taxpayers millions of dollars and helped avoid the 2008 collapse of the Sacramento River Fall Run Chinook. Californians should be outraged that billions of taxpayer dollars have been spent on*

*restoration, with no end in sight, and little if any relief provided to their salmon. They should demand to be heard through their CAC.*

### **Introduction**

*In the long run, preservation of wild fish makes economic good sense. When wild fish come back to spawn, it doesn't cost California's taxpayers a dime. – Pat Higgins, “Why All the Fuss?” (1991)*

Since California's implementation of term limits in 1990, key bureaucratic positions in government change rapidly, often as a result of direct political control and influence.<sup>1</sup> Long before such term limits were even contemplated, however, the Milton Marks Commission on California State Government Organization and Economy (Little Hoover) attempted to define the role of “private citizens rendering a part-time public service” through service on boards and commissions (plural bodies), with a view toward assuring their “effective utilization” within the Resources Agency, in the hopes of “making the state government more efficient, more effective and more responsive to the public.”<sup>2</sup> In the course of their 1965 review, Little Hoover did find value in the use of plural bodies, further predicting that this value would only increase “as State Government grows larger and, unavoidably, legislators and senior executives become less accessible to the ordinary citizen.”<sup>3</sup> Twenty-some years later, Little Hoover examined over four hundred boards, commissions and other plural bodies statewide, reaffirming their value as a means of “bringing together a group of informed and responsible citizens” to make

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<sup>1</sup> “There is so precious little institutional memory in California government and politics (there's zip in today's term-limited Legislature, precisely the condition the lobbyist-initiated term limit law intended).” William M. Kier, e-mail message to author, 21 Apr. 2008.

<sup>2</sup> A “bipartisan citizen's commission” created in 1962 to promote government efficiency and economy as well as to improve public services, Little Hoover was modeled after President Herbert Hoover's Commission on Organization of the U.S. Executive Branch – the *big* Hoover Commission, and was the brainchild of State Senator Milton Marks. State of California, Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, “Former State Senator Milton Marks,” *Little Hoover Commission*, State of California, 26 Oct. 2008 <<http://www.lhc.ca.gov/lhcdir/MMarks.html>>; Encyclopedia Britannica Online, *Hoover Commission*, 2008, 11 Oct. 2008 <<http://search.eb.com/eb/article-9040999>>; State of California, Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, *The Use of Boards and Commissions in the Resources Agency: a report of findings and recommendations* (Sacramento: State of California, 1965), 3, 7.

<sup>3</sup> Little Hoover, *Use of Boards*, 13.

determinations free from political influence.<sup>4</sup> As recently as 2004, Little Hoover found “well structured and managed” plural bodies to be “effective mechanisms for serving the public.”<sup>5</sup>

At the same time, Little Hoover cautioned that plural bodies were “frequently cited as examples of waste and abuse of government resources.”<sup>6</sup> In all three reports, they found the vast proliferation of plural bodies throughout state government could easily pose problems because, although ideally “they can be created, modified, and abolished by simple executive action,” in reality plural bodies operate somewhat autonomously, “outside of the normal checks and balances of representative government,” and “quite often get out of hand and are not at all easy to dissolve.”<sup>7</sup> Little Hoover went on to caution that the hidden costs involved in the use of plural bodies “can commit the State to substantial expenditures.”<sup>8</sup> Moreover, they found that once formed, most plural bodies were rarely subjected to any sort of review, some continuing “to exist even after they no longer have any budget, staff or useful function.”<sup>9</sup>

Attempts to reduce or restrict the use of boards and commissions in state government have met with mixed results. In 1969, Governor Ronald Reagan “successfully eliminated 32 boards, commissions and advisory councils,” his plan withstanding Little Hoover’s scrutiny.<sup>10</sup> More recently, on January 6, 2005, Governor Arnold Schwarzenegger introduced *A Government for the People for a Change*, an ambitious reform proposal that included the elimination of “88 boards and commissions” (California Performance Review), thus “removing unnecessary layers

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<sup>4</sup> State of California, Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, *Boards and Commissions: California’s hidden government* (Sacramento: State of California, 1989), 1, 9.

<sup>5</sup> Little Hoover, *Historic Opportunities*, 21.

<sup>6</sup> Little Hoover, *Historic Opportunities*, 2.

<sup>7</sup> Little Hoover, *Hidden Government*, 1; Little Hoover, *Use of Boards*, 20.

<sup>8</sup> Little Hoover, *Use of Boards*, 8.

<sup>9</sup> Little Hoover, *Hidden Government*, 2-3, 13-14; Little Hoover, *Historic Opportunities*, 21.

<sup>10</sup> State of California, Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, “Reorganization Process,” *Little Hoover Commission*, 2008, State of California, 15 Sept. 2008 <<http://www.lhc.ca.gov/lhcdir/reorg2.html>>.

of bureaucracy and improving constituent accessibility.”<sup>11</sup> Apparently the public felt differently; in mid-February, one week before the expected release of a Little Hoover report known to be highly critical of the governor’s plan, *Sacramento Bee* headlines reported: “Governor to ditch board cuts – He concedes his plan to eliminate 88 regulatory panels needs more work.”<sup>12</sup> Meanwhile, hundreds of plural bodies continue to exist, presumably all helping facilitate governance of California. James P. Mayer, Executive Director of California Forward, believes some to be “highly efficient,” while others are “anachronisms,” adding that regardless, “bureaucrats often find them to be a useless appendage.”<sup>13</sup>

This paper will look at the California Advisory Committee on Salmon and Steelhead Trout (“CAC”), one of the many plural bodies housed within the Resources Agency. Originally created by the Legislature in 1970, by 1976 the CAC had faded into nonexistence. It was reconstituted by the Joint Legislative Committee on Fisheries and Aquaculture (Joint Committee) in 1983, directed to conduct studies regarding California’s salmon and steelhead resources and further directed to provide their findings to the Joint Committee and the DFG

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<sup>11</sup> State of California, California Performance Review Board, *California Performance Review Board*. 2 Sept. 2008, State of California, 2 Sept. 2008 <<http://cpr.ca.gov/>>; Jody Freeman, “Schwarzenegger’s Power Grab - Reform Proposal Would Hand Many Key Decisions to Governor’s Appointees,” *Los Angeles Times* (Los Angeles), 9 Aug. 2004, California.

<sup>12</sup> At Little Hoover’s December 8, 2004, *Public Hearing on Boards, Commissions and Public Accountability*, Steven B. Frates, President of the Center for Government Analysis, stated his belief that boards and commissions were “needed whenever the legislature or the public ... decides that they are needed.” At that same hearing, Joseph E. Bodovitz, former Executive Director of the California Coastal Commission, said: “Boards/commissions are valuable in any state, but particularly in California. Why? Because California today is like no other state in the union, and like no other state has ever been. We have the population – 34 million and growing – of many countries. We have an economy that, all by itself, is one of the world’s largest. We have great geographic diversity, from the Mexican border to Oregon. and living in this large state are people of many different ancestries. Clearly, we have a wealth of diverse people upon whom to draw for governmental boards/commissions. We should encourage people to play a role in California government, not freeze them out in the name of supposed efficiency of a single administrator. Moreover, the commission system has worked well for California. If it isn’t broken, why do we think we can fix it?” Little Hoover, “Reorganization Process.” Gary Delsohn, “Governor to Ditch Board Cuts – He Concedes His Plan to Eliminate 88 Regulatory Panels Needs More Work,” *Sacramento Bee* (Sacramento, CA), 17 Feb. 2005, Metro Final.

<sup>13</sup> James P. Mayer, e-mail message to William M. Kier and author, 9 July 2008.

Director in four annual reports.<sup>14</sup> They produced three, in 1986, 1987 and 1988; the fourth such annual report was never produced.<sup>15</sup> In their 1987 report, the CAC requested that its life “be extended another 18 months, until July, 1989.”<sup>16</sup> Twenty years later, CAC members still meet quarterly and the CAC still makes recommendations to the Joint Committee and the DFG director regarding restoration and protection of California’s salmon.<sup>17</sup> Largely unfunded and unstaffed since 1992, the CAC was neither included among the four hundred plus plural bodies listed in the 1989 Little Hoover report’s appendices nor was it mentioned in the California Performance Review. So, which of the findings of Little Hoover hold true with regards to the CAC? Is it of continuing value to the Resources Agency, or has the CAC outlived its usefulness, now constituting nothing but a drain on DFG’s limited funding? A look into the CAC’s history demonstrates the importance of involving concerned citizens in overseeing the protection of our resources and verifies that the CAC is indeed a plural body with continuing value. To fully comprehend this value, however, one must understand something of the resiliency of California’s salmon and the magnitude of loss to the people of California resulting from DFG’s failure to fully utilize its legislatively-provided tool, the CAC.

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<sup>14</sup> Three main species of salmon call California home: Chinook salmon (*Oncorhynchus tshawytscha*), Coho salmon (*Oncorhynchus kisutch*), and steelhead trout (*Oncorhynchus mykiss irideus*); for purposes of this paper, the term *salmon*, used generically, shall include all three.

<sup>15</sup> Copies of all reports produced by the CAC are available at <<http://ifrfish.org/CAC/CAC.htm>>.

<sup>16</sup> Advisory Committee on Salmon and Steelhead Trout, *A New Partnership: 1987 Annual Report* (Sacramento: State of California, 1987), 35.

<sup>17</sup> Since 2001, the author of this paper has been a member of the CAC, representing Central California’s commercial fishermen. Appointments to the CAC are still made by the Chair of the Joint Committee, CAC members are reimbursed for their travel expenses by DFG, and on occasion DFG provides minimal staff assistance. The most recent meeting of the CAC was held on November 19, 2008, in Sacramento. See Appendix A for a roster of current CAC members and other supporting documentation.

## Salmon in California

*The hunting and fishing are unsurpassed in California. The waters are filled with trout and salmon. – Henry Williams, The Pacific Tourist (1878)*

*There is a paradox about salmon: We love them, but we are part of their problem. We love them as an important food, as the base of fishing economies, for sport recreation, and as symbols of fresh water and renewal. But we harvest them, dam, pave and pump their streams, pollute their water and mix their gene pool with hatchery fish. – Senator Patricia Wiggins, Lake County News (2008)*

Salmon have graced California's rivers and streams since time immemorial, once ranging from the Oregon border all the way to Baja.<sup>18</sup> By the time California passed from Mexican rule to the United States, development was already impacting its salmon. In 1996, the National Research Council (NRC) found many of California's salmon runs to be extinct and most of those remaining at high risk of extinction.<sup>19</sup> California has been so altered that the only way possible to determine historic salmon abundances and distributions is "by inference from scattered records, ethnographic information, and analysis of the natural features of the streams."<sup>20</sup> Initial restoration attempts were undertaken in the mid-1960s, but it was not until 1968 that California's fishing community was able to garner the attention needed to try to stop declines.<sup>21</sup> Finally, in response to citizen demands, the Legislature created the CAC, officially recognizing the need for a salmon

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<sup>18</sup> Tim E. Hovey, "Current Status of Southern Steelhead/Rainbow Trout in San Mateo Creek," *California Fish and Game* (Sacramento, CA) Vol. 90 (2004): 140; Advisory Committee on Salmon and Steelhead Trout, *An Environmental Tragedy: Report on California Salmon and Steelhead Trout* (Sacramento: State of California, March 15, 1971), 24.

<sup>19</sup> National Research Council (U.S.), Committee On Protection and Management of Pacific Northwest Anadromous Salmonids, Board on Environmental Studies and Toxicology, Commission on Life Sciences, *Upstream: salmon and society in the Pacific Northwest* (Washington, D.C.: National Academy Press, 1996), 103-07; Robert T. Lackey, "A Salmon-Centric View of the 21st Century in the Western United States," Proceedings of the World Summit on Salmon, ed. Patricia Gallagher and Laurie Wood (Simon Fraser Univ., Burnaby, BC, Canada, 2004), 1.

<sup>20</sup> Ronald M. Yoshiyama et al, "Historical and Present Distribution of Chinook Salmon in the Central Valley Drainage of California," in *Fish Bulletin 179: Contributions to the Biology of Central Valley Salmonids*, ed. State of California, Resources Agency, Dept. of Fish and Game (Sacramento: State of California, 2001), 73.

<sup>21</sup> State of California, Resources Agency, Department of Fish and Game, Inland Fisheries Division, *Initial elements of the salmon, steelhead trout and anadromous fisheries program: a report submitted to the Legislature* (Sacramento: State of California, 1989), 11; Vivian Helliwell, Chair, California Advisory Committee on Salmon and Steelhead Trout, "Program Report: Statement of California Advisory Committee on Salmon and Steelhead Trout," in *Thirty-Fifth Annual Legislative Fisheries Forum* (State Capitol, Sacramento, CA: California Joint Legislative Fisheries and Aquaculture Committee, 6 May 2008).

restoration program.<sup>22</sup> Since that time, literally billions of federal and state tax dollars have been spent on habitat restoration, research and mitigation, yet in 2002, tens of thousands of adult salmon died on their return to the lethal waters of the Klamath River, and 2008 newspaper headlines touted the closure of fisheries due to an apparent collapse of the once robust Sacramento Fall Chinook.<sup>23</sup> For Native Californians, healthy salmon runs are “a matter of life and death”; their very culture is now threatened by the losses.<sup>24</sup>

### Historiography

*No one person can be expert in all aspects of California salmonids. The subject is too vast, impinges on a hundred state economies, cuts across disparate cultures and life-styles, and requires the expertise of dozens of scientific fields.* – Alan Lufkin, *California’s Salmon and Steelhead: The Struggle to Restore an Imperiled Resource* (1991)

*How can it be that the direct causes of the decline are reasonably well known, have been studied in great detail, and the public appears to be supportive of changing the downward trajectory for wild salmon, yet the long-term prognosis is poor for California?* – Robert T. Lackey, “A Salmon-Centric View of the 21st Century in the Western United States” (2004)

To fully understand the CAC’s role in this apparent failure to restore California’s salmon requires an understanding of the use and importance of plural bodies in California government, particularly the Resource Agency; thus Little Hoover’s reports on this topic were an invaluable reference. To demonstrate the continuing value of and need for the plural body in question, however, it was necessary to also review reports from government agencies such as the Department of Fish and Game, as well as the various enabling legislative documents. Further, to bring in public opinion and derive a broader view of reality than merely that encapsulated in

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<sup>22</sup> California State Legislature, *Relative to Salmon and Steelhead Trout Fishery*, Senate Joint Resolution 19, Chapter 141, Statutes of California, 3649 (1983), 5514.

<sup>23</sup> Glen Martin, “Salmon Kill Linked to Level of Klamath - River’s Flow – Reduced for Irrigation – Played a Role in Huge Die-Off, U.S. Study Finds,” *San Francisco Chronicle* (San Francisco), 19 Nov. 2003, Final, News: A4; Ken McLaughlin, “Lost Harvest - on Land and at Sea, Two Men Grapple with a Cursed Summer: Pacific Salmon, Tomato Seasons Are Disastrous,” *San Jose Mercury News* (San Jose, CA), 17 July 2008, Morning Final, 1A; Neil Farrell, “Salmon Season Options Look Grim,” *Bay News* (Morro Bay, CA), 3-9 Apr. 2008, 1; Dan Bacher, “Fishery Council Closes Salmon Fishing Off California and Oregon: Action Unprecedented Since Commercial Fishing Began in California in 1848,” *California Progress Report*, 11 Apr. 2008, Frank D. Russo, 14 Sept. 2008 <[http://www.californiaprogressreport.com/2008/04/fishery\\_council.html](http://www.californiaprogressreport.com/2008/04/fishery_council.html)>; Eric Bailey, “U.S. Orders Salmon Season Stopped,” *Los Angeles Times* (Los Angeles), 11 Apr. 2008, Local: B-1; Lackey, “Salmon-Centric View,” 1.

<sup>24</sup> Barry Wayne McCovey, Jr. “For the Yurok, Salmon is Everything.” *Indian Country Today*, 4 Oct. 2002. 5 Oct. 2008 <<http://IndianCountry.com/?1033740988>>.

government findings, several decades of newspapers were consulted. CAC annual reports, minutes and agendas were used to demonstrate the role the CAC plays in California's salmon restoration program. CAC members, past and present, have been consulted, they have reviewed drafts of this document, made comments and suggested revisions. Utilizing this approach, a consistent lack of political will to aggressively enforce legislative mandates is revealed as limiting California's salmon restoration, in general, and CAC operation, in particular, with political interference facilitating events which have cost taxpayers millions of dollars while benefiting a select few.

### **Salmon Harvesting**

*I happened to be fishing four or five miles down the [Sacramento] river ... with the view of trying to put up two or three hundred barrels of salmon, thinking the venture would be profitable. – John Bidwell, The California Bear Flag Revolt (1845)*

*Oakland wharf ... is fringed every day, at the change of the tide, with a line of amateur fishermen and fisherwomen (for ladies participate in the sport also), angling for the salmon trout, with which the waters of the bay are filled at this time. Three, four, and a dozen on a string, are the ordinary results of an hours fishing—and goodly-sized fellows they are too.... if you catch more than you have any use for, take over some good parchment tags, write the names of some friends on them, and tie them to the fish, and hand them to the parcel express. – Daily Alta California, (1875)*

Native Californians consumed an estimated five million pounds of salmon each year, at the same time observing strict practices and policies to help to ensure plentiful stocks. Early white settlers were impressed with the quantity and quality of salmon in California. Captains Bidwell and Sutter were some of the first to take commercial advantage of the stocks, employing Indian fishermen as early as 1840. The population boom of the Gold Rush brought hungry customers; before long, gill nets were stretched across the rivers, with canneries quick to follow (see Appendix B). On April 12, 1852, California's Legislature enacted the first law addressing salmon habitat protection, calling on "all good citizens and officers of justice to remove, destroy and break down any weir, dam, fence, set or stop net, or other obstruction to the run of salmon in

any river or stream.”<sup>25</sup> Salmon was a highly valued resource and played an important role in the new state’s economy. By the early 1880’s, the annual harvest of salmon in California reached eleven million pounds and twenty canneries were in operation.<sup>26</sup> When the Fish and Game Commission formed in 1870, one of their first acts was the passage of a law creating a closed season on salmon netting from January until June to protect out-migrating salmon smolts.<sup>27</sup>

Meanwhile, around the turn of the twentieth century ocean sport catches of salmon increased, attracting the attention of commercial fishermen. By 1904 there were over one hundred seventy-five commercial boats trolling salmon on Monterey Bay (see Appendix B). Salmon trolling slowly spread northwards, and in about ten years the ocean troll harvest roughly equaled the traditional in-river gillnet harvest, with local markets absorbing all that were landed. By 1919 all commercial salmon canneries on the Sacramento were closed, although other fish processing facilities continued to operate.<sup>28</sup> Ocean harvest rates fluctuated widely in those early

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<sup>25</sup> Alan Lufkin, “Historical Highlights,” in *California’s Salmon and Steelhead: The Struggle to Restore an Imperiled Resource*, ed. Alan Lufkin (Berkeley: Univ. of California Press, 1991), 7; W. L. Scofield, “Marine Fisheries Dates” (1957), copies on file with author and William M. Kier, 28; State of California, Resources Agency. “Department of Fish and Game Celebrates 130 Years of Serving California.” In *Outdoor California* 21. Nov. - Dec. (California Fish and Game: Sacramento, 1999) 2000. 10 Aug. 2008 <<http://www.dfg.ca.gov/publications/docs/history.pdf>>.

