

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE STATE OF CALIFORNIA
COULD BETTER PROTECT
COMMERCIAL FISHING RESOURCES**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL

P-488

THE STATE OF CALIFORNIA COULD BETTER
PROTECT COMMERCIAL FISHING RESOURCES

AUGUST 1985



Telephone:
(916) 445-0255

STATE OF CALIFORNIA
Office of the Auditor General

Thomas W. Hayes
Auditor General

660 J STREET, SUITE 300
SACRAMENTO, CA 95814

August 14, 1985

P-488

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of Fish and Game's enforcement of marine commercial fishing regulations. The report shows that violations of some commercial fishing regulations go undetected, reducing the ability of the department to protect the State's fish resources. In the Los Angeles area, enforcement of commercial fishing regulations is hindered because warden vacancy and turnover rates are high. Enforcement is also hindered because some fish dealers and fishermen submit inaccurate data to the department. In addition, the hiring practices of some permit holders restrict the number of new fishermen who can gain experience in fishing for herring, and commercial herring regulations restrict the number of vessels used for herring fishing.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	i
INTRODUCTION	1
AUDIT RESULTS	
I ENFORCEMENT OF COMMERCIAL FISHING REGULATIONS CAN BE IMPROVED	5
CONCLUSION	14
RECOMMENDATIONS	15
II HIRING PRACTICES AND VESSEL REGULATIONS RESTRICT ENTRY INTO THE HERRING FISHERY	17
CONCLUSION	20
RECOMMENDATIONS	20
RESPONSE TO THE AUDITOR GENERAL'S REPORT	
Resources Agency	23
Fish and Game Commission	25
APPENDICES	
A DEPARTMENT OF FISH AND GAME REGIONS	A-1
B THE ESTIMATED COST TO THE STATE OF THE SAN PEDRO CAPTAIN'S CASE COMPARED TO SEVEN SIMILAR CASES IN 1984	B-1

SUMMARY

Violations of some commercial fishing regulations go undetected, reducing the ability of the Department of Fish and Game (department) to protect the State's fish resources. In the Los Angeles area, enforcement of commercial fishing regulations is hindered because warden vacancy and turnover rates are high. Enforcement is also hindered because some fish dealers and fishermen submit inaccurate data to the department. In addition, the hiring practices of some permit holders restrict the number of new fishermen who can gain experience in fishing for herring, and commercial herring regulations restrict the number of vessels used for herring fishing.

Enforcement of Commercial Fishing Regulations Can Be Improved

The Marine Resources Region (region) of the department is responsible for enforcing commercial fishing regulations along the State's coast. However, some violations go undetected because warden vacancy and turnover rates are high and because some fish dealers and fishermen submit inaccurate data to the department. The region attempts to counteract these deficiencies by placing high enforcement priority on known and suspected violations and by monitoring those activities in which violations are likely to occur.

Warden vacancy and turnover rates in the southern metropolitan areas hinder the region's ability to enforce commercial fishing regulations. The region manager and other department staff acknowledged that the turnover problem is especially critical in the Los Angeles area. For example, in the Los Angeles area in mid-1984, three of the area's seven warden positions were vacant, two wardens were assigned to monitor commercial fishing activities, and two wardens were assigned to other enforcement duties. Because so few wardens were monitoring commercial fishermen, some violations have gone undetected.

For example, after citing a fisherman for violating the weekly limit for Pacific mackerel, enforcement staff researched the region's file of mackerel data taken from July 1983 through May 1984 for indications of similar violations. The data indicated that at least five other violations of the weekly limit had gone undetected.

The department's efficiency in enforcing commercial fishing regulations is further hindered because some fish dealers and fishermen do not submit required information accurately to the department. Section 8576 of the Fish and Game Code restricts fishermen who use gill nets from catching each month more pounds of swordfish than shark. However, data from some swordfish and shark dealers and fishermen, which should indicate when violations are occurring, are inaccurate, causing the region to delay its enforcement action against violators for several months while the violations are being verified. Also, one of the department's 1984 weekly reports indicated that over 300 coho salmon had been caught and sold in the Monterey area as early as six weeks before the coho season opened. However, the incidents were not investigated because the reports were based on dealer receipts whose accuracy was unknown and because the department did not have procedures to routinely review the reports for potential violations.

Restrictions in Fishing for Herring

The department issues herring permits only to the most experienced fishermen. However, the hiring practices used by some herring permit holders restrict the number of fishermen who can gain the required experience in order to qualify for a herring permit. Also, regulations adopted by the Fish and Game Commission (commission) restrict the number of different vessels that can be used for herring fishing.

