



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

DCTF MEETING UKIAH, CALIFORNIA April 2, 2012 MEETING SUMMARY

NOTE: This is a DRAFT summary of the Dungeness crab task force's (DCTF) April 2, 2012 meeting. It is currently being reviewed by the DCTF for accuracy. This summary will be deemed final following the task force's approval and posted online at: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

INTRODUCTION

The purpose of this meeting summary is to:

- Inform all Members of the DCTF and the wider public of ongoing work of the DCTF
- Provide a summary of discussions and outcomes from the April 2, 2012 DCTF meeting held in Ukiah, California

The meeting took place between 8:30 a.m. to 5:00 p.m.

ATTENDEES

John Atkinson, Jr., F/V New Rayann

Jim Anderson, F/V Alliane

David Bennett, F/V Lee Ann

Geoff Bettencourt, F/V Moriah Lee

Chuck Cappotto, F/V Rosella

Larry Collins, F/V Autumn Gale

Mike Cunningham, F/V Sally K

Vince Doyle, F/V Verna Jean

Bret Fahning, F/V Rogue

Lt. Bob Farrell, CA Dept. of Fish & Game

Joe Caito, Caito Fisheries, Alternate for Bill Carvalho, Wild Planet Seafood

Craig Goucher, F/V Second Wind, Alternate for Mike Zamboni, F/V Luck

Tim Klassen, Sport fishing, Alternate for Marc Gorelnik, Sport fishing

Rick Powers, F/V Sea Angler, Alternate for Roger Thomas F/V Salty Lady, Gold Gate Fishermen's Association

Gerry Hemmingsen, F/V Pollux

Paul Johnson, Monterey Fish Market

Christy Juhasz, CA Dept. of Fish & Game

Chris Lawson, F/V Seaward

Don Standley, F/V Terry S and F/V One and All

Lee Wilson, F/V Gold Coast

Todd Whaley, F/V Dynamik

Jim Yarnall, Sport fishing

John Yearwood, F/V Abe

ABSENT

Bill Blue, F/V Morning Light

Bill Carvalho, Wild Planet Seafood

David Crabbe, Environmental Defense Fund

Carrie Pomeroy, CA Sea Grant

Richard Young, California Association of Harbor Masters and Port Captains

DCTF ADMINISTRATIVE TEAM PRESENT

Rachelle Fisher, Strategic Earth Consulting

Kelly Sayce, Strategic Earth Consulting

DCTF ADMINISTRATIVE TEAM ABSENT

Moira McEnespy, Ocean Protection Council

Monday April 2, 2012- 8:30am to 5:00pm



1. Welcome, introductions, agenda review

Rachelle Fisher welcomed everyone to the meeting. She advised the meeting agenda was full and would require time to be managed efficiently so everyone would have an opportunity to participate and be heard on the issues. She acknowledged that a couple people indicated that to the administrative team that would need to leave before 5pm and that the team would do what they could to accommodate those individuals. Ms. Fisher reviewed the DCTF ground rules; the DCTF offered no new suggestions of ground rules when given the opportunity to do so and agreed to them through head nods. Ms. Fisher respectfully requested the public adhere to the same ground rules.

Ms. Fisher asked DCTF Members and Alternates to introduce themselves. She then reintroduced the other member of the DCTF Administrative Team – Kelly Sayce – and explained that the other Admin Team Member, Moira McEnespy, was absent due to illness. Ms. Fisher explained the meeting would be recorded (via hand-held voice recorder), and explained the recording would be erased after 30 days in accordance with the Bagley-Keene Open Meetings Act. The audio recording of the March 12, 2012 DCTF meeting is still available and can also be made available upon request.

Ms. Fisher reviewed the meeting agenda, which included continued review and potential adoption of the trap limit program, continued discussion of DCTF interests and priorities, discussion and potential establishment of DCTF workgroups, and discussion of future DCTF meetings.

Ms. Sayce explained the procedure for public comment. Comments on the trap limit program (Agenda item 2) would be heard before the DCTF began deliberations. General public comment would be heard after the completion of Agenda item 2. Ms. Sayce asked members of public fill out public comment cards, and clearly state their name(s) and affiliation before speaking. The public was asked to adhere to a 3-minute time limit. Public comment will be heard on each agenda item and there is also time in the agenda for general public comment. She also reminded the public that DCTF Members and the Admin Team may call on the public for additional information and clarification as needed to facilitate DCTF discussions. Finally, Ms. Sayce identified a number of Department of Fish and Game (DFG) staff present in the audience, who may also be called upon to help inform DCTF discussions.

2. Discussion of proposed draft regulations for the commercial Dungeness crab fishery statewide trap limit program, including potential clarifications of the details of the trap limit program described in SB 369

Ms. Fisher recapped the DCTF's discussion regarding the proposed draft regulations for the trap limit program held during the last DCTF meeting on March 12, 2012. She briefly [reviewed the recommendations made by the DCTF on March 12, and highlighted outstanding items](#) that still required DCTF discussion: the timing for distribution of buoy tags, waivers for retrieval and transport of traps and associated gear, and consideration of out-of-state landings. Ms. Fisher explained that additional topics were brought up at the March 12 meeting that required further discussion, including movement between tiers, and revisiting discussions surrounding dual permit holders (those holding both commercial Dungeness crab and CPFV permits).



