



10/16/17

## Lost Gear Recovery – Proposal for Implementation of SB 1287

**Background:** With the generous support of The Nature Conservancy, Half Moon Bay (HMB) fishermen have been successful at retrieving more than 800 traps from the ocean after the close of the Dungeness Crab seasons since 2015. In May of 2017, HMB initiated conversations with California Department of Fish and Wildlife (CDFW) to share lessons learned from three years of piloting an industry managed lost gear recovery program in our community. Our goal was to help inform implementation of SB 1287 with real world experience and data that would allow CDFW to implement a sustainable program that would be effective and cost effective up and down the California coast.

So far, pilot programs in HMB and other ports have been dependent on grant funding and in some ports on NGO groups such as the SeaDoc society, to manage logistics. This support has been invaluable in providing opportunities to recover lost gear. However, this issue will likely remain a challenge for our fleet and industry long after well-meaning partners have moved on to other projects, which is a challenge some ports have faced this year. Because building a system dependent on grant dollars is not sustainable, our focus in HMB has been on not only getting gear out of the water and back to owners, but in proving a concept for a durable and self-sustaining industry managed program that could ultimately function under SB-1287.

Our understanding is that SB 1287 was supported by the Dungeness Crab Task Force (DCTF) and the fleet to provide support and enforcement for gear recovery efforts managed in port communities. We do not believe that it is in the best interest of port communities or the Dungeness Crab fleet to build a cumbersome and costly program that may ultimately reduce the amount of gear removed from the water.

**CDFW Proposals:** On 03/14/17 and 04/11/17 CDFW presented a *Lost Gear Options Document “Evaluation of the Department-Run vs. NGO-Run Models”*<sup>1</sup> to the DCTF Executive Committee (DCTF-EC). The DCTF EC recommended strongly that CDFW move forward with Option 3: “Minimal Department Support for NGO-run Model (Department Involved When Non-Compliance Issues Arise/Add Trap Fee Penalty)” vs the Department Run models.

In an update to the DCTF EC on June 30, 2017<sup>2</sup> CDFW indicated that they were “navigating the complex legal and administrative requirements addressed in the statute to establish this program and in communication with voluntary programs” and that “*nothing in SB1287 would prevent a fishing port association from collecting gear without CDFW approval two weeks after the end of the season. However, if the port associations want to be reimbursed in a mandatory way, CDFW has to be involved and the program is more expensive*”

The **PROPOSED California Department of Fish and Wildlife Dungeness Crab Gear Retrieval Program** document prepared for the October 2017 DCFT meeting<sup>3</sup> appears to have abandoned the option for a port run project with minimal department involvement and lower costs. We do not believe that what is presented in this document is a realistic approach, considering the required CDFW capacity and costs to manage the “department responsibilities” listed in the document. Our concern is that this will result in the NGO/Industry group model continuing to operate outside of the SB1287 as suggested by CDFW on 06/30/2017 which is contrary to the intention of SB1287 to create a mandatory program.

<sup>1</sup> [http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/ec-meeting 19/EC DCTF Model Eval Gear Retrieval Program February 2017.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/ec-meeting%2019/EC%20DCTF%20Model%20Eval%20Gear%20Retrieval%20Program%20February%202017.pdf)

<sup>2</sup> [http://www.opc.ca.gov/webmaster/\\_media\\_library/2009/04/DCTF\\_ECMeeting\\_June2017\\_Summary.docx.pdf](http://www.opc.ca.gov/webmaster/_media_library/2009/04/DCTF_ECMeeting_June2017_Summary.docx.pdf)

<sup>3</sup> [https://drive.google.com/file/d/0B3\\_3yx7snqRSMXlnMWY3STVOa3c/view](https://drive.google.com/file/d/0B3_3yx7snqRSMXlnMWY3STVOa3c/view)

**General Proposal:** We would like to propose the following revised framework for NGO/Industry Led Port Based lost gear recovery programs with CDFW support and enforcement. This framework uses the responsibilities listed in the Department proposal and we believe is consistent with the intent of SB1287, industry feedback and experience of programs on the ground, and with the findings in the **September 2017 Scoping Report** prepared by UC Davis/SeaDoc.<sup>4</sup>

Below is a general outline followed by more detailed explanations and considerations for each activity. We would ask that if there are details within the proposal that might be challenging for CDFW to implement, that CDFW work with us and others to address those challenges specifically, while preserving the general framework for a program with minimal Department involvement and costs.