Each year the department issues a limited number of gill net permits for herring fishing. The provisions limiting the number of

herring fishermen were adopted in order to provide an orderly and viable fishery. To qualify for a herring permit, the applicant must have a current commercial fishing license, must have a California-registered commercial fishing vessel, and must have held a herring permit during the previous herring season.

To increase the number of herring fishermen and to limit the number of vessels in the confined fishing areas at one time, different vessels and permit holders fish in two alternating fleets of vessels, called "platoons." However, the hiring practices used by some permit holders restrict rather than maximize the number of fishermen who can gain experience as crew members. One hundred and forty-four, or 31 percent, of the permit holders in one platoon hire permit holders from the other platoon as crew members.

Recent regulations of the commission further limit the number of different vessels used in the herring fleet. Vessels used in an early season platoon in San Francisco Bay may also be used in one of the two alternating platoons during the latter part of the season. However, there are other vessels available, including 144 vessels that were denied permits in the 1982-83 fishing season, that could be used in the herring fleet.

INTRODUCTION

The responsibility for protecting and conserving fish and game resources in the State lies with the Fish and Game Commission (commission) and the Department of Fish and Game (department). The commission, which is composed of five members who are appointed by the Governor and confirmed by the Senate, has general regulatory powers. The commission determines fish and game seasons, sets hunting and fishing limits, and establishes methods of taking game animals and fish. The Legislature has also delegated to the commission the responsibility for formulating general fish and game policies, which the department administers and enforces.

The department, through its director, is charged with administering the Fish and Game Code and ensuring that fish and wildlife are preserved for the use and enjoyment of the people of the State. To accomplish the objectives and to enforce the regulations of the code, the department divides the State into six geographic regions, each supervised by a regional manager who is responsible for fish and game activities in that area of the State. (See Appendix A.)

One of these geographic regions is the Marine Resources Region (region), which is responsible for protecting marine life along the entire California coast. For enforcement purposes, the region is divided into four districts. Each district is staffed by a patrol captain, two patrol lieutenants, and several wardens. The functions of

these enforcement officers generally fall into four main categories: patrol activities that serve as a visible deterrence to crime; surveillance activities, such as monitoring and observing fishing limits; investigations in response to pollution incidents, such as oil spills; and a broad range of administrative duties that include issuing licenses and permits, public relations work, training, and office management.

The department's expenditures for fiscal year 1983-84 for enforcement of laws and regulations were approximately \$21 million. The region's wildlife protection costs for fiscal year 1983-84 were approximately \$2 million. Of the \$2 million, approximately \$1 million was required for enforcing commercial fishing regulations. The department is funded mainly through the Fish and Game Preservation Fund, which derives its revenue from the sale of hunting and fishing licenses, from court fines, and from commercial fishing taxes. In general, one-half of the fines and forfeitures collected as a result of violations of the Fish and Game Code are deposited in the Fish and Game Preservation Fund, and the other one-half goes to the county in which the offense was committed. Money going to the county must be deposited in the County Fish and Game Propagation Fund and spent for the propagation and conservation of fish and game within the county.

SCOPE AND METHODOLOGY

This audit focused on the department's enforcement of commercial fishing, the policy and procedures governing herring fishing, and the circumstances and cost to the State of a court case that resulted when the department issued a citation to the captain of a mackerel fishing vessel from San Pedro.

We reviewed the laws and regulations that apply to commercial fishing, especially those governing the mackerel, herring, salmon, swordfish, and shark fisheries.* We also interviewed staff from the commission, the department, and the region.

We determined the resources available for enforcement and the extent of enforcement activities in the region through its management information files, pertinent documents, and interviews. We identified the commercial fishing violations in 1983 and 1984 and analyzed the disposition of these violations.

To determine the policy and procedures governing herring fishing, we reviewed pertinent laws and regulations, and we interviewed staff from the commission, the department, and the region. To determine if the procedures are restrictive, we identified the permit

*In this report, we use "fishery" to refer to the conservation and management of a species of fish, including any fishing for the species.

holders who also work as crew members on other permit holders' vessels, and we identified additional vessels that could be used in the herring fleet.

We documented the circumstances leading to the department's citation of a particular fisherman from San Pedro by interviewing staff at the department, the arresting officer and his supervisors, and the captain who was issued the citation. We reviewed applicable court documents and discussed the case with the Los Angeles City Attorney who prosecuted the case. In addition, to estimate the time and cost to the State to process the case, we interviewed personnel who were involved with the case.

