



## **~California Dungeness Crab Task Force~**

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

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### **REPORT**

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair  
Joint Committee on Fisheries and Aquaculture, Jim Wood, Vice Chair  
California Fish and Game Commission, Eric Sklar, Chair  
California Department of Fish and Wildlife, Charlton Bonham, Director

CC: California Ocean Protection Council, Deborah Halberstadt, Executive Director  
California Fish and Game Commission, Valerie Termini, Executive Director  
California Fish and Game Commission, Susan Ashcraft, Marine Advisor  
California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager  
Pacific States Marine Fisheries Commission, Dave Colpo, Sr. Program Manager

FROM: California Dungeness Crab Task Force

DATE: January 13, 2017

RE: Final recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)

APPENDICES:

- (1) [Senate Bill 369](#)
- (2) [January 15, 2015 Report](#)
- (3) [January 15, 2016 Interim Report](#)
- (4) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)
- (5) [DCTF Membership List](#)
- (6) [DCTF Charter](#)
- (7) [Summary of DCTF Votes from October 25-26, 2016 meeting](#)
- (8) [DCTF Meeting Summary from October 25-26, 2016 meeting](#)
- (9) [CDFW Dungeness Crab Trap Limit Program Accounting, September 2016](#)
- (10) [Frequently Asked Questions: Harmful Algal Blooms and California Fisheries](#)
- (11) [Ocean Science Trust Report: Framing the Scientific Opportunities on Harmful Algal Blooms and California Fisheries: Scientific Insights, Recommendations and Guidance for California](#)
- (12) [Senate Bill 1287](#)
- (13) [Dungeness Crab Fishing Gear Working Group Meeting Summary – September 21-22, 2016](#)
- (14) [Dungeness Crab Fishing Gear Working Group 2016-17 Best Practices](#)
- (15) [Dungeness Crab Fishing Gear Working Group: 2016 Working Group Recommendations and Next Steps – October 24, 2016](#)
- (16) [Assembly Bill 164](#)
- (17) [October 25, 2016 Presentation to the DCTF: Preliminary Evaluation of the Dungeness Crab Trap Limit Program](#)

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This is the final report of the California Dungeness Crab Task Force (DCTF) as mandated by Senate Bill (SB) 369 (Evans, 2011) ([Appendix 1](#)). Recommendations included in this report are directed to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (the Department), and the Fish and Game Commission (the Commission) to inform future Dungeness crab fishery management actions. SB 369 requires the DCTF to submit final recommendations by January 15, 2017 – the following report fulfills that requirement. The work of the DCTF is supported by the California Coastal Protection Fund of 2006 as authorized by the California Ocean Protection Council (OPC) until March 2017. The DCTF may obtain additional resources to support their continued efforts until the SB369

sunset in 2019. Additional recommendations by the DCTF may be submitted to the Legislature, Department, and Commission to continue to advise on Dungeness crab fishery management issues through 2019.

**Additional information, including additional previous reports and meeting summaries offering details on the development of the recommendations provided in this report, is available on the DCTF webpage:** <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

## **BACKGROUND**

The California Dungeness crab industry is a valuable state resource. Dungeness crab is one of the most productive fisheries in California<sup>1,2</sup> with an average ex-vessel value<sup>3</sup> of approximately \$39.1 million per calendar year.<sup>4</sup> This is in large part due to strong demand by consumers, including international markets. The Dungeness crab industry is interested in maintaining the health of the fishery to safeguard its economic health and to preserve the California fishing communities that rely on the resource.

### ***SB 1690 and SB 369***

In an effort to alleviate concerns about the California fishery and create a forum for the industry to resolve Dungeness crab fishery issues, SB 1690 was passed in September 2008 and provided for the establishment of a DCTF that was representative of the diverse interests in the fishery. SB 1690 (which added Section 8276.4 to the California Fish and Game Code) directed the California Ocean Protection Council (OPC) to establish and administer the DCTF, and directed the DCTF to review and evaluate the Dungeness crab fishery and make management recommendations to the Legislature, the Commission, and the Department. The DCTF ceased to exist on January 1, 2011 per SB 1690's sunset clause, but was reestablished later the same year by SB 369 (2011-2012 Reg. Sess), which again tasked the OPC with developing and administering the DCTF. SB 369 mandated the DCTF be composed of 27 members, including 17 members representing commercial fishing interests, two members representing sport fishing interests, two members representing crab processing interests, one member representing commercial passenger fishing vessel (CPFV) interests, two members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department. SB 369 also established an industry-designed seven-tier commercial Dungeness crab trap limit program, which the Department was responsible for developing and implementing in consultation with the DCTF.

The work of the DCTF was to be carried out during the course of several public meetings held in California between March 2012 and January 2017. The DCTF's primary goal is to make recommendations on the commercial tiered trap limit program and other Dungeness crab fishery management measures by January 15, 2017, as described in Fish and Game Code Section 8276.5. The OPC authorized approximately \$215,000 from the California Coastal Protection Fund of 2006 to support the DCTF through January 2017.

Since SB 369 does not sunset until 2019, the DCTF may find funding to support their continued efforts until that date (see Recommendation 2 for additional details).