<sup>26</sup> Arthur F. McEvoy, *The Fisherman’s Problem: Ecology and Law in the California Fisheries, 1850-1980* (Cambridge, NY: Cambridge Univ. Press, 1986), 70-71; Lufkin, “Historical Highlights,” 8, 14; *Sacramento-San Joaquin Salmon (Oncorhynchus Tschawytscha) Fishery of California*, State of California, Division of Fish and Game, Fish Bulletin No. 17, by G.H. Clark, Bureau of Commercial Fisheries (Sacramento: State of California, 1929), 8, 73.

<sup>27</sup> Eventually conflicts with recreational fishermen led to the 1957 total closure of the San Francisco Bay-Delta salmon gillnet fishery. Jack Curnow, “Fish ‘N’ Game,” *Los Angeles Times* (Los Angeles), 14 May 1957, C2; Paul T. Jensen and Phillip G. Swartzell, “California Salmon Landings 1952 Through 1965,” in *Fish Bulletin No. 135: The California Marine Fish Catch for 1965 and California Salmon Landings 1952 Through 1965*, ed. State of California, Resources Agency, Dept. of Fish and Game (Sacramento: State of California, 1967), 44; Lufkin, “Historical Highlights,” 13; J. A. Craig, *Fish Bulletin No. 24: An Analysis of the Catch Statistics of the Striped Bass (Roccus Lineatus) Fishery of California* (Sacramento: State of California, 1930), 7; Donald H. Fry, “Salmon,” in *Fish Bulletin No. 74: The Commercial Fish Catch of California for the Year 1947 With an Historical Review 1916-1947*, ed. State of California, Resources Agency, Dept. of Fish and Game (Sacramento: State of California, 1949), 40-41; Clark, *Sacramento-San Joaquin Salmon Fishery*, 17.

<sup>28</sup> Commercial salmon vessel permits were first required in 1979, when over ten thousand permits were issued; by 2008, the number of licensed commercial salmon vessels had declined to just under thirteen hundred (see Appendix D). Lufkin, “Historical Highlights,” 9-10, 13; Fry, “Salmon,” 43, 46; William L. Scofield, *Trolling Gear in California*, ed. California. Dept. of Fish and Game. Marine Fisheries Branch, Fish Bulletin No. 103 (Sacramento: State of California, 1956), 112; Clark, *Sacramento-San Joaquin Salmon Fishery*, 10.

days with over thirteen million pounds harvested in both 1918 and 1919, but only three million pounds in 1939 (in part due to effort). More recently, salmon harvests have ranged from over six million pounds in 2004 to only one and a half million pounds in 2007 (restrictions were in place to protect Klamath River Chinook) (see Appendix C).<sup>29</sup> In 2008, all commercial and most recreational harvesting of salmon in California was prohibited.<sup>30</sup> Still, despite early intensive fishing efforts, canneries and overharvest were not solely to blame – environmental destruction quickly became a familiar part of the growing pattern of salmon declines.<sup>31</sup>

### **Habitat Destruction**

*A serene land of infinitely varied landscapes, endowed with an abundance of fertile soils, immense forests and grasslands, mountains, and deserts – a demiparadise – was invaded by hordes of people. – Anthony Netboy, *The Salmon: Their Fight for Survival* (1973)*

*The single biggest cause for the decline of this fish has been the construction of dams and diversions. – California's Wildlife Action Plan (2007)*

While California's nineteenth-century fishermen were busy harvesting salmon for canneries, more destructive factors were also at play. The state's population exploded as thousands rushed in to search for gold, and the Sierra foothills quickly becoming dotted with holes the miners prayed would not become graves. In 1853, hydraulic mining made possible the dismantling of hillsides from a safe distance. In a matter of hours, an entire mountainside could be flushed away, along with its trees, soil and gravel; in the process vast stretches of salmon habitat lying in the path of the debris were also destroyed. Thousands of people would gather to

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<sup>29</sup> Lufkin, "Historical Highlights," 14; Fry, "Salmon," 223; Pacific Fishery Management Council, *Review of 2007 Ocean Salmon Fisheries* (Document prepared for Council and its advisory entities) (Portland, OR, 2008), 298.

<sup>30</sup> Bailey, "Salmon Season Stopped"; Dan Bacher, "Special Report on Washington D.C. Salmon Collapse Hearing," *San Francisco Bay Area Independent Media Center*, North Coast, 20 May 2008, 14 Sept. 2008 <<http://www.indybay.org/newsitems/2008/05/20/18500419.php>>; Dan Bacher, "Need to Truck and Release 20.2 Million Central Valley Salmon Into San Pablo Bay is Sad Commentary on Health of California Delta," *California Progress Report*, 23 June 2008, Frank D. Russo, 21 Sept. 2008 <[http://www.californiaprogressreport.com/2008/06/need\\_to\\_truck\\_a.html](http://www.californiaprogressreport.com/2008/06/need_to_truck_a.html)>.

<sup>31</sup> Anthony Netboy, *The Salmon: Their Fight for Survival*, Illustrated with photos. Maps by Samuel H. Bryant (Boston: Houghton Mifflin, 1973), 249.

watch as entire mountains were shattered by explosives and washed away.<sup>32</sup> Hydraulic mining debris blanketed over eighteen thousand acres of farmland along the Yuba River by 1878. It increased the elevation of the Sacramento River by seven feet, and ultimately dumped over a billion cubic yards of mud into San Francisco Bay. Miners attempted many different devices to accommodate the muck, including debris dams, holding basins and canals designed to funnel it to the Sacramento River and “waste tule lands in the Sacramento Valley.”<sup>33</sup> Outraged farmers and other citizens organized to fight the miners; in 1884 the flushing of debris into the rivers and streams was finally outlawed by federal courts, but devastation continued well into the 1900s.<sup>34</sup>

Eventually the effects from hydraulic mining began to lessen, but by that time there were plenty of other habitat strains. Rail construction was wreaking havoc, in places completely blocking stream passage. In addition, at times railroad companies used explosives to kill thousands of fish to feed their large crews. Flumes and dams built to support hydraulic mining were subsequently converted for use in irrigating farmlands, and before long agricultural runoff began polluting waterways. Uncontrolled timber harvest also began to take its toll on the landscape, likewise impacting rivers and streams.<sup>35</sup> Salmon decreased in number to the point where they were not even considered an important resource, allowing for the building of still more impassable dams and permitting unscreened irrigation ditches to carry millions of young salmon into fields to die. In 1936, construction began on the Central Valley Project; it was the

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<sup>32</sup> Noted marine biologist Joel Hedgpeth estimated that fishing efforts from 1864 to 1882 did less damage to salmon runs than the devastation wrought on river systems by hydraulic mining. Joel W. Hedgpeth, “The Passing of the Salmon.” *Scientific Monthly* 59, No. 5, Nov. 1944: 370-78, American Association for the Advancement of Science, 25 Aug. 2008 <<http://www.jstor.org/stable/18300>>, Florida; Netboy, *The Salmon*, 236; John McPhee, *Assembling California* (New York: Farrar, 1993), 61, 66-67; Yoshiyama et al, “Historical and Present Distribution,” 73; Lufkin, “Historical Highlights,” 9-10; “A Monster Blast,” *Scientific American*, 24 Apr. 1869: 263.

<sup>33</sup> “Hydraulic Mining: The Commission Appointed by Congress Investigating,” *Daily Alta California* (San Francisco), 19 June 1889, 1, col. 2; “Reclamation Dams and Hydraulic Mud,” *Daily Alta California* (San Francisco), Nov. 2 1875, 1, col. 5.

<sup>34</sup> McPhee, *Assembling California*, 67; “Hydraulic Mining Still Continues Despite Law,” *Call* (San Francisco), 18 Oct. 1909, 1, col. 7; Lufkin, “Historical Highlights,” 10.

<sup>35</sup> Lufkin, “Historical Highlights,” 13, 14.

summer of 1938 before the government began an investigation of its possible effects on salmon populations. While Americans panicked about Orson Welles' imaginary *War of the Worlds*, a real menace, the Central Valley Project, threatened the very existence of California's salmon.<sup>36</sup> In 1951, fishery advocates were further dismayed when Attorney General Edmund G. Brown found that state law did not require the federal government to provide sufficient water to pass through its dams to sustain fish life. Eight years later, the State Water Rights Board held that "re-establishment and maintenance of the salmon fishery at this time is not in the public interest."<sup>37</sup> Dams continued to be built and water diversions for agricultural purposes continued to increase.<sup>38</sup> Despite early warnings, California's growth brought unabated habitat destruction and is the primary cause of salmon declines.<sup>39</sup> As early as 1925, DFG biologists estimated that only about five hundred of the original six thousand miles of suitable spawning habitat remained available for salmon to use, a reduction of over eighty percent. The impact on California's salmon has been devastating.<sup>40</sup> Scientific studies have proven "water is not *wasted* by running into the sea" and that large-scale water diversions constitute a trade-off of river ecosystems and

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<sup>36</sup> Hedgpeth, "Passing of the Salmon," 370, 376-77.

<sup>37</sup> Water Rights Board, "Decision No. D 935," 41; Advisory Committee on Salmon and Steelhead Trout, *A Conservation Opportunity: Report on California Salmon and Steelhead Trout*, tech. rept. no. 64 (Sacramento: Resource Agency, State of California, 1972), 22.

<sup>38</sup> A 1997 inventory of the Sacramento-San Joaquin River basins and the Delta mapped a total of three thousand three hundred fifty-six diversions, of which over ninety-eight percent were found to be either unscreened or insufficiently screened to protect juvenile salmon. Janna R. Herren and Spencer S. Kawasaki, "Inventory of Water Diversions in Four Geographic Areas in California's Central Valley," in *Fish Bulletin No. 179: Contributions to the Biology of Central Valley Salmonids*, ed. Randall L. Brown, Vol. 1 (Sacramento: State of California, Resources Agency, Dept. of Fish and Game, 2001), 343.

<sup>39</sup> In 1892, pioneer fisheries biologist Livingston Stone predicted the disappearance of California's salmon, much like "the buffalo of the plains and the Indians of California," explaining that there was "every contrivance employed that human ingenuity can devise to destroy the salmon of our west coast rivers, but more surely destructive, more fatal than all is the slow but inexorable march of these destroying agencies of human progress." Netboy, *The Salmon*, 250. Willa Nehlsen, Jack E. Williams, and James A. Lichatowich, "Pacific Salmon at the Crossroads: Stocks at Risk from California, Oregon, Idaho and Washington," *Fisheries* Vol. 16, No. 2 (Mar./Apr. 1991): 6; Advisory Committee, *Environmental Tragedy*, 23.

<sup>40</sup> Clark, *Sacramento-San Joaquin Salmon Fishery*, 28; Lufkin, "Historical Highlights," 14.

those dependent thereon for power generation and irrigation.<sup>41</sup> According to the NRC, factors adversely affecting salmon habitat include: “forestry; agriculture; dams; commercial, residential, and recreational development.”<sup>42</sup> Upwards of ninety-five percent of California’s wetlands have been destroyed; nevertheless, restoration enjoys public support and appears to still be *ecologically achievable*.<sup>43</sup>

### **Salmon Hatcheries**

*Since 90 percent of the spawning grounds are destroyed, we’re stuck with hatcheries and breeding management for a long time. – Maria DeSantis, California Currents: An Exploration of the Ocean’s Pleasures, Mysteries, and Dilemmas (1985)*

*They took the beautiful salmon and made it into just another dumb fish. – Anonymous fisherman, (1985)*

To protect and restore its valuable salmon fisheries, in the 1870s California developed an ambitious salmon hatchery program.<sup>44</sup> Since those early days, theories and practices related to salmon hatcheries have undergone many changes and developments, and although highly controversial, salmon hatcheries continue to be used for both restoration and mitigation purposes, with varying results. To avoid becoming mired in the multitude of problems and debates concerning this issue, this paper will avoid any detailed discussion of California’s salmon hatchery programs and/or the differences, genetic or otherwise, between wild and hatchery fish.

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<sup>41</sup> *Blue Gold: The Global Water Crisis and the Commodification of the World’s Water Supply, a Special Report Issued by the International Forum on Globalization*, by Maude Barlow, National Chair, Council of Canadians, Chair, IFG Committee on the Globalization of Water, ed. Debi Barker and Shannon Biggs (San Francisco: International Forum on Globalization, Thoreau Center for Sustainability, Spring 2001), 41.

<sup>42</sup> NRC, “Upstream,” 358.

<sup>43</sup> Barlow, *Blue Gold*, 9; Lackey, “Salmon-Centric View,” 1.

<sup>44</sup> Lufkin, “Historical Highlights,” 13.

### Recovery and the CAC

*Working on a restoration project is like a message to the fish that we do care. I think a community and its people are measured by their regard for living things. – Leo Cronin, The Tragedy Continues: Advisory Committee on Salmon and Steelhead Trout 1986 Annual Report (1986)*

*Only a few still know the formula that will bring the salmon up the river. – From I Still Eat All of My Meals with a Mussel Shell, by Shaunna Oteka McCovey, The Smokehouse Boys (2005)*

By 1968, DFG biologists were raising concerns about reduced salmon harvests, citing “losses in unscreened irrigation diversions, water quality and quantity problems,” and “unknown changes in the ocean environment.” Fishermen were found “not to blame for the decline,” but DFG was unable to pinpoint any specific problems. In July 1968 DFG Director Walter T. Shannon called a public meeting to discuss plans to curtail recreational and commercial salmon harvests, hoping to garner public support for his controversial decision. Among those in attendance was Fort Bragg fish buyer Bill Grader (Grader), who was adamantly opposed to any fishery closures. After DFG biologists Paul Jensen and Eldon Hughes displayed charts and detailed declines, recreational and commercial fishermen began to grudgingly accept that there could be no alternative but to curtail fishing. Forty years later, William M. Kier (Kier) still recalls everyone in the room’s astonishment when, as commercial fishermen one by one trudged to the microphone to acquiesce, Grader *roared* out, cursing in opposition, and from his seat began to outline the many problems which had befallen California’s salmon, none of which were related to fishing.<sup>45</sup>

The Senate’s Natural Resources Committee consultant, Kier was long accustomed to working with Grader on various issues, and so was not surprised the next morning when he arrived at his Sacramento office and Grader was already there, waiting with a “wad of

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<sup>45</sup> Michael Black, “Shasta Salmon Salvage Efforts: Coleman National Fish Hatchery on Battle Creek, 1895-1992,” in *Fish Bulletin No. 179: Contributions to the Biology of Central Valley Salmonids*, ed. Randall L. Brown, Vol. 1 (Sacramento: State of California, Resources Agency, Dept. of Fish and Game, 2001), 227-28; William M. Kier, e-mail message to Thomas J. Weseloh, Mitch Farro and author, 14 Apr. 2008.

*scribblings* on hotel stationery, cocktail napkins, etc.”<sup>46</sup> Tersely saying: “Here, make bills out of these,” Grader kick-started California’s salmon restoration movement. The fifteen separate pieces of fishery-related legislation which Grader crafted the night before, many of which went on to become law, included attempts to achieve state protection for fish passage through federal water projects, to increase screening at water diversions, and to protect spawning areas. That sleepless night, Grader also devised what would eventually become the CAC, although it would take almost two more years for that proposal to come to fruition.<sup>47</sup>

The Public Trust Doctrine requires California, as “trustee of a public trust for the benefit of the people,” to manage its waterways so that people may enjoy the “liberty of fishing.”<sup>48</sup> To ensure adequate protection of the public trust, California has long depended on the use of plural bodies, a practice reaffirmed on several occasions by Little Hoover.<sup>49</sup> In 1967, the *Bagley-Keene Open Meeting Act* was passed, guaranteeing public participation in state governance and specifically enjoining that:

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.<sup>50</sup>

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<sup>46</sup> A certified scientist, William M. Kier spent seventeen years on the Senate staff, becoming their principal consultant on water, natural resources and fish and wildlife, as well as director of research and policy development. Prior to that, he was with DFG with, as he describes it, “time out to serve as Assistant Secretary of the State Resources Agency” from 1964 to 1966.” William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008.

<sup>47</sup> William M. Kier, e-mail message to Thomas J. Weseloh, Mitch Farro and author, 14 April 2008; Black, “Shasta Salvage Efforts,” 228.

<sup>48</sup> *Colberg, Inc. v. State of California ex rel. Dept. Pub. Works* (1967) 67 Cal.2d 408, 416; *Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452; State of California, State Lands Commission. “Policy Statements Home Page.” 2007. 28 Nov. 2008 <[http://www.slc.ca.gov/Policy\\_Statements\\_Home\\_Page.html](http://www.slc.ca.gov/Policy_Statements_Home_Page.html)>.

<sup>49</sup> Little Hoover, *Use of Boards*, 13; Little Hoover, *Hidden Government*, 1, 9; Little Hoover, *Historic Opportunities*, 21.

<sup>50</sup> *Bagley-Keene Open Meeting Act*, Government Code Title 2, Div. 3, Part 1, Ch. 1, Art. 9 § 11120. (Added Statutes of 1967, Ch. 1656, § 122. Amended Statutes 1980, Ch. 1284 § 4; Statutes 1981, Ch 968 § 4.)

Meanwhile, environmental activism was on the rise, and schoolchildren everywhere carried home the message “Give a hoot! Don’t pollute!”<sup>51</sup> Dozens of laws were passed, including the National Environmental Policy Act, the California Environmental Quality Act, and the California Wild and Scenic Rivers Act.<sup>52</sup> The people of California take these responsibilities seriously. Despite DFG objections, on July 9, 1970, Assembly Concurrent Resolution No. 64 was filed with the California Secretary of State, legislating the CAC into existence and charging it with studying and investigating “all relevant matters, in order to provide for and develop a program for the preservation, protection, restoration, and enhancement of the salmon and steelhead trout resources of this state” (see Appendix E).<sup>53</sup> Grader assumed Chair of the CAC and got down to work. Initial legislation creating the CAC did not provide funding, however, and DFG furnished only limited biological and clerical assistance. Nevertheless, Grader was determined, and CAC expenses were paid through a combination of Grader’s personal funds and donations he solicited.<sup>54</sup> In *Salmon, the World’s Most Harassed Fish* (1980), Anthony Netboy credited CAC reporting with triggering “a more enlightened attitude” within state and federal agencies with regard to salmon resources.<sup>55</sup> The CAC produced three annual reports in the 1970s, containing over sixty recommendations for restoring and protecting California’s salmon (See Appendices F, G and H). After writing its third annual report in 1975, the CAC took a brief

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<sup>51</sup> *Kid Center: Woodsy Owl*, 27 Nov. 2007, USDA Forest Service - Stanislaus National Forest, 27 Aug. 2008 <<http://www.fs.fed.us/r5/stanislaus/kidcenter/woodsy.shtml>>.