AUDIT RESULTS

I

ENFORCEMENT OF COMMERCIAL FISHING REGULATIONS CAN BE IMPROVED

The Marine Resources Region (region) of the Department of Fish and Game (department) is responsible for enforcing commercial fishing regulations along the State's coast. However, some violations of commercial fishing laws and regulations are not detected. Some of the violations are not detected because of vacancies and high turnover rates among wardens, especially in the Los Angeles area. The department's enforcement activities are also hindered because some fish dealers and fishermen submit inaccurate information to the department. In addition, the department collects data that indicate that violations may be occurring. However, these potential violations have not been investigated because the reports are based on dealer receipts and the accuracy of the receipts is unknown. In addition, the department has not established procedures to routinely review the reports for potential violations.

The department places high priority on known and suspected violations and on activities in which violations are most likely to occur. According to the department's records, the region made a total of 5,653 arrests in calendar year 1984 for violations of fish and game regulations and other codes. This total represented 18 percent of the arrests the department made throughout the State. Included in the

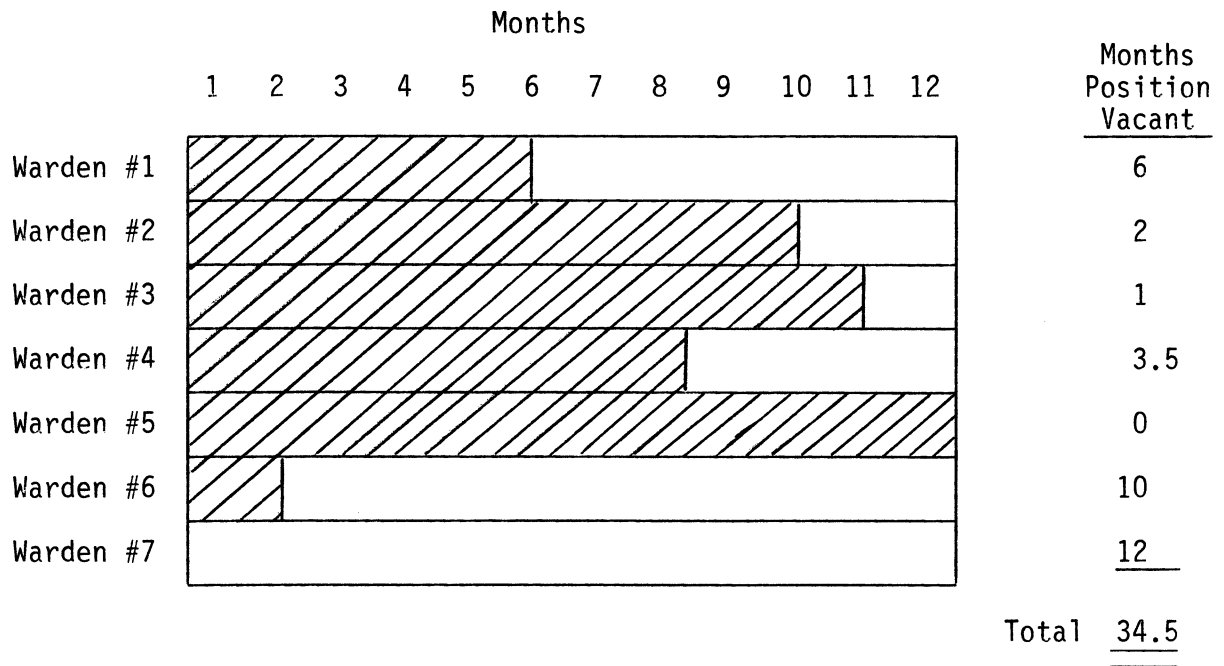
5,653 arrests were 735 citations for violations of commercial fishing laws and regulations. Of the 735 citations, 319 citations resulted in fines, 34 citations were upheld but the violators were not fined, 90 citations were dismissed by the courts, and 292 citations were still pending as of March 1985. The region issued approximately 200 citations to fishermen for not having a proper fishing license, the most common commercial fishing violation. The second most common violation was failure to comply with the State's recordkeeping procedures, for which the region issued approximately 50 citations.

Warden Vacancy and Turnover Rates

Warden vacancy and turnover rates in the Los Angeles area and in other southern metropolitan areas of the coast hinder the region's enforcement activities. During our field work in March 1985, the department's data indicated that 5 of the 11 warden positions in the southern district office in San Diego were vacant, and 6 of the 13 warden positions in the south central district office in Long Beach were vacant. In contrast, only one of 17 warden positions was vacant in the two northernmost districts. The region manager and other department staff acknowledged that the turnover problem in the Los Angeles area is the worst in the region. For example, in the Los Angeles area in mid-1984, 3 of 7 warden positions were vacant. Of the 4 positions that were filled, the chief of the district assigned 2 wardens to commercial fishing activities and 2 wardens to other enforcement duties.