Before engaging the DCTF in discussion on the draft trap limit regulations, the Administrative Team opened the floor to public comment:

- Larry Thevik, WA Dungeness crab fishermen – Mr. Thevik spoke about a legal opinion on the exclusion of out-of-state landings in California’s trap limit program and a letter written by the Director of the Washington Department of Fish and Wildlife (Click [here](#) to view letter). He said California decisions regarding the trap limit program regulations “are of great concern beyond direct effect on pot limits.” He expressed concern about the implications of the California program on LE 200 and on the special congressional authority allowing the states of Washington, Oregon and California to regulate in the EEZ. Mr. Thevik recalled the DCTF’s previous reports requesting clarification of pot limits. He expressed appreciation for the DCTF’s attempt to get such clarification. He also expressed appreciation for the DCTF requesting information at the March 12, 2012 meeting for information about how allowing out-of-state landings would impact the California pot limit program but, encouraged the DCTF to follow through with getting the answers on this issue. He has conducted interviews with about 40 operators in WA and OR and estimates if out-of-state landings were included in the California program, 7,000 additional pots (or about 4%) would be added to California, which is about the same as in Washington. He urged the DCTF to reexamine the program’s exclusion of Washington and Oregon landings and flesh out a new recommendation. Click [here](#) for Mr. Thevik’s written statement.
- Thane Tienson, Attorney, WA Dungeness Crab Fisherman’s Association – Mr. Tienson said the law clearly discriminates against nonresidents. He believes the current language, which considers only CA landings, will not withstand legal challenges. The qualifying period [used] were years were prior to LE 200, which is unfair. He reminded the DCTF of the tri-state committee, and that the tri-state agreement between California, Oregon, and Washington could be jeopardized by only considering California landings. Fair start and LE 200 issues could also be jeopardized. He urged the DCTF to make a direction of consensus to the Director of California Department of Fish and Game to consider out-of-state landings. He explained that he understood that no one wants to be bumped to a different tier and it doesn’t look as though allowing out-of-state landings would significantly negatively impact CA. Click [here](#) for Mr. Tienson’s legal opinion.

Upon the completion of public comment, Ms. Fisher referred the DCTF to the [Draft Trap Limit Program Regulations/Implementation language document \(March 30, 2012\)](#). This document was revised by DFG staff following the March 12 meeting based on the DCTF’s recommendations. The [Abridged March 12 Summary](#) was also highlighted as a tool to guide discussions and Ms. Fisher briefly reviewed the document.

Lt. Bob Farrell, Department of Fish Game (DFG), presented [DFG’s revised draft Trap Limit Program Regulations \(Title 14 regulations\) for the commercial Dungeness crab fishery statewide trap limit program](#) and discussed each slide with the DCTF. He explained the updated draft regulations were intended to work with the DCTF’s recommendations and discussions during its March 12, 2012 meeting.

Section 132.1. Dungeness Crab Trap Tags, Department Issued Buoy Tags, and Trap and Buoy Tag Allocations



In response to the DCTF's recommendation, Lt. Farrell updated the language in Section 132.1(a) to say that trap tags "shall contain contact information sufficient to identify the owner of the trap." A Member expressed concern that the "owner" of a trap may not be the individual who is fishing the trap such as when traps are borrowed or leased. A Member recommended that the language be further updated to say, "shall contain contact information sufficient to identify the vessel operating the trap."

The DCTF further discussed Section 132.1(b)(3), which states: "A Dungeness crab trap used in compliance with this section shall only be used for the commercial take of crab." Lt. Farrell reminded the DCTF that this issue was discussed during the March 12, 2012 DCTF meeting specific to CPFV's. During that meeting, the Members generally agreed that commercially permitted CPFV's must choose to fish either commercially or recreationally during and immediately prior to the Dungeness crab season. This section would prevent a commercially permitted vessel from having non-commercial traps onboard at all times. Members generally agreed that this language was necessary to prevent dually permitted commercial/CPFVs from taking advantages of regulatory loopholes. However, additional discussion was necessary surrounding individuals that commercially fish for other species along with Dungeness crab.

A Member pointed out there are dually permitted vessels that deploy Dungeness crab traps for rock crab and black cod. Lt. Farrell explained that within the trap limit program, a vessel operating both Dungeness crab and rock crab traps could result in an operator working traps over his trap allocation. Lt. Farrell confirmed that black cod would not be an issue, since black cod – a federally managed species – must be declared using vessel monitoring system (VMS) within the rockfish conservation area. Lt. Farrell also explained that as the regulatory language is currently written, commercial Dungeness crab vessels could not have rock crab on their vessel outside Dungeness season. Currently, there is no distinction between a rock crab trap and a Dungeness crab trap. A Member recommended that regulations be established that distinguish rock crab traps from Dungeness crab traps (i.e. escape ring size). It was confirmed that the Title 14 regulations currently under discussion must be directly related to the Dungeness crab trap limit program and rock crab trap regulations must be addressed through a separate process.

