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Department of Fish and Wildlife*

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
11 FRESNO DIVISION

12  
13 **PETER STAVRIANOUDAKIS, ET AL.,**  
14 Plaintiffs,  
15 v.  
16 **U.S. DEPARTMENT OF FISH &**  
17 **WILDLIFE, ET AL.,**  
18 Defendants.

1:18-cv-01505-JLT-FRS (EPG)  
**DIRECTOR OF CALIFORNIA  
DEPARTMENT OF FISH AND  
WILDLIFE'S NOTICE OF MOTION  
AND MOTION TO DISMISS SECOND  
AMENDED COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF; MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT OF  
MOTION TO DISMISS**

19 Date: April 17, 2026  
20 Time: 10 a.m.  
21 Courtroom: 10  
22 Judge: Magistrate Judge Erica P.  
Grosjean  
Action Filed: October 30, 2018

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1 **TO ALL PARTIES AND ATTORNEYS OF RECORD:**

2 **YOU ARE HEREBY GIVEN NOTICE** that on April 17, 2026, or as soon thereafter as  
3 the Court’s schedule permits, before the Honorable Erica P. Grosjean, in Courtroom 10 of the  
4 United States District Court for the Eastern District of California, Fresno Division, located at  
5 2500 Tulare Street, 6th Floor, in Fresno, CA 93721, defendant Valerie Termini, in her official  
6 capacity as Acting Director of California Department of Fish and Wildlife (Director or CDFW),  
7 will, and hereby does, move to dismiss Plaintiffs’ Second Amended Complaint for Declaratory  
8 and Injunctive Relief (Complaint) in the above-captioned action.

9 The Motion to Dismiss is made pursuant to Federal Rules of Civil Procedure, Rule 12(b)(6)  
10 on the following grounds: (1) **the matter is moot because of recent regulatory changes**; and (2)  
11 due to recent regulatory changes, Plaintiffs lack standing to bring unconstitutional-conditions  
12 claims against the Director. The Director’s Motion to Dismiss is based upon this Notice of  
13 Motion and Motion, the Memorandum of Points and Authorities filed herewith, and the pleadings  
14 and papers filed herein, and any oral argument presented.

15 Dated: January 9, 2026

Respectfully submitted,  
17 ROB BONTA  
Attorney General of California  
18 EVAN EICKMEYER  
Supervising Deputy Attorney General

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20 */s/ Nhu Q. Nguyen*  
21 NHU Q. NGUYEN  
Deputy Attorney General  
22 *Attorneys for Defendant Valerie Termini, in*  
*her official capacity as Acting Director of*  
*California Department of Fish and Wildlife*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Pursuant to this Court’s Minute Order (ECF 151) approving the parties’ proposed briefing  
4 schedule and setting forth the filing deadlines, defendant Valerie Termini, in her official capacity  
5 as Acting Director for the California Department of Fish and Wildlife (Director or CDFW) moves  
6 to dismiss this matter for mootness. Specifically, the Fish and Game Commission recently  
7 amended the regulation at issue to delete the language that the Ninth Circuit Court of Appeals  
8 held to confer Plaintiffs with standing to assert unconstitutional-conditions claims. Thus, under  
9 the amended regulation, Plaintiffs lack standing to assert any unconstitutional-conditions claims.  
10 The Director respectfully requests this Court dismiss this matter as Plaintiffs do not have standing  
11 under the amended regulation and this litigation is moot.

12 **RELEVANT BACKGROUND**

13 **I. REMAND FROM THE NINTH CIRCUIT COURT OF APPEALS**

14 On July 24, 2024, the Ninth Circuit Court of Appeals affirmed for the most part the District  
15 Court’s order granting the Director’s motion to dismiss for lack of standing. *Stavrianoudakis v.*  
16 *USFWS*, 108 F.4th 1128, 1133 (2024) (“We reverse the district court's dismissal of Plaintiffs'  
17 unconstitutional-conditions claims brought against CDFW and affirm as to the dismissal of their  
18 remaining claims.”).

19 The Ninth Circuit explained that because CDFW conditions falconry licenses on applicants’  
20 annual certifications such that “when the [Plaintiffs] apply for a license renewal, they must  
21 include the certification that they agree to submit to warrantless, unannounced inspections.”  
22 *Stavrianoudakis v. USFWS*, 108 F.4th at 1139. The language at issue was found in California  
23 Code of Regulations, title 14, section 670, subdivision (e)(2)(D), where it had required the  
24 applicant to provide a signed certification attesting, in pertinent part that “I understand that my  
25 facilities, equipment, or raptors are subject to unannounced inspection pursuant to subsection  
26 670(j), Title 14, of the California Code of Regulations.” *Stavrianoudakis v. USFWS*, 108 F.4th at  
27 1137. The Ninth Circuit held that “by successfully applying for a falconry license, the Falconers  
28 certify that they will forego a claim to the Fourth Amendment protections” and therefore the

1 Falconers (individual plaintiffs Eric Ariyoshi, Scott Timmons, and Peter Stavrianoudakis) faced a  
2 forced choice: retention of their Fourth Amendment rights or receipt of a falconry license, and  
3 that the Falconers “suffer this injury every time they renew their licenses, whether or not they are  
4 actually subjected to any unlawful inspections.” *Id.* at 1138. Accordingly, the Ninth Circuit held  
5 the Falconers meet the elements for standing to challenge the required certification as an  
6 unconstitutional-conditions claim against CDFW.