<sup>52</sup> During the 1970s, the federal government also passed the Marine Mammals Protection Act (1972), the Marine Protection, Research & Sanctuaries Act (1972), the Coastal Zone Management Act (1972), the Endangered Species Act (1973), the Fisheries Conservation and Management Act (1976), and the Clean Water Act (1977). DeSantis, *California Currents*, 145; Lufkin, “Historical Highlights,” 22-23, 26, 28.

<sup>53</sup> California State Legislature. *Relative to Creating an Advisory Committee on Salmon and Steelhead Trout*, Assembly Concurrent Resolution No. 64, Resolution Chapter 124, Regular Session, Statutes of California (1970), 3649.

<sup>54</sup> Black, “Shasta Salvage Efforts,” 228; William M. Kier, e-mail message to Thomas J. Weseloh, Mitch Farro and author, 14 April 2008; *The Fisheries Forum: When the Working Fleet Comes to the Capitol*, Fifteen Years: Historical Scrapbook, ed. Andrea Granahan (Bodega, CA: North Coast News and PCFFA, 1987), 9; Netboy, *World’s Most Harassed Fish*, 217; Advisory Committee, *Environmental Tragedy*, 13-14.

<sup>55</sup> Netboy, *World’s Most Harassed Fish*, 219.

hiatus to allow the dust to settle following passage of the 1976 Magnuson Fisheries Conservation and Management Act (Magnuson Act) and several other federal acts which affected salmon.<sup>56</sup>

Undoubtedly pleased with the progress being made by the CAC, Grader turned his attention to devising other ways to improve the relationship between DFG and fishermen. With then-freshman State Senator Barry Keene, in 1973 Grader established the Capitol Fisheries Forum (Forum), still held each spring in Sacramento. At every Forum since its inception, CAC members have spoken out on behalf of California's salmon, making recommendations and providing updates.<sup>57</sup> In the years 1975-1983 the CAC was not officially constituted, but testimony with regard to salmon restoration issues was still provided to the Legislature by former as well as future CAC members.<sup>58</sup> Annual recommendations were not limited strictly to restoration, protection and enhancement needs of salmon and their habitat, but also included creative ways of providing funding for programs and DFG, especially DFG enforcement.<sup>59</sup>

Regardless of follow-up actions related to CAC recommendations, the institution of federal protective measures, and the dedication and work of CAC members and many other concerned citizens, salmon in California continued to decline.<sup>60</sup> Whereas in the 1970s DFG opposed formation of the CAC, by 1982 the DFG Director acknowledged the necessity and importance of similar plural bodies by forming the Upper Sacramento Salmon and Steelhead

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<sup>56</sup> Lufkin, "Historical Highlights," 27; DeSantis, *California Currents*, 144-45; Helliwell, "2008 Forum Report"; William M. Kier, e-mail message to author, 9 July 2008.

<sup>57</sup> At the thirty-fourth Forum, held in March of 2006, Senator Wes Chesbro and Assemblymember Patty Berg presented the CAC with a *Resolution Honoring 50 Years of Salmon Restoration* (see Appendix S).

<sup>58</sup> Years later, Keene would recall "the earliest Forums were knock-down, drag-out affairs. Now, many of the issues that separated people have been resolved through the process, although the Forums still get heated." He credited the Forum with focusing legislative attention on fisheries, as well as allowing for open dialog and confidence between the State and stakeholders, saying "the Forum does work." *Fisheries Forum*, 5-6, 24-25.

<sup>59</sup> With no funding and no staff, CAC recordkeeping has been minimal; copies of CAC reports given at the 1992 and 2008 Forums are attached as Appendices I and J, respectively. *Fisheries Forum*, 18, 25, 72, 91-93, 109, 125, 128, 130, 134, 135.

<sup>60</sup> In frustration, commercial salmon fishermen approached the Legislature and proposed a new program, the California Commercial Salmon Stamp, funded through a self-imposed fee. *Fisheries Forum*, 54-55, 61-62. In 1992, DFG credited the Commercial Salmon Stamp Account with being the only consistent source of funding for salmon restoration efforts. DFG, *1992 Status Report*, 27; Lufkin, "Historical Highlights," 24.

Advisory Committee (Upper Sacramento Committee).<sup>61</sup> Several years later, in an essay on *Water and Salmon Management in the 1990s*, California Water Commission Chair Stanley M. Barnes recalled being “very favorably impressed” with the Upper Sacramento Committee, “a broad group of federal, state, and local interests, including the farmer landowners along the rivers.” Barnes added that “Many of the participants have come to realize that it makes more sense to work out problems amicably than to fight continually against things they don’t really oppose. There really are many more common objectives on fisheries issues than they had believed.”<sup>62</sup> As recently as September 30, 2008, Governor Schwarzenegger signed Assembly Bill 2162 into law, establishing the Bay-Delta Sport Fishing Enhancement Stamp Advisory Committee, and once again reaffirming the continuing value of this type of plural body to the Resources Agency.<sup>63</sup> Plural bodies work, especially when controversial, broad-reaching issues such as the needs of California’s salmon are concerned.

Despite the promise of salmon recovery contained in the federal Magnuson Act, declines continued.<sup>64</sup> At the urging of fishery leaders, the Legislature passed Senate Joint Resolution No. 19 (Chapter 141, Statutes of 1983) reconstituting the CAC and directing it to:

Ascertain, study, and analyze all facts relating to the preservation, protection, restoration, and enhancement of salmon and steelhead trout resources of this state, including, but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in any way bearing upon, or related to, the subject of this resolution, to report thereon to the Joint Committee on Fisheries

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<sup>61</sup> Lufkin, “Historical Highlights,” 24; Advisory Committee on Salmon and Steelhead Trout, *The Tragedy Continues: Advisory Committee on Salmon and Steelhead Trout 1986 Annual Report* (Sacramento: State of California, 1986), 31, 34.

<sup>62</sup> Stanley M. Barnes, “Water and Salmon Management in the 1990s,” in *California’s Salmon and Steelhead: The Struggle to Restore an Imperiled Resource*, ed. Alan Lufkin (Berkeley: Univ. of California Press, 1991), 187; Alan Lufkin, “Restoration Efforts,” in *California’s Salmon and Steelhead: The Struggle to Restore an Imperiled Resource*, ed. Alan Lufkin (Berkeley: Univ. of California Press, 1991), 176.

<sup>63</sup> California Legislature, *Bay-Delta Sport Fishing*, Assembly Daily Journal (2008), 7267.

<sup>64</sup> Advisory Committee on Salmon and Steelhead Trout, *Restoring the Balance: 1988 Annual Report* (Sacramento: State of California, 1988), 8.

and Aquaculture and the Director of Fish and Game and to include in the report its recommendations for appropriate legislation.<sup>65</sup>

(See Appendix K) At the 1986 Forum, CAC Chair Earl Carpenter reported that although the CAC was working toward the design of a long-range restoration plan, it “had still not received funding so did not have staff to complete its work.”<sup>66</sup> The Legislature responded, providing funding for CAC expenses and activities through the addition of Fish and Game Code (F&G Code) Section 2762.5 in 1986, supplemented in 1989 by F&G Code Section 2762.6 (see Appendix L). The fully-funded CAC then went on to produce another series of three reports and a video. CAC reports and recommendations provide the basis for California’s salmon restoration program, yet despite apparent legislative intent, since 1989 the CAC has not been properly funded or staffed, and therefore has been unable to provide the oversight necessary to enable the program to mature and develop as originally intended, although its members do remain actively engaged in restoration issues and continue to meet and advocate on behalf of California’s salmon.<sup>67</sup>

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<sup>65</sup> Advisory Committee, *Tragedy Continues*, 4, 5; California State Legislature, *Relative to Salmon and Steelhead Trout Fishery*, Senate Joint Resolution 19, Chapter 141, Statutes of California, 3649 (1983), 5516. The newly reconstituted CAC differs slightly from the original committee in that its members are now appointed by the Joint Committee Chair rather than the DFG Director. Lufkin, “Historical Highlights,” 30.

<sup>66</sup> *Fisheries Forum*, 136; Lufkin, “Historical Highlights,” 30.

<sup>67</sup> William M. Kier, e-mail message to Thomas J. Weseloh, Mitch Farro and author, 14 Apr. 2008; William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008. From time to time, DFG has provided limited clerical assistance; however, with constant personnel changes and reorganizations, this arrangement has proven unsatisfactory. For example, the September 19, 2007, CAC meeting included an update from DFG on the failed net pen project discussed later in this paper. Although DFG staff took notes at the meeting, completed minutes were never provided to the CAC. Vivian Helliwell, e-mail message to author, 22 Sept. 2008; Tom Weseloh, e-mail message to author, 6 Oct. 2008.

A partial listing of advisory bodies and programs where CAC members have lent their expertise to helping solve California’s salmon *problem* is attached as Appendix M.

### CAC Reports and Recommendations

*The committee issued what in effect is a war cry and a challenge.* – Anthony Netboy, *The Salmon: Their Fight for Survival* (1973)

*Advice is what we ask for when we already know the answer but wish we didn't.* – Erica Jong, *How to Save Your Own Life: A Novel* (1977)

On March 15, 1971, the CAC produced its first annual report, independently financed with funds raised by Grader and aptly entitled *An Environmental Tragedy* (1971 Report). Many years later, Kier would reminisce about writing that 1971 Report late one night in a Denny's Restaurant in downtown Sacramento, with Grader and former DFG chief deputy director Bob Jones (of Jones & Stokes Associates, Inc., then serving as the first CAC paid consultant).<sup>68</sup> Intended to “highlight the critical condition of the resource and the habitat on which it depends, identify major problems and make some initial recommendations warranting immediate action,” the 1971 Report called for “prompt and aggressive action” to be taken, going on to say that not only had DFG's efforts to protect habitat from development been blocked, DFG did not have sufficient funding or power to do the job required.<sup>69</sup> Despite its somewhat humble origins, the 1971 Report graphically illustrated California's salmon declines, gave predictions regarding the effects of continued water development, provided examples of habitat destroyed by development, and made twenty specific recommendations. It closed with an admonishment that: “Unless positive action is now taken, California faces a genuine environmental tragedy.”<sup>70</sup> In his June 1 cover letter forwarding the 1971 Report to the Legislature, DFG Director G. Ray Arnett felt inclined to comment that the CAC's “interpretation of the supporting data varies somewhat from the Department's analysis.”<sup>71</sup> Regardless of any interpretive differences, nine pieces of

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<sup>68</sup> William M. Kier, e-mail message to author, 14 Apr. 2008

<sup>69</sup> Tables of all recommendations made by the CAC in its annual reports are attached as Appendices F, G, H, N, O and P. Advisory Committee, *Environmental Tragedy*, 14, 30.

<sup>70</sup> Advisory Committee, *Environmental Tragedy*, 40; Netboy, *World's Most Harassed Fish*, 217.

<sup>71</sup> G. Ray Arnett, Sacramento, to Speaker of the Assembly Honorable Robert Moretti, California State Legislature, June 1, 1971, A copy of Arnett's letter is stapled inside *An Environmental Tragedy: report on*

legislature were introduced in California as a result of the 1971 Report, eight of which went on to become California law.<sup>72</sup>

Encouraged by their success, in 1972 the CAC produced its second annual report, *A Conservation Opportunity* (1972 Report), again financed independently with funds raised by Grader.<sup>73</sup> In the transmittal letter, Grader explained that the 1972 Report stressed “positive steps that can and must be taken to seize opportunities not only to protect but to maximize our salmon and steelhead fishery.”<sup>74</sup> The CAC had spent a year gathering data and consulting with various advisors, attempting to define problems and develop solutions, legislative or otherwise, as well as identify potential funding sources. From the onset, they found funding and changes to existing laws the primary needs for restoring salmon. The CAC recommended DFG aggressively “seize every available environmental opportunity not to *mitigate* or lessen losses, but to fully protect and enhance salmon and steelhead resources.”<sup>75</sup> Calling for protections and improvements to salmon streams throughout California, the 1972 Report made ten additional recommendations, including that fisheries conservation be “legally recognized as a beneficial use of water.”<sup>76</sup> These recommendations resulted in some changes at the federal level, as well as the creation of a public seat on the California Board of Forestry (Forestry) and amendment of the F&G Code to increase DFG’s authority in salmon spawning streams.<sup>77</sup> Unfortunately, the promised legislation

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*California salmon and steelhead trout*, the 1971 report of the California Advisory Committee on Salmon and Steelhead Trout, Kennedy Library, California Polytechnic Univ., San Luis Obispo, California.

<sup>72</sup> The bill which failed to pass was Senate Bill 887 (Collier). It would have established a policy that persons or agencies responsible for damaging salmon resources share restoration costs, with such costs shared equally by the General Fund and DFG if responsibility could not be proven. Advisory Committee, *Conservation Opportunity*, 17.

<sup>73</sup> William M. Kier, interview by author, 13 July 2008.

<sup>74</sup> Advisory Committee, *Conservation Opportunity*, 5.

<sup>75</sup> Advisory Committee, *Conservation Opportunity*, 13, 18; Netboy, *World’s Most Harassed Fish*, 218.

<sup>76</sup> Advisory Committee, *Conservation Opportunity*, 27, 45-50.

<sup>77</sup> Sadly, while the public Forestry seat requested was created, the position did not accomplish what was envisioned; today the CAC is still pushing for the appointment to Forestry of a person versed in the habitat needs of salmon. Advisory Committee, *Conservation Opportunity*, 48; Advisory Committee, *The Time is Now!* (Sacramento: State of California, January 1975), 60-61.

amending the Water Code to prohibit further appropriations of streamflows needed to protect salmon was withheld by its author.<sup>78</sup>

In January of 1975, the CAC released its third report, *The Time Is Now!* (1975 Report). Grader's transmittal letter expressed gratitude for the responses to many prior recommendations, adding that "Public reaction has also been heartening." He went on to explain that the 1975 Report identified "specific problems that require immediate attention as well as the remaining major problems that will demand long-range programs to correct."<sup>79</sup> The 1975 Report stressed the need for land use planning throughout California's watersheds, called for local governments to implement and enforce measures to protect salmon, and made forty-one more recommendations.<sup>80</sup> It also identified twenty-one programs and activities of value in achieving the CAC's goals which had been undertaken by DFG since publication of the 1971 Report, acknowledging that while some were the outcome of CAC recommendations, "many were not."<sup>81</sup>

After an eleven-year hiatus, the CAC resumed reporting in 1986 with *The Tragedy Continues* (1986 Report). "A working document," the 1986 Report was intended to be used as the basis for developing "a sound and effective management plan."<sup>82</sup> In its Executive Summary, the CAC explained they were seeking legislative funding of one hundred twenty-five thousand dollars per year. Despite an initial lack of funding, the CAC was already at work on a two-part plan, investigating areas of general concern (water, habitat, economics, genetics, hatcheries, interagency coordination, laws, enforcement, research, data needs and education) and preparing restoration plans for eleven distinct salmon geographical regions in California. The 1986 Report

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<sup>78</sup> Advisory Committee, *Time is Now*, 61.

<sup>79</sup> Advisory Committee, *Time is Now*, 5.

<sup>80</sup> Advisory Committee, *Time is Now*, 45-55; Lufkin, "Historical Highlights," 24.

<sup>81</sup> Advisory Committee, *Time is Now*, 62-63.

<sup>82</sup> Advisory Committee, *Tragedy Continues*, 5.

made numerous recommendations, included several specific pieces of legislation, acknowledged and incorporated some of the work of the Upper Sacramento Committee, and ended with an admonishment that “continued interest and support of the California Legislature is critical and essential to the implementation of any effective, well-coordinated management plan” (see Appendix N).<sup>83</sup>

One year later, the now-funded CAC had hired Kier as its consultant and produced another report, optimistically titled *A New Partnership* (1987 Report).<sup>84</sup> Calling 1986 “an exceptionally positive and important year for the salmon and steelhead trout fisheries,” the 1987 Report enthusiastically described the Pacific Fisheries Management Council’s new salmon habitat protection policies and reported positive changes in State Water Resources Control Board (SWRCB) activities.<sup>85</sup> The 1987 Report explained that the CAC had formed subcommittees, each with a CAC member serving as chair, each responsible for one area of general concern described in the 1986 report and for one geographic region. The subcommittees were “charged with identifying salmon and steelhead problems and issues at the regional level and developing a Basin Management Plan.”<sup>86</sup> With the assistance of local Sea Grant advisors, the subcommittees sponsored highly-publicized meetings to receive public input, along with developing and distributing detailed questionnaires to residents, experts and others. They then analyzed all input, identifying specific problems and potential solutions, and prepared subcommittee reports for use in preparing a salmon restoration plan. The CAC again made recommendations in the 1987 Report, with detailed explanations regarding their utility, and provided an update on those areas

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<sup>83</sup> Advisory Committee, *Tragedy Continues*, 5, 31, 34-36.

<sup>84</sup> San Francisco *Chronicle* writer Glen Martin describes Kier as “the pre-eminent authority on the state’s anadromous fisheries,” with “a reputation in both Sacramento and Washington for his candor, his acerbic wit and his formidable command of the issues. There are few fisheries advocates as committed as Kier – and none as willing to speak bluntly for the record.” Glen Martin, “Water Deals Damaging to Fisheries,” *San Francisco Chronicle* (San Francisco), 29 Apr. 1991, Final, Sports: E9.

<sup>85</sup> Advisory Committee, *A New Partnership*, 7-8.

<sup>86</sup> Advisory Committee, *A New Partnership*, 5.

still under investigation (See Appendix O). As always, allocation of water was a major topic. With regard to economics, the CAC reported having contracted with an outside firm to “develop alternative methods for valuing the state’s salmon and steelhead resources ... and to identify methods for establishing *non-marketed* values, as well.”<sup>87</sup>

The CAC’s next annual report was produced in 1988, and entitled *Restoring the Balance* (1988 Report). The fully-funded CAC produced what is still recognized as a benchmark in restoration history, providing an “aggressive restoration program” urgently needed in order to halt the decline of California’s once-great salmon fisheries. The CAC strongly advocated doubling the state’s salmon within a period of twenty years, projecting this policy “would yield a statewide benefit of \$150 million a year and, overall, would be worth \$6 billion to California citizens and businesses.”<sup>88</sup> A summation of extensive research and reports from all eleven subcommittees, the 1988 Report included over one hundred findings and recommendations, as well as draft legislation specifically aimed at restoring “balance to our salmon and steelhead trout resources” (see Appendix P).<sup>89</sup> The CAC identified a number of issues of “special urgency” that needed immediate attention, concluding “the time for swift and decisive action is now.”<sup>90</sup>

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<sup>87</sup> Advisory Committee, *A New Partnership*, 1-2, 11, 19.

<sup>88</sup> The figures used here reflect 1988 dollar values and have not been adjusted for inflation. The *doubling policy* was adopted by the State and remains in effect today. In addition, the 1988 Report laid the groundwork for doubling the number of naturally reproducing salmon being adopted as the policy for the 1992 Central Valley Project Improvement Act. William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008; Advisory Committee, *Restoring the Balance*, 7.

<sup>89</sup> Advisory Committee, *Restoring the Balance*, 5; Lufkin, “Historical Highlights,” 30.

<sup>90</sup> Issues of special urgency included:

“1) The state must adopt an overall plan for the conservation and restoration of the salmon and steelhead trout fisheries. This program should include explicit goals, a timetable for completion, adequate funding and opportunities for citizen involvement....