The DCTF discussed bycatch of rock crab in the commercial Dungeness crab fishery and restricting commercial Dungeness crab permit holders to retaining one species or the other. A Member commented that restricting rock crab was a concern in the southern extent of the Dungeness crab fishery, but may not be an issue north of Pigeon Point, so perhaps restrictions should only be for a given area. The Admin Team noted that the South of Half Moon Bay representative was absent and noted a perspective from this area would help inform discussions. A Member stated that an issue that effects 20-30 dual permitted boats at the expense of the entire commercial Dungeness crab fleet would be impractical. Lt. Farrell provided an option that rock crab traps may not be deployed before the Dungeness crab season opener. A Member expressed the importance of establishing a clean break between the rock crab and Dungeness crab seasons. A Member asked if the rock crab season could be "turned off" for a couple weeks prior to Dungeness crab season. Various members expressed concern about not wanting to restrict the rock crab fishery outside the Dungeness crab season and impairing rock crab fishermen's ability to make a living. Another Member suggested restricting rock crab fishing aboard a permitted commercial Dungeness crab vessel a month prior to



the commercial opener. A Member suggested asking representatives from the rock crab industry to come up with a way to distinguish rock crab pots from Dungeness crab pots.

A straw poll was used to assess the level of agreement surrounding the rock crab issue. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

Straw Poll: A permitted Dungeness crab vessel will not be allowed to fish rock crab traps until after the Dungeness crab season opens. (1 thumb down; 8 thumbs sideways; 9 thumbs up)

One Member said he would be comfortable with voting to restrict rock crab fishing one month prior to the Dungeness crab season opener if the DCTF made it clear that they would like to work with the rock crab fishery to reach mutually agreed conclusions.

DCTF Members discussed how to prevent dual permitted Dungeness crab CPFV operators from prospecting and staking claims during the sport opener and profiting off regulatory loopholes during the commercial season. A Member stated he did not see the fines for violations identified in SB 369 as a deterrent but, merely the cost of doing business. One Member felt that when a few CPFV operators leave out gear prior to the commercial season opener, it sparks commercial operators to feel justified in doing the same. The Admin Team reminded the DCTF of the “clean break” that was discussed during the March 12, 2012 meeting, which would require CPFV’s to choose between operating as a sport or commercial vessel during each Dungeness crab season. A Member highlighted that in some regions, such as Trinidad, CPFV’s rely on being able to fish both recreationally and commercially. Lt. Farrell offered that perhaps this issue was not a problem once the season is underway. He provided one option for DCTF consideration, which would require CPFV’s to remove their traps 96 hours prior to the start of the commercial season.

A number of DCTF Members began discussing other suggestions for regulating sport take of Dungeness crab. A Member recommended adding increasing minimum size limit of crab harvested from CPFVs to be consistent in all regions (i.e. the CPFV size limit in District 10). It was further suggested CPFV minimum size limits could be the same as commercial. A member of the public expressed concern that a restriction in size would greatly affect the ability for recreational fishermen to catch anything. DFG stated that there is no biological rationale for increasing the size limit for the sport fishery. The DCTF continued to discuss increasing the size limit for CPFVs but closed the discussion with no recommended change.

Lt. Farrell discussed Section 132.1(c); the DCTF had no recommended edits.

Section 132.2. Waiver for a Permitted Dungeness Crab Vessel to Retrieve Another Vessel’s Dungeness Crab Traps

Lt. Farrell explained the updates to Section 132.2(b) reflected the DCTF’s recommendation to allow up to six (6) traps without tags on board the vessel to accommodate recovery of lost or damaged traps; these traps may not be deployed and only transported to shore. Lt. Farrell also reviewed the process in which gear could be retrieved if a hardship is experienced, including: a) if the vessel is operational, the permit holder could hire another operator to run the vessel; or b) if the vessel is inoperable, the permit holder could transfer the permit (if transferable) or request an emergency



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transfer; c) a permit holder get a waiver from DFG which allow another vessel to retrieve the gear but, the gear may not be run and crab may not be retained. Lt. Farrell highlighted that there are now 2 options in the revised Trap Limit Program draft regulations document for the Title 14 language that addresses this issue for the DCTF's consideration.

Lt. Farrell explained in Section 132.2(a)(1), gear can be deployed in accordance to Section 8280.7, meaning an unpermitted vessel may deploy so long as there are no gear retrieval mechanisms onboard. Members discussed the subject of "barging" and Lt. Farrell said it is acceptable so long as the vessel hired is unpermitted and there is no retrieval mechanisms on board. A Member expressed concern that language specific to "barging" no longer exists in SB 369. It was confirmed that members of the DCTF executive committee removed the language, however believed that the language from Section 8280.7 provided appropriate direction.

A Member raised the question of whether permitted vessels should be allowed to deploy another person's traps. The DCTF discussed options for permitted vessels to deploy gear, providing the vessels did not have any retrieval gear on board. A Member said removing retrieval gear (i.e. a block) from the permitted vessel could be a cumbersome and an unrealistic requirement. Lt. Farrell said setting someone else's traps while having a block on board is challenging from an enforcement standpoint. A Member stated operators should set their own gear except in matters of an emergency.