7 With similar rationale, the Ninth Circuit also held the American Falconry Conservancy  
8 (AFC) has met the standing requirements for its unconstitutional-conditions claims.  
9 *Stavrianoudakis v. USFWS*, 108 F.4th at 1143. Accordingly, on remand, the only issue that  
10 remains before this Court is whether the Falconers and AFC (collectively Plaintiffs) are entitled  
11 to any relief for their unconstitutional-conditions claim as a result of the required certification that  
12 they agree to unannounced inspections as a condition of receiving a falconry license from CDFW.

13 **II. THE FISH AND GAME COMMISSION’S RECENT AMENDMENT OF THE REGULATION**  
14 **TO DELETE THE LANGUAGE AT ISSUE**

15 On June 15, 2025, the Fish and Game Commission (Commission) approved CDFW’s  
16 proposed changes to the Regulation.<sup>1</sup> Specifically, the Commission approved the following  
17 changes to California Code of Regulations, title 14, section 670, subdivision (e)(2)(D), with the  
18 deleted language in strikethrough:

19 Signed Certification. Each application shall contain a certification worded as follows:  
20 “I certify that I have read and am familiar with both the California and U.S. Fish and  
21 Wildlife Service falconry regulation, CFR 50, Sections 21.29 through 21.30, and that  
22 the information I am submitting is complete and accurate to the best of my knowledge  
23 and belief. I understand that any false statement herein may subject me to cancellation  
24 of the application, suspension or revocation of a license, and/or administrative, civil,  
25 or criminal penalties. ~~I understand that my facilities, equipment, or raptors are~~  
26 ~~subject to unannounced inspection pursuant to subsection 670(j), Title 14, of the~~  
27 ~~California Code of Regulations.~~ I certify that I have read, understand, and agree to  
28 abide by, all conditions of this license, ~~the applicable provisions of the Fish and~~  
~~Game Code, and the regulations promulgated thereto.~~ I certify that there are no  
pending or previous legal or administrative proceedings that could disqualify me from  
obtaining this license.” The application shall be submitted with the applicant's  
original signature.

<sup>1</sup> The Commission’s action can be viewed at [https://cal-span.org/meeting/cfg\\_20250612/](https://cal-span.org/meeting/cfg_20250612/),  
Agenda Item 21, at 4:44.



1 of judicial notice, *Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 991 (9th Cir. 2009).  
2 Leave to amend need not be granted if “it is clear that the complaint could not be saved by an  
3 amendment.” *Livid Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940, 946 (9th Cir.  
4 2005).

5 **II. PLAINTIFFS DO NOT HAVE STANDING TO BRING AN UNCONSTITUTIONAL-**  
6 **CONDITIONS CLAIM AGAINST CDFW**

7 The Second Amended Complaint (SAC) should be dismissed as non-justiciable both  
8 because the claims alleged are now moot, and because plaintiffs lack standing to bring those  
9 claims. “It is the inexorable command of the United States Constitution that the federal courts  
10 confine themselves to actual cases and controversies. *See* U.S. CONST. art III, § 2, cl. 1.”  
11 *Gator.com Corp. v. L.L. Bean, Inc.*, 398 F.3d 1125, 1128 (9th Cir. 2005). Article III requires that  
12 an actual controversy exist at all phases of the litigation. *Protectmarriage.com-Yes on 8 v. Brown*,  
13 752 F.3d 827, 834 (9th Cir. 2014); *Gator.com*, 398 F.3d at 1128. Thus, moot claims are not  
14 justiciable. The court “loses its power to render a decision on the merits of a claim [citation],  
15 when [it] can no longer effectively remedy a ‘present controversy’ between the parties.”  
16 *Protectmarriage.com*, 752 F.3d at 834.

17 A case is moot “only when it is impossible for a court to grant any effectual relief.” *Rocky*  
18 *Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1097 n.12 (9th Cir. 2013) (hereinafter *Rocky*  
19 *Mountain I*) (quoting *Decker v. Nw. Env'tl. Def. Ctr.*, 568 U.S. 597, 609, 133 S.Ct. 1326, 185  
20 L.Ed.2d 447 (2013)). However, “the Supreme Court and our court have repeatedly held that a  
21 case is moot when the challenged statute is repealed, expires, or is amended to remove the  
22 challenged language.” *Log Cabin Republicans v. United States*, 658 F.3d 1162, 1166 (9th Cir.  
23 2011). Where there is nothing left of a challenged law to enjoin or declare illegal, further judicial  
24 action would necessarily be advisory and in violation of the limitations of Article III. *See, e.g., id.*  
25 at 1165–66 (describing this doctrine as arising out of the case or controversy requirements of  
26 Article III); *Students for a Conservative America v. Greenwood*, 378 F.3d 1129, 1131 (9th Cir.  
27 2004) (“This case is moot . . . because the challenged rules have been changed and will not apply  
28 in future elections.”); *Native Vill. of Noatak v. Blatchford*, 38 F.3d 1505, 1514 (9th Cir. 1994)

1 (“Declaratory relief is unavailable where [a] claim is otherwise moot . . .”). To test whether  
2 subsequent developments have mooted a suit, we ask whether the claim could have been brought  
3 “in light of the . . . statute as it now stands.” *Hall v. Beals*, 396 U.S. 45, 48, 90 S.Ct. 200, 24  
4 L.Ed.2d 214 (1969).

