



## ~California Dungeness Crab Task Force~

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

### DCTF MEETING 7 UKIAH, CALIFORNIA AUGUST 9, 2010 MEETING SUMMARY

#### INTRODUCTION

The purpose of this meeting summary is to:

- Inform all Members of the Dungeness Crab Task Force (DCTF) and the wider public of ongoing work of the DCTF
- Provide a summary of discussions and outcomes from the DCTF Meeting #7 held in Ukiah, California on August 9, 2010

9:30 a.m. to 5:00 p.m.

#### ATTENDEES

Jim Anderson, F/V Alliane

John Atkinson, F/V New Rayann

William Blue, F/V Morning Light

Stan Carpenter, F/V Sandy B

Bill Carvalho, Wild Planet Fisheries

Lawrence Collins, F/V Autumn Gale

Michael Cunningham, F/V Sally K

David Bennett, Alternate for Bill DeBacker, F/V She N I and F/V Jard

David Crabbe, Alternate for Johanna Thomas, Environmental Defense Fund

Don Pemberton, Alternate for Geoff Bettencourt, F/V Moriah Lee

Victor Pomilia, Alternate for Brett Fahning, F/V Rogue

Vince Doyle, F/V Verna Jean

Paul Johnson, Monterey Fish Market

Gerry Hemmingsen, F/V Pollux

Chris Lawson, F/V Seaward

Randy Smith, F/V Mistasea

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

Lee Wilson, F/V Gold Coast

#### Absent:

William Forkner, F/V Shirley and F/V Audrey

Peter Kalvas, CA Department of Fish and Game

Kevin McKernan, recreational fisherman

Carrie Pomeroy, CA Sea Grant

Lt. Steve Riske, CA Department of Fish and Game

Ben Sleeter, recreational fisherman

Roger Thomas, F/V Salty Lady, Golden Gate Fishermen's Association

Richard Young, California Association of Harbor Masters and Port Captain

Mike Zamboni, F/V Lucky 50

#### DCTF support staff present:

Neal Fishman, Ocean Protection Council

Rachelle Fisher, Independent Consultant

#### **Monday August 9th, 2010 - 9:30am to 5:00pm**

##### 1. *Welcome, introductions, agenda review, and DCTF updates*

Rachelle Fisher welcomed everyone to the meeting and thanked the group for taking the time to attend the meeting during such a busy time. She explained that Senate Bill 1093 needed to be amended and that both the DCTF support team and the DCTF Executive Committee felt that these amendments could only be acted on by the full DCTF.

Therefore, this meeting was convened so that the DCTF could discuss and recommend possible amendments to SB1093. Due to the speed at which the bill is moving through the legislative process, it was vital that this meeting occur no later than the beginning of August. Ms. Fisher introduced the rest of the DCTF support staff- Neal Fishman.

Ms. Fisher explained that the meeting would be recorded (via a voice recorder). However, as allowed by the Bagley-Keene Open Meetings Act, all recordings will be deleted 30 days after the meeting.

Ms. Fisher reviewed the agenda then, asked all Members and public participants to introduce themselves.

Mr. Fishman then described the meeting's agenda.

2. *Discussion of Dungeness crab fishery legislation. Discussion may include, but will not be limited to, pot limits, limited entry, latent permits, additional management measures, a hardship review committee, and data needs. DCTF port and organizational caucuses and/or workgroups may be convened to refine and discuss proposed management measures*

Neal Fishman explained that he participated in a meeting with the California Department of Fish and Game (DFG) and legislative staff. He explained that DFG did not comment directly on the language of the bill but expressed two key concerns with the DCTF's proposed pot limit program. He urged the DCTF that if they do not work to ameliorate these concerns, there is a possibility that the bill will not be passed.

The first concern is with the cost of the program. A tag fee for \$1.33 as discussed in Meeting 6 will only cover administration of the program and does not include enforcement costs. Money to fund enforcement of this program is essential. DFG estimated that enforcement of this program may cost \$500,000 to \$250,000 per year. However, different types of enforcement will cost more or less (e.g. on the water enforcement will cost substantially more than a program that is only enforced on the dock). While it may be impossible to find \$500,000, the DCTF needs to discuss how some money can be raised to help mitigate the enforcement costs of the trap limit program (e.g. through higher landing fees, higher pot tag costs, higher permit fees, etc). Mr. Fishman highlighted that [proposed amendments](#) were sent to the DCTF prior to this meeting to provide the DCTF with options to consider.