A straw poll was used to assess the level of agreement surrounding deployment of gear. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

Straw Poll: A permitted or unpermitted vessel used for the purpose of assisting the deployment of Dungeness crab traps shall not have a board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab. Round 1:(6 thumbs down; 8 thumbs sideways; 4 thumbs up) Round 2: (7 thumbs down; 7 sideways; 6 yes)

Straw Poll: Status quo: An unpermitted vessel used for the purpose of assisting the deployment of Dungeness crab traps shall not have a board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab. Language shall be consistent with Fish and Game Code Section 8280. Round 1:(6 thumbs down; 9 thumbs sideways; 5 thumbs up) Round 2: (6 thumbs down; 7 sideways; 8 yes)

Straw Poll: Status quo: Gear may only be set by the permit holder. No other vessel may be hired to deploy another person's gear without a waiver from DFG. Round 1:(4 thumbs down; 8 thumbs sideways; 6 thumbs up) Round 2: (7 thumbs down; 5 sideways; 9 yes)

The DCTF requested additional clarification and discussion on what would happen if the DCTF could not agree on gear deployment procedures. The Admin Team confirmed that no recommendation from the DCTF would result in a reversion to the status quo (Section 8280.7 related only to unpermitted vessels), and all provisions of Section 132.2 should be voted on as a package. The Admin Team asked the DCTF whether allowing permitted vessels to deploy would create a



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loophole. Lt. Farrell cautioned against language and provisions in conflict with Section 8280.7 but explained that it would be possible to create more restrictive language. There was acknowledgement that the title of Section 132.2 should be clarified to include “deployment and retrieval” rather than just “retrieval” as it is written.

A final straw poll was used to assess the level of agreement surrounding deployment of gear. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

Straw poll: Status quo: *An unpermitted vessel used for the purpose of assisting the deployment of Dungeness crab traps shall not have a board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab. Language shall be consistent with Fish and Game Code Section 8280.* (3 thumbs down; 9 thumbs sideways; 8 thumbs up; 2 abstain)

Straw poll: *A permitted or unpermitted vessel used for the purpose of assisting the deployment of Dungeness crab traps shall not have a board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab.*
Round 1:(3 thumbs down; 11 thumbs sideways; 2 thumbs up; 2 abstain)

The straw polls indicated support for allowing contracted, non-permitted vessels to deploy traps, but may not retrieve gear.

Lt. Farrell reviewed Section 132.2(a)(2) option 2, specifically waiver options for trap retrieval. Updated language includes a waiver may be granted by the Department to allow one time retrieval of permitted crab gear of more than six (6) traps to shore by another crab permitted vessel provided:

- (1) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking; or
- (2) Circumstances beyond the control of the permit holder created undue hardship.
- (3) A request must be in writing to the Department’s License and Revenue Branch and a waiver approved and issued prior to retrieval;
- (4) A copy of the waiver must be on board the vessel making the retrieval.
- (5) The waiver may include limitations such as time period to conduct retrieval, landing prohibitions or any other criteria the department deems necessary.

Lt. Farrell explained waivers may include limitations determined by DFG, including retention of crab or other limitations. Hold checks may be also conducted by DFG when issuing a waiver. A Member questioned whether issuing a waiver would be restricted to once per season. Lt. Farrell suggested strike “one time” in the language and apply a more case-by-case approach. Lt. Farrell emphasized it would be impractical to plan for and write in every potential emergency, which could create loopholes and reduce DFG’s flexibility to respond to such situations. He confirmed it would be DFG’s responsibility to be consistent in the process for issuing waivers. The Admin Team restated the objective of having flexibility for extenuating circumstances, while preventing operators from fishing outside their tiers.



The DCTF discussed Section 132.2(a)(2)(E): “During August 29 through October 31, an unlimited number of such traps may be retrieved per trip and transported to shore during the same fishing trip” in an effort to minimize derelict and lost gear. This language is based on Washington’s regulations. Members discussed a range of potential dates for these regulations and indicated that August 29 should be changed to a date closer to the conclusion of the commercial season. Members generally agreed that derelict gear retrieval should begin upon the completion of the commercial season or by July 16).

Section 132.3. Biennial Dungeness Crab Trap Limit Permit.

DFG responded to the DCTF’s March 12, 2012 recommendation that indicates that they believe \ the \$1,000 permit fee should sunset after two years. They explained, “SB 369 legislation does not state that this fee will sunset. However, section 8276.5(a)(4) states: ‘The department shall annually provide an accounting of all costs associated with the crab trap limit program. Excess funds collected by the department shall be used to reduce cost of the crab limit permit fee or tag fee in subsequent years of the program.’”

Section 132.4. Replacement Procedures for Lost Dungeness Crab Department Issued Buoy Tags.