Table 1 on the following page indicates that the warden positions in the Los Angeles area in 1984 were vacant approximately 34.5 out of 84 personnel months, or 41 percent of the time. In addition to the enforcement problems caused by warden vacancies, region supervisors stated that new replacements may be relatively inefficient because of the substantial training requirements of the position. Wardens must learn all of the sections of the Fish and Game Code that apply to marine resources, about two-thirds of the code. According to the district patrol leader in the Los Angeles area, a new warden's inexperience is one cause in the dismissal of some court cases.

TABLE 1
**WARDEN POSITION VACANCIES IN
 THE LOS ANGELES AREA DURING 1984***



Legend: Position vacant

Position filled

*The source of this information is a document titled "Marine Patrol Personnel Status," which covers the period from January 1, 1980 through March 31, 1985. The document was compiled by the department's personnel office that supports the Marine Resources Region.

Historically, the region has had problems in retaining wardens in the Los Angeles area. Region supervisors said some reasons for the high turnover rate include the high cost of living, the large number of complex laws and regulations that are directly or indirectly related to marine resources, and the preference of wardens for land patrol over ocean patrol. Although the department cannot control some of the factors that affect employee retention, some of the region's staff think that the warden selection process has been a long-standing problem because it favors candidates with interests and background in rural, inland areas and does not adequately consider warden candidates who would prefer to live and work in metropolitan areas. The chief of the personnel office for the region said some new wardens may accept the Los Angeles positions knowing they can transfer when inland positions become available. Although the chief of the department's Wildlife Protection Branch has formed an ad hoc group to review the department's hiring practices, he has not specifically directed the group to address the long-standing problems in the Los Angeles area.

One example that points up the potential effect on marine resources of the warden shortages in the Los Angeles area occurred in the mackerel fishery in 1984. To control the waste of mackerel when cannery capacities are full, for several seasons the Fish and Game Commission (commission) has imposed limits on the tonnage of mackerel that each vessel may land. For example, in mid-1984, Section 148, Title 14 of the California Administrative Code prohibited permit holders from landing more than 200 tons of Pacific mackerel in one week

in the southern permit area, that is, the area south of Point Buchon. There were no landing limits in the northern area. (See Appendix A.)

To ensure that vessels were not exceeding the limit and to collect biological data, the department's fish samplers collected and recorded data on fish landings. Large vessels that were capable of exceeding the 200-ton limit and that frequently unloaded fish were checked more frequently than smaller vessels that unloaded fish less often.

One of the larger vessels that frequently unloaded mackerel exceeded the limit of 200 tons of Pacific mackerel by unloading approximately 350 tons of the fish in one week in the Los Angeles area. The fish samplers notified wardens, who investigated the case. On August 10, 1984, the captain of this vessel, which was based in San Pedro, was cited by the department for exceeding the weekly limit; the department seized his load of fish and sold it for \$29,100.

The captain contended in a memorandum to the municipal court of Los Angeles that the charge did not specify whether the mackerel were taken from the northern or southern permit area. He further stated that if the mackerel were caught in the northern permit area, no violation was committed. However, the department contended that the purpose of the limit was to protect against wasting mackerel when the cannery capacity was exceeded in the southern area and was, therefore, applicable to landings in the southern area, regardless of where the

mackerel were caught. The court ruled that the regulation was ambiguous, dismissed the case, and ordered the department to return the \$29,100, along with any interest due, to the captain. After the captain was cited, the commission revised the regulation to clearly state that the limit applies specifically to mackerel unloaded in the southern permit area, regardless of where the mackerel are caught. (See Appendix B for an analysis of the time and money it cost the State to pursue this case.)

As a result of the San Pedro captain's citation, the region reviewed its records of mackerel samples from July 1983 through May 1984 to determine if similar violations had occurred. The staff found evidence of at least five other violations of the 200-ton limit. The region's records indicated that the San Pedro captain himself had exceeded the limit four times before his citation in August 1984. If the capacity of the canneries had been exceeded when the violations occurred, some mackerel may have been wasted if fishermen could not have found other buyers. According to the chief of the south central district, to increase the region's efficiency in detecting violations, the region has changed procedures and now requires its wardens to review the mackerel sampling data for indications of violations.

Inaccurate Data From Fish Dealers and Fishermen

Sections 8011 and 8014 of the Fish and Game Code require fish dealers to periodically submit to the department dated receipts that

include the weight of fish received, the name of the fisherman, and the registration number of the boat. Section 8016 of the code requires fishermen to keep accurate logs of their fishing operations and to periodically submit copies to the department. However, information submitted to the department from some fish dealers and fishermen is inaccurate. As a result, the department's efficiency in enforcing some commercial fishing laws and regulations is decreased. Violations may also go undetected because data from fish dealers that could be used for enforcement purposes are not used. In 1984, department reports compiled from receipts from salmon dealers indicated that coho salmon were being caught and sold up to six weeks before the coho season opened. However, because the staff who used the reports could not determine the accuracy of the data from the dealers, potential violations were not investigated.