“2) Stream protection provisions of the California Forest Practice Act must be strengthened....

“3) The Delta salmon stream flow protection standard established by the SWRCB in 1978 is too low and must be increased....

“4) The U.S. Bureau of Reclamation’s Central Valley Project current water marketing program is premature and must be suspended until the streamflow needs of fish are determined....

“5) The loss of juvenile salmon to unscreened or inadequately screened irrigation diversions has reached intolerable levels. The Department of Fish and Game must enforce fish screen laws more vigorously....”

Appendices to the 1988 Report included a number of extensive reports contracted by the CAC, several of which focused on salmon economics.<sup>91</sup> As soon as the 1988 Report was issued, CAC members and staff went to work implementing the recommendations it contained. On September 29, 1988, Senate Bill 2261 was signed into law, enacting the *Salmon, Steelhead Trout, and Anadromous Fisheries Program Act* (SB 2261), with the optimistic goals of protecting all remaining salmon habitat and restoring damaged habitat to a level to ensure the doubling of the number of naturally-spawning salmon by 2000.<sup>92</sup> Section 6920 was inserted into the F&G Code, requiring DFG to, “with the advice of the Advisory Committee on Salmon and Steelhead Trout ... prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries.”<sup>93</sup>

One of the recommendations of the 1988 Report was the establishment of a program to heighten public awareness with regard to the needs of California’s salmon.<sup>94</sup> Toward that end, the CAC hired Katherine Domeny to produce a video intended for public school distribution, documenting the destruction of salmon habitat and detailing some major problems.<sup>95</sup> To celebrate the release of *Salmon and Steelhead: On The Edge* (Video), the CAC arranged a reception at San Francisco’s Steinhart Aquarium, inviting two hundred fourth-grade teachers from throughout California. Those in attendance received a copy of the Video, the 1988 Report

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Advisory Committee, *Restoring the Balance*, 9, 82.

<sup>91</sup> See, e.g., Richard J. Hallock, *Sacramento River System Salmon and Steelhead Problems and Enhancement Opportunities: A Report to the California Advisory Committee on Salmon and Steelhead Trout*, 125-J. 22 June 1987, 25 Oct. 2008 <<http://ifrfish.org/CAC/CAC.htm>>; North Coast Basins Working Group, “North Coast Basins Report: Prepared for the California Advisory Committee on Salmon and Steelhead Trout,” August 1987. Aug. 1987, Institute for Fisheries Resources, 1 Sept. 2008 <<http://ifrfish.org/CAC/CAC.htm>>; Advisory Committee, *Restoring the Balance*, 83.

<sup>92</sup> William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008; William M. Kier, e-mail message to author, 8 Sept. 2008; Martin, “Paradise Lost”; Bruce Farris, “Modesto Workshop Will Examine Salmon’s Plight,” *Fresno Bee* (Fresno, CA), 10 Nov. 1988, Home, Sports: C8; DFG, “Initial Elements,” 1.

<sup>93</sup> *Salmon, Steelhead Trout, and Anadromous Fisheries Program Act*, California Fish and Game Code Div. 6, Part 1, Ch. 8, Art. 3 § 6920. (Added Statutes of 1988, Ch. 1545 § 2.) (See Appendix Q)

<sup>94</sup> Advisory Committee, *Restoring the Balance*, 51-52.

<sup>95</sup> William M. Kier, e-mail message to author, 9 May 2008; Lufkin, “Historical Highlights,” 31; Advisory Committee, *Restoring the Balance*, 51-52.

and a poster for their classrooms.<sup>96</sup> The pro-conservation Video showed “that poor timber practices cause stream siltation and destruction of streamside vegetation, and huge water projects result in streams without enough water to raise new generations of fish.”<sup>97</sup> DFG’s *Project WILD* calls the twenty-nine minute Video: “A provocative documentary that traces the decline of California’s fisheries and argues recovery is possible.”<sup>98</sup> Political turmoil resulting from release of the Video may have contributed to DFG’s inability to fund CAC reports and staff, despite F&G Code requirements and Legislative intent.

### The Aftermath

*[DFG] has clear legislative and policy direction to guide and direct our efforts toward long-term maintenance of all remaining genetic stocks, and reestablishment of depleted or extirpated salmon stocks. – Terry J. Mills, Status Report: California Salmon (1992)*

*Power in California comes down to water. It’s the biggest game in town... the Metropolitan Water District of Southern California – which also serves the Westlands agricultural districts – spent \$1.8 million on lobbying alone last year.... So guess who gets the water? – William M. Kier (1988)*

*Agriculture uses about 80% of all the developed water in the state [and] almost half of the state’s agricultural water is used to grow low-value and subsidized crops. Is this sustainable? – Dorothy Green, Managing Water: Avoiding Crisis in California (2007)*

The next spring, DFG reported to the Legislature on the *Initial Elements of the Salmon, Steelhead Trout and Anadromous Fisheries Program* (1989 Initial Elements), acknowledging

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<sup>96</sup> State of California, Resources Agency, Dept. of Fish and Game, by J. Terry Mills, *Status report: California salmon* (Sacramento: California Resources Agency, 1992), 27. Production of the Video was financed with donations from the fishing community; the reception was held at no cost to the CAC or the State, then-CAC consultant William M. Kier having called in many favors. William M. Kier, interview by author, 13 July 2008; William M. Kier, e-mail message to author, 8 Sept. 2008.

<sup>97</sup> At an Ocean Protection Council Public Hearing held in Sausalito on August 15, 2008, William F. Grader (son of the late Bill Grader, who started the CAC) reminded everyone that in Mendocino County pressure from timber companies had actually resulted in the Video being banned in county schools, as was *The Lorax*, by Dr. Seuss. Ken Payton, “Conservation Film Dropped by Supervisors,” *Sacramento Bee* (Sacramento), 7 Dec. 1989, Final, News; Ken Payton, “Mendocino Backs Off On Fish Video,” *Sacramento Bee* (Sacramento), 6 Dec. 1989, State Final, Supcal; Ken Payton, “Fish Video Creates Furor in Mendocino,” *Sacramento Bee* (Sacramento), 5 Dec. 1989, State Final, Supcal; Theodor Seuss Geisel, *The Lorax, by Dr. Seuss* (New York: Random House, 1971).

<sup>98</sup> *Project WILD* is “a wildlife-based conservation and environmental education program that fosters responsible actions toward wildlife and related natural resources.” Accordingly, the curriculum was “specially designed for educators of kindergarten through high school youth,” and included “professional development training and educational materials.” State of California, Resources Agency, *Project WILD*. 2008, State of California, 13 Sept. 2008 <<http://www.dfg.ca.gov/projectwild/>>.

that since the 1971 Report, “no significant increases” in available habitat had been achieved.<sup>99</sup> DFG went on to describe the salmon restoration program necessary based on CAC recommendations, and credited the CAC with organizing an “enthusiastic corps of citizens that are eager to restore the fishery resource of this state and willing to provide significant amounts of time and labor for this purpose.”<sup>100</sup> The 1989 Initial Elements closed with an admonishment that “present lines of communication between the many interests involved in restoration of anadromous fisheries must be kept open” to achieve cooperation of all parties needed to achieve the goal of doubling “natural salmon and steelhead production by the year 2000.”<sup>101</sup> Meanwhile, Kier recalls CAC members were “particularly active,” working to protect salmon through legislation, the Northwest Forest Plan and “various effects of the Wilson administration to take over ESA planning for salmon,” adding that “evidence of the CAC, and/or its members as individuals” can be found in a host of activities, including today’s somewhat fish-friendlier forestry rules.<sup>102</sup>

Around that same time, in what State Senator Dan McCorquodale called a deliberate plan for “destruction of California’s salmon industry,” the federal Bureau of Reclamation released a plan to sell additional water from the Central Valley Project.<sup>103</sup> At the CAC’s request, the Joint Committee urged the federal government to maintain the flows needed for salmon.<sup>104</sup> Many years later, CAC member Tom Stokely (Stokely) would recall spending much of what were drought years marked by major salmon declines working alongside Kier to help increase salmon

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<sup>99</sup> DFG, “Initial Elements,” 3.

<sup>100</sup> DFG, *1992 Status Report*, 3-4, 6; DFG, “Initial Elements,” 14.

<sup>101</sup> DFG, “Initial Elements,” 34.

<sup>102</sup> William M. Kier, e-mail message to author, 26 May 2008.

<sup>103</sup> Jim Mayer, “New Attack on Plan to Sell More US Water,” *Sacramento Bee* (Sacramento), 5 Apr. 1989, Metro Final, Main News: A4.

<sup>104</sup> Sandy Harrison, “Legislative Panel Calls for Steps to Protect State’s Fish Habitats,” *Daily News of Los Angeles* (Los Angeles), 15 Feb. 1989, Valley, News: N8; William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008.

protections through passage of the Central Valley Project Improvement Act (CVPIA), contrary to the wishes of DFG. In 1992, Congress did enact the CVPIA, reauthorizing the Central Valley Project and acknowledging the need to increase outflows for salmon survival; before action could be taken, changes in Congressional leadership triggered a “return to water politics-as-usual” for California.<sup>105</sup>

At the state level, one CAC recommendation which quickly went forward was the creation of a *Salmon and Trout Education Program*, intended to teach school children about the environmental needs of salmon.<sup>106</sup> The education program was initially funded by the CAC,

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<sup>105</sup> “The Central Valley Project Improvement Act (CVPIA) was enacted in 1992. Its purposes are:  
 “a. Protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California  
 “b. Address impacts of the Central Valley Project on fish, wildlife and associated habitats, and improve the operational flexibility of the Central Valley Project  
 “c. Increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation  
 “d. Contribute to the State of California’s interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary  
 “e. Achieve a reasonable balance among competing demands for use of Central Valley Project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors.”

Fish & Wildlife Service, U.S. Dept. of Interior, Sacramento Fish & Wildlife Office, *Central Valley Project Improvement Act*, 14 May 2008, 13 Sept. 2008 <<http://www.fws.gov/sacramento/cvpia.htm>>; William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008; William M. Kier, e-mail message to author, 8 Sept. 2008; William M. Kier, *Restoring the Balance - Review of Recommendations*, interview by author, 15 July 2008; Tom Stokely, e-mail message to author, 8 Sept. 2008; Mayer, “New Attack”; Jim Mayer, “Funding Change in Plan to Save Salmon Dilutes Conservationist - Support,” *Sacramento Bee* (Sacramento), 15 Nov. 1989, News: N3; Associated Press, “Central Valley Contracts - a Call to Suspend New Water Sales,” *San Francisco Chronicle* (San Francisco), 5 Apr. 1989, Final, News: A6; Glen Martin, “At the Public Water Trough - Meet the Family Farmers of California: Southern Pacific, Chevron USA, Getty Oil, Shell Oil, Prudential Insurance,” *San Francisco Chronicle* (San Francisco), 29 Jan. 1989, Sunday, This World: 12/Z1; Elliot Diring, “Dramatic Decline in Fall-Run Salmon,” *San Francisco Chronicle* (San Francisco), 30 Sept. 1992, Final, News: D6; Martin, “Water Deals,” E9.

According to Vivian Helliwell, a displaced former salmon fisherman and current CAC Chair (Helliwell): “There are many who say that this year’s anticipated Sacramento River chinook salmon stock collapse can be traced directly to the government’s failure to implement the CVPIA’s salmon restoration provisions.” Helliwell, “2008 Forum Report.”

<sup>106</sup> Sadly, this popular program appears to have fallen victim to recent budget cuts. In October 2008, the program was suspended by executive order of Governor Schwarzenegger. Second grade teacher Jake Habib lamented its demise, saying “the program excited kids about science, and taught art, writing and observational skills.” DFG employee and former CAC chair Scott Downie was more pragmatic, explaining there was not “anyone to run” the program (because DFG eliminated the position). John Driscoll, “Salmon Out of the Classroom: Long-Time Educational Program Victim of State Budget Cuts.” *Times-Standard Online* 11 Nov. 2008, Media News Group - Northern California Network, 9 Nov. 2008 <[http://www.times-standard.com/ci\\_10934445?source=most\\_viewed](http://www.times-standard.com/ci_10934445?source=most_viewed)>, Eureka, CA.

American Fisheries Society, Trout Unlimited and Granite Bay Flycasters; implementation of many other recommendations, dependant on state funding, lagged.<sup>107</sup> DFG was ill-equipped to deal with the sudden influx of opportunities resulting from increased legislative and public support for salmon restoration, resulting in what Lufkin described as “a period of confusion.”<sup>108</sup> DFG’s 1992 *Status Report: California Salmon* (1992 Status Report) outlined the salmon restoration program developed pursuant to CAC recommendations. Further, DFG was “working with volunteers” to create plans based on public input received by the CAC.<sup>109</sup> The 1992 Status Report specifically identified the “legislatively-mandated” CAC as the “predominant committee” to provide oversight for the salmon restoration program, closing with the optimistic notion that “opportunities to correct fishery habitat problems ... exist; and with sufficient support and funding, they will occur.”<sup>110</sup> In *Upstream*, the NRC recommended involvement of “a community of stakeholders” to protect against political turbulence and help ensure the political will needed.<sup>111</sup> However, following publication of the 1988 Report and the Video, the CAC was never again funded to conduct the studies and other activities necessary in order to comply with their legislative directive to report to the Joint Committee and make recommendations for needed legislature.<sup>112</sup>

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<sup>107</sup> Ken Payton, “Hatching Steelhead Trout Gives Birth to Student Environmental Awareness,” *Sacramento Bee* (Sacramento), 2 May 1990, Metro Final, Metro: B3.

<sup>108</sup> Lufkin, “Historical Highlights,” 29.

<sup>109</sup> DFG, *1992 Status Report*, 23-24.

<sup>110</sup> DFG mentioned several other public bodies that by 1992 were helping ensure constituent participation by serving in advisory capacities regarding salmon resources, including the Upper Sacramento Advisory Committee, the San Joaquin Basin Committee, the Commercial Salmon Trollers Advisory Committee and the Delta Pumps Fish Protection Agreement Advisory Committee. DFG, *1992 Status Report*, 2, 34.

<sup>111</sup> NRC, “Upstream,” 374-75.

<sup>112</sup> Although CAC reports on the salmon restoration program have not been funded, the Resources Agency does fund other status reports. In 2001, DFG partnered with the Wildlife Health Center at the University of California, Davis, to produce *California Wildlife: Conservation Challenges*, California’s Wildlife Action Plan. Buried in this high-quality, almost six hundred-page glossy report are a number of politically-correct general recommendations to help conserve, restore and protect salmon and other wildlife resources. David Bunn, Andrea Mummert, and Marc Hoshovsky, “California’s Wildlife Action Plan,” in *California Wildlife: Conservation Challenges*, Prepared by University of California, Davis, Wildlife Health Center (Sacramento, CA: State of

Although unstaffed and unfunded, the CAC and its individual members still work to improve California's salmon resources. Nevertheless, by the early 1990s scientists were predicting the growing need to make a conscious decision "which species and stocks [of salmon] will become extinct in California in the near future and what segments of the original gene pools will be in existence for further use and evolution."<sup>113</sup> With Kier busy devoting his attention to the CVPIA, the CAC sought a new consultant. When they failed to fill the position in a timely manner, available funding disappeared.<sup>114</sup> Meanwhile, CAC members were distracted by what are remembered as *heady* times for salmon restoration, the 1994 Northwest Forest Plan in particular spawning all kinds of activity and projects.<sup>115</sup> The need for continued CAC staffing and funding was further obscured in confusion created when then-CAC Chair Scott Downie (Downie) was recruited by DFG; by 2008 he was Senior Biologist Supervisor of DFG's North Coast Region Coastal Watershed Planning and Assessment Program. An ex-commercial fisherman and the son of a timber man, Downie reportedly uses his "genial manner" to accommodate landowners while purportedly educating them as to the need to change land use practices to protect salmon; despite his former CAC status, Downie's views today do not necessarily parallel those of the CAC.<sup>116</sup>

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California, Resources Agency, Dept. of Fish and Game, 2007), xv, 479-507; California State Legislature, *Relative to Salmon and Steelhead Trout Fishery*, Senate Joint Resolution 19, Chapter 141, Statutes of California, 3649 (1983), 5516.

<sup>113</sup> Frank W. Fisher, "Past and Present Status of Central Valley Chinook Salmon," *Conservation Biology* (Blackwell Publishing for Society for Conservation Biology) Vol. 8, No. 3 (Sept. 1994): 870.

<sup>114</sup> Thomas J. Weseloh, e-mail message to author, 24 Oct. 2008.

<sup>115</sup> In 1995, Helliwell served as a Project Outreach Proponent for the Northwest Emergency Assistance Program (NEAP), a multi-year federal program designed to put displaced commercial salmon fisherman to work in the woods collecting needed salmon habitat data. Vivian Helliwell, e-mail message to author, 26 Oct. 2008; Courtland L. Smith and Jennifer Gliden, "Human and Habitat Needs in Disaster Relief for Pacific Northwest Salmon Fisheries," *Fisheries* 25, No. 1 (2000): 6; National Oceanographic and Atmospheric Administration, U.S. Department of Commerce, Office of Public Affairs, "Department of Commerce to Distribute \$12 Million Northwest Emergency Assistance Package," 13 Mar. 1995, Press Release. *Public Affairs Office, NOAA*, Dept. of Commerce, 13 Sept. 2008 <<http://www.publicaffairs.noaa.gov/pr95/mar95/12mil.html>>.

<sup>116</sup> Joseph Cone, *A Common Fate: Endangered Salmon and the People of the Pacific Northwest* (New York: Henry Holt and Company, 1995), 300-01.

In 1995, CAC standing subcommittees included SB 2261, Proposition 70, Forestry, Federal and State Legislation, Education and Information, and Steelhead Trout Catch Report-Restoration Card; today all that remain are the Steelhead Trout Catch Report-Restoration Card Subcommittee and a Coastal California Salmon Recovery Program Subcommittee (formed in 1997 as the SB 271 Committee).<sup>117</sup> However, individual CAC members, past and present, still remain engaged in salmon restoration issues, devoting their time and resources to preserving, protecting and restoring California's salmon.<sup>118</sup> With no staff to follow up on issues and decreased visibility due in part to their inability to publish findings and recommendations, however, the CAC is increasingly overlooked in matters concerning California's salmon.<sup>119</sup> The

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<sup>117</sup> Thomas J. Weseloh, e-mail messages to author, 23 Oct. 2008, and 24 Oct. 2008.