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<sup>1</sup> Hackett, Steven, D. King, D. Hansen and E. Price. 2009. *The Economic Structure of California's Commercial Fisheries*. Technical Report . California Department of Fish and Game, Sacramento. <http://www.dfg.ca.gov/marine/economicstructure.asp>

<sup>2</sup> The Dungeness crab fishery is an important contributor to the economy of small port communities such as Crescent City (Pomeroy, C., et al. 2011. Pomeroy, C., et al. (2011). California's North Coast Fishing Communities: Historical Perspective and Recent Trends. California Sea Grant Technical Report T-072,. La Jolla, CA: 350p. <http://www-csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>)

<sup>3</sup> Ex-vessel value is the amount paid to fishermen when they land (deliver) their catch to buyers the docks.

<sup>4</sup> Juhasz, C, and C. Pomeroy. 2016. *Preliminary Evaluation of the Dungeness Crab Trap Limit Program*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2016. [http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/meeting-6/dctfp-eval-presentation.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctfp-eval-presentation.pdf)

### ***California Management of the Fishery***

The California Dungeness crab commercial fishery is managed by the Department pursuant to California Fish and Game Code Section 8275 *et seq*, which requires the fishery be managed using a 3-S management strategy (sex, size, and season). Commercial harvest is restricted to male crabs, greater than 6.25 inches carapace (body) width, from mid-November through the end of June (Southern Management Area<sup>5</sup>) and December 1 through July 15 (Northern Management Area). The 3-S management strategy is generally considered to be successful in maintaining the crab population because males have the opportunity to mate several times before reaching legal size, females are protected from commercial harvest, and the fishing season avoids both the soft-shell and primary breeding period. The California Fish and Game Code designates the opening of the season for the Southern Management Area (November 15) and the Northern Management Area (December 1). In the Northern Management Area, the code delegates the authority to delay the season opening to the Director of the Department if crabs are soft-shelled or do not pass preseason crab quality testing.<sup>6</sup> Additionally, in 1995 a limited entry program<sup>7</sup> was implemented to limit the total number of permits in the fishery. In 2015-16, there were 561 permits, of which 405 were active and 102 were inactive (or “latent”<sup>8</sup> referring to those permits (vessels) with landings of less than 200lbs in the previous season).

In contrast to the commercial fishery, the Dungeness crab recreational fishery is managed by the Commission, with measures such as a specified season, daily bag limits, and minimum size requirements. The specifics of the regulations vary by region and by sport fishing mode (i.e. private vessel versus shore-based fishing versus CPFVs). CPFVs are the only sport fishing mode that has a trap limit program.

### ***Tri-State Coastal Dungeness Crab Committee & West Coast Management of the Fishery***

In 1996, the Tri-State Dungeness Crab Agreement was established through a MOU between the Pacific States Marine Fisheries Commission (PSMFC) and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (see [Appendix 4](#) for MOU). Most notably, this agreement established preseason crab quality testing from the Washington-British Columbia border to the Mendocino/Sonoma County Line in California. Through the Tri-State Coastal Dungeness Crab Committee these three states have discussed and aligned management of Dungeness crab in their respective states including coordinating fair start clauses<sup>9</sup> and season openers to the extent possible.

The Oregon and Washington Dungeness crab fisheries are also high-value fisheries. In contrast to the California commercial fishery, where management authority resides with the Legislature, the Oregon and Washington commercial fisheries for Dungeness crab are managed by their respective Fish and Wildlife Commissions. Historically, Oregon and Washington fisheries have experienced trends similar to those in the California fishery, including the presence of inactive permits, large numbers of traps in the water, and a derby dynamic that causes a large proportion of a fishery’s landings to be made in a short period at the beginning of the season with landings declining sharply thereafter. In an effort to address these issues and distribute

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<sup>5</sup> The Southern Management Area refers to all coastal districts south of the Mendocino/Sonoma County Line to the Mexican border.

<sup>6</sup> Preseason crab quality testing is used to predict the meat recovery rate prior to the season opener. A recovery rate of 25% is required for the December 1 season opener in the Northern Management Area. If this standard is not met, testing is repeated within specific time intervals until the quality test passes. Regardless of the results of testing, the Northern Management Area will open no later than January 15. Requirements for preseason testing do not apply in the Southern Management Area.

<sup>7</sup> A limited entry program is a management strategy that restricts the number of participants in a fishery.

<sup>8</sup> The Department does not use the term “latent” permit(s) formally. The definition of latent was developed by the DCTF.

<sup>9</sup> Fair start provisions require fishermen to commit to fishing in a single management area (i.e., Northern or Southern) for 30 days prior to fishing in another management area under delayed management conditions.

fishing throughout the season, the Washington Department of Fish and Wildlife (WDFW) established a tiered Dungeness crab trap limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a trap limit program modeled after Washington's system. At a 2009 DCTF meeting, WDFW and ODFW staff explained that while the trap limit programs have capped the amount of gear in the water, there is no evidence of a significant reduction in the derby dynamic of the fishery.

### ***Current Management Issues***

A variety of issues and topics impacting the management of the fishery have been identified by the DCTF and members of the commercial fishery, including:

*Future of the DCTF or industry-representative organization:* Following submission of the January 2017 legislatively mandated report, the OPC will no longer fund the DCTF. Since the DCTF does not sunset in statute until 2019, there is an opportunity for industry to play a lead role in self-funding the DCTF or another organizational body to continue to inform Dungeness crab fishery management, be responsive to timely policy issues, act as an information bridge to/from the fleet to the Legislature, Department and Commission, identify research priorities for the fishery, and serve as a public relations resource on general Dungeness crab industry issues in general. Based on discussions leading up to and during the October 2016 DCTF meeting with the DCTF, the DCTF Executive Committee<sup>10</sup>, other industry representatives, and interested members of the public, there is general agreement of the value of an industry-representative organization. As a result, the DCTF developed four recommendations to address this topic and identify a path forward (see Recommendations 3, 4, 5, and 6 for additional details).