Lt. Farrell explained the updated language in Section 4 reflected the recommendations made by the DCTF during its March 12, 2012 meeting. A chart was drafted to show the maximum number of replacement tags for each tier (10%). No replacements will be issued until 30 days into the season. A representative from the License of Revenue Branch (LRB) confirmed that documentation including an affidavit would be required for replacement tags to be issued. A form, similar to that used in Washington, will be available to permit holders to document lost tags. Operators are not required to replace their lost tags. Temporary replacement tags will be returned to LRB at the end of each year. If all allocated buoy tags are not purchased, the permit becomes void. Tags must be purchased every 2 years to maintain the permit. This section also addresses replacement tags for catastrophic loss.

A Member asked if there is an existing threshold, or “capacity goal,” for Dungeness crab permits. Currently the Dungeness crab fishery does not have a capacity goal, so if the number of active permits decreases due to permit holders not wanting to pay for a complete set of tags in a given tier there is currently no process in place to reallocate those permits. The Admin Team reminded the DCTF of the opportunity this afternoon to discuss such issues as minimum number of permits, or if the number of permits dropped below certain number the process for creating new permits.

At the March 12 meeting, the DCTF discussed potentially recommending language about the timing of the distribution of DFG issued buoy tags. The DCTF had originally thought that tags should be distributed by LRB by September 30 of each year. Lt. Farrell did not feel it would be appropriate to put a date in the Title 14 regulations, so LRB suggested if there were to be a significant delay DFG Enforcement would be advised.



Section 132.5. Appeal of Dungeness Crab Trap and Buoy Tag Allocations and Deadlines.

Section 132.5(a)(1)(A) and Section 132.5(a)(1)(B) states tier increases or reductions are permanent, and cannot be cancelled or revoked. All expenses for processing tier reductions are to be paid by the permit holder. A Member asked why a fee should be paid for a limit reduction. Lt. Farrell explained that even with reductions fees incurred will be relative to LRB's processing costs. He highlighted the language that the fee would be "appropriate" to the type of filing required, anticipating that a decrease in tier allocation would take less time and money to complete. He also clarified that a permit holder may increase (via appeal) or decrease tier(s) one time per permit. The Admin Team reminded the DCTF that SB 369 mandates the DCTF to evaluate the trap limit program, including the appeal process. It may be that appeals processes will need to be revised in the future. SB 369 indicates that all appeals must be filed by March 31, 2014. A Member asked about the chances of selling a high tier permit. The Admin Team advised that higher trap permits can be sold, however Lt. Farrell added the operators in the 175 tier cannot transfer permits 2 years. The Admin Team reminded the DCTF may recommended further changes during the evaluation of the trap limit program, which will be part of the DCTF's 2015 legislative report.

Earlier this year, DFG sent out requests to permit holders to verify their landings as a first step in implementing the trap limit program. Currently, there are over 300 permit holders who have yet to submit landings data to LRB. Trap allocations cannot be calculated until after the program is implemented and after landings have been verified. A Member requested clarification as to when an appeal might be considered and/or finalized, expressing concern that an appeal might be in progress once the fishing season opens. DFG is unable to speculate on the timing of appeals, however no appeal will be considered until the regulations have been adopted. A member of the public expressed confusion about the difference between an appeal and the landings verification request. LRB clarified that the landings verification process is not an appeal, but rather provides an opportunity for permit holders to confirm and/or clarify landings data (with appropriate documentation) prior to the tier allocation process. LRB urged the member of the public to submit his information as soon as possible regarding his discrepancy. Summarizing the appeals discussion, the Admin Team reconfirmed that after tiers are determined and the regulations implemented, the appeals process can be initiated. A Member asked why DFG requires "up to 12 months" to consider an appeal. DFG, together with LRB and the Admin Team, explained 12 months allows for adequate time to complete the appeal investigation, such as errors in filing, investigations, etc. DFG confirmed it would not actively delay any appeal process.

Additional Items Under Trap Limit Program

Out-of-State Landings

Ms. Fisher provided a brief update on information the Admin Team has gathered related to out-of-state landings, as requested by the DCTF at its March 12, 2012 meeting. In its March 2010¹ Legislative Report, the DCTF inquired about out-of-state landings and requested an opinion by the California Attorney General (AG). The DCTF has still not received an opinion. The DCTF

¹ Correction: The January 2010 DCTF report recommends the Attorney General Opinion on out-of-state landings.



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moved forward recommending a trap limit program that only considers California landings. The California Legislature reviewed this recommendation, sent it through Leg Council, and accepted it as reflected in SB 369.

The DCTF has a number of options with regard to how to move forward on this issue, including: no vote; vote to recommend out-of-state landings; vote to consider only California landings; or, once again, request the AG's opinion. The Admin Team inquired what DFG has the capacity to do, if the DCTF made a recommendation to consider out-of-state landings. Lt. Farrell responded stating DFG will move forward as instructed by the California Legislature.

A member of the public reiterated his concerns regarding the DCTF not considering out-of-state landings. He requested additional information on how out-of-state landings may impact the trap limit program's tier system. The Admin Team explained to date there is no data available to determine the trap limit tiers for California, making it difficult to ascertain how OR and WA's landings would fit in to the overall picture of the California program. As mentioned previously in the meeting, LRB has requested landings data by April 30, 2012. LRB reiterated that with more than 300 permit applications have yet to be returned. DFG also explained that its legal counsel has instructed them not to provide numbers for tier allocations and out-of-state landings impacts that cannot be confirmed for accuracy at this time. DFG speculated that worst case scenario, estimating 79 dual out-of-state permits and if all 79 were placed in the upper tier (500 traps) there would be an additional 25,000 traps added, which is about 12% more if out-of-state landings were considered after the California allocation is figured.