<sup>118</sup> A partial listing of advisory bodies and projects on which CAC members have lent their expertise in assisting DFG is attached as Appendix M. See also Jim Mayer, "Fish Caught Short by Water Projects," *Sacramento Bee* (Sacramento), 19 Sept. 1989, Metro Final, Main News: A1; Jim Mayer, "Cost to Aid Salmon Below Shasta Dam Takes a Jump," *Sacramento Bee* (Sacramento), 22 Jun. 1989, Metro Final, Main News: A6; William Poole, "On the Salmon Patrol," *San Francisco Chronicle* (San Francisco), 4 June 1989, Sunday, This World: Detours: 7/Z1; Ken Payton, "Salmon Trollers Decry North Coast Fishing Slump," *Sacramento Bee* (Sacramento), 14 Apr. 1991, Metro Final, Main News: A1; Alan Lufkin, "Letters to the Editor: Water for Salmon," *San Francisco Chronicle* (San Francisco), 19 Mar. 1992, Final, Editorial: A20; Alex Barnum, "New Salmon Recovery Plan Okd - Compromise on Length of Season, Size Limits," *San Francisco Chronicle* (San Francisco), 13 Apr. 1996, Final, News: A13; Bruce Farris, "State Salmon Fishing Given a Reprieve," *Fresno Bee* (Fresno, CA), 2 May 1996, Home, Sports: C4; Mike McCoy, "Endangered Lifestyles: Massive Plan for Wastewater an Attempt to Soften Sanctions," *Press Democrat* (Santa Rosa, CA), 13 Apr. 1997, Final, Main: A1; Gordon Smith, "Coast Journey. One in a Series: Upstream, a Struggle to Save Coho Salmon," *San Diego Union-Tribune* (San Diego), 13 Aug. 1997, News: A3; Mike Geniella, "Salmon Fest Belies Concerns Fort Bragg Event Threatened," *Press Democrat* (Santa Rosa, CA), 3 July 1999, Final, Local: B1; Glen Martin, "Success Spawns Tussle - Study on Expanding Salmon Numbers at Butte Creek Stirs Battle Over Upper Gorge Habitat," *San Francisco Chronicle* (San Francisco), 16 Feb. 1999, Final, News: A14; Jim Hight, "Regulatory Logjam Keeps Salmon on Brink of Extinction," *Sacramento Bee* (Sacramento), 2 Apr. 2000, Metro Final, Forum: I1; Mitch Farro, "The Real Story," *Press Democrat* (Santa Rosa, CA), 2 May 2001, City, Local: B4; Eric Brazil, "Fishermen Frustrated in Search for Salmon - Foreign Competition, Rules Affect Profits," *San Francisco Chronicle* (San Francisco), 6 Aug. 2001, Final, News: A3; Sam Kennedy, "State Adds Coho to Endangered Species List - Timber Industry Officials Say Decision Could Halt Harvest, Result in Hundreds of Layoffs," *Press Democrat* (Santa Rosa, CA), 31 Aug. 2002, City, Local: B1; Glen Martin, "The California Water Wars - Water Flowing to Farms, not Fish - Environmentalists Lose Leverage as Agribusiness Locks in Cheap, Plentiful Supplies - for Decades," *San Francisco Chronicle* (San Francisco), 23 Oct. 2005, Final, News: A15; Robert Digitale, "Too Few Salmon to Make a Season? - All-Time Low Fish Numbers May not Be Worth Going After, Some Say at Forum," *Press Democrat* (Santa Rosa, CA), 6 Mar. 2008, City, Main: A1; Peter Wells and Alan Lufkin, "Fishery Crisis," *Press Democrat* (Santa Rosa, CA), 17 Mar. 2008, City, Local: B4; Patti Kroen, e-mail message to William M. Kier, 20 Apr. 2008.

<sup>119</sup> For example, National Marine Fisheries Service and DFG are currently conducting a joint review of hatchery practices. The Legislature specifically directed the CAC to provide oversight with regard to hatchery operations, yet the CAC received no notice of the pending review, nor were they offered an opportunity to participate. Matt Weiser, "Public Input Sought on Changes in Fish Programs," *Sacramento Bee* (Sacramento),

CAC does continue to make limited recommendations through correspondence and annual reports given to the Joint Committee at the Forum; but most subcommittees no longer function and regional oversight has not been possible. Former CAC Chair Mitch Farro (Farro) repeatedly asked for CAC funding, at annual Forums and every other opportunity possible, always to no avail. At the May 2008 Forum, Joint Committee Chair Senator Patricia Wiggins (Wiggins) explained that while the Joint Committee was interested in hearing how they could help California's fisheries, they would be unable to accommodate any requests for funding. Thus, the CAC's 2008 Forum report was simply a summary of forty years of citizen activism (Appendix D); no recommendations were made, there was no point.<sup>120</sup> Undoing decades of damage from which others have profited at the expense of salmon and salmon-dependent communities requires funding as well as political will; without both, little can be done.

### **A Continuing Tragedy**

*Walking the docks of my [Northern California] district, you cannot believe the hurt and pain being felt by salmon fishermen and their families – the boats for sale, the depression, the sense of hopelessness. – Assemblyman Dan Hauser, Sacramento Bee (1991)*

*I often characterize DFG as a kind of Afghanistan, where strongmen are able to thrive in their various strongholds, no matter the vicissitudes of headquarters. – William M. Kier (2008)*

A look at some occurrences from the past decade will demonstrate the Resources Agency, DFG and the salmon's continuing need for citizen oversight provided by the CAC, for while undoubtedly much restoration work has been completed, where are the fish? What has been restored? After years of work, is there documented progress? Is there adequate program

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3 Sept. 2008, Metro Final, Our Region: B2; California State Legislature. *Relative to Salmon and Steelhead Trout Fishery*, Senate Joint Resolution 19, Chapter 141, Statutes of California (1983), 5516; Vivian Helliwell, e-mail message to author, 12 Sept. 2008. As recently as February of 2002, the CAC was afforded this courtesy by DFG. Advisory Committee on Salmon and Steelhead Trout, *Minutes*, 16 May (2002), 2. In addition, the California Ocean Protection Council is now delving into the realm of salmon restoration and protection. William M. Kier, e-mail message to Patti Kroen, 20 Apr. 2008; William M. Kier, e-mail message to author, 26 May 2008.

<sup>120</sup> In April of 2008, the Joint Committee held a special hearing in Sacramento regarding the collapse of California's salmon fisheries. CAC members were in attendance and gave testimony regarding issues which should have already been documented, had the CAC been able to perform its oversight work and prepare regular reports. Bacher, "Fishery Council Closes Salmon Fishing"; Conversation with Vivian Helliwell, Sacramento, CA, May 6, 2008; Helliwell, "2008 Forum Report."

oversight? As directed by the Legislature, the CAC developed a restoration plan, contained in SB 2261 and passed as emergency legislation in late 1988; yet what remains of a once vibrant Pacific Coast salmon industry lies crippled, with boats tied to the docks and the federal government paying millions of dollars in disaster assistance.<sup>121</sup> Native Californians throughout the northwest are asking for respect for their tribal cultures, for protection of the salmon essential to their survival.<sup>122</sup> All Californians should be outraged that *billions of taxpayer dollars* have been spent on restoration, with no end in sight, and little if any relief provided to *their* salmon. They should demand to be heard through their CAC. The CAC was created to advise the Legislature, to help ensure the continuing political will needed to complete the job at hand.

The Resources Secretary and the DFG Director are both “appointed by and responsible to the Governor,” whereas ideally plural bodies operate autonomously. Therein lies the strength of the CAC – its ability to operate without political motivations or pressures. The Joint Committee makes CAC appointments, but otherwise the CAC is independent. Much as Little Hoover predicted, however, the politically-influenced DFG exerts control over the legislatively-mandated CAC through “budgetary means,” denying the Joint Committee the benefit of published annual reports and knowledgeable independent staff to follow through on recommendations and ensure program needs are met.<sup>123</sup> The state’s failure to follow CAC recommendations, combined with the CAC’s inability to maintain staffing has limited its ability to provide oversight and develop accountability mechanisms, compounding the current West Coast salmon disaster and furthering salmon declines. Salmon restoration suffers incessantly from shortages of funding, enforcement, monitoring, oversight, habitat protection and political

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<sup>121</sup> McLaughlin, “Lost Harvest”; Russell Clemings and Dennis Pollock, “A Peripheral Canal, New Dams, Court Interventions and Good Old Conservation. The Quarter-Century of Debate Has Yielded No Progress Toward Ending a ... DELTA DEADLOCK,” *Fresno Bee* (Fresno, CA), 24 Aug. 2008, Final, Main News: A1.

<sup>122</sup> McCovey, “For the Yurok, Salmon is Everything,” 2.

<sup>123</sup> Little Hoover, *Hidden Government*, 4-5.

will. A brief look at each of these problems will demonstrate not only the difficulty of isolating any one of them from the others, but also the value of a fully funded and staffed CAC, for in reality in every instance the true culprit is a lack of political will, and CAC staffing and/or reporting could have alleviated difficulties encountered.

### **Problem: General Program Oversight**

*Conservation is paved with good intentions which prove to be futile, or even dangerous, because they are devoid of critical understanding.* – Aldo Leopold, *A Sand County Almanac* (1953)<sup>124</sup>

Although by 2000 millions of restoration dollars had flowed into California's streams and rivers, still salmon declined. A "regulatory quagmire" developed, with overlapping federal and state laws creating a myriad of permitting problems. Restoration projects were postponed, often for years, and habitat degradation continued long after solutions were approved and funded.<sup>125</sup> People began to lose interest because, as Stokely explained, "it's too much of a hassle to deal with the bureaucracy."<sup>126</sup> The CAC was designed to deal with regulatory logjams; CAC staff could serve as an important liaison for the restoration community, greatly facilitating the multi-agency permitting process. Likewise, in 2003 CAC staff could have been of invaluable assistance when the Department of Industrial Relations fined an environmental group for the use of volunteer labor on a state-funded creek restoration project, ruling that since the project used

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<sup>124</sup>Leopold's *A Sand County Almanac with Other Essays on Conservation from Round River* (1949) still holds a place of preeminence among environmental conservation writings. Leopold is credited with helping "to define such topics as wildlife management, ecological restoration, environmental ethics, ecosystem management, conservation advocacy, and the wilderness movement." Richard L. Knight, "A Celebration of *A Sand County Almanac*," *Wildlife Society Bulletin* Vol. 26, No. 4, Commemorative Issue Celebrating the 50th Anniversary of "A Sand County Almanac" and the Legacy of Aldo Leopold (Winter 1998): 695; Aldo Leopold, *A Sand County Almanac with Other Essays on Conservation from Round River*, 1949/1953, ed. Carolyn Clugston Leopold and Luna B. Leopold, Enlarged (New York: Oxford Univ. Press, Inc, 1966).

<sup>125</sup> Salmon restoration work is seasonal; permitting delays can easily cost an entire season and bankrupt the type of small nonprofits typically involved. Telephone conversation with Jud Ellinwood, 12 November 2008. On the Russian River, an approved and funded restoration project was delayed "four years to get the permits and clearances from all the agencies involved." Carol Benfell, "Watershed Restoration up a Creek - Law Banning Volunteers May Be Amended by New Legislation, but Change Could Come Too Late for Cleanup Plan," *Press Democrat* (Santa Rosa, CA), 3 June 2004, City, Local: B1; Hight, "Regulatory Logjam"; G.M. Kondolf et al, "Two Decades of River Restoration in California: What Can We Learn?" *Restoration Ecology* Vol. 15, No. 3 (Sept. 2007): 521.

<sup>126</sup> Hight, "Regulatory Logjam."

public funding, it was a “public works project” and all workers must be paid prevailing wages. Hundreds of restoration projects statewide, including many involving small nonprofits lacking resources needed to survive unanticipated delays, came screeching to a halt. Eventually legislation was passed to define and exempt volunteer labor used in this type of work, but needless delays and costs were incurred in the interim, with some of organizations pushed out of business.<sup>127</sup> CAC staff could have facilitated with needed legislation and allowed the restoration industry to focus their energy on the projects; instead, many individuals and organizations devoted time and resources to resolving this issue.

Moreover, CAC staffing potentially could have saved taxpayers millions of dollars and helped avoid the 2008 collapse of the Sacramento River Fall Run Chinook.<sup>128</sup> To improve the survival rates for juvenile salmon attempting to transit the Sacramento/San Joaquin Delta, in 1993 DFG began trucking salmon smolts from hatcheries to various release points in San Francisco Bay, where the smolts were placed in floating net pens to allow for their acclimation prior to release. By 2005, the net pens had fallen into disrepair, as had the nonprofit organization that traditionally maintained them; as a result, in 2005 and 2006, smolts were dumped directly into the Bay, for the most part to be quickly eaten by birds and fish. At the September 19, 2007, CAC meeting, DFG explained that funding requests for the net pen project had not been received for the prior two years. Routine CAC program review, as contemplated in the 1988 Report, could have drawn attention to this failure and resolved the problem, thereby helping avoid the 2008 fishery failure resulting from the collapse of the Sacramento Fall Chinook and saving the federal government millions of dollars in disaster assistance. Instead, DFG was left scrambling,

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<sup>127</sup> Telephone conversation with Jud Ellinwood, 12 November 2008. Benfell, “Watershed Restoration up a Creek.”

<sup>128</sup> This is not meant to imply that the failure of the net pen project caused the 2008 collapse of the Sacramento Fall Run Chinook, but the project potentially could have produced sufficient numbers of hatchery smolts to avert the related fishery disaster.

eventually releasing a record number of salmon smolts (over twenty million) in 2008, all of which were acclimated through net pens, in a costly attempt to preserve the run and restore damaged fisheries.<sup>129</sup> At an April 17, 2008, special hearing of the Joint Committee, Wiggins called the collapse a “grave crisis,” adding that there was an “urgent need to do something now to return the fishery to sustainability.”<sup>130</sup> California’s rapidly changing legislature could have been kept apprised of developments concerning restoration of California’s salmon had the CAC been staffed and funded to conduct studies and publish reports of its findings and recommendations. Further, the salmon restoration program would have undergone continuing review, region-by-region, with all concerned parties regularly given an opportunity to contribute their expertise to recovery efforts.<sup>131</sup>

Instead, in May 2008 the California Ocean Protection Council (OPC) issued a request for proposals, urgently seeking a consultant to “assess information to determine critical watersheds for salmonid recovery throughout California,” in order to locate gaps in existing scientific literature, address issues related to California’s salmon declines and provide a “careful economic analysis of what a restored salmon fishery might add to the California economy.”<sup>132</sup> The OPC expressed a desire to craft some sort of “strategies for improving California’s wild salmon protection policy.”<sup>133</sup> Again, this information would have been readily available in annual CAC reports, but without funding the CAC could neither continue the economic analyses initiated in

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<sup>129</sup> Bailey, “Salmon Season Stopped”; Bacher, “Need to Truck”; Ernie Köepf, “Where Did the Sacramento Salmon Go?” *Pacific Fishing* Vol. XXIX, No. 4 (Apr. 2008): 30. (Köepf’s article is based in part on notes he took at the previously-mentioned 19 September 2007 CAC meeting where DFG staff took notes but subsequent DFG staffing changes resulted in no official minutes being produced. )

<sup>130</sup> Bacher, “Fishery Council Closes Salmon Fishing.”

<sup>131</sup> Advisory Committee, *Restoring the Balance*, 61; William M. Kier, e-mail message to author, 9 July 2008.

<sup>132</sup> The contract was awarded to Ecotrust, an Oregon-based company; although the OPC request stated that Ecotrust was to submit their final report on this proposal by August 1, 2008, this deadline was extended; six months after awarding the contract, the report still had not been published. Valerie Termini, e-mail message to author, 7 Nov. 2008.

<sup>133</sup> Valerie Termini, e-mail message to William M. Kier et al, Sept. 2008.

the 1980s nor provide adequate program oversight in general. Instead, the unstaffed CAC languishes, largely unfunded and overlooked, a holdover from more promising times, while the OPC, Governor Schwarzenegger's newly-created plural body, struggles to make order out of apparent chaos, searching for a quick fix to a decades-old problem.<sup>134</sup> California's salmon restoration program was created from the 1988 Report; given proper oversight and continual review, it would naturally have evolved. The Joint Committee could be kept abreast of salmon conditions throughout the state and program oversight would be greatly facilitated with the restoration of CAC funding.

### **Problem: Enforcement**

*We have the laws we need in place – but we need much better enforcement.* – William F. Grader, Pacific Coast Federation of Fishermen's Associations, *San Francisco Chronicle* (1988)

In spite of massive efforts on the part of stakeholders, agencies and others, the degradation of salmon habitat continues, in large part owing to a politically influenced “breakdown in law enforcement and prosecution on behalf of salmon concerns.”<sup>135</sup> In 1989, noted salmon biologist Peter Moyle found poaching to be the most immediate threat to salmon, much of the State going “without the protection of a game warden or other law enforcement officials.”<sup>136</sup> That same year, DFG predicted it would be “difficult to enforce the regulations and agreements concerning pollution and inadequate flows” without additional staff and funding.<sup>137</sup> California currently has the fewest game wardens per number of residents of any state in the nation; DFG enforcement is so understaffed and underfunded its wardens cannot conduct routine

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<sup>134</sup> According to Kier, OPC staff was not even aware the CAC existed at the time they began their foray into salmon issues, and remained unaware its existence until Kier mentioned the 1988 Report. Telephone conversation with William M. Kier, 24 May 2008.

<sup>135</sup> William M. Kier, e-mail message to author, 18 July 2008.

<sup>136</sup> *Fish Species of Special Concern of California: Final Report Submitted to State of California, The Resources Agency, Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, Contract No. 7337*, University of California, by Peter B. Moyle, Jack E. Williams and Eric D. Wikramanayake, Department of Wildlife & Fisheries Biology (Davis, CA, Oct. 1989), 48-49.

<sup>137</sup> DFG, “Initial Elements,” 16.

patrols. Nevertheless, the 2008-09 Budget originally proposed by Governor Schwarzenegger would have meant the loss of thirty-eight wardens.<sup>138</sup> Further, not only is DFG chronically underfunded, it is also subject to political manipulation through budgetary actions and direct pressure; as a result, its enforcement branch suffers, as do California's resources.<sup>139</sup> For years the CAC has lobbied in vain for increased DFG enforcement funding. CAC staff could devote more time to this issue, and CAC reporting could help to publicize this problem and potentially gain much-needed support.<sup>140</sup>

In addition to budgetary conflicts, political tampering also hinders the ability of wardens to enforce existing laws.<sup>141</sup> In 2001, ranchers diverted most of the flows from the Scott and

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<sup>138</sup> Tom Stienstra, "Budget Cuts Threaten Game Wardens," *San Francisco Chronicle* (San Francisco), 20 Jan. 2008, Sports: C14.