*Dungeness Crab Account:* Pursuant Fish and Game Code 8276.5(a)(4)) revenue generated by the Dungeness Crab Commercial Trap Limit Program is deposited into a dedicated Dungeness Crab Account. The Department is mandated to provide an annual reporting of the Account. In previous years, a surplus of approximately \$1.4M was generated as a result of underuse of the Dungeness Crab Account.<sup>11</sup> However, in October 2016 the Department reported ([Appendix 9](#)) the costs associated with the program are beginning to catch up with revenue generated. This has included the Law Enforcement Division's (LED) more recent increased use of the Account. Additionally, a large portion of the surplus associated with the Account was directed by Assembly Bill 164 ([Appendix 16](#)) to pay for litigation not directly related to the commercial Dungeness Crab Trap Limit Program. The industry and the DCTF understood that the Dungeness Crab Account was intended to be used solely for the purpose of implementing the trap limit program and have expressed concern about the use of the Account by LED and AB 164. During its October 2016 DCTF meeting, the DCTF developed recommendations were developed to clarify how the Dungeness Crab Account should be used (see Recommendation 1 for additional details).

*Domoic Acid:* Due to elevated levels of domoic acid in California Dungeness crab pre-season samples, the Director of the Department and the Commission delayed the commercial and recreational Dungeness crab fisheries in November 2015 following guidance from California Department of Public Health (CDPH) and the Department and the Office of Environmental Health Hazard Assessment (OEHHA). The delay persisted well into the regular 2015-2016 Dungeness crab season with the recreational and commercial fisheries delayed in the Southern Management Area until mid-

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<sup>10</sup> The Executive Committee is a subcommittee of the DCTF, and is composed of one commercial DCTF member from Morro Bay, Half Moon Bay, San Francisco, Fort Bragg, Eureka, and Crescent City, as well as a crab processor. There are no recreational, CPFV, or NGO representatives on the Executive Committee although they may participate as members of the public. The Executive Committee cannot make decisions on behalf of the full DCTF, but can provide guidance and develop proposals for the full DCTF's review and consideration.

<sup>11</sup> California Department of Fish and Wildlife. 2015. *Updates Summary of Fishery Landings 2014-15 Season & Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLP)*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. [http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/meeting-5/CDFWData\\_DCTF%20Meeting\\_Oct262015-2.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf)

March 2016. In the Northern Management Area, the recreational fishery was opened in areas as CDPH and OEHHA deemed them “safe” beginning in April 2016. Conversely, the commercial fishery continued to remain closed in the north until early May 2016 at the request of many commercial fishermen, including the Executive Committee, who preferred to maintain area openers by traditional management areas as possible. By May 23, 2016, the Dungeness crab fishery was open statewide.

During this unprecedented delay, questions were raised by industry, the Department, the Legislature, and others seeking to better understand testing protocols, procedures for legally and equitably opening an area once deemed “safe” by CDPH and OEHHA, how fair start provisions apply if areas are opened outside traditional Management Areas, etc. Industry members also expressed concerns about the late season opener and its potential impact on the resource and other issues. For example, with effort unusually high in the spring months when Dungeness crabs typically are soft and molting, is there increased handling mortality? Additionally, what is the impact of higher than normal concentrations of fishing gear in the 2015-2016 spring months and high concentrations of whales? In an effort to begin to address some of these questions and strengthen the state’s scientific understanding of harmful algal blooms and domoic acid, a number of reports have been made available to decision makers and the public (Appendices [10](#) and [11](#)).

As a result of the 2015-2016 delay due to elevated domoic acid levels, fishery participants and communities expressed substantial financial hardship, prompting the California Governor to make a federal fishery disaster request for \$130 million in February 2016<sup>12</sup>. Despite these hardships, in August 2016, the Department reported nearly 50% of the five-year average was landed during the 2015-16 Dungeness crab fishing season. Many commercial fishermen, including DCTF members, indicated that despite the decent landings, markets never recovered, adding to the continued hardship felt by the fishery.

At the October 2016 DCTF meeting, the DCTF, CDFW, CDPH, and OEEHA discussed the upcoming 2016-17 fishing season. The DCTF provided informal guidance related to opening of closed areas under an advisory (see [Appendix 8](#)), and directed the Executive Committee to be available to the Department, CDPH, and OEEHA to provide continued guidance as needed. On November 5, 2016 the recreational fishery opened statewide under an advisory warning anglers not to consume the viscera. On November 15, the Department announced the opening of the commercial fishery for most of the Southern Management Area. However, an area from Point Reyes to the Mendocino-Sonoma County border remained closed based on guidance from CDPH and OEHHA due to Dungeness crab found above the federal action levels.<sup>13</sup> On December 1, much of the Northern Management Area opened while a few areas remain closed due to elevated levels of domoic acid. The Executive Committee and DCTF will continue discussing this topic as it remains relevant and may provide guidance to the state, as appropriate.