#### **CDFW RESPONSIBILITIES:**

- Issue Gear Retrieval Permits to NGO/Associations/Groups
- Manage traps designated as REQUIRING CDFW\*
- Provide communication to the fleet

#### **PERMITTED GEAR RETRIEVER RESPONSIBILITIES:**

- Dispatch authorized vessels to recover gear
- Notify permit holder owners about retrieved traps
- Collect payment from fishermen of fees for their recovered traps
- Store Traps retrieved and if not claimed by the owner within a defined time period will be responsible for traps
- Return traps to owners once payment has been issued
- Provide CDFW with proper documentation (e.g. logbook, invoice) for all traps retrieved under permit
- Disburse Funds for Gear Retrieved

\* We do not believe that all gear requires engagement by CDFW. We agree with the broad support in the SeaDoc Scoping document #3 that “fishermen would like to use this program as teeth for non-payers” and involve CDFW only when gear cannot be returned to original owners by local programs.

For the purposes of this proposal REQUIRING CDFW is the designation given to traps when owners cannot be contacted or refuse to comply with the program.

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<sup>4</sup> [https://drive.google.com/file/d/0B3\\_3yx7snqRSUi1ZREc2cWJncHd0NS1SQ2M3M3ZIYXd2bUhr/view](https://drive.google.com/file/d/0B3_3yx7snqRSUi1ZREc2cWJncHd0NS1SQ2M3M3ZIYXd2bUhr/view)

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## More Details:

### CDFW RESPONSIBILITIES:

1. **Issue Gear Retrieval Permits to NGO/Associations/Groups:** We propose one permit per port with each port having the ability to identify authorized local retrieval vessels under that permit to retrieve gear. A single port coordinator permit and contact allows for consistent pricing, communication, expectations for owners to get their gear back, data collection and reporting. Ten to Eleven port permits vs many more individual permits reduces CDFW oversight and administration costs. The option for individual permitting could further be explored, but the potential for multiple competing pot retrieval programs or businesses could increase complexity and costs and should be considered carefully. The remainder of this proposal assumes the single permit per port model.
2. **Manage gear designated as REQUIRING CDFW:** Options for when traps are designated as REQUIRING CDFW is outlined below and can be modified in consultation with CDFW. We know that for 100% compliance with the program some % of gear will require intervention by CDFW which was the basis of SB1287. In HMB in 2016, 20% of gear recovered in HMB had incorrect or missing identification and 4% of owners refused to reimburse the program for recovery efforts. Depending on CDFW flexibility on some logistical issues such as providing information to Permitted Gear Retrievers as suggested in 2.b.i below, this amount could possibly be reduced.
  - a. Traps designated as REQUIRING CDFW could be physically turned over to CDFW or managed by CDFW administratively by working with port programs as suggested below.
  - b. Fees and penalties charged by CDFW for gear that was unable to be managed at the port level and is therefore designated as REQUIRING CDFW should be at the discretion of CDFW but should:
    - i. Reimburse recovery and storage costs for Permitted Gear Retrieval programs
    - ii. Cover all additional CDFW fees so that permit holders complying with port programs do not bear the cost of those that do not comply.
    - iii. Incentivize permit holders to include required identification in traps and to comply with local programs.
3. **Provide communication to the fleet:** CDFW should provide clear communication and instructions to permit holders prior to the implementation of SB1287. There is currently significant confusion among fishermen and appropriately setting expectations around gear recovery is important to the success of the program. This communication should:
  - a. Remind permit holders that they are required by law to have identification inside each trap.
  - b. Provide information on Permitted Gear Retrieval programs in each port to permit holders, possibly via a web portal.
  - c. Set expectation that gear that is not recovered through Permitted Gear Retrieval programs will REQUIRE CDFW action and associated fees
  - d. Communicate drop-dead date for trap fee that would end up with a non-renewal permit etc.

### PERMITTED GEAR RETRIEVER RESPONSIBILITIES:

1. **Dispatch authorized vessels to recover gear:**
  - a. Port programs determine authorized vessels that will be recovering gear for the year. (Can be communicated to CDFW or not depending on CDFW permit requirements).
  - b. Recovery trips to begin 2 weeks after the close of the season.