<sup>139</sup> Matt Weiser, "Game Poachers Run Wild - a TV Show on Illegal Killing of Bears Helps Illustrate How Warden Shortage is Hurting Wildlife in California," *Sacramento Bee* (Sacramento), 11 Mar. 2007, A3; Dan Walters, "Fish-Game Wardens Are Being Treated as Subspecies," *Sacramento Bee* (Sacramento), 25 June 2007, A3; Dan Walters, "Disgraceful Shortage of Wardens," *Sacramento Bee* (Sacramento), 25 June 2007, A3; Matt Weiser, "Lots of Ocean, but Few Game Wardens - Staff Shortages, Idled Boats Hinder State's Marine Watch," *Sacramento Bee* (Sacramento), 19 Aug. 2007, A1; Matt Weiser, "Game Wardens Feel They're Under the Gun - Even as Evidence of Poaching Piles up, the State Department of Fish and Game Has Trouble Recruiting and Retaining Officers Because of Budget Woes and Low Pay," *Sacramento Bee* (Sacramento), 21 June 2006, A3; Matt Weiser, "State Game Warden Shortage: Poachers Profit, Animals Don't," *Sacramento Bee* (Sacramento), 21 June 2006, A1; Zeke Barlow, "Help Wanted: Fish and Game Workers: Wardens an Endangered Species," *Ventura County Star* (Ventura), 17 Apr. 2006; David Sneed, "Out on the Water, It's an Uneasy Truce - a Small Cadre of Wardens Keeps an Eye on the Catch Along the Coast, Making Sure Anglers Follow the State's Often-Unpopular Fishing Regulations," *Tribune* (San Luis Obispo), 24 May 2005, A1; Ed Fletcher, "Few and Far Between - a Hiring Freeze for Game Wardens Makes a Hard Job Harder," *Sacramento Bee* (Sacramento), 11 Apr. 2004, A3; Paul McHugh, "A Longer Arm of the Law - Plan to Reorganize Rangers, Wardens Stirs Strong Debate," *San Francisco Chronicle* (San Francisco), 14 Oct. 2004, D10; Helen Gao, "Wardens Carry on Gamely-Agency Struggles with Limited Resources, Low Staffing," *Daily News of Los Angeles* (Los Angeles), 27 Jan. 2002, N3; Tom Stienstra, "Game Warden Shortage Nearing Critical Stage," *San Francisco Chronicle* (San Francisco), 21 Mar. 2001, E7; Paul McHugh, "Shortage of Rangers Hits Critical Point - with Ranks Thinning Almost Daily, Safety in Parks Becomes a Concern," *San Francisco Chronicle* (San Francisco), 23 Aug. 2001, D9; Kristen Green, "Stretched Thin, Fish and Game Officers Struggle to Protect Wildlife Habitats: Wardens on Patrol," *San Diego Union-Tribune* (San Diego), 4 Sept. 2001, B-1; Dion Lefler, "Wildlife Protection Falters - State May Remove Game Wardens from Ventura County," *Daily News of Los Angeles* (Los Angeles), 23 Feb. 1992, TO3; Ken Castle, "Game Wardens Say State Has Crippled the Department," *San Francisco Chronicle* (San Francisco), 19 June 1987, 4.

<sup>140</sup> *Fisheries Forum*, 26, 124; Martin, "Paradise Lost"; Advisory Committee on Salmon and Steelhead Trout, *Minutes*, 30 Nov. (2001), 2; Advisory Committee on Salmon and Steelhead Trout, *Minutes* 16 May 2002, 3.

<sup>141</sup> In July of 2007, after twenty-five years of service with DFG Director Ryan Broddrick (Broddrick) resigned to take advantage of "an unexpected opportunity to serve as Executive Director of the Northern California Water Association," where he anticipated using his political expertise to help build "more water surface storage, protect fish and habitat along the waterways and integrate management of both surface and ground water." Ed Zieralski, "DFG Director Steps Down for Bay Area Water Post," *San Diego Union-Tribune* (San Diego), 28 July

Shasta Rivers for irrigation, contrary to F&G Code Section 5937, with wardens specifically told to not cite offenders, despite the killing of thousands of salmon.<sup>142</sup> DFG officials claimed the offending ranchers were participating in “cooperative restoration projects” which they feared would end if the laws were enforced. A local resource conservation district director explained they were working on “win-win situations,” and while “willing to do their part” to protect fisheries, “the question becomes how far is too far.”<sup>143</sup> Unfortunately, rather than confront tough issues like changes in land use practices, “win-win situations” often are easy projects that enhance private property at taxpayer expense with little, if any, real progress made towards restoration.<sup>144</sup> Over twenty-five million tax dollars are spent each year on restoration projects in the Scott and Shasta Basins; enforcing flow requirements to ensure the salmon survive until projects are finished and the area restored should not be considered “going too far.”<sup>145</sup> A proactive, fully-funded and staffed CAC would ensure that enforcement complications which arise from lack of funding and/or political interference continue to be brought to the attention of the Legislature and the public. Further, heightened awareness resulting from CAC reporting could help DFG successfully defend urgently needed enforcement budget increases, a true “win-win situation.”

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2007, D-11. Many believe Brodrick’s resignation came about due to a combination of lack of support from the administration and frustration over being routinely forced to take positions contrary to the protection of endangered species. Dan Bacher, “Failure of California Endangered Species Act Compliance from Department of Water Resources Behind Director Leaving Troubled Department of Fish and Game?” *California Progress Report*, 17 Aug. 2007, Frank D. Russo, 24 Sept. 2008 <[http://www.californiaprogressreport.com/2007/08/failure\\_of\\_cali.html](http://www.californiaprogressreport.com/2007/08/failure_of_cali.html)>.

<sup>142</sup> Glen Martin and Tom Stienstra, “*Young Fish Die* as Water Laws Go Unenforced - Ranchers’ Cooperation Threatened,” *San Francisco Chronicle* (San Francisco), 22 June 2001, A3.

<sup>143</sup> Martin, “*Young Fish Die*.”

<sup>144</sup> Felice Pace, “Humility or Hubris: Restoration at the Crossroads,” Klamath, CA, 2008, 15. Copy on file with author.

<sup>145</sup> Martin, “*Young Fish Die*.”

### Problem: Monitoring

*Accountability is essential.* – Margaret A. Palmer, Ph.D., *Issues in Science and Technology* (2006)

In *Upstream*, the NRC found much of the uncertainty over benefits deriving from salmon restoration projects resulted “from a lack of scientific monitoring and evaluation.”<sup>146</sup> From the onset, DFG has acknowledged it “imperative” that restoration projects be evaluated, but also has consistently lacked personnel and funding necessary to assess long-term project effectiveness.<sup>147</sup> Not surprising, the Legislative Analyst Office’s 2001-02 Budget Bill Analysis found DFG had “made limited efforts” to evaluate “a small sampling of only one of three categories of restoration projects.”<sup>148</sup> At the January 2005 CAC meeting, DFG senior biologist Kevan Urquhart expressed the need for “a lot of additional funding” to develop a monitoring program consisting of more than limited sampling.<sup>149</sup> *California Wildlife: Conservation Challenges: California’s Wildlife Action Plan* (2007) (Wildlife Action Plan) emphasizes the importance of monitoring and calls for expanding what few monitoring programs do exist.<sup>150</sup> An entire community of scientists questions the general lack of procedures for monitoring and evaluating restoration efforts.<sup>151</sup> Yet recent random interviews with forty-four different project managers in

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<sup>146</sup> NRC, “Upstream,” 373.

<sup>147</sup> DFG, “Initial Elements,” 8.

<sup>148</sup> State of California, Office of Legislative Analyst, “Analysis of the 2001-02 Budget Bill: Department of Fish and Game (3600),” *2001-02 Budget Analysis*, 2001, State of California.

<sup>149</sup> Kevan Urquhart, Biologist, State of California, Resources Agency, Department of Fish and Game, “Status of Anadromous Fisheries Monitoring & Staffing in the Central Coast Region - 2005,” in *California Advisory Council on Salmon & Steelhead Trout*, PowerPoint Presentation (Dept. of Fish and Game, 13 Jan. 2005).

<sup>150</sup> Bunn, Mummert, and Hoshovsky, “Wildlife Plan,” 263.

<sup>151</sup> Emily S. Bernhardt et al, “Restoring Rivers One Reach at a Time: Results from a Survey of U.S. River Restoration Practitioners,” *Restoration Ecology* Vol. 15, No. 3 (Sept. 2007): 482; Jeanne M. Rumps et al, “Stream Restoration in the Pacific Northwest: Analysis of Interviews with Project Managers,” *Restoration Ecology* Vol. 15, No. 3 (Sept. 2007): 506; Kondolf et al, “Two Decades,” 516; Mark R. Tompkins and G.M. Kondolf, “Systematic Postproject Appraisals to Maximize Lessons Learned from River Restoration Projects: Case Study of Compound Channel Restoration Projects in Northern California,” *Restoration Ecology* Vol. 15, No. 3 (Sept. 2007): 524; Margaret A. Palmer and J. David Allan, “Restoring Rivers: The Work Has Begun, but We Have Yet to Determine What Works Best,” *Issues in Science and Technology* (Univ. of Texas at Dallas) Winter 2006, 42; G. Mathias Kondolf, “Lessons Learned from River Restoration Projects in California,” *Aquatic Conservation: Marine and Freshwater Ecosystems* 8 (1998): 40.

California revealed funding and staffing to still be the primary constraints on monitoring.<sup>152</sup> As a result, although billions of dollars have been spent on restoration, little is known with regard to project effectiveness. Collapsing salmon runs now raise serious questions, yet without staffing the CAC is unable to thoroughly investigate these problems, as charged, and make recommendations.<sup>153</sup>

Currently, negligible monitoring has allowed restoration jobs, created through restoration grant programs, funded with federal and state restoration dollars, to become an important part of the economy in many parts of the state, with little or no regard given to effectiveness of work.<sup>154</sup> Projects are described as “successful” often merely because work was finished, even though substandard materials may have been used or fish populations which are reported as increasing are not even salmon.<sup>155</sup> University of California, Berkeley, geography professor G. Mathias Kondolf believes “there may be a disinclination within [DFG] to evaluate projects for fear that exposing ‘failures’ might threaten future funding.”<sup>156</sup> Klamath basin conservation activist Felice Pace, involved in watershed restoration and environmental activism since the 1970s, takes it even further, saying that what began as “idealism and integrity” has degenerated to “treating restoration as political pork to be ripped off for ones own personal benefit while delivering questionable *restoration*.”<sup>157</sup> As early as 1995, planners were advocating that restoration projects needed clear objectives, baseline data, good study designs, and a commitment to long-term

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<sup>152</sup> The interviews also revealed that over half the projects did not have measurable objectives or success criteria, and that projects often “fell short of restoring connectively and dynamic ecological processes ... and probably are of little ecological value,” revealing the need for DFG to review its guidelines for funding salmon restoration projects to ensure that clear, measurable objectives are requested, clearly linking project goals to ecologically-sound criteria. Palmer and Allan, “Restoring Rivers,” 45; Margaret Palmer et al, “River Restoration in the Twenty-First Century: Data and Experiential Knowledge to Inform Future Efforts,” *Restoration Ecology* Vol. 15, No. 3 (Sept. 2007): 475; Bernhardt et al, “Restoring Rivers One Reach at a Time,” 491; Kondolf et al, “Two Decades,” 516-20, 522.

<sup>153</sup> Rumps et al, “Stream Restoration,” 506.

<sup>154</sup> Pace, “Humility or Hubris,” 1.

<sup>155</sup> Cone, *A Common Fate*, 13.

<sup>156</sup> Kondolf, “Lessons Learned,” 44.

<sup>157</sup> Felice Pace, e-mail message to author, 16 May 2008; Pace, “Humility or Hubris,” 7-9.

monitoring, as well as a willingness to acknowledge failure, saying that “objective, scientific evaluation of project success is crucial to the advancement of ecological restoration,” emphasizing the value of well-documented failures versus repeat mistakes.<sup>158</sup> To ascertain true project effectiveness, all agencies, stakeholders and scientists must be involved. Further, several years ago a team of eminent U.S. engineers and scientists came up with five *easy-to-implement* basic standards. Though endorsed by many restoration practitioners and river scientists as going “a long way toward ensuring that projects meet their stated ecological goals,” California has not adopted any such standards.<sup>159</sup> Funding and staff would empower the CAC to thoroughly investigate and make recommendations to DFG and the Joint Committee regarding the potential implementation of these or similar standards.

When preparing the 1988 Report, the CAC divided the state into eleven geographic regions and recruited “hundreds of knowledgeable Californians to assist,” in the process laying

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<sup>158</sup> G. Mathias Kondolf, “Five Elements for Effective Evaluation of Stream Restoration,” *Restoration Ecology* Vol. 3, No. 2 (June 1995): 134-36; Kondolf, “Lessons Learned,” 40. Invariably, restoration failure can be linked to upstream conditions not being addressed first. Palmer and Allan, “Restoring Rivers,” 44. For ecological outcomes to be understood, comprehensive watershed plans such as those initiated in the 1988 Report must be in place, so that each project can be considered in light of future impacts on the rest of the watershed. Projects should require monitoring to ascertain the ecological outcome, not whether or not the proposed project was completed; instead, success rates are virtually unknown and the opportunity to learn from mistakes is lost. Palmer et al, “River Restoration in the 21st Century,” 480; Kondolf, “Lessons Learned,” 40; Advisory Committee, *Restoring the Balance*, 32. In 1999, the Resources Agency and the California Environmental Protection Agency designed the North Coast Watershed Assessment Program (NCWAP) to “develop consistent, scientifically credible information to guide landowners, agencies, watershed groups, and other stakeholders in their efforts to improve watershed and fisheries conditions,” and appointed Downie as program manager. By 2002, it was anticipated that NCWAP would need at least fifty additional employees and take seven more years to complete baseline assessments. California Forest Stewardship Program, *North Coast Watershed Assessment Program*. 29 July 2002, Ceres, 20 Sept. 2008 <<http://ceres.ca.gov/foreststeward/html/ncwap.html>>. In the Governor’s 2003-04 Budget, funding for NCWAP was eliminated. State of California, Office of the Governor, Governor’s Budget Summary 2003-04 (Sacramento, CA, 2003); William M. Kier, e-mail message to author, 9 Sept. 2008; Cone, *A Common Fate*, 300-01.

<sup>159</sup> The five standards determined by Palmer et al, to be necessary for evaluating the relative success of stream and river restoration are:

- “The design of a river restoration project should be based on a specific guiding image of a more dynamic, healthy river.
- “The river’s ecological condition must show measurable improvement.
- “The river system must be more self-sustaining and resilient to external perturbations, so that only minimal follow-up maintenance is needed.
- “During the construction phase, no lasting harm should be inflicted on the ecosystem.
- “Both pre- and post-assessments must be completed and data made publicly available.”

Palmer and Allan, “Restoring Rivers,” 45, 48.

the groundwork for balanced watershed monitoring oversight committees to establish restoration priorities as well as develop monitoring, evaluation and adaptive management programs.<sup>160</sup> With the gradual retirement of key staff persons, DFG's "institutional memory" has dimmed with regard to the program envisioned by SB 2261. The DFG Director, a political appointee, makes the ultimate decision regarding which projects get funded through California's Coastal Salmonid Restoration Program.<sup>161</sup> Further, agency employees comfortable with the benefits of public service and depending on grant program funds for continued employment have little incentive to risk having programs evaluated. The CAC is the appropriate body to breathe life back into California's salmon restoration program, including ensuring the application of suitable standards for awarding grants and adequate monitoring.<sup>162</sup> Independent CAC staff could close this gap, helping ensure that restoration objectives are met and projects evaluated.

Meanwhile, Congressional demands for monitoring standards increased. Finally, with millions of dollars in federal Pacific Salmon Recovery Funds at risk due to a general lack of monitoring, DFG began holding workshops to develop a "Coastal Salmonid Monitoring Program" (CMSP). Two contracts were funded through the Salmon Restoration Grant Program (SRGP). CAC member Walter Duffy, Ph.D., with the California Cooperative Fish Research Unit of Humboldt State University (Duffy) received a contract to develop standards for measuring "fish performance," while Richard Harris with the University of California, Berkeley, was

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<sup>160</sup> Advisory Committee, *Restoring the Balance*, 8, 61; William M. Kier, e-mail message to author, 20 Sept. 2008.

<sup>161</sup> Mitch Farro, e-mail message to author, 4 Feb 2002; Advisory Committee on Salmon and Steelhead Trout, *Minutes 16 May 2002*, 3.

<sup>162</sup> According to Kier, since the 1970s state environmental bond acts specifically authorize using a portion of the bond funds for "administrative purposes." In just the last eight years, bond administrative funds have provided the Resource Agency and the California Environmental Protection Agency with nearly a billion dollars in administrative funding. William M. Kier, e-mail messages to author, 9 Sept. 2008 and 20 Sept. 2008.

contracted to develop a more physical approach to evaluating watershed assessment.<sup>163</sup>

According to Duffy, the CSMP was completed in September 2007, and is an unwieldy “hundreds of pages long,” with an accompanying cost estimate for implementation of about nine million dollars.<sup>164</sup> Moreover, to keep monitoring costs manageable Duffy believes compromises may need to be reached, using random samplings compared to control sites.<sup>165</sup> At the January 2008 CAC meeting, DFG Fisheries Branch Chief Neil Manji (Manji) explained that DFG staff was working to create a more useable, condensed version of the final CSMP report. Manji further advised that DFG expected to have the completed document ready for peer review in March 2008, and they would be preparing a fifteen-page *glossy summary* to be used to try to secure funding.<sup>166</sup> Eight months later, in September 2008 Manji advised the OPC that the CSMP was *almost* ready to be implemented. CAC staff could have helped move this project to completion, thereby ensuring adequate monitoring did occur; instead, the CAC has not even seen the CSMP, nor the glossy summary intended to help secure funding.

The CAC is the proper vehicle to coordinate monitoring efforts; independent CAC staff could provide necessary oversight to eliminate political conflicts. Little Hoover specifically confirmed the benefits of using plural bodies to oversee programs and for monitoring to ensure

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<sup>163</sup> In a beautifully-illustrated color report issued in January of 2003, DFG identified monitoring as an “accomplishment” of the California Coastal Salmon and Steelhead Restoration Program. A year later, according to DFG’s *Coho Salmon Recovery Strategy*, the monitoring program was still in the developmental stages. In essence, for about eight years now DFG has been developing a monitoring plan “akin to the monitoring program that Oregon instituted” in 1997 as part of their salmon recovery plan. In late summer of 2006, a National Marine Fisheries Service representative described what was being developed as “a plan for a plan.” Over two million dollars have been spent in this effort. State of California, Resources Agency, Department of Fish and Game, Fisheries Restoration Grant Program, *California Coastal Salmon and Steelhead Restoration: shaping solutions through partnerships since 1981* (Sacramento: State of California, 2003); State of California, Resources Agency, Department of Fish and Game, *Recovery Strategy for California Coho Salmon*. Report to the California Fish and Game Commission (Sacramento: State of California, 2004), 5.16-5.22; William M. Kier, e-mail messages to author, 14 July 2008, 9 Sept. 2008, 20 Sept. 2008; William M. Kier, interview by author, 14 July 2008.

<sup>164</sup> Walter Duffy, Ph.D., e-mail message to author, 8 Sept. 2008.

<sup>165</sup> Telephone conversation with Walter Duffy, Ph.D., 10 Sept. 2008.