When fishermen and fish dealers do not accurately submit the required information on catches to the department, the region cannot promptly and efficiently enforce commercial fishing regulations. The log data that fishermen submit to the department should match the data on the receipts the fish dealers submit. However, the region has found discrepancies between the logs and receipts to be as high as 70 percent for some vessels. For example, Section 8576 of the Fish and Game Code restricts fishermen who use gill nets from catching more pounds of swordfish than shark during each month from May 1 through September 15. In 1983, the department's review of fish dealer receipts showed that 22 permit holders violated Section 8576, and the department suspended the

fishermen's permits. However, 20 of the 22 permit holders were able to provide data that differed from those of the fish dealers. The department determined that the information from the fish dealers was inaccurate, and these 20 fishermen did not, therefore, lose their permits.

During a three-month period in 1984, dealer receipts indicated that the following number of permit holders exceeded the ratio of swordfish to shark: 45 in June, 77 in July, and 114 in August. The region later listed 35 permits for suspension; however, the list was found to be 37 percent inaccurate because of errors or omissions in the data that the fish dealers and fishermen submitted to the department. For example, some fishermen provided documentation of fish landings that the department had no record of. Also, some permit holders had transferred to another vessel but had not informed the department; therefore, they did not receive credit for some landings of fish. Because of the inaccuracy of the data, the region was required to verify that violations had actually occurred. In December 1984, three to six months after the violations occurred, the region suspended 22 permits for violation of Section 8576 of the Fish and Game Code. An additional 23 permit holders were sent warning letters.

Some of the department's periodic reports on salmon are also based on dealer receipts but are not always used for enforcement purposes. One report on the number of Chinook and coho salmon caught each week in 1984 indicated that over 300 coho salmon had been caught

and sold in the Monterey area as early as six weeks before the coho season opened. However, because the staff who used the report could not verify its accuracy and because the enforcement personnel do not have procedures to routinely review the report for potential violations, the region did not investigate these potential violations. However, these incidents should have been investigated because the salmon population has been significantly reduced. For example, the 1984 commercial ocean catch was only 39 percent of the 1971-75 average. And in 1983, the department began limiting the number of commercial vessels fishing for salmon in order to eliminate overharvesting.

CONCLUSION

The Department of Fish and Game, through its Marine Resources Region, is responsible for enforcing commercial fishing regulations along the State's coastal waters. However, some commercial fishing violations go undetected because of high warden vacancies and turnover rates. In addition, the region's enforcement efficiency is also reduced because some fish dealers and fishermen do not always submit data to the department accurately and periodically as required. Also, the department does not use for enforcement purposes all the data it collects.

RECOMMENDATIONS

The Department of Fish and Game should review its hiring practices to determine ways of obtaining wardens for metropolitan areas who will stay long enough to reduce the high turnover rates and stabilize the region's enforcement program.

To increase the effectiveness of its enforcement activities, the department should continue to emphasize and enforce laws and regulations requiring fish dealers and fishermen to periodically submit accurate data to the department. The department should also develop procedures for routinely reviewing these data for potential violations.

II

HIRING PRACTICES AND VESSEL REGULATIONS RESTRICT ENTRY INTO THE HERRING FISHERY

Each year, the Department of Fish and Game (department) issues a limited number of gill net permits for herring fishing. However, herring permits are issued only to the most experienced fishermen, and the hiring practices used by some permit holders restrict the number of fishermen who can gain the required experience to qualify for a herring permit. Also, the commercial herring regulations adopted by the Fish and Game Commission (commission) restrict the number of different vessels that can be used for herring fishing.

In the 1977-78 herring season, the commission adopted provisions, specified in Section 163, Title 14 of the California Administrative Code, that limit the number of gill net fishermen who can fish for herring. The purpose of these provisions is to provide for an orderly and viable fishery. According to these provisions, to qualify for a herring permit, an applicant must have a current commercial fishing license; must own, lease, or operate a California-registered commercial fishing vessel; and must have been a permit holder during the previous season.

The department has issued no new herring permits since the 1982-83 season. The department will issue no new gill net permits for the San Francisco Bay until the number of permit holders in the early

season fishing platoon is less than 116 and the number in the two regular season platoons less than 232; it will issue no new permits for the Tomales-Bodega Bay area until there are fewer than 35 permit holders in this area. When new permits are authorized, if there are more eligible applicants than available permits, the department will select the new permit holders through a lottery. Eligibility for the lottery will be based on the number of years an applicant has held a commercial fishing license in the past ten years and the number of years the applicant participated in fishing for herring in each of the last three seasons as a crew member, owner, or operator of a vessel.