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**2. Notify permit holder owners about retrieved traps:**

- a. If permit holder information is in the pot as required by law, owner is contacted and all attempts are made to return gear to owner.
- b. If permit holder information is not in the pot as required by law (approx. 20% of traps recovered in HMB) traps are designated as REQUIRING CDFW.
  - i. If CDFW can provide contact information to Permitted Gear Retriever using Trap Tag or L number on buoy, Permitted Gear Retriever can continue notification process and reduce gear designated as REQUIRING CDFW
- c. For traps designated as REQUIRING CDFW, buoy Tags and L Numbers can be reported or physically provided to CDFW for further fees and enforcement, actual traps can either:
  - i. Be physically turned over to CDFW to be managed by CDFW or
  - ii. Be held by Permitted Gear Retriever until a set date and then forfeited (see 4.b.ii) or
  - iii. Be automatically forfeited to Permitted Gear Retriever for auction, sale or disposal while CDFW administratively manages enforcement without taking possession of traps.

**3. Collect payment from fishermen of fees for their recovered traps**

- a. If fisherman is willing to participate in program, payment is completed and traps are returned to owner.
- b. If fisherman refuses to pay Permitted Gear Retriever the recovery fees (4% of recovered gear in HMB in 2016) gear is designated as REQUIRING CDFW. Owner information and recovery data is provided to CDFW for further fees and enforcement, actual traps can either:
  - i. Be physically turned over to CDFW to be managed by CDFW or
  - ii. Be held by Permitted Gear Retriever but managed by CDFW until a set date and then forfeited to Permitted Gear Retriever (see 4.b.ii) or
  - iii. Be automatically forfeited to Permitted Gear Retriever for auction, sale or disposal while CDFW administratively manages enforcement without taking possession of traps

**4. Store Traps retrieved and if not claimed by the owner within a defined time period will be responsible for traps**

- a. For all traps not designated as REQUIRING CDFW storage is managed by Permitted Gear Retrieval program until a set date. (In HMB all gear is distributed by mid to late October)
- b. For gear designated as REQUIRING CDFW actual traps can either:
  - i. Be physically turned over to CDFW to be managed by CDFW or
  - ii. Be held by Permitted Gear Retriever but managed by CDFW until a set date and then forfeited to Permitted Gear Retriever (e.g. area in each port storage area is designated for REQUIRING CDFW. That area of the yard is tagged and managed by CDFW until a set date and then forfeited to Permitted Gear Retriever or taken into custody by CDFW. Note: This model would require consideration of fees as port managed programs are often paying for storage space and cannot afford to do so without adequate reimbursement or
  - iii. Be automatically forfeited to Permitted Gear Retriever for auction, sale or disposal while CDFW administratively manages enforcement without taking possession of traps.

**5. Return traps to owners once payment has been issued:**

- a. For all traps not designated as REQUIRING CDFW traps are returned to owners when payment has been made.
- b. For gear designated as REQUIRING CDFW actual traps can either
  - i. Be physically turned over to CDFW to be managed by CDFW and returned to owners when CDFW has been paid
  - ii. Be held by Permitted Gear Retriever but managed by CDFW until a set date and then forfeited to Permitted Gear Retriever (see 4.b.ii) or
  - iii. Be automatically forfeited to Permitted Gear Retriever for auction, sale or disposal while CDFW administratively manages enforcement without taking possession of traps.