<sup>166</sup> Advisory Committee, *Minutes 16 Jan. 2008*, 3.

clearly defined goals, actions and evaluation strategies.<sup>167</sup> The CAC could be instrumental in educating the Legislature regarding the importance of funding for monitoring. Independent CAC staff could provide the oversight necessary to ensure such funding is spent wisely.<sup>168</sup> To avoid potential conflicts between funding needs and effective monitoring, academia (“graduate student team projects and theses”) should be encouraged to remain engaged in the development and implementation of monitoring programs, with CAC oversight to ensure that sufficient monitoring takes place, thereby reducing the possibility of political tampering with restoration goals.<sup>169</sup>

### **Problem: Funding**

*Political turbulence has thwarted attempts to take a long-term perspective, even though salmon management requires time scales of decades to determine whether a given approach is successful.*  
– National Research Council, *Upstream: Salmon and Society in the Pacific Northwest* (1996)

In 1944, biologist and early environmentalist Joel Hedgpeth wrote that “no matter how insignificant the intrinsic value of a salmon run may appear to be ... the fact remains that a salmon run is, if properly respected, a perpetual natural resource.”<sup>170</sup> Instead of respecting this natural resource, however, the tragedy continues, with “a great many people” affected by California’s failure “to change its behavior toward fish and rivers,” not only the fishing and native communities, but also “people who just liked to know that the fish were there—who liked to go to see them spawn in the rivers and know that life in the wild was going on.”<sup>171</sup> In the 1971 Report, inadequate DFG funding was identified as an impediment to efforts to protect salmon and their habitat.<sup>172</sup> The 1992 Status Report disclosed that because of decreased revenues, the salmon restoration program received only “about one-half” the necessary funding.<sup>173</sup> The report

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<sup>167</sup> Bernhardt et al, “Restoring Rivers One Reach at a Time,” 492; Little Hoover, *Use of Boards*, 8.

<sup>168</sup> Telephone conversation with Walter Duffy, Ph.D., 10 Sept. 2008.

<sup>169</sup> Kondolf, “Lessons Learned,” 44.

<sup>170</sup> Hedgpeth, “Passing of the Salmon,” 378.

<sup>171</sup> Cone, *A Common Fate*, 22.

<sup>172</sup> Advisory Committee, *Environmental Tragedy*, 30.

<sup>173</sup> In 1988, California’s voters passed the “*The Classroom Instructional Improvement and Accountability Act*,” also known as Proposition 98, guaranteeing funding for public schools and simultaneously reducing funding

went on to state that accomplishment of restoration goals would “continue to be severely hindered” as long as California did not have “a secure and adequate funding base dedicated to salmon and steelhead restoration.”<sup>174</sup> Chronically underfunded, DFG is unable to accommodate its growing range of responsibilities related to salmon habitat restoration (including F&G Code Sections 2762.5 and 2762.6 relating to CAC funding).<sup>175</sup> The Wildlife Action Plan noted that “fiscal difficulties have been repeatedly acknowledged by the Legislature but not solved”; instead the situation worsens due to dramatic budget cuts of general fund support for DFG.<sup>176</sup> DFG lacks long-term, secure funding for administration of programs, including staffing, enforcement and monitoring, as well as funding sources for actual on-the-ground projects.<sup>177</sup> To the further detriment of the SRGP, after enduring a troublesome permitting process contractors must frequently endure unreasonable delays when budget impasses prevent the payment of state funds, including funds incidental to restoration grants previously awarded. Many experienced subcontractors have grown weary of being subjected to the whims of bureaucracy and, their skills in demand, prefer to seek work elsewhere.<sup>178</sup> As the liaison between DFG and the Legislature, the CAC is the vehicle DFG should utilize to help increase and stabilize funding, helping to ensure that appropriate staffing needs are met and ineffective positions are not created. Historic CAC recommendations included the development of permanent funding sources through

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available for new programs, such as the salmon restoration program contemplated by SB 2261. Proposition 98 currently takes almost forty-five percent of all General Fund revenues. William M. Kier, interview by author, 14 July 2008; State of California, Department of Education, *Proposition 98*. Text of Proposition 98, 5 Sept. 2008, State of California, 21 Sept. 2008 <<http://www.cde.ca.gov/ta/ac/sa/prop98.asp>>; State of California, Office of Legislative Analyst, *Proposition 98 Primer*. Feb. 2005, State of California, 21 Sept. 2008 <[http://www.lao.ca.gov/2005/prop\\_98\\_primer/prop\\_98\\_primer\\_020805.htm](http://www.lao.ca.gov/2005/prop_98_primer/prop_98_primer_020805.htm)>.

<sup>174</sup> DFG, *1992 Status Report*, 23-24, 33.

<sup>175</sup> Hight, “Regulatory Logjam.”

<sup>176</sup> Bunn, Mummert, and Hoshovsky, “Wildlife Plan,” 78.

<sup>177</sup> State of California, Assembly. Budget Subcommittee No. 3 on Resources and the Environment. *Agenda* (2 Feb. 1999).

<sup>178</sup> Hight, “Regulatory Logjam.”

levying equitable user fees; despite their inherent need these recommendations were not taken.<sup>179</sup> Again, a fully funded and staffed CAC could help educate the Legislature with regards to DFG needs and salmon restoration economics.

Former Sierra Club Executive Director David Brower described conservation as a *hopeless cause*, saying, “Conservations have to win again and again and again. The enemy only has to win once.”<sup>180</sup> Much like conservation gains, restoration funding that is subject to political manipulation is transient and must be constantly guarded. In an attempt to force Forestry to enact tougher regulations to protect endangered salmon, in July 2007 eleven and a half million dollars intended as a match for federal salmon restoration funding was “stripped” out of California’s 2007-08 Budget. Although the action was supported by many, including noted environmentalist Senator Byron Sher, who felt the funds would be wasted barring the enactment of adequate forest practice rules, Farro likened the potential sacrifice to the State’s “playing chicken” with its salmon resource.<sup>181</sup> The bluff was called on April 11, 2008, with the signing into law of Senate Bill 562, an urgency bill introduced by Wiggins to provide the matching funds needed to leverage twenty million federal dollars potentially lost through the gambit. In her press release, Wiggins stated it will take “more than simple patience and investment to get salmon back to respectable runs. We will need cooperation from fishermen, farmers, water users, the tribes, power companies, the governor’s office and the Legislature.”<sup>182</sup> She pledged to introduce legislation in January 2009 “to support efforts to protect and to restore salmon and steelhead

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<sup>179</sup> Advisory Committee, *Restoring the Balance*, 30-31; Advisory Committee, *A New Partnership*, 16-17, 23; Advisory Committee, *Conservation Opportunity*, 22; Advisory Committee, *Environmental Tragedy*, 31.

<sup>180</sup> John McPhee, *Encounters with the Archdruid* (New York: Farrar, Straus and Giroux, 1971), 85-86.

<sup>181</sup> John Driscoll, “Fish Fight: Restoration Money May Be Hung up Over Forest Rules.” *Times-Standard Online* 14 July 2007, Media News Group - Northern California Network, 21 Sept. 2008 <[http://www.times-standard.com/ci\\_6375985?IADID=Search-www.times-standard.com-www.times-standard.com](http://www.times-standard.com/ci_6375985?IADID=Search-www.times-standard.com-www.times-standard.com)>, Eureka, CA; William M. Kier, “Re: Today’s Greenwire Piece on CALFED’s Demise – or not,” 18 Sept. 2008, 21 Sept. 2008.

<sup>182</sup> Senator Patricia Wiggins, “Salmon Require Nothing Less Than Recovery,” *Lake County News* (Lakeport, CA), 7 Apr. 2008.

populations to the healthy, abundant levels once enjoyed,” and is now in consultation with the CAC concerning possible revenue sources.<sup>183</sup> CAC staff would have been able to devote the time needed to attend Forestry meetings and help educate the Legislature and Forestry regarding salmon needs, possibly averting the current crisis. In addition to following through on CAC recommendations, CAC staff could provide the politically-independent level of salmon expertise needed to assist the Joint Committee and their staff in restoring and protecting California’s salmon and salmon-dependent communities.

Secure, adequate funding is also a problem at the federal level. In 1994, CALFED, a cooperative, interagency working group, was created to address water management problems in the Sacramento Delta.<sup>184</sup> For years, then-CAC vice-chair Roger Thomas sat on their Public Advisory Committee, enduring countless hours of meetings.<sup>185</sup> In the end, neither the federal nor the state government would provide the funding necessary to accomplish “solutions designed to keep everyone happy.”<sup>186</sup> *Heal the Bay* founder Dorothy Green called CALFED “ineffective because the political will truly to solve all the problems does not exist and because it lacks an independent funding source.”<sup>187</sup> As would be expected, Kier was blunter, saying it failed because “officials were not willing to get dirty and confront the water interests.” Bay Area attorney Cynthia Koehler, instrumental in the creation of CALFED, also blames political will, believing

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<sup>183</sup> “Wiggins Criticizes Governor’s Cuts to DFG.” *Eureka Reporter*, Local News: Briefs, 25 Sept. 2008, 29 Sept. 2008 <<http://www.eurekareporter.com/article/080925-wiggins-criticizes-governor%E2%80%99s-cuts-to-dfg>>; Vivian Helliwell, e-mail message to author, 28 Sept. 2008.

<sup>184</sup> Colin Sullivan, “Has the Ambitious CalFed Water-Supply Plan Run Aground?” *Greenwire: The Leader in Energy & Environmental Policy News*, 17 Sept. 2008, 17 Sept. 2008 <<http://www.eenews.net/gw/>>; Clemings and Pollock, “Delta Deadlock.”

<sup>185</sup> Conversation with Roger Thomas, Sausalito, CA, 11 Sept. 2008.

<sup>186</sup> One tool developed by CALFED and later described as a “taxpayer boondoggle” was the *Environmental Water Account*, used to buy water from farmers and put it into the environment, enabling some farmers to sell water back to the government for as much as ten times what they had originally paid. Although “a small handful of sellers walked away with huge profits [overall] the results were disastrous; the water table dropped and the land sank in some places.” Dorothy Green, *Managing Water: Avoiding Crisis in California* (Berkeley: Univ. of California Press, 2007), 241, 253; Barlow, *Blue Gold*, 32-33; Clemings and Pollock, “Delta Deadlock.”

<sup>187</sup> Green, *Managing Water*, 112.

the “heart of the problem” will not be reached until healthy salmon populations are considered to be of greater value than desert golf courses; Massachusetts Institute of Technology professor Judith Layzer agreed, saying if “this is the best we could do politically, [its] not good enough.”<sup>188</sup>

### **Problem: Continuing Habitat Destruction**

*You couldn't have set up a system to fail better than what we've got. Be thankful you're not a fish.*  
– Richard Stein, Humboldt County Public Works Department, *Sacramento Bee* (2000)

In “Tragic Remedies: a century of failed fishery policy on California’s Sacramento River,” Michael Black pointed out that “water diversion schemes ... merely shift wealth from where it occurs naturally to those individuals and communities on the receiving end of state-supported irrigation. Some Californians profit at the expense of free-flowing rivers, fisheries, and one another.” Black went on to explain that while commercial fisheries were the most obvious losers, in fact everyone paid for upsetting the natural balance, with dwindling salmon stocks a reminder of “a long-ignored moral, ecological, and financial reckoning” now due.<sup>189</sup> The 1988 Report strongly recommended a two-prong strategy: restoration of damaged habitat combined with protection of remaining habitat. Instead, over time all focus has shifted to restoration, while degradation and destruction of salmon habitat continues throughout the state.

In 2001, the California Water Impact Network (C-WIN) formed to advocate for “equitable and environmentally sensitive use of California’s water, including instream uses, through research, planning, public education, and litigation.”<sup>190</sup> C-WIN’s Board includes Stokely and past CAC member Jim Edmondson.<sup>191</sup> According to C-WIN, “There is enough water in the

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<sup>188</sup> Sullivan, “Has CalFed Run Aground?”

<sup>189</sup> Michael Black, “Tragic Remedies: A Century of Failed Fishery Policy on California’s Sacramento River,” *Pacific Historical Review* 64, No. 1 (Feb. 1995): 69.

<sup>190</sup> California Water Impact Network, “C-WIN Mission & Board,” 2008, 14 Sept. 2008 <<http://www.c-win.org/mission-board.html>>.

<sup>191</sup> From the C-WIN website:

**“Jim Edmondson, Treasurer,** was ... Executive Director of CalTrout, a position that he held for 25 years. He is now retired from that demanding job. He is best known and will be remembered for his work on the Mono Lake lawsuit that led to the restoration of water levels in this natural wonder.

state. We can have it all by managing what we have much more efficiently.” C-WIN adopted *16 Principles for a Sustainable Water Future*, including providing water rights for fish and wildlife, establishment and enforcement of minimum flows, and water quality standards (see Appendix Q).<sup>192</sup> Similarly, in 2001 the International Forum on Globalization (IFG) found there to be “simply no way to overstate the water crisis of the planet today. No piecemeal solution is going to prevent the collapse of whole societies and ecosystems.” The IFG concluded that “a radical rethinking of our values, priorities and political systems” is urgently needed.<sup>193</sup> Seemingly toward this end, in 2006 Governor Schwarzenegger created *Delta Vision*, a two-year “blue-ribbon” task force charged with studying the delta and making recommendations, which some called “the great hope for this decade.”<sup>194</sup> The task force submitted the *Delta Vision Strategic Plan* to the Governor in October of 2008, recommending “a new version of a bad old idea – the

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“**Tom Stokely** is a Principal Planner with the Natural Resources Division of the Trinity County Planning Department. He has worked on Trinity River and Central Valley Project salmon and steelhead issues for Trinity County since 1989. He has been and continues to be a key player in developing, obtaining approval for, and implementing former Interior Secretary Bruce Babbitt’s 2000 Trinity River Record of Decision to restore the Trinity River’s salmon and steelhead fisheries. He has been involved in water rights hearings before the State Water Resources Control Board as an expert witness; he is a member of various advisory committees on salmon and steelhead trout; and he serves on the advisory committee which advises DWR on the expenditure of grant funds related to groundwater investigations and monitoring.”

California Water Impact Network, “C-WIN Mission & Board.”

<sup>192</sup> Green, *Managing Water*, 270-72; California Water Impact Network, “Principles for a Sustainable Water Future in California.” 2008, 14 Sept. 2008 <[http://www.c-win.org/uploads/C-WIN\\_Principles\\_7-4-07v.3.pdf](http://www.c-win.org/uploads/C-WIN_Principles_7-4-07v.3.pdf)>; California Water Impact Network, “Background.” 2008, 14 Sept. 2008 <<http://www.c-win.org/background.html>>; California Water Impact Network, “C-WIN Mission & Board.”

<sup>193</sup> The IFG offered ten “guiding principles” to protect water, namely:

- 1) “Water belongs to the earth and all species.
- 2) “Water should be left where it is whenever possible.
- 3) “Water must be conserved for all time.
- 4) “Polluted water must be reclaimed.
- 5) “Water is best protected in natural watersheds.
- 6) “Water is a public trust to be guarded at all levels of government.
- 7) “An adequate supply of clean water is a basic human right.
- 8) “The best advocates for water are local communities and citizens.
- 9) “The public must participate as an equal partner with government to protect water.
- 10) “Economic globalization policies are not water-sustainable.”

Barlow, *Blue Gold*, 10, 43-47.

<sup>194</sup> Clemings and Pollock, “Delta Deadlock”; Sullivan, “Has CalFed Run Aground?”

peripheral canal that California voters broadly defeated in 1982.”<sup>195</sup> It remains to be seen whether California has the “brave political leadership” needed to change the way all of California uses water, for in California land is just dirt, but water is gold.<sup>196</sup> Salmon require water; solving this problem requires political will; CAC staff and regularly published CAC reports would help heighten awareness and garner the support needed to make the tough decisions required to restore and protect salmon.

In addition to water shortages, Forestry decisions continue to place the state’s salmon at even greater risk. As previously discussed, the Legislature potentially jeopardized millions in federal restoration dollars in a futile attempt to get an out-of-control plural body (Forestry) to act in a more responsible way towards salmon, a valuable state resource.<sup>197</sup> In the 1990s, Forestry was advised by its own scientists that its rules were insufficient to protect habitat for salmon listed under the Endangered Species Act (ESA), citing the need for “substantial modifications to the timber harvest planning process.”<sup>198</sup> In August 2008, Forestry rejected an emergency petition filed by the Sierra Club, the Environmental Protection Information Center and California Trout (CalTrout) which requested stream protections for salmon pursuant to the ESA. Despite National Marine Fisheries Service’s support of the petition and the findings of their own scientific panel, Forestry determined there was not enough “proof that salmon are threatened by in-stream conditions.” CAC member and CalTrout representative Tom Weseloh pointed out that the

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<sup>195</sup> State of California, Resources Agency, “About Delta Vision,” *Delta Vision*, 2007, State of California, 21 Sept. 2008 <<http://deltavision.ca.gov/AboutDeltaVision.shtml>>; Dan Bacher, “Delta Vision Task Force Proposes Peripheral Canal, More Dams,” *San Francisco Bay Area Independent Media Center*, Central Valley, 16 Oct. 2008, 25 Oct. 2008 <<http://www.indybay.org/newsitems/2008/10/16/18544921.php>>.

<sup>196</sup> Sullivan, “Has CalFed Run Aground?”; Mark Arax and Rick Wartzman, *The King of California: J.G. Boswell and the Making of a Secret American Empire* (New York: PublicAffairs, 2003), 405.

<sup>197</sup> Driscoll, “Fish Fight”; William M. Kier, e-mail message to author, 18 Sept. 2008.

<sup>198</sup> Frank Ligon, Ph.D., Alice Rich, and Gary Rynearson, R.P.F., Coordinator, Scientific Review Panel, “Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat,” in *Report of the Scientific Review Panel on California Forest Practice Rules and Salmonid Habitat, Prepared for the Resources Agency of California and the National Marine Fisheries Service* <[http://resources.ca.gov/SRP\\_Rept.pdf](http://resources.ca.gov/SRP_Rept.pdf)> (Sacramento, CA, June 1999), 19.

politically-controlled “DFG was supportive of the contents in the emergency petition until [the day of the hearing]. They supported drafting the rules in 2004, wrote them, supported implementing them in 2006 and 2007 and reversed their support yesterday.”<sup>199</sup> According to California Polytechnic University professor and former Forest Service employee Doug Piirto, the petition would have resulted in “a huge financial hardship” to timber owners.<sup>200</sup> California’s commercial coho salmon fishery was closed in 1993; all recreational harvest of coho salmon was prohibited beginning in 1996. Both of these events caused extreme financial hardships to coastal communities but were deemed necessary to protect a valuable natural resource now threatened by timber harvests.<sup>201</sup> It will take political will to “bring the curtain down on the charade” represented by Forestry’s past eighteen years of deliberations over salmon protection rules.<sup>202</sup> Unfortunately, in signing the 2008-09 Budget, Governor Schwarzenegger did not demonstrate the political leadership needed. Instead, he slashed over three million dollars of DFG funding needed to administer the California Endangered Species Act and review timber harvest plans.<sup>203</sup> CAC staffing is urgently needed to further efforts to educate political leaders and Forestry with regards to the needs of salmon and the importance of their related economies.

### **Problem: Political Will**

*The political will truly to solve all the problems does not exist.* – Dorothy Green, *Managing Water: Avoiding Crisis in California* (2007)

In the 1989 Initial Elements, DFG specifically cautioned against a CAC recommendation that impacts from logging and water diversions be mitigated by surcharges on the beneficiaries

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<sup>199</sup> Thomas J. Weseloh, e-mail message to William M. Kier, 7 Aug. 2008.

<sup>200</sup> Matt Weiser, “Salmon Protections Rejected,” *Sacramento Bee* (Sacramento), 7 Aug. 2008, A7.