However, certain hiring practices in the herring fishery keep some fishermen from acquiring enough experience to qualify for a herring permit. In addition, some of the commission's regulations also reduce the number of fishing vessels that can be used to fish for herring.

In order to accommodate as many permit holders as possible, and, at the same time, to limit the number of vessels in the confined San Francisco, Tomales, and Bodega bays, the commission requires different vessels to be used in two alternating fishing platoons. However, the hiring practices of some permit holders restrict rather than maximize the number of fishermen who can gain experience as crew members. This limitation occurs because 144, or 31 percent, of the permit holders hire permit holders from the other platoon as crew members. This practice of "doubling up" reduces the number of crew

positions available for other fishermen who need more experience in fishing for herring in order to become eligible for a herring permit. In addition, even though some applicants may have experience in using gill nets in other fisheries, they are not given preferential status, as the herring fishing participants are. As a result, although applicants may have gill net experience in other fisheries, they may not qualify for the herring lottery.

The number of different fishing vessels in the San Francisco Bay that can be used in the herring industry is limited because the commission allows vessels used in an early season fishing platoon, which was authorized in the 1982-83 fishing season, to also be used in one of the two alternating platoons during the later part of the season. The commission allowed for this rotation of vessels among platoons because there was a lack of suitable herring vessels available for use or lease in the fishery. The commission also intended through this provision to supply the two alternating platoons with additional fishing vessels when permit vessels became inoperable during the season.

However, our review indicates that there are other vessels that could be used in the herring fleet. There were 674 applications when the department last approved new applications for herring permits for the 1982-83 fishing season. Of the 674 applicants, 203 were unsuccessful in obtaining permits because of their limited experience and the limited number of permits available. We compared the vessels

listed on the 203 unsuccessful applications to the vessels already being used in the herring fleet. We found that 41 vessels were being used by other permit holders in the herring fleet and 18 applications did not list a vessel or listed the same vessel another applicant also used; however, the remaining 144 vessels were not used in the fleet. Some of the 144 vessels could be used for herring fishing.

CONCLUSION

The Department of Fish and Game issues herring permits only to the most experienced fishermen. However, the hiring practices used by some herring permit holders restrict the number of new fishermen who can gain experience in fishing for herring. Also, the regulations governing herring fishing restrict the number of vessels that can be used in the herring fleet.

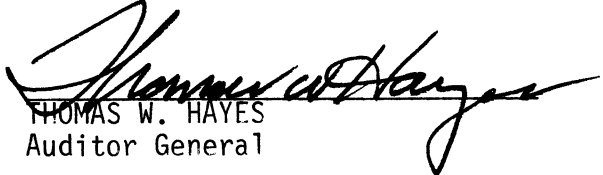
RECOMMENDATIONS

In order to allow more fishermen to be eligible for the herring permits, the Fish and Game Commission should consider an applicant's gill net experience in other fisheries if the experience is similar to experience gained in the herring fishery.

As a means of increasing the number of vessels available for herring fishing, the commission should not allow herring vessels in San Francisco Bay to be used in more than one platoon unless the commission determines that a sufficient number of adequate vessels is not available.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: July 29, 1985

Staff: Thomas A. Britting, Audit Manager
Murray Edwards

DEPARTMENT OF FISH AND GAME

1416 NINTH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-3531



July 23, 1985

Thomas W. Hayes
Auditor General
660 J Street Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

Secretary Van Vleck forwarded the draft report entitled "The Department of Fish and Game Could Better Protect Commercial Fishing Resources" to me for comment.

My staff has reviewed the report and we agree with the conclusions regarding the enforcement of commercial fishing regulations. We have already taken steps to solve our problems in this area. On July 1, 1985 we transferred all wardens from the Marine Resources Region to the contiguous land regions. That will make our operations more efficient and will provide a larger staffing pool to enforce commercial fishing regulations. We have also placed a new emphasis on that enforcement on a statewide basis.

To help solve the problems with our data collection we have moved three officers to Sacramento who will spend the majority of their time on fish business investigations.

We are also changing our hiring practices to try to deal with the vacancy rate. Managers in Southern California are actively recruiting Southern California residents to stay in Southern California. This new effort will help with the retention problem.

We also agree with the conclusions reached regarding the herring fishery. However, the herring regulations were developed with a great deal of public input to the Department and to the Fish and Game Commission. The closed nature of the fishery was requested by the industry itself. When the report becomes final we will make the recommendations known to the Commission.

Mr. Hayes

Page 2

Thank you for the opportunity to comment on the draft. I appreciated the opportunity to bring you up to date on Departmental efforts in this area.