*California Lost Fishing Gear Recovery Program:* Since 2014, voluntary lost fishing gear recovery programs have been operating throughout the state of California. The SeaDoc Society in partnership with Humboldt State University<sup>14</sup> as well as the Half Moon Bay Seafood Marketing Association (HMBSMA) in partnership with The Nature Conservancy have administered programs that have resulted in the recovery of hundreds of lost and abandoned traps.<sup>15</sup> The commercial and recreational Dungeness crab fishing communities have generally greeted these programs with widespread support

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<sup>12</sup> CDFW Press Release, February 9, 2016. *State Seeks Federal Disaster Declarations for Commercial Crab Fishing*. <https://cdfgnews.wordpress.com/2016/02/09/state-seeks-federal-disaster-declarations-for-commercial-crab-fishing/>

<sup>13</sup> The area between Point Reyes and Salt Point was opened December 3. As of the drafting of this report, the area between Salt Point and the Humboldt Jetty remain closed.

<sup>14</sup> <http://www.seadocsociety.org/california-lost-fishing-gear-removal-project/>

<sup>15</sup> Renzullo, J. 2015. *2014 Crab Gear Retrieval Program Final Report*. Submitted to the California Dungeness Crab Task Force Executive Committee. [http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/ec-meeting-10/2014-Crab-Gear-Retrieval-Program-Final-Report-DCTF-EC.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/ec-meeting-10/2014-Crab-Gear-Retrieval-Program-Final-Report-DCTF-EC.pdf)



and requested that the programs extend across the geographic range of the fishery. In the January 2016 DCTF interim report ([Appendix 3](#)), the DCTF broadly supported the establishment of a statewide, industry-funded lost gear recovery program. Based on the recommendations provided by the DCTF to the Joint Committee on Fisheries and Aquaculture, SB 1287 ([Appendix 3](#)) was passed and is anticipated to go into effect during the 2017-2018 fishing season. This program only pertains to the commercial fishery; a program for the recreational fishery would have to be established through a Commission-led process. Members of the fishing community generally see the program as an important first step in addressing and minimizing potential negative gear interactions including whale entanglements, ghost fishing, gear loss, navigational hazards, etc. The DCTF provided guidance to the Department on the implementation and development of the program outlined in SB1287 (see Recommendation 7 for additional details).

*Whale Entanglements:* The National Marine Fisheries Service (NMFS) has indicated the number of whales entangled in fixed fishing gear along the West Coast has increased over the last few years. The largest portion of the identifiable gear involved in these entanglements is from the West Coast Dungeness crab fishery. As a result, the Department, in collaboration with NMFS and OPC has convened a Working Group<sup>16</sup> composed of commercial fishermen (including two DCTF Members), environmental organizations, and state and federal agencies to help address this issue. Since the DCTF's October 2015 meeting, the Working Group has had two in-person meetings and numerous conference calls resulting in the development of a 2016-17 Guide for Best Fishing Practices Guide ([Appendix 14](#)) and a Recommendations and Next Steps Memo ([Appendix 15](#)). During the October 2016 DCTF meeting, the DCTF continued to express support for the Working Group's efforts (see Recommendations 8 and 9 for more details) and will continue working in cooperation with the Working Group to ensure that each body's efforts complement and inform the other's.

*Commercial Dungeness crab trap limit program:* Prior to the 2013-2014 commercial Dungeness crab season, some fishermen were concerned about the increase in the numbers of traps used each season in an effort to maximize crab landings. To help address this issue and cap fishing capacity, a commercial Dungeness crab trap limit program was implemented in the 2013-2014 commercial season pursuant to SB 369. The design of this program was based on 2010 recommendations from the DCTF. The seven-tier trap limit program allows each permit holder to fish a specified number of traps based on the permit's historical landings. During its October 2016 meeting, the DCTF, in partnership with Department Biologist Christy Juhasz and Dr. Carrie Pomeroy, California Sea Grant and non-voting DCTF Member, evaluated the trap limit program and provided feedback on the industry's experiences with the program as directed by SB 369 (see Recommendation 2 for more details). It is important to note the preliminary nature of the evaluation conducted due to the short timeframe since the implementation of the trap limit program and the highly unusual 2015-16 season due to elevated levels of domoic acid.

*Latent capacity:* The DCTF has discussed the "latent capacity" in the fishery, or the number of inactive permits in the fishery. Some believe the Dungeness crab fishery's latent capacity could threaten the economic viability of the fishery in the long-term. Currently there are approximately 102 inactive (or "latent") Dungeness crab commercial fishing permits in California, constituting approximately 18% of the fleet. Some members of the industry have questioned the future sustainability of the fishery should latent permits become active, since these permits represent unexploited fishing potential. In contrast, others believe latent permits offer new entrants a more affordable entry-point to buy into the fishery. Debate continues on whether the latent capacity of the fishery should be addressed by the DCTF, fishery managers, and others with decision-making authority. Although no formal recommendations were made on this topic, it continues to be addressed at DCTF meetings and influence recommendations on related topics (e.g. the commercial Dungeness Crab Trap Limit Program).

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<sup>16</sup> For more information about the Dungeness Crab Fishing Gear Working Group visit <http://www.opc.ca.gov/whale-entanglement-working-group/>

Members of the Dungeness crab industry continue to attempt to address these issues and others as they arise (e.g., fair start, fleet mobility). The fishery consists of a diverse group of individuals, communities, viewpoints, and opinions regarding the management goals and objectives for the California Dungeness crab fishery generally vary by production level, vessel size, and homeport location.<sup>17,18</sup> This makes it challenging at times for fishery participants to reach agreements. Nonetheless, the DCTF continues to reach agreements and forward recommendations to fisheries managers and those with decision-making authority. The DCTF looks forward to continuing this work and updating the Legislature, the Department, and the Commission on the outcomes of their discussions regarding the issues above and others as they arise.