<sup>201</sup> National Oceanographic and Atmospheric Administration U.S. Department of Commerce, National Marine Fisheries Service, *FishWatch - U.S. Seafood Facts: Coho Salmon (Oncorhynchus Kisutch)*. 2008, 24 Sept. 2008 <[http://www.nmfs.noaa.gov/fishwatch/species/coho\\_salmon.htm](http://www.nmfs.noaa.gov/fishwatch/species/coho_salmon.htm)>.

<sup>202</sup> William M. Kier, e-mail message to Valerie Termini, 7 Aug. 2008.

<sup>203</sup> Dan Bacher, “The ‘Green Governor’ Slashes Funding for Endangered Species,” *San Francisco Bay Area Independent Media Center*, Central Valley, 23 Sept. 2008, 24 Sept. 2008 <<http://www.indybay.org/newsitems/2008/09/23/18540977.php>>.

of those impacts; twenty years later salmon continue to suffer from habitat degradation resulting from those same activities.<sup>204</sup> Instead of there being a user-based permanent funding source for salmon-related work, all taxpayers share the costs resulting from arrangements that benefit a few, while salmon face possible extinction. For instance, although the 1992 Status Report detailed efforts aimed “at reducing water temperatures and stream bank erosion” in the Scott and Shasta River Basins, where “high water temperatures are the factor limiting production,” high water temperatures still plague salmon in the Scott and Shasta.<sup>205</sup> Additionally, ranchers in this region are given preferential treatment in the SRGP, despite previously-established funding procedures. For the SRGP to function as envisioned in 1989, established guidelines need to be respected; as Farro explained, “It has taken years of work by many people outside the Department to try and build this program.”<sup>206</sup> Is the government, as Yurok Tribal Fisheries representative Barry Wayne McCovey, Jr. asks. “really willing to risk the demise of salmon species and tribal culture because the irrigation of crops is, in their minds, the right thing to do?”<sup>207</sup> True political will is needed to adjust this inequitable system where fishing economies have been and continue to be destroyed for the benefit of timber harvests and agriculture, all at taxpayers’ expense. The intrinsic value of our renewable salmon resource must be considered, not just apparent immediate economic gains.<sup>208</sup>

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<sup>204</sup> The politically-controlled DFG defended their reluctance to tax what would have been some of California’s more influential users on the basis of possible complications, explaining that:

“Although revenues would increase as more water is diverted or logging intensified, the opportunities to replace the fisheries could be decreased by watershed changes or reduced water in the streams. Therefore, if the surcharge were considered mitigation for increased activity, and encouraged relaxed resource protection, the fund raising measure could result in a net loss of habitat and a reduction in the fisheries.” DFG, “Initial Elements,” 27. The CAC recommendation did not mention encouraging *relaxed resource protection*; rather, they simply contemplated all users paying fair and equitable fees for the use of California’s resources. Advisory Committee, *Restoring the Balance*, 30-31.

<sup>205</sup> DFG, *1992 Status Report*, 20.

<sup>206</sup> Farro, e-mail message to author, 4 Feb. 2002.

<sup>207</sup> McCovey, “For the Yurok, Salmon is Everything.”

<sup>208</sup> Eugene P. Odum, *Ecology* (New York: Holt, Rinehart and Winston, 1963), 164.

In August 2008 the OPC held two public workshops and invited specialists in salmon restoration from across California to provide input regarding “issues such as the primary causes of salmon decline and ... *big ideas* the OPC might endorse in order to ensure that we have sustainable populations of salmon over the long term.”<sup>209</sup> At both workshops, the participants with no agency connections unanimously stressed political will as the key factor missing in restoring California’s salmon. Following the public comments, OPC staff made two recommendations: “development of an expert panel” of national experts to “rethink how the state is addressing these issues,” and that “OPC staff could support DFG and the Water Board to determine flow levels of rivers and streams that support salmonid runs and that are a priority for the state.”<sup>210</sup> At their September 11, 2008, meeting, numerous witnesses reminded the OPC that there had been years of studies and many recommendations, but the political will needed to follow, fund and enforce the recommendations was consistently lacking. The OPC rejected the first staff recommendation, instead determining to focus their efforts on changing “the political landscape.”<sup>211</sup> Hopefully, the OPC is on the right track and can provide the strength needed for California to meet its salmon recovery goals. A fully staffed CAC would greatly facilitate the endeavors of the OPC and their staff in this regard.

In essence, the second OPC staff recommendation, that they assist DFG and SWRCB in complying with existing California laws, is a perfect example of historic lack of political will. Since 1982, DFG has been mandated to identify watercourses where minimum flows are needed

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<sup>209</sup> The workshops were held on August 14, 2008, in Sausalito, and August 26, 2008, in Eureka. A Summary Report from the workshops is available on OPC website at [http://www.resources.ca.gov/copc/9-10-08\\_meeting/16\\_Salmon/COPC0809\\_16\\_Ex%201%20workshop%20report.pdf](http://www.resources.ca.gov/copc/9-10-08_meeting/16_Salmon/COPC0809_16_Ex%201%20workshop%20report.pdf). State of California, *California Ocean Protection Council*. 15 Sept. 2008, 15 Sept. 2008 <<http://www.resources.ca.gov/copc/>>; State of California, Resources Agency, California Ocean Protection Council, by Project Manager Valerie Termini, *California Salmonid Protection* (Sacramento: State of California, 2008); Drew Bohan, e-mail message to William M. Kier, 12 July 2008; Valerie Termini, e-mail message to William M. Kier et al, 12 Sept. 2008.

<sup>210</sup> Termini, *California Salmonid Protection*.

<sup>211</sup> Valerie Termini, e-mail message to William M. Kier et al, 12 Sept. 2008.

to protect salmon and determine appropriate flow requirements. It appears DFG no longer even bothers to allocate funding to this project. As recommended by OPC staff, this work needs to be completed and SWRCB directed to adopt DFG's findings, including the enactment of protections necessary to ensure required minimum flows. DFG is charged with protecting and maintaining resources "inextricably linked to the continued economic viability of industries, such as the fishing industry, which are desirable and important components of the state's economy."<sup>212</sup> Political will is required to empower DFG to enforce laws already in place; an active independent CAC staff could help heighten political awareness and facilitate DFG's efforts in this regard.

Noted anthropologist Margaret Mead is credited with saying "never doubt that a small group of thoughtful, committed citizens can change the world."<sup>213</sup> In 1965, Little Hoover found it desirable "to bring together, in a rather formal way, a group of persons to deliberate and seek a consensus, particularly if they represent a variety of interests and points of view which need or ought to be recognized" when considering public issues.<sup>214</sup> At the 2002 National River Restoration Science Synthesis, a group of recognized experts in the science of river restoration, including geomorphologists, engineers and river ecologists, found that "citizens can and do have an incredibly important role to play" in salmon restoration, and many successful projects "can be traced to the efforts of an individual or a small group of individuals." They recommended that "mechanisms for ensuring citizen or stakeholder involvement" be provided, concluding "restoration along with wise management actions can mitigate the expected impacts and perhaps

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<sup>212</sup> *Streamflow Protection Standards*, California Public Resources Code, Div. 10 § 10000-10010. (Added Statutes of 1982, Ch. 1478.); Bunn, Mummert, and Hoshovsky, "Wildlife Plan," 88; William M. Kier, e-mail message to author, 15 Sept. 2008.

<sup>213</sup> United States Government, National Park Service, *Women's Rights National Historical Park: Management: Comprehensive Interpretive Plan*. 2003, 26 Oct. 2008 <<http://home.nps.gov/wori/parkmgmt/upload/WORICIPFINAL.pdf>>.

<sup>214</sup> Little Hoover, *Use of Boards*, 7-8.

even sustain a river ecosystem's ability to respond to and be resilient in the face of water use and climate change."<sup>215</sup> Further, in *Californians and Their Government* (2001), the Public Policy Institute of California (PPI) found that many Californians felt their state government could and ought to be doing more and a better job for the environment, yet were "generally reluctant to see the government get more involved ... because of a lack of trust."<sup>216</sup> Given the choice, most Californians prefer "preservation of endangered species" and increased environmental restrictions, even at the cost of some jobs.<sup>217</sup> In 2004, Little Hoover found that some plural bodies were "in need of structural and other changes to ensure they are serving the public"; for while not necessarily working well, they were still needed.<sup>218</sup> As has been demonstrated, the CAC is this type of plural body, badly in need of independent staff in order to serve the Joint Committee as intended.

### **Conclusions and Recommendations**

*One begins to comprehend the enormous power—economic, political, and social—wielded by forces that see salmonid restoration efforts as a simple choice between people and fish.... The philosophical question is much broader: Are Californians willing to make the choices necessary to assure a healthy environment for all living things?"* – Alan Lufkin, *California's Salmon and Steelhead: The Struggle to Restore an Imperiled Resource* (1991)

*Californians—indeed westerners as a whole—would do well to view their semiarid household as tethered to regenerative stocks of salmon and steelhead.* – Michael Black, "Tragic Remedies: A Century of Failed Fishery Policy on California's Sacramento River," (1995)

*and I've thought a thousand times since, "what if Bill (Grader) hadn't blown his cork, what would have happened? Would one shut-down have led to the next and the next until there wasn't a salmon nor a salmon fisherman left?"* – William M. Kier (2008)

*If the person you are talking to doesn't appear to be listening, be patient. It may simply be that he has a small piece of fluff in his ear.* – *Pooh's Little Instruction Book*, inspired by A. A. Milne (1995)

To "improve the possibilities of sustainability [and provide] resilience against political and economic turbulence," the NRC recommended governments "make use of local knowledge,

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<sup>215</sup> Palmer et al, "River Restoration in the 21st Century," 472-73, 478-79.

<sup>216</sup> Mark Baldassare, *A California State of Mind: The Conflicted Voter in a Changing World* (Berkeley: Univ. of California Press, 2002), 135.

<sup>217</sup> Baldassare, *California State of Mind*, 146.

<sup>218</sup> Little Hoover, *Historic Opportunities*, 21.

provide incentives for long-term learning, and balance local interests against the problems that arise.”<sup>219</sup> Little Hoover found that plural bodies such as the CAC did have continuing value to the Resource Agency in “bringing together a group of informed and responsible citizens” to make determinations free from political influence, and that “if well structured and managed,” they allowed an “excellent opportunity” for public sentiments to become better known.<sup>220</sup> As directed by the Legislature, the CAC provided recommendations “relating to the preservation, protection, restoration and enhancement of salmon and steelhead trout resources of this state, including, but not limited to, the operation, effect, administration, enforcement and needed revision of any and all law”; their record speaks for itself (See Appendices F, G, H, I, J, N, O and P).<sup>221</sup> Undeniably, these recommendations impact many powerful industries throughout California, including agribusiness, forestry, and development.

Little Hoover did express concerns regarding the tendency of plural bodies like the CAC to become “examples of waste and abuse of government resources,” easily posing problems, for “although they are easily created, they quite often get out of hand and are not at all easy to dissolve.”<sup>222</sup> They went on to caution about frequent hidden costs involved in the use of plural bodies, and that some continue “to exist even after they no longer have any budget, staff or useful function.”<sup>223</sup> In effect, this is what has happened with the CAC, as they have been unable to complete the tasks with which they were charged, despite their continuing to meet and make recommendations. Contrary to the fears of Little Hoover, however, not only has the CAC’s

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<sup>219</sup> NRC, “Upstream,” 375.

<sup>220</sup> Little Hoover, *Hidden Government*, 9; Little Hoover, *Use of Boards*, 13; Little Hoover, *Historic Opportunities*, 21.

<sup>221</sup> *Relative to Creating an Advisory Committee on Salmon and Steelhead Trout*, ACR 64, Resolution Chapter 124, Regular Session, Statutes of California (1970), 3649-3650.

California State Legislature, “ACR 64.”

<sup>222</sup> Little Hoover, *Historic Opportunities*, 2; Little Hoover, *Hidden Government*, 1; Little Hoover, *Use of Boards*, 20.

<sup>223</sup> Little Hoover, *Use of Boards*, 8; Little Hoover, *Hidden Government*, 2-3, 13-14; Little Hoover, *Historic Opportunities*, 21.

continuing value been demonstrated, CAC members serve as what former CAC member Jud Ellinwood calls DFG's "fonts of institutional memory and knowledge," recognized experts with regard to salmon habitat protection and restoration issues.<sup>224</sup>

To resuscitate California's salmon restoration program and help meet objectives for protection of wild salmon while ensuring vigorous, healthy commercial and recreational salmon fisheries and clean free-flowing rivers, strong political will is needed to guarantee adequate funding, enforcement, monitoring, oversight, and habitat protection. Little Hoover held that "a committee ... may help crystallize support for or opposition to particular public programs or policies, and can thus be helpful both to legislative and executive authorities."<sup>225</sup> The CAC was created for exactly this purpose, to crystallize the support needed for salmon restoration, fostering the necessary political will through their annual reports and recommendations. However, California's salmon restoration program has been underfunded from the offset, with budget cuts further reducing its effectiveness, and the CAC's repeated requests for committee funding falling on deaf ears. Eventually, CAC staffing and reporting funding was no longer even requested, so that all available funding could be used as matching funds to facilitate on-the-ground restoration. As has been demonstrated, CAC staffing could have provided the nonpartisan program oversight needed to ensure that the program envisioned in SB 2261 stayed on track, potentially halting and reversing salmon declines. The Resource Agency and DFG should be directed to follow the recommendations of Little Hoover and the clear wishes of the Legislature with regards to funding the CAC to the extent necessary to employ independent staff and publish regular reports, as previously mandated by the Joint Committee.

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<sup>224</sup> Telephone conversation with Jud Ellinwood, 12 November 2008.

<sup>225</sup> Little Hoover, *Use of Boards*, 13.

Further, all of California will benefit if:

1. DFG complies with the requirements of F&G Code Sections 2762.5 and 2762.6 with regard to CAC funding (see Appendix L).
2. The CAC retains independent staff to (1) assist in the completion of CAC duties; and (2) reorganize the eleven watershed committees and institute a bi-annual review program for each region.
3. The CAC, as soon as possible after restoration of funding and the employment of independent staff, reviews California's salmon restoration program and prepares an interim status report to the Joint Committee and the DFG Director of its initial findings.
4. The Joint Committee directs the CAC to commence providing routine biannual reports to the Joint Committee and the DFG Director detailing the status of salmon restoration, providing an update on approximately one-half of the eleven watershed regions in each report.
5. The Joint Committee directs the CAC to adopt bylaws governing its operation, ensuring compliance with the recommendations of Little Hoover concerning tenure and qualifications of members.<sup>226</sup>
6. The Joint Committee directs the CAC to investigate and make recommendations regarding potential economic and other benefits to salmon should the Legislature adopt C-WIN's 16 Principles (Appendix Q).

As the aptly-titled historic CAC reports relate, the story of California's salmon is *An Environmental Tragedy*, although restoration of the resource provides *A Conservation Opportunity*. However, *The Tragedy Continues*, despite the CAC forming *A New Partnership*

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<sup>226</sup> Little Hoover, *Use of Boards*, 19.

and much work having been directed toward *Restoring the Balance*. In summary, California's Legislature needs to demonstrate the political will needed to re-empower the CAC, ending for once and for all what truly is a continuing environmental tragedy; although it's been forty years, *The Time Is Now*.

### *Epilogue*

*In sum, the salmon problem is about more than just a few species of fish. It is a question of cultural values, stewardship, and living with the land instead of off the land. – National Research Council, Upstream: Salmon and Society in the Pacific Northwest (1996)*

*In 2001, I was a full-time commercial fisherman. My husband and I had been trolling for albacore and were blown in to the port of Eureka to wait out a storm when then-CAC chair Mitch Farro approached me about serving on the CAC. I remember asking if this meant I would “get to feel good about salmon,” and his laughing assurance that anything was possible. Seven years later, I am one of California's many unemployed commercial salmon fishermen, with serious questions regarding the progress that has been made toward restoration of California's salmon. Nevertheless, the total closure of the 2008 salmon fishing season gave me plenty of time to think, and I realized that after a number of years of sporadic attendance at CAC meetings, I was not even certain of the CAC's actual purpose, let alone whether there was real value in its continuing existence. My uncertainty led to this project. To my surprise, as I worked to defend my claim that the CAC did indeed have continuing value, an essential missing piece of our salmon restoration program was also revealed: CAC staff and reporting.*

*In 1989, the Legislature took steps to guarantee regular CAC reporting by directing DFG to fund the expenses of the CAC through the Cigarette and Tobacco Products Surtax Fund (F&G Code Section 2762.6 – see Appendix L). One would expect a state agency to follow state laws, yet twenty years later, for reasons uncertain the CAC is unfunded, salmon runs are collapsing, and salmon-dependent economies and communities are in shambles. DFG needs to be directed*

*to follow state laws regarding funding the CAC, an integral part of the salmon restoration program envisioned by SB 2261. Otherwise, I believe the effectiveness of California's salmon restoration program in general, and the CAC in particular, will continue to be severely compromised.*

*I realize that in 2009 California faces seeming insurmountable budgetary challenges, but still I believe there is a pressing need for funding to allow the CAC to hire a consultant and resume its tasks as charged, including much-needed program oversight and regular reporting. A fully staffed and funded CAC created California's salmon restoration program and helped pass the CVPIA. The availability to the Joint Committee of a fully-staffed CAC would provide the level of expertise needed to protect the billions of federal and state dollars invested in salmon restoration and ensure a return of California's robust salmon economy and the continuation of Native Californian cultures. In short, this is one of those instances when California urgently needs to spend a little money now in order to save a lot of money, and heartache, in the future.*

*Barbara Stickel  
Morro Bay, California  
30 December 2008*

## Appendix

- Appendix A. Copies of:
1. November 19 CAC Agenda
  2. Full roster of current CAC members
- Appendix B. Commercial Salmon Fishing Gears (Gillnet, Troll)
- Appendix C. California Commercial Salmon Harvest, 1916-2008
- Appendix D. Commercial Salmon Vessel Permit Table
- Appendix E. Assembly Concurrent Resolution No. 64 (Chapter 124, Statutes of 1970)
- Appendix F. Table of CACSST Recommendations and Outcomes, 1971
- Appendix G. Table of CACSST Recommendations and Outcomes, 1972
- Appendix H. Table of CACSST Recommendations, 1975
- Appendix I. Report to the Joint Legislative Committee on Fisheries and Aquaculture, 1992
- Appendix J. Program Report: Statement of California Advisory Committee on Salmon and Steelhead Trout, May 2008
- Appendix K. Senate Joint Resolution No. 19 (Chapter 141, Statutes of 1983)
- Appendix L. California Fish & Game Code Sections 2762.5 and 2762.6, with relevant portions of enacting legislation
- Appendix M. Partial listing of advisory bodies and projects on which CAC members, former and current, have lent their expertise to assist DFG
- Appendix N. Table of CACSST Recommendations and Outcomes, 1986
- Appendix O. Table of CACSST Recommendations, 1987
- Appendix P. Table of CACSST Recommendations, 1988
- Appendix Q. California Fish & Game Code Section 6920
- Appendix R. California Water Impact Network's *16 Principles for a Sustainable Water Future*
- Appendix S. *Resolution Honoring 50 Years of Salmon Restoration*

Bibliography