A Member felt considering WA and OR landings upfront might lead to some CA operators expecting to be assigned the upper limit resulting in being assigned a lower tier. He stated that his constituents agreed to the trap limit program understanding that OR and WA landings would not be considered. Lt. Farrell said he anticipated the tier levels would remain the same and including out-of-state landings would increase the number of permits per tier. A Member recommended letting the attorneys sort out the controversy, stating it is too late for the DCTF to return to its constituents with a change that conflicts with the direction the DCTF was provided by its constituents. A Member said he remained open to looking into OR and WA inclusion. He was concerned about derailing LE 200, as the representatives from WA and OR warned. Another Member stated that if a record of where crab was caught exists, then that information should be recognized.

Members were divided on the need to vote on this issue. One Member thought the time had passed to consider out-of-state landings. Two members requested a vote; one motioned for considering out-of-state landings, and the other for requesting a legal opinion from the AG's office.

Trap Limit Program Penalties

A Member wanted to know if/how penalties had been considered as part of the trap limit program. The Admin Team confirmed that there are penalties within SB 369. Lt. Farrell anticipated the majority will be misdemeanors. In SB 369 there was additional information regarding fishing without a permit, which would constitute civil proceedings. One Member suggested the penalties be changed to a felony. A Member said that a stricter penalty change was



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built into the legislation. A Member referred to SB 369, Section 8276.5(b). Lt. Farrell explained his office could not affect criminal procedure and that the penalty is revocation or suspension for repeated violations. As the discussion offered several ideas, the Admin Team suggested Members email Lt. Farrell regarding ideas on trap violations. Lt. Farrell explained his job will involve proving a trap is illegal or fraudulent, which includes investigating such violations as beyond the limit of six unfished traps, etc.

Tri-State Discussions

A Member expressed concerned that operators from other states would be able to “stack” their trap allocations by fishing in multiple states. Lt. Farrell pointed out that dually permitted operators pay fees in both or all states. The Admin Team explained that this issues was not something that can be resolved in Title 14, and suggested members revisit it when discussing the DCTF priorities and the tri-state committee.

Before the DCTF made its final set of recommendations specific to the trap limit program, the public was invited to provide comment:

- Larry Thevik, WA Dungeness crab fishermen – Expressed concern about the eroding of the special management layer and LE 200. It is likely to be challenged and the first thing likely to fall is LE 200. He suggested the DCTF re-examine its program. He explained the DCTF can consider tiers with more than 55 permit holders in each. Out-of-state permit holders do not want to erode CA tiers. The DCTF should recommend a change to the DFG Director.

Actions taken during Agenda Item 3:

ACTION: *Consideration and possible adoption of recommendations to the Department of Fish and Game on it’s proposed statewide trap limit program regulations.*

APPROVED: Recommendation 1. Section 132.1(a): Replace “contact information sufficient to identify the owner of the trap” with “contact information sufficient to identify the vessel operating the trap”-

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (21): Anderson, Atkinson, Bennett, Bettencourt, Caito, Cappotto, Collins, Cunningham, Doyle, Fahning, Goucher, Hemmingsen, Johnson, Klassen, Lawson, Powers, Standley, Whaley, Wilson, Yarnall, Yearwood

Thumbs sideways (0): None

Thumbs down (0): None

Absent (1): Blue

APPROVED: Recommendation 2. Section 132.1(b)(3): Rock crab may not be fished with traps on permitted commercial Dungeness crab fishing vessels 30 days prior to the commercial Dungeness crab presoak, or season opener, whichever comes first.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (13): Anderson, Atkinson, Bennett, Bettencourt, Cappotto, Cunningham, Goucher,



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Johnson, Klassen, Lawson, Standley, Wilson, Yarnall

Thumbs sideways (6): Caito, Fahning, Hemmingsen, Powers, Whaley, Yearwood

Thumbs down (0): None

Absent (3): Blue, Collins, Doyle

APPROVED: Recommendation 3. Dungeness crab fishery would like to work with rock crab commercial fishery to discuss and resolve overlapping issues.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (19): Anderson, Atkinson, Bennett, Bettencourt, Caito, Collins, Cunningham, Fahning, Goucher, Hemmingsen, Johnson, Klassen, Lawson, Powers, Standley, Whaley, Wilson, Yarnall, Yearwood

Thumbs sideways (1): Cappotto

Thumbs down (0): None

Absent (2): Blue, Doyle

APPROVED: Recommendation 4. Section 132.1(b)(3): The DCTF agrees with current language in draft regulations – “A Dungeness crab trap used in compliance with this section shall only be used for the commercial take of crab” and recommends clarification that dually permitted commercial Dungeness crab/CPFV vessels may not fish Dungeness crab before the commercial Dungeness crab season opener.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (20): Anderson, Atkinson, Bennett, Bettencourt, Caito, Cappotto, Collins, Cunningham, Doyle, Fahning, Goucher, Hemmingsen, Johnson, Klassen, Lawson, Standley, Whaley, Wilson, Yarnall, Yearwood