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## DCTF PROCESS AND PROCEDURES

Together, [SB 369](#) and the [DCTF Charter](#) describe the DCTF's operating and voting procedures. The DCTF Charter was developed and ratified by the DCTF in September 2009 and amended in March 2012 and April 2014. The DCTF Charter establishes ground rules, member roles, and voting procedures for the group. In keeping with those procedures and in response to the Legislature's request for management recommendations, the DCTF Charter states that, "a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the DCTF may be transmitted ... [and] shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry." The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting on DCTF recommendations:

- **Thumbs Down:** I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
- **Thumbs Sideways:** I can accept the proposal although I do not necessarily support it.
- **Thumbs Up:** I think this proposal is the best choice of the options available to us.
- **Abstention:** At times, a pending decision may be infeasible for a Member to weigh in on.

Thumbs up and thumbs sideways are *both* counted as affirmative votes in determining whether a recommendation has the required 15-vote majority.

## DCTF VOTES AND ANALYSIS

The following recommendations were developed by the DCTF over the course of one meeting held on October 25-26, 2016. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 6](#)); however, in some cases they are not the *verbatim* language used when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some of the recommendations has been adjusted to improve clarity. The verbatim language, together with the voting record is included [Appendix 8](#) for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations, when necessary.

### Commercial Dungeness Crab Trap Limit Program

SB 369 mandated the DCTF "prioritize the review of pot limit restriction options." The ensuing recommendation is directly related to the commercial Dungeness crab trap limit program.

**Recommendation 1-** The DCTF recommends the Dungeness Crab Account, established pursuant to Fish and Game Code Section 8276.5, only be used for expenses that are specific to the Commercial Dungeness Crab Trap Limit Program and above and beyond normal administration of the commercial

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<sup>17</sup> Dewees, C.M. et al. 2004. Racing for crabs: Cost and management options evaluated in Dungeness crab fishery. California Agriculture. Vol. 58(4): 186-193.

<sup>18</sup> Pomeroy, C., et al. (2011). California's North Coast Fishing Communities: Historical Perspective and Recent Trends. California Sea Grant Technical Report T-072,. La Jolla, CA: 350p. <http://www-csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>.

Dungeness crab program. Specifically, the use of Dungeness Crab Account funds should be prioritized to:

- Support an industry-representative organization;
- Reduce fees to fishermen (as described in Fish and Game Code Section 8276.5(a)); and
- Cover the Department's costs associated with implementation of the Commercial Dungeness Crab Trap Limit Program, including LED.

The DCTF would like to be informed of all current and anticipated uses of the Dungeness Crab Account funds.

The DCTF recommends full vetting and annual reporting of the use of Dungeness Crab Account as required by Fish and Game Code Section 8276.5(a) to ensure transparency of the account's use. The DCTF recommends an annual Dungeness Crab Account budget planning conversation to be held between the Department and the DCTF to ensure use of the account align with actual and anticipated programmatic costs.

The DCTF requests a detailed accounting of the Department's Law Enforcement Division's (LED) use of the Dungeness Crab Account, including current and projected costs for additional enforcement operations as a result of the Commercial Dungeness Crab Trap Limit Program beyond regular Dungeness crab fishery enforcement activities.

The DCTF recommends the \$517,225 appropriated from the Dungeness Crab Account (Fish and Game Code Section 8276.5) as a result of AB 164 ([Appendix 16](#)) be drawn from a more appropriate funding source. Utilizing the fund to support the lawsuit referenced in AB 164 (*Marilley v. McCammon*) would violate the intended use of the Dungeness Crab Account. The lawsuit referenced in AB 164 is based on Dungeness crab vessel permit and commercial license fees—fees that are deposited to the Fish and Game Preservation Fund, not the Dungeness Crab Account. There is no direct connection between the fees referenced in the litigation and the Dungeness Crab Account. Additionally, there is no direct connection to the focus of the litigation and the Commercial Dungeness Crab Trap Limit Program, which was established years after the lawsuit was filed.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	4	0	0	2

#### NOTES:

Currently, Fish and Game Code Section 8276.2 is vague in identifying how funds in the Dungeness Crab Account should be expended. Clarifying the intent of the Dungeness Crab Account will help ensure the funds are used in a manner that reflects the priorities of the industry, including those priorities beyond the implementation of the Commercial Dungeness Crab Trap Limit Program. This guidance and specificity is also intended to help reduce potential abuses of the Account and ensure the funds are not used for other Department and state activities (e.g., retrieving lost/abandoned gear, enforcing marine protected areas, administering recreational fishing violations, unrelated litigation, etc.). The DCTF is committed to working with the Legislature, Department, and LED to review and discuss budget plans for and annual accounting of the Dungeness Crab Account in detail to ensure the Account is used in accordance with its original intent and updated priorities of the fleet. This will help industry gain a more comprehensive understanding of costs associated with implementing the Commercial Dungeness Crab Trap Limit Program separately from other Department/LED activities not directly related to the program. The DCTF looks forward to continuing to work in collaboration with the Department to develop more detailed tracking and reporting methods for the account and to further break down Dungeness crab-related costs, especially those related to enforcement efforts.