5 Here, the Ninth Circuit, in its limited remand, explained that Plaintiffs have  
6 unconstitutional-conditions standing and that the matter was ripe because CDFW conditions  
7 falconry licenses on applicants’ annual certification such that “when the [Plaintiffs] apply for a  
8 license renewal, they must include the certification that they agree to submit to warrantless,  
9 unannounced inspections.” *Stavrianoudakis v. USFWS*, 108 F.4th at 1139. The Ninth Circuit held  
10 that “by successfully applying for a falconry license, [Plaintiffs] certify that they will forego a  
11 claim to the Fourth Amendment protections” and therefore Plaintiffs face a forced choice:  
12 retention of their Fourth Amendment rights or receipt of a falconry license, and that Plaintiffs  
13 “suffer this injury every time they renew their licenses, whether or not they are actually subjected  
14 to any unlawful inspections.” *Id.* at 1138. Accordingly, the Ninth Circuit held Plaintiffs met the  
15 elements for standing to challenge the required certification as an unconstitutional-conditions  
16 claim against CDFW.

17 In response to the Ninth Circuit’s opinion, CDFW proposed changes to the regulation to  
18 delete the certification language at issue that confers standing on Plaintiffs. As discussed above,  
19 the Commission approved the regulatory changes and that certification language has been deleted  
20 from the regulation as well as from the falconry applications; the amended regulation took effect  
21 January 1, 2026.

22 Thus, under the amended regulation and applications, Plaintiffs do not have standing to  
23 bring an unconstitutional-conditions claim against CDFW. Plaintiffs are no longer required to  
24 provide a certification that they “agree to submit to warrantless, unannounced inspections” when  
25 they renew their licenses, and they do not face a forced choice: retention of their Fourth  
26 Amendment rights or receipt of a falconry license. Plaintiffs no longer “suffer this injury every  
27 time they renew their licenses, whether or not they are actually subjected to any unlawful  
28 inspections.” *Id.* at 1138.

1 This matter is moot because the challenged regulation has been amended to remove the  
2 certification language that the Ninth Circuit held to confer unconstitutional-conditions standing  
3 on Plaintiffs. Because Plaintiffs do not have standing under the newly amended regulation, it is  
4 impossible for this court to grant any effectual relief. *Rocky Mountain I*, at 1097 n.12; *Log Cabin*  
5 *Republicans v. United States*, 658 F.3d at 1166. Under *Hall v. Beals*, 396 U.S. at 48, Plaintiffs  
6 would not have standing to bring suit under the newly amended regulation. Thus, further judicial  
7 action would be necessarily advisory and in violation of the limitations of Article III. *See, e.g.*,  
8 *Log Cabin Republicans v. United States*, 658F.3d at 1165–66 (describing this doctrine as arising  
9 out of the case or controversy requirements of Article III); *Students for a Conservative America v.*  
10 *Greenwood*, 378 F.3d at 1131 (“This case is moot . . . because the challenged rules have been  
11 changed and will not apply in future elections.”); *Native Vill. of Noatak v. Blatchford*, 38 F.3d at  
12 1514 (“Declaratory relief is unavailable where [a] claim is otherwise moot . . .”).

### 13 CONCLUSION

14 The challenged regulation has been amended to remove the certification language that the  
15 Ninth Circuit held to confer unconstitutional-conditions standing on Plaintiffs. The amended  
16 regulation took effect on January 1, 2026. Under the newly amended regulation, Plaintiffs are not  
17 faced with a forced choice: retention of their Fourth Amendment rights or receipt of a falconry  
18 license. Plaintiffs are no longer required to provide certification that they agree to submit to  
19 warrantless, unannounced inspections in order to receive a falconry license. Accordingly, this  
20 matter is moot because Plaintiffs no longer have unconstitutional-conditions standing to challenge  
21 the newly amended regulation. CDFW respectfully requests this Court dismiss the Second  
22 Amended Complaint as moot.

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1 Dated: January 9, 2026

Respectfully submitted,

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## CERTIFICATE OF SERVICE

Case Name: **Peter Stavrianoudakis, et al. v.  
Charlton Bonham, et al.** Case No. **1:18-cv-01505-JLT-FRS  
(EPG)**

I hereby certify that on January 9, 2026, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DIRECTOR OF CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE'S  
NOTICE OF MOTION AND MOTION TO DISMISS SECOND AMENDED  
COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF; MEMORANDUM  
OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct, and that this declaration was executed on January 9, 2026, at Lemoore, California.

A. Billings  
Declarant

/s/ A. Billings  
Signature

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