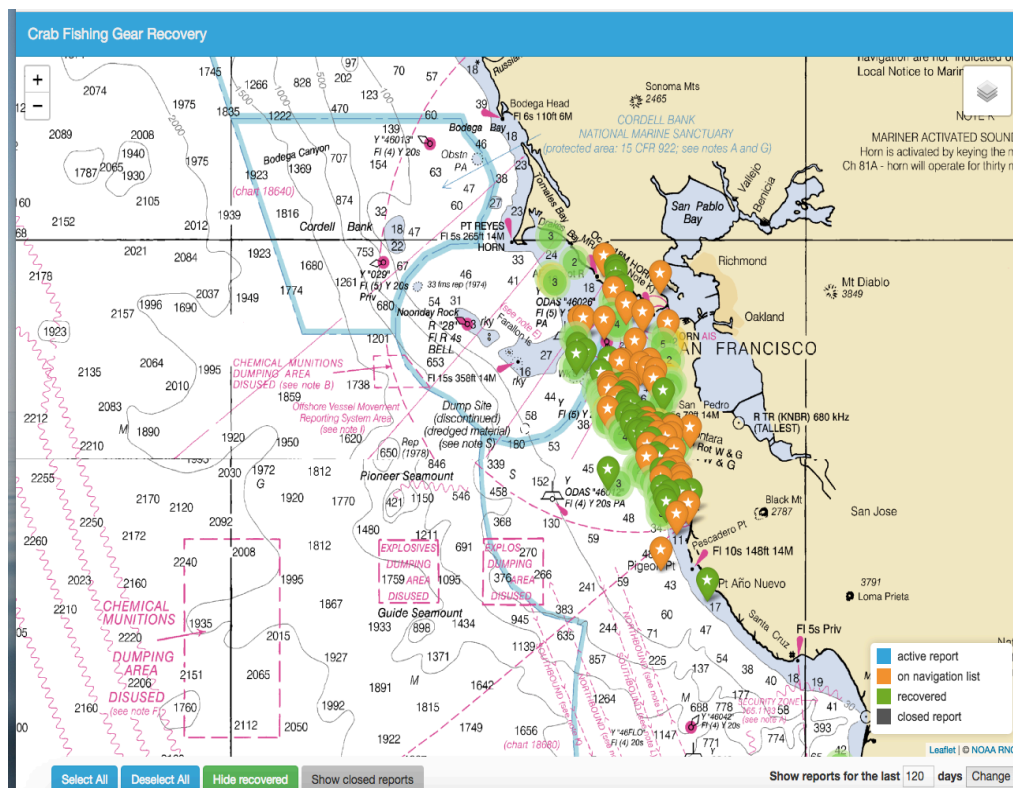
## 6. Disburse Funds for Gear Retrieved:

- a. Funds for all traps **not** designated as REQUIRING CDFW are managed through Permitted Retrieval Programs and CDFW does not administrate any funds.
- b. For gear designated as REQUIRING CDFW, CDFW will need to determine adequate fees required for managing REQUIRING CDFW gear.
  - i. For port based programs to remain sustainable, Permitted Gear Retrievers must be reimbursed for recovery and storage of gear designated as REQUIRING CDFW we propose 2 options:
    1. CDFW pays base recovery fee and storage fee to Permitted Gear Retriever and is then reimbursed for that cost and additional fees by the trap permit holder.
    2. Permitted Gear Retriever provides invoice to CDFW with required data reports for gear REQUIRING CDFW and CDFW remits payment to Permitted Gear Retrieval programs prior to the following year's recovery efforts beginning.

## 7. Provide CDFW with proper documentation (e.g. logbook, invoice) for all traps retrieved under permit:

Collecting data on gear collected is a key component of a successful program. Retrieval location data has proven important for the integrity of voluntary programs. We suggest CDFW determine what information would be required for all gear recovered as well as additional requirements for gear designated as REQUIRING CDFW.

The HMB program has been piloting and developing a data collection tool with TNC that tracks the gear location from recovery to disposition, manages owner information, and simplifies reporting. More on this tool can be shared, and features required for CDFW enforcement could possibly be added if needed. The tool has been created to be used by multiple ports operating independent programs and to gather consistent information for management and reporting of lost gear programs. The capabilities of this tool have been considered when creating this proposal and understanding that data flow and oversight are an important part of any program.





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**Notes:**

Some gear recovered is in poor condition and it can be difficult for fishermen to agree to pay for gear with little to no value, however recovery costs and storage costs are still incurred to get these traps out of the water. Moving forward for simplicity of the program we would ask CDFW to determine that payment for gear is required regardless of gear condition. For the purpose of this proposal, this is assumed to be the case.

Sport/recreational gear is also recovered in order to remove vertical lines from the water. Recreational gear represented 8% of gear recovered in HMB in 2016. Until recreational gear retrieval can be enforced, lost gear programs need to consider how to budget to cover the costs for retrieving recreational gear that will not result in reimbursement to the program.

HMB Lost Gear Report for 2016 will be updated with 2017 data in November 2017 following final distribution of all gear that is currently underway.

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