Thumbs sideways (1): Powers

Thumbs down (0): None

Absent (1): Blue

APPROVED: Recommendation 5. Section 132.2. The DCTF approve DFG’s suggested edits to Section 132.2, *Waiver for a Permitted Dungeness Crab Vessel to Retrieve Another Vessel’s Dungeness Crab Traps* with the following additional edits:

- Section 132.2(a)(2)(A) update language to include: No more than six (6) traps (untagged, not tagged with tags of the vessel) may be retrieved per trip.
- Section 2(a)(2)(E): change August 29-October 31 to **July 16 through October 31**.
- Section 2(a)(2)(F): remove “one time retrieval.”

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (13): Anderson, Atkinson, Bennett, Caito, Cappotto, Collins, Goucher, Johnson, Lawson, Standley, Wilson, Yarnall, Yearwood

Thumbs sideways (7): Cunningham, Doyle, Fahning, Hemmingsen, Klassen, Powers, Whaley

Thumbs down (1): Bettencourt

Absent (1): Blue



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APPROVED: Recommendation 6. The DCTF recommends that only California landings are considered as part of the trap limit program tier allocations.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (15): Anderson, Atkinson, Bennett, Bettencourt, Caito, Cappotto, Cunningham, Fahning, Goucher, Hemmingsen, Johnson, Lawson, Standley, Wilson, Yearwood

Thumbs sideways (4): Collins, Klassen, Powers, Yarnall

Thumbs down (2): Doyle, Whaley

Absent (1): Blue

APPROVED: Recommendation 7. The DCTF requests the opinion of the California Attorney General to determine the legality of considering only California landings as part of the trap limit program.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (11): Caito, Doyle, Fahning, Goucher, Johnson, Klassen, Lawson, Wilson, Yarnall, Yearwood, Whaley

Thumbs sideways (8): Atkinson, Bettencourt, Bennett, Collins, Cunningham, Hemmingsen, Powers, Standley

Thumbs down (2): Anderson, Cappotto

Absent (1): Blue

APPROVED: Recommendation 8. The DCTF approves the Dungeness crab trap limit program draft regulations with the amendments approved during the March 12, 2012 DCTF meeting, as reflected in the updated draft regulations (March 30, 2012), and as approved and finalized during the April 2, 2012 meeting.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (17): Atkinson, Bennett, Bettencourt, Collins, Caito, Cappotto, Cunningham, Fahning, Goucher, Hemmingsen, Johnson, Klassen, Lawson, Standley, Wilson, Yarnall, Yearwood

Thumbs sideways (3): Anderson, Doyle, Powers

Thumbs down (1): Whaley

Absent (1): Blue, Lawson²

4. *General Public Comment*

Public comment was heard on non-agenda items. There was no general public comment.

5. *Continued review and discussion of DCTF short- and long-term Dungeness crab fishery management objectives and priorities. Discussion may include, but will not be limited to, review of commercial trap limit program, overlap between sport and commercial regulations, current and future sport and commercial fishery effort, season modifications, limited entry, latent permits,*

² Prior to leaving the meeting, Mr. Lawson indicated that he supported the trap limit program with the amendments voted on during the March 12 and April 2 meetings



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additional management measures, essential fishery information needs, and short- and long-term objectives for improved management and informational needs. DCTF port and organizational caucuses and/or workgroups may be convened to refine and discuss proposed management measures.

Ms. Fisher reviewed a summary of [DCTF's interests and priorities](#). She explained that the document was based off feedback from the March 2012 meeting and the previous work of the DCTF. She also reviewed the requirements of SB 369, including the mandate to review and evaluate the trap limit program as required for the January 2015 DCTF legislative report. As a first step, DCTF members reviewed the complete list of identified interests. DCTF Members identified additional interests, including the inclusion of a destruct device language to Title 14, trap barcode use for DFG enforcement, advancing the implementation date of the trap limit program to January 2013, and fair start for California and District 10.

The DCTF then prioritized each interest by indicating their top 3 priorities through an informal poll. The Admin Team stressed the importance of prioritizing the evaluation of the trap limit program to the DCTF. Following the poll, three priorities emerged: 1) evaluation of the trap limit program; 2) revisiting the crab quality testing procedures (i.e. compensation and district 10); 3) reviewing the process for issuing emergency permit transfers.

The Admin Team explained the advantages for a DCTF work group to begin discussing the trap limit evaluation metrics immediately. During a discussion with the Admin Team prior to the DCTF meeting, DCTF Member Carrie Pomeroy (CA Sea Grant) expressed an interest in participating in a trap limit program evaluation workgroup³. No additional DCTF members volunteered to participate in an evaluation work group. The Admin Team initiated a DCTF brainstorm on indicators of success for the trap limit program and asked the DCTF to explain what the trap limit program would look like if it were successful. One Member said the capping or reduction of fishing effort and the number of pots would define success. However, he believed the DCTF would be unable to determine if a cap or reduction has taken place for a couple years. Another Member wants to see the fees associated with the program audited so the possibility of reductions can be considered if there is overage. Another Member would consider the program successful if a healthy fishery is maintained. The Admin Team circulated the [Monitoring, Evaluation, and Adaptive Management Framework Pilot Pot Limit Program Draft Prospective](#) document from the DCTF's review. This document was developed as an appendix to the November 2010 DCTF Record of the Proceedings.

The Admin Team asked the DCTF if any of the priorities could be discussed during the meeting, particularly the crab testing procedure, as the DCTF had provided a recommendation on this issue in past legislative reports. A Member cautioned that there may not be consensus within the DCTF regarding crab testing and requested additional time and discussion on the topic at a future meeting.

6. Discussion of DCTF timeline, meeting schedule, and process between meetings.

³ Note: Ms. Pomeroy was absent from the April 2, 2012 DCTF meeting



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The Admin Team presented the possible need for a DCTF executive committee. In the past, the DCTF identified a small group of Members to serve as a resource to the legislature during the development of senate bills (i.e. SB 1093). The executive committee consists of 5-6 Members. A few Members expressed concern that the former executive committee had made substantial changes to the DCTF's previous recommendations (prior to 2011). The result is that SB 369 does not include key information agreed upon by the DCTF (e.g. bargaining). A Member who participated on the original executive committee noted the executive committee had worked extensively to get SB 369 passed. The Admin Team explained the executive committee does not represent the entire task force, but provides advice to the Legislature, DFG, and the Fish and Game Commission on an as needed basis. The DCTF was also reminded that during the development of SB 369, the DCTF had disbanded and the executive committee was functioning on its own. Therefore, there was little to no opportunity for the executive committee to check in with the DCTF on the advice it was providing. It is anticipated a new executive committee would operate in a transparent process and would report back to the full DCTF on the committee's activities through to 2017. The Admin Team opened the floor for nominations. The following individuals were nominated.

Geoff Bettencourt
Bill Carvalho
Larry Collins
Mike Cunningham
Vince Doyle
Bret Fahning

Administrative vote: Consideration and possible confirmation of a DCTF executive committee.

APPROVED Unanimously

The Admin Team will contact Bill Carvalho, who was absent at the meeting, to confirm his acceptance to sit on the executive committee.

The DCTF discussed additional workgroups that may be useful to the DCTF including a sport fishery workgroup and trap limit program evaluation work group. Members did not feel these workgroups were needed at this time.

Administrative vote: Consideration and possible confirmation of workgroups (including, but not limited to, a sport fishery workgroup, membership workgroup) tasks, responsibilities, and timelines.- No action was taken

A Member inquired as to whether the DCTF could again meet after the DFG Director has the DCTF's recommendations. The Admin Team explained the DCTF will approve the final report before it is submitted to the Director. A member of the public commented there would likely be complaints about landings once those numbers are known. Various Members expressed an interest in accelerating the implementation date of the trap limit program (e.g. January 2013). A Member requested discussion on options to shorten the approval and implementation process. He felt it could reduce the threat that a lawsuit would prevent the implementation of the trap limit program. The draft regulatory timeline was reviewed and discussions included dates, durations, and shortening the regulatory process. DFG reported that once the proposal is sent to the Office of Administrative Law (OAL) there is no way to influence



the timeline. There is a possibility OAL could send the package back to DFG for additional consideration and/or clarifications. LRB explained the tag ordering process can only begin after the trap limit program is implemented.

Discussion of when and how to schedule future DCTF meeting largely led members to lean toward “as needed” timing since the in-person meetings are limited by budget. DCTF members generally felt that potential issues would become apparent soon after the trap limit program’s implementation. The discussion prompted a Member to inquire whether a lawsuit would halt implementation of Title 14, and Admin Team responded that it was a possibility.

The Admin Team said the executive committee workgroup would be coordinated in the coming weeks, and would convene via a conference line. The work groups do not contain a quorum and are not subject to Bagley Keene.

There were several different ideas regarding the best timing for the next DCTF meeting. There are a total of two budgeted meetings for 2013 and 2014. A Member felt two meetings in 2013/2014 would be insufficient. The Admin Team will discuss meeting options with OPC staff and provide the DCTF with a suggested way forward via email in the coming weeks.

7. Next steps and discussion of next meeting

The Admin Team identified a number of next steps:

- The Admin Team will complete a draft report summarizing the DCTF’s recommendations for the trap limit program and circulate it to the DCTF by Friday, April 13 for review. The Admin Team will incorporate the DCTF’s comments and submit the final report to the Director of DFG on May 1.
- The Admin Team will be in touch with Members who are part of the executive committee via email to initiate discussions between the executive committee and DFG.
- Admin Team will be back in touch with the DCTF regarding a future DCTF meeting schedule.
- A summary of the April 2, 2012 meeting will be made available to the DCTF in approximately one week.
- Members should fill out travel claim forms and submit them to the Admin Team. Receipts are required.

8. Adjourn

The DCTF Admin Team adjourned the meeting at approximately 5pm.