The DCTF is greatly concerned about the lack of transparency associated with the passage of AB 164 and the inappropriate appropriation of funds from the Dungeness Crab Account for this purpose. The lawsuit referenced in AB 164 (*Marilley v. McCammon*) was not related to the Dungeness Crab Trap Limit Program, which was established after the lawsuit was filed and use of the Account to pay for the litigation violates the spirit and intent of establishing the Account. The DCTF's recommendation to redirect the \$517,225 appropriated from the Dungeness Crab Account to a more appropriate funding source will ensure the intent and purpose of the account is upheld. Additionally, the DCTF's recommendations for further clarifying how funds should be allocated will help ensure this type of misappropriation of funds does not happen again.

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**Recommendation 2-** The Commercial Dungeness Crab Trap Limit Program (Fish and Game Code 8276.5) is working overall. The DCTF recommends extending the sunset date of the Commercial Dungeness Crab Trap Limit Program from 2019 through 2029.

The Commercial Dungeness Crab Trap Limit Program should not be modified at this time. The DCTF brainstormed a list of potential adjustments to Commercial Dungeness Crab Trap Limit Program (Fish and Game Code 8276.5) for the commercial Dungeness crab fishing fleet's consideration ([Appendix 8](#)). This list of ideas should continue to be discussed by the DCTF and its constituents prior to recommending any changes to the Commercial Dungeness Crab Trap Limit Program.

The DCTF recommends the periodic review and evaluation of the Commercial Dungeness Crab Trap Limit Program to be conducted by the DCTF. The DCTF will forward any future recommendations for potential adjustments to the Commercial Dungeness Crab Trap Limit Program to the Legislature, Department, and Commission.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

**NOTES:**

Pursuant to SB 369, the DCTF is charged with evaluating the commercial Dungeness crab trap limit program and providing final recommendations of any changes to the program on or before January 15, 2017. Recommendations related to the program were provided to the Legislature as part of the DCTF's January 15, 2016 interim report ([Appendix 3](#)) and previous reports. Many of these recommendations have been addressed, however, the recommendation in the January 2016 requested the state's review of the Commercial Dungeness Crab Trap Limit Program's fee structure (i.e. the need for the \$1,000 biannual permit fee) and a formal review of the Dungeness Crab Account. Aside from the recommendations related to fees and the use of the Dungeness Crab Account, during the October 2016 meeting, the DCTF agreed that no additional modifications are needed for the program at this time. The DCTF looks forward to discussing concerns and ideas identified during the meeting, such as identifying pathways to support upward mobility from lower to higher tiers while maintaining the profitability of the fishery, and potentially providing recommendations for changes to address these issues in the future.

Recognizing SB369, under which includes the Dungeness Crab Trap Limit Program sunsets in 2019, the DCTF confirms that the commercial Dungeness Crab Trap Limit Program has been effective in reaching its goals and would like to see it continue through 2029. This extended timeframe will allow the industry to continue to evaluate the success of the program and make recommendations to managers for additional changes to its implementation, as needed.

These recommendations are supported by background provided by a presentation ([Appendix 17](#)) developed by Dr. Carrie Pomeroy, California Sea Grant and non-voting DCTF Member, and the Christy Juhasz,

California Department of Fish and Wildlife. The presentation included a review and evaluation of the Commercial Dungeness Crab Trap Limit Program based on existing data collected by the Department (e.g., landings data) and interpretations provided by the DCTF and members of the public.

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### **Continuation of the DCTF**

SB369 mandates that the DCTF will discuss the need for a permanent advisory committee. The recommendations below reflect the outcomes of this initial discussion about this topic.

**Recommendation 3-** The DCTF requests that bridge funding be granted by The Nature Conservancy with matching funds by industry (e.g. port associations and processors) to support the immediate funding needs for the DCTF to function beyond January 2017 until the DCTF identifies short- and longer-term funding sources to support an industry-representative organization.

The DCTF recommends the Department and the Ocean Protection Council pursue options to allocate funding from the Dungeness Crab Account (Fish and Game Code 8276.5) in the short-term (i.e., through 2019).

The DCTF may also investigate legislative options to pursue long-term funding through access to the Dungeness Crab Account to support the DCTF or an industry-representative organization beyond 2019.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
15	4	0	1	2

### **NOTES:**

Following submission of this report, OPC will no longer provide funding to support the DCTF. Since SB369 sunsets in 2019, the DCTF will need additional funding to support its efforts until 2019 (and potentially beyond).

At the October 2015 DCTF meeting, CDFW indicated approximately there was of surplus of approximately \$1.4M in the Dungeness Crab Account.<sup>19 20</sup> Over the past year the DCTF has considered and generally agreed that the surplus is appropriate for use to support the DCTF's continued efforts (see Recommendation 1) since the Account was based on a DCTF recommendation. However, as outlined by SB 369, the revenue generated by the Dungeness Crab Account is solely intended to be used to implement the Commercial Dungeness Crab Trap Limit Program. Any uses of the Account beyond that purpose, would need to be authorized by the Legislature. Recognizing that the DCTF has identified priorities for the use of the Dungeness Crab Account (see Recommendation 1) and there is an immediate need for funding to support the administration of the DCTF, the DCTF would like the Legislature and the Department to consider authorizing the use of the Dungeness Crab Account to support the DCTF. The DCTF Administrative Team will work with the Department, OPC, and the Legislature to explore options (legislative and non-legislative) to allocate funding from the Dungeness Crab Account to support the DCTF through 2019. Use of the Account may also include supporting the DCTF or another industry-representative organization beyond

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<sup>19</sup> California Department of Fish and Wildlife. 2015. *Updates Summary of Fishery Landings 2014-15 Season & Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLTP)*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. [http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/meeting-5/CDFWData\\_DCTF%20Meeting\\_Oct262015-2.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf)

<sup>20</sup> This amount may no longer be available based on updated 2016 accounting, see Recommendation 1 for more information.