Sincerely,


Jack C. Parnell
Director

cc: Resources Agency

GEORGE DEUKMEJIAN
GOVERNOR



STATE OF CALIFORNIA

Fish and Game Commission

HAROLD C. CRIBBS
EXECUTIVE SECRETARY
1416 NINTH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-5708

COMMISSIONERS
William A. Burke, Ed. D., President
Brentwood
Brian J. Kahn, Vice President
Santa Rosa
Abel C. Galletti
Rancho Palos Verdes
Albert C. Taucher
Long Beach
Robert A. Bryant
Yuba City

July 23, 1985

Mr. Thomas W. Hayes
Auditor General
660 J Street
Sacramento, California 95814

Dear Mr. Hayes:

Dr. William A. Burke, President of the Commission, has asked that I respond to the draft of your report entitled, "The Department of Fish and Game Could Better Protect Commercial Fishing Resources."

My response will be directed to those comments pertaining to the commercial herring fishery. I would point out that prior to the 1982-83 fishing year, Commission regulations precluded permittees from using a vessel which had been used in another commercial herring platoon. The proviso to permit the use of a vessel in more than one platoon was a result of some fishermen not being able to find a suitable vessel on which to use their permits. Contrary to your statement, "Some of the 144 vessels could be used for herring fishing," some permittees had great difficulty in finding a seaworthy vessel on which to use their permit. (*)

The commercial herring fishery is one of the better success stories in marine resource management. With a limited herring resource, a limited space in which to take that resource and the extremely sensitive biopolitical aspects of the fishery, the Commission believes it has provided appropriate regulations to assure an orderly fishery.

The limited entry legislation which provides for the commercial herring fishery is the result of pressure from within the fishing industry and from those living around the periphery of San Francisco Bay. Had the Commission not limited the number of vessels in this fishery and thereby assured an orderly fishery, it is clear that the Legislature would have closed San Francisco Bay to the take of herring.

(*) The Auditor General's comment to this response appears on page 26.

Mr. Thomas W. Hayes
July 23, 1985
Page two

It should be noted that prior to 1976 there was little interest in the commercial take of herring. It was only through the development of the herring roe market in Japan that the interest developed. While it is possible for a good fisherman to make a substantial amount of money from this fishery when fish are abundant, there are also years when the herring do not show up in abundance and therefore there is little financial return to the permittee. By allowing permittees in one platoon to crew in another platoon, there is a better than even chance that individual fishermen can make an adequate living and thereby remain in the fishery. If the permittees are prohibited from crewing in another fishery, there may not be the economic incentive to stay in the fishery.

From the beginning, the Commission has made it clear to the fishing industry that only experience in the herring fishery would be accepted as partial criteria for the awarding of new herring permits. To change that position now and accept any experience using the specific gear in other fisheries would present an untenable situation for those who have made the effort to comply with the existing criteria. In addition, the experience acquired in the herring fishery is needed by a permittee if he/she is to be successful and if problems are to be avoided.

I would also point out that the Commission has approved the issuance of two experimental educational herring permits to O.E.O. in Oakland. These permits are used by O.E.O. to provide qualifying on-the-job crew experience for minorities and disadvantaged youth from the Bay Area. With this experience these individuals can earn points toward acquiring their own commercial herring permit.

In summary, based on current information, the Commission believes the commercial herring fishery is an orderly one and that the provisions for access to this valuable fishery should not be modified. The Commission, however, will ask the Department to review the commercial herring fishery program in light of the findings of your report and, if appropriate, make recommendations for changes in the regulations.