Mr. Fishman explained that another concern DFG expressed was that in the trap limit program designed by the DCTF, the DCTF has authority to veto DFG's final draft of the trap limit program (Section 8276.5.b.1). This language turns the DCTF into a form of commission rather than an advisory body, which gives the DCTF regulatory authority. Mr. Fishman explained that the DCTF needed to discuss mechanisms that do not turn the DCTF into regulators or a commission but still ensures that the trap limit program is acceptable to them. He suggested two ways to accomplish this: 1) make SB1093 very detailed and rigid or; 2) add a mechanism that allows the DCTF to amend the program

before it is implemented without giving them regulatory authority. The later mechanism is included in the list of [proposed amendments](#).

Mr. Fishman explained that the difference between the approach currently in SB1093 and the proposed amendment is that the current language gives the minority the ability to veto the program while the proposed language requires a majority to provide amendment to DFG. Additionally, in the proposed amendment DFG must make the program consistent with the DCTF's amendments but, in contrast to the current SB1093 language, does not have to amend the program exactly as requested by the DCTF. He explained that allowing the Director of DFG to make the program "consistent" with the DCTF's amendments allows DFG flexibility in case they are unable to accommodate the amendment. He explained that the new option still converts the DCTF into a sort of commission and, therefore, proposed a third option.

In the third option, DFG would develop the trap limit program with the DCTF's guidance and then would present the program to a quorum of DCTF Members at a meeting. If a quorum of Members does not attend, then the program will be vetoed. In a sense, the DCTF would be voting with their feet.

The DCTF discussed all three options. One Member expressed concern with the second option because it would make it more difficult to stop a program that a Member did not approve of. Mr. Fishman explained that if the group had major concerns, they could put "sideboards" in the bill to make it more rigid which would prevent DFG from adding something to the program that the DCTF would not approve of.

The DCTF decided to walk through the list of [proposed amendments](#) and discuss possible "sideboards" as they moved through the document and bill. A single final vote was taken on all amendments near the end of the meeting.

Amendment 1- DCTF Members generally supported the amendment.

Amendment 2- DCTF Members generally supported the amendment.

Amendment 3- DCTF Members generally supported the amendment.

Amendment 4- The DCTF requested that the following language be deleted from all parts of the amendment since it is implied in the Section 8276.5.b: "Unless a higher amount is recommended by a two thirds vote of the non ex officio members of the Dungeness Crab Task Force". The DCTF also requested that "not counting replacement tags" be deleted from the amendment. Various Members agreed that a maximum of \$2.00 per tag per year be included in the bill along with the ability to use the tags for 2 years. One Member explained that his port opposes any tag fee over \$1.50 per tap.

The DCTF discussed whether or not all permitholders should be required to purchase all of the tags allocated to them as described in section 8276.5.a of SB1093. Many Members stated that it was imperative that permitholders be required to buy all of their tags to

ensure that the program received sufficient and consistent funding every year. Other Members expressed concern that such a requirement would cause latent permits to be activated since permitholders would need to recoup the costs of the tags. One Member stated that if we want to know how many traps are in the water, it would be counterproductive to require permitholders to buy all of their tags. Another Member explained that the requirement would cause attrition since latent permitholders may not continue to renew their permits due to the increased cost which would then cause there to be less revenue for the trap limit program.

Members discussed the possibility of using other mechanisms to ensure sufficient funding for the program and also discussed whether \$2.00 per tag per year without any other fees would be sufficient to cover DFG's administrative and enforcement costs of the trap limit program. Options discussed included:

- increase the landing fee from 0.01% to 1%
- increase the resident permit renewal fees from \$235/year to \$700/year and increase nonresident permits another \$375/year

Some Members believed that there was no difference in paying the fee through a tag versus through a permit since permitholders would be required to pay the same fees regardless of whether it was called a tag fee or permit fee. Others believed that generating all of the program's funding through trap tags would result in high tier fisherman funding most of the program. One Member suggested that in order to resolve this issue, permit fees could be increased based on tier levels so that the lower producers pay a smaller permit renewal fee. One Member explained that it is important to maintain a simple fee system and that a tag system would be the easiest for DFG to implement.

Various Members stated that their ports were opposed to any increase in the landing tax.

Ms. Fisher requested that the DCTF do a straw poll to assess the level of agreement with the suggested funding options. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

- Straw poll- *Support for a tag fee to fund administration and enforcement of a trap limit program.*  
(15 thumbs up; 0 thumbs sideways; 0 thumbs down; 2 abstentions)  
(Ex officio vote: 1 sideways)
- Straw poll- *Support for an increase in yearly Dungeness crab permit fees to fund administration and enforcement of a trap limit program.*  
(2 thumbs up; 1 thumb sideways; 14 thumbs down; 0 abstentions)  
(Ex officio vote: 1 sideways)
- Straw poll- *Support for an increase in Dungeness crab landing taxes/fees to fund administration and enforcement of a trap limit program.*  
(4 thumbs up; 1 thumb sideways; 12 thumbs down; 0 abstentions)  
(Ex officio vote: 1 sideways)

- Straw poll- *All Dungeness crab permitholders must buy all of their allocated tags as described in section 8276.5.a or their permit(s) will be revoked.*  
(12 thumbs up; 3 thumbs sideways; 1 thumbs down; 0 abstention)  
(Ex officio vote: 1 sideways)

One Member expressed concern about requiring all permitholders to purchase all of their tags since latent permitholders will be more likely to fish or trade their tags. One Member suggested a requirement that trap tags belonging to latent permitholders to be a different color than all of the active permitholders' tags to discourage cheating. Various Members agreed. A couple of Members disagreed stating that different colored tags would be more complicated and would not prevent permitholders from trading tags. One Member stated that it would be difficult to trade tags because boats would only be able to fish traps associated with their vessels which is marked on the buoys. These vessel names must match both the buoy and the tags. Members agreed that they would let DFG decide the use of different colored tags was appropriate for this program.

**Public Comment**

- Tommy Ancona, Fisherman- Opposed the idea of requiring latent permitholders to use different color trap tags since it would “treat them like second class citizens.”

DCTF Members discussed using a combination of the fee options to ensure the program has sufficient funding (e.g. increase permit fees by some small amount and reduce the price of the trap tag). Another Member suggested that a new fee, specifically for the purposes of enforcement be created. One Member suggested not requiring everyone to purchase all of their tags and earmarking tag fees for administration of the program and permit fees for enforcement.

**Public Comment**

- Tommy Ancona, Fisherman- Explained that the DCTF will not be able to come up with enough funding to satisfy DFG. Therefore, the DCTF should just set a budget and make DFG work around it.

One Member suggested requiring \$2 per tag per year, requiring everyone to purchase all of their tags, and if there are still insufficient funds, then DFG can work something out with the DCTF. Various Members agreed. These Members stated that the more funding they found for the program, the more money DFG would request. They expressed concern that no matter what budget the DCTF came up with for the program, DFG would request more. Various Members agreed.

Amendment 5- DCTF Members generally supported the amendment.

Amendment 6- Members agreed to delete “and to provide a significant portion of the costs of enforcement, including but not limited to investigations and court costs” since

they did not believe it was legal or that it would be a sufficient amount to cover enforcement costs.

### **Public Comment**

- Tommy Ancona, Fisherman- Asked the DCTF to think about what constitutes a violation. Is it considered a violation when you have a trap without a tag on it? Does this violation have to happen on the water or on the dock?

The DCTF discussed what enforcement should look like. Many Members agreed that enforcement should occur only on the water since there will likely be instances where fishermen lose a tag or are just carrying extra traps around that will not be fished. Enforcement on the docks would not take these issues into account. Additionally, the program is in place to prevent fishermen from fishing too many pots and therefore, enforcement should occur when the gear is being fished, not when it is merely being transported. Mr. Fishman explained that enforcement would cost more on the water and, therefore, the DCTF may need to find a way to come up with more funds for that kind of enforcement. He also suggested that in order to keep enforcement costs down, language could be added to the bill to protect fishermen from unreasonable fines and penalties if they are picking up lost gear or traps without tags. Various Members stated requiring enforcement on the water would simplify enforcement and avoid all of the scenarios of why a trap may be transported without a tag (i.e. A trap that is being fished must have a tag. If you are transporting a trap, you are not fishing it and therefore, you should not need a tag on it). Another Member stated that if DFG did not enforce the program on the water, then they would never enforce Oregon boats since they will likely fish in California but, not ever go onto California docks.

Ms. Fisher asked the group if they wanted language added to SB 1093 on what enforcement looks like or if they preferred DFG to figure that out. One Member stated that it might be better for the DCTF to sit down with DFG after the bill has been passed to work out the type of enforcement based on costs. Members generally agreed.

Amendment 7- DCTF Members generally supported the amendment.

Amendment 8- DCTF Members discussed the amendment and the advantages of requiring the program to be “consistent” with the DCTF’s recommendations rather than “mirror” the recommendations. Mr. Fishman explained that using such language would allow DFG flexibility in case the DCTF’s recommendations were infeasible or outside the purview of DFG. The DCTF generally supported this language.

Amendment 9- The DCTF requested that this amendment be edited so that it is consistent with amendment 8.

### New Amendments

In addition to the amendments above, the DCTF support team asked the DCTF if they would like to add anymore amendments to SB1093.

One Member requested that section 8276.5.e be amended so that it is clear that SB1093 is neither requesting that the tri-state fair-start line at district 10 be moved nor is it requesting a California statewide fair-start be investigated. He explained that at Meeting 5 the DCTF voted in opposition of a statewide fair start and wanted to ensure that SB1093 was clear so that a statewide fair-start is not revisited. Additionally, Recommendation 1 from the DCTF's January 15, 2010 report does not say that the tri-state fair-start line will be moved but that California would look into the ramifications of moving the line. Members agreed to amend section 8276.5.e.1 (page 9, line 1) by deleting "move to" and inserting "evaluate moving." They also agreed to amend section 8276.5.e.2 to make it consistent with the "Notes" section of Recommendation 1 from the DCTF's January 15, 2010 report.

Visit the DCTF webpage to view the formal amendment language submitted to the legislature:

[http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/crabsSB1093amend.8.10.10.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/crabsSB1093amend.8.10.10.pdf)

Mr. Fishman and Ms. Fisher asked the DCTF if there were anymore proposed amendments or if they would like a final vote on all of the amendments discussed to this point. David Crabbe suggested that he propose his amendment following the vote on the amendments discussed to this point. One Member requested that public comment be taken prior to the final vote. An opportunity for public comment was given to the meeting attendees. No public comment was given. Members agreed to a formal vote.

**ACTION:** *Consideration and possible adoption of recommendations to amend Dungeness crab legislation.*

**APPROVED:** The DCTF recommends amending Senate Bill 1093 as described in the August 9, 2010 Proposed Amendments to Senate Bill 1093 document:

[http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/crabsSB1093amend.8.10.10.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/crabsSB1093amend.8.10.10.pdf)

*Vote of all DCTF Members (ex officio Members abstained):*

Thumbs up (15): Atkinson, Anderson, Bennett, Pemberton, Blue, Carpenter, Carvalho, Collins, Hemmingsen, Johnson, Lawson, Pomilia, Smith, Standley, Wilson

Thumbs sideways (0):

Thumbs down (2): Cunningham, Doyle

Absent (5): Forkner, McKernan, Sleeter, Thomas, Zamboni

*Vote of the ex officio Members:*

Thumbs sideways (1): Crabbe

Absent (4): Kalvas, Pomeroy, Riske, Young

David Crabbe proposed the following amendment to section 8276.5.a (page 8, after line 21):

*The program shall be adaptively managed and the task force shall evaluate on an ongoing basis whether the program is meeting its goals of gear limitation and reduction and whether further management measures are needed.*

Mr. Crabbe explained that it is important to realize that this trap limit program is a work in progress and that it should be reviewed on an ongoing basis to ensure that it is meeting all of its objectives and goals. Additionally, as the program is implemented there will be unintended consequences that arise and it may be necessary to make adjustments or adaptively manage the program to resolve those issues.

The DCTF discussed generally agreed with the amendment and discussed possible language for the amendment. One Member explained that Mr. Crabbe's point was well taken and that this group will allow the DCTF to reduce the problems associated with the program. The DCTF agreed that Mr. Fishman would come up with the appropriate language for this amendment and decided not to take a formal vote on the language but, to include it in the list of amendments to the legislature.

Mr. Fishman explained to the DCTF that DFG had also expressed concerns about section 8276.2 (crab quality testing). He explained up that eventhough the section is permissive on the part of the Director of DFG, DFG believes that selling the crab meat from the quality testing is too fraught with difficulties because if the crab from the testing is allowed to be sold out of season, there will be no way to control which crab meat was caught legally through the program and which entered the market illegally. DCTF Members agreed to amend section 8276.2 so that crab from the crab quality testing can only be sold after the northern season opener.

Mr. Fishman and Ms. Fisher asked the DCTF if they would like a final vote on this amendment. Members agreed to a formal vote.

**ACTION:** *Consideration and possible adoption of recommendations to amend Dungeness crab legislation.*

**APPROVED:** On page 3, line 13, after "sold" insert "after the northern season opener."

*Vote of all DCTF Members (ex officio Members abstained):*

Thumbs up (16): Atkinson, Anderson, Bennett, Pemberton, Blue, Carpenter, Carvalho, Cunningham, Doyle, Hemmingsen, Johnson, Lawson, Pomilia, Smith, Standley, Wilson

Thumbs sideways (0):

Thumbs down (1): Collins

Absent (5): Forkner, McKernan, Sleeter, Thomas, Zamboni

*Vote of the ex officio Members:*

Thumbs up (1): Crabbe

Absent (4): Kalvas, Pomeroy, Riske, Young

Visit the DCTF webpage to view the formal amendment language submitted to the legislature:

[http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/crabsSB1093amend.8.10.10.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/crabsSB1093amend.8.10.10.pdf)

3. The DCTF support team adjourned the meeting at 1:15pm.

Note: Public Comment was taken throughout the meeting. Members of the public participated in all meeting discussions.

\*All references to SB1093 refer to the [August 2, 2010 version](#) of the bill

DRAFT