2019. Since this process will take a few months, the DCTF also identified a need to secure funding to serve as a bridge between when OPC funding ceases and Dungeness Crab Account Funds become available.

The DCTF has identified a need to continue discussions through 2017 to refine or update its organizational structure and function (e.g., make-up of the body, voting structure), identify associated short- and longer-term administrative costs, hold new elections, etc. (see Recommendation 5). Bridge funding will be needed to support those discussions until a long-term funding source can be secured. During the October 2016 DCTF meeting, Tom Dempsey, Senior Fisheries Project Director at The Nature Conservancy, recognized the critical role the DCTF plays in informing fisheries managers and offered to provide interim funding to support the immediate needs of the DCTF. Funds will be supplemented by voluntary donations from industry.

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**Recommendation 4-** The DCTF identified the following priorities of a future industry-representative organization:

- Inform fisheries management;
- Be responsive to high profile and policy issues;
- Serve as a conduit of information to/from the fleet to the Legislature, Department, and Commission;
- Identify industry research priorities; and
- Serve as a source for public relations efforts related to industry issues.

At this time, the DCTF is not interested in a future industry-representative organization addressing commodity marketing or pricing as part of its charge.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

**NOTES:**

SB 369 identifies the function and charge of the DCTF, including the composition of the body, its voting structure, and its role in reviewing and evaluating Dungeness crab management measures including the Commercial Dungeness Crab Trap Limit Program. In addition to this charge, the DCTF's primary role was to evaluate the Commercial Dungeness Crab Trap Limit Program. However, since the adoption of SB 369 the DCTF has played key roles beyond its initial charge, including informing the management of the fishery in a timely fashion by responding to pressing issues, and acting as a conduit of information to/from the fleet. Looking beyond January 2017, the DCTF is interested in building on the successes and lessons learned from the past eight years while playing a larger role than that which they were originally envisioned. This will have the DCTF serving in a role to identify industry research priorities and to continue serving as a source for public relations efforts related to industry issues. The DCTF hopes to fill this role through 2019 and would like to see the DCTF, or a new industry-representative body, maintain this role beyond 2019.

There continues to be discussion about the DCTF or a future industry-representative body address the industry's marketing needs within the Joint Committee on Fisheries and Aquaculture and by a few fishing families and organizations. However, the DCTF does not see value in the creation of a marketing commission or in the DCTF or a future industry-representative organization being engaged in price-negotiations or traditional marketing as part of its charge.

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**Recommendation 5-** The DCTF continues to see value in the DCTF or a similar industry-representative body. The DCTF continues to discuss updates/adjustments to the operating structure of the current DCTF (including, but not limited to, the DCTF's composition, process for appointing

alternates, process for replacing members, etc.) and a future foundational structure outside SB 369 (beyond 2019). The DCTF supports the continued use of a 2/3 voting structure.

DCTF Members will take proposed structure options back to their constituents for further discussion. A final decision on this structure will be made on or before November 15, 2017.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

NOTES:

The current membership of the DCTF as outlined in Fish and Game Code Section 8276.4 (a) was intended to be reflective of the composition the commercial fleet including the number of active permit holders and level of production at each port in 2008. Since the DCTF was originally established, fleet dynamics have changed such that there have been increased landings in the Southern Management Area in recent years rather than in the Northern Management Area, as experienced historically. As a result, various DCTF Members and members of the public have expressed interest in revisiting the composition of the DCTF to ensure this industry-representative body is reflective of the current makeup of the fleet. While additional discussion is needed by the DCTF, there was general agreement for including processors, sport and Commercial Passenger Fishing Vessel representatives, advisors/nonvoting seats for California Sea Grant scientists, the Department, the Legislature, and nongovernmental organizations. However, the distribution of commercial fishing seats, replacement of DCTF Members, the process for selection of alternates, etc. are still areas of contention requiring further discussion before a formal recommendation can be made. As noted in Recommendation 3, the DCTF intends to utilize the bridge funding provided by The Nature Conservancy and industry to finalize recommendations related to its organizational structure and function (e.g., make-up of the body, voting structure) with input and guidance from their constituents.

The DCTF supports maintaining the 2/3 voting structure to ensure DCTF recommendations represent the majority of the body and not the views of a single management area.

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**Recommendation 6-** The DCTF supports new elections of commercial fishing representatives as soon as feasible (i.e., funding dependent). The DCTF recommends an election every 3 years among permit holders to ensure fresh perspectives are added to the organization, while also maintaining institutional knowledge. Alternates would be requested to attend all DCTF meetings. The details of how elections will be carried out will be determined at a later date.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
14	6	0	0	2

NOTES:

The current DCTF is comprised of members who were originally elected in 2008. Over the years, various members have stepped down from the DCTF for a variety of personal and professional reasons. Without funding available to conduct elections coordinated by a 3<sup>rd</sup> party neutral, those seats were filled by alternates selected by the outgoing DCTF Members as indicated in the DCTF charter ([Appendix 6](#)). The DCTF sees value in holding regular elections to better account for attrition in membership and also allow new representatives and fresh perspectives to be involved in the DCTF. The DCTF recommends 3-year election cycle to provide enough time to support relationship building among Members while also maintaining the

institutional knowledge needed to keep the body moving forward. As funding becomes available, an election in the near-term will be prioritized. The process for how the election will be carried out (e.g. by port associations or a single, neutral 3<sup>rd</sup>-party) will be determined in upcoming DCTF discussions.

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### **Lost Fishing Gear Recovery Program**

The ensuing recommendation is a follow up to Recommendation 6 in the January 2015 report ([Appendix 2](#)).

**Recommendation 7-** The DCTF developed an initial list of considerations to inform the Department's development of a program to implement the lost fishing gear recovery program outlined in SB 1287. As part of a brainstorm the DCTF identified a number of priority areas that the program should:

- be scalable to be responsive to regional needs and the type(s) of gear pulled;
- involve entities in addition to the Department of Fish and Wildlife (e.g., port associations) to help implement the program, reduce costs, and improve efficiency, including developing electronic ways to monitor traps collected and designing a centralized database for tracking gear; and
- consider a provision to account for catastrophic loss and hardship on an individual or case-by-case basis.

The DCTF recommends gear recovery fees charged to the permit holder should not exceed the market value price of a complete new crab trap (i.e., including lines and buoys). The DCTF recommends a working group comprised of industry representatives be identified to be available to work with the Department to continue to develop the details of the program.

The Department has agreed to present and provide a program outline for the industry's review that will be shared with an industry-representative body (if it exists) and/or via port associations, the current DCTF public email list, Pacific Coast Federation of Fishermen's Associations (PCFFA), social media, etc. prior to implementation of the program.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
15	5	0	0	2

#### **NOTES:**

Lost and abandoned fishing gear has been identified as a problem by the DCTF and the Dungeness crab industry. This gear poses a navigational hazard and can entangle actively fished gear resulting in more lost gear. Additionally, in light of recent concerns surrounding whale entanglements in Dungeness crab fishing gear, the DCTF views a lost fishing gear recovery program as an important step in helping to reduce whale entanglements.

[Recommendation 6 in the DCTF's January 15, 2015](#) report and Recommendation 3 in the DCTF's January 2016 interim report ([Appendix 3](#)) led to the development of the recently passed Senate Bill 1287 ([Appendix 12](#)) which outlines a statewide lost fishing gear recovery program. This program will focus on the commercial fishery and will benefit from collaborative efforts between the Department and the fleet, including port associations, to be successful. Since the bill lacks specificity on the details of the program, the DCTF identified a number of initial recommendations for the Department's consideration as it begins to design the program. Tailoring the program for local port area needs, utilizing outside entities can help ensure the program is cost-effective, and focusing the punitive measures on the repeat and/or blatant violators (e.g., those who leave large strings of gear in the water after the season) should be the Department's focus of the program's design. Additionally, although the Department will set the fees associated with the program, the DCTF believes it would be unreasonable to require fishermen to pay more than the cost of a new trap for the



recovered gear. Fees should be reasonable and not exceed the fair market value of a new trap including buoys and lines.

The DCTF looks forward to continuing to work with the Department to refine and fine-tune the program over the coming months, including reviewing a draft program outline from the Department in advance of the program's implementation.

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### **Whale Entanglement in Dungeness Crab Gear Concerns**

Recently, whale entanglements in Dungeness crab fishing gear has been brought to the attention of the fishing community and environmental groups as a high priority issue. The ensuing recommendation is directly related to the whale-fishing gear interactions.

**Recommendation 8-** The DCTF supports the recommendations and next steps outlined in the [California Dungeness Crab Fishing Gear Working Group's October 24, 2016 memo](#).

The DCTF also supports the [2016-2017 Best Fishing Practices Guide](#) developed by the California Dungeness Crab Fishing Gear Working Group as a first step towards addressing the risk of whale entanglements in Dungeness crab fishing gear.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

### **NOTES:**

In September 2016, the Dungeness Crab Gear Working Group developed a series of recommendations and next steps ([Appendix 13](#)), including the development of a 2016-17 Best Fishing Practices Guide ([Appendix 14](#)). The DCTF supports these products and the Working Group's ongoing efforts as important first steps towards reducing the risk of whale entanglements in Dungeness Crab fishing gear. The DCTF looks forward to continuing to review other Working Group products and ensuring a collaborative working relationship between the two organizations.

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**Recommendation 9-** The DCTF supports the Department printing the buoy tags (associated with the Dungeness crab trap limit program tags) on both sides for one (1) trap tag cycle. The California Dungeness Crab Fishing Gear Working Group has discussed printing both sides of the Department-issued buoy tag as a strategy that may improve identification of the type of gear on entangled whales. The DCTF is interested in understanding whether this step is effective in helping the National Marine Fisheries Service and others gather better information on whale entanglements before the fleet takes additional steps to invest in this option for the long-term.

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

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
9	10	1	0	2

NOTES:

The DCTF is committed to supporting the efforts of the Dungeness Crab Fishing Gear Working Group, including ways to improve reporting and identify the source of the entanglement. The Working Group is exploring the idea of printing both sides of the CDFW-issued trap tags. Printing both sides of the Department issued buoy tags would cost an additional \$70,000 every two-years, using funds from the Dungeness Crab Account and would not result in additional fees to fishermen since the fee of \$5/tag is established in statute (Fish and Game Code 8276.5(a)). The DCTF sees value in allocating Dungeness Crab Account funds to print double-sided tags for the 2017-18 fishing season. DCTF Members would like to see an evaluation developed by the Working Group following the 2017-18 fishing season to determine if the printing of tags on both sides has helped to improve reporting and/or reduced the risk of whale entanglements. It will be at that time that the DCTF will consider continuing to fund this effort and/or other funding needs the Working Group may have.