Sincerely,

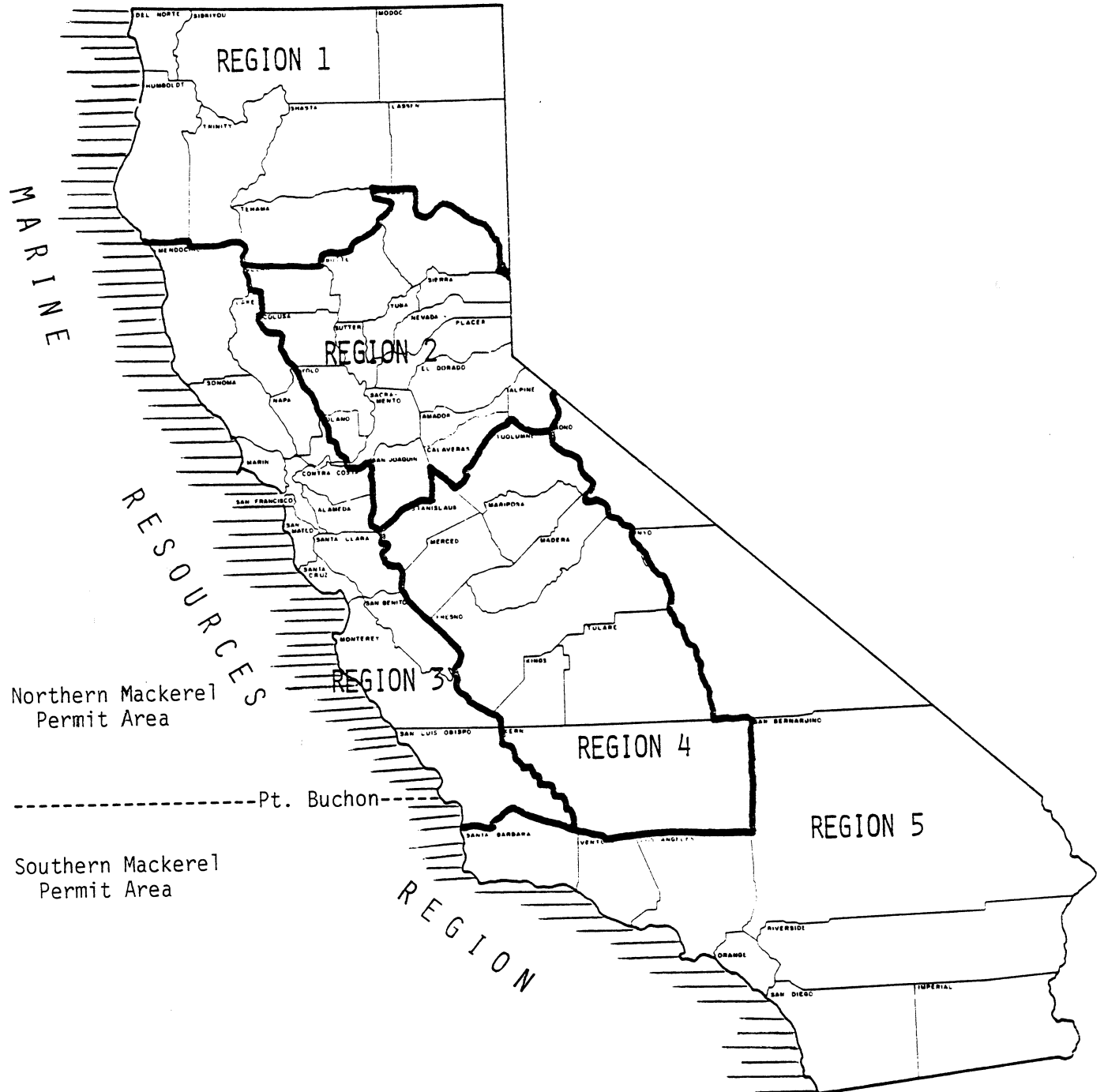


Harold C. Cribbs
Executive Secretary

cc: All Commissioners
Director

Auditor General's Comment: To obtain a herring permit, an applicant is required by Section 163, Title 14 of the California Administrative Code to have access to an appropriate fishing vessel. The Department of Fish and Game relies on an applicant's statement in the application that the applicant has access to a vessel. We used the applications of those applicants who were unsuccessful in obtaining herring permits to identify the existence of 144 more vessels. Some of these vessels could be used for herring fishing.

DEPARTMENT OF FISH AND GAME REGIONS



**THE ESTIMATED COST TO THE STATE
OF THE SAN PEDRO CAPTAIN'S CASE
COMPARED TO SEVEN SIMILAR CASES IN 1984***

<u>Region Personnel</u>	<u>Region Personnel Activity</u>	<u>San Pedro Captain's Case</u>		<u>Average for Seven Other Cases</u>	
		<u>Time (Hours)</u>	<u>Cost**</u>	<u>Time (Hours)</u>	<u>Cost**</u>
Region Manager	Case review	1.0	\$ 23	0.3	\$ 7
Region Inspector	Case review	1.0	19	1.0	19
Patrol Captain (supervisor)	Case review, supervision	0.6	11	3.6	65
Wardens	Investigation of the case, seizing the load of fish, meeting with the city attorney, and filing the case.	8.0	120	16.6	249
Administrative	Typing and filing	<u>2.0</u>	<u>14</u>	<u>1.1</u>	<u>8</u>
	Total	12.6	\$187***	22.5	\$348

*Estimates of the time were provided by the patrol captain who supervised the arresting wardens because the region does not account for personnel time by each case.

**Costs are rounded to the nearest dollar.

***This total does not include costs for the municipal court proceedings, which were paid by the County of Los Angeles, or for the prosecuting city attorney, which were paid by the City of Los Angeles.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps