



MEMORANDUM

TO: Dungeness Crab Task Force

FROM: Ocean Protection Council Staff

DATE: July 16, 2009

RE: OPC Authority to Create the Dungeness Crab Task Force

Senate Bill 1690 (which added Section 8276.4 of the California Fish and Game Code) requires the establishment of a Dungeness crab task force (DCTF) to review and evaluate Dungeness crab management measures and make management recommendations. The bill directs the Ocean Protection Council (OPC) to make a grant to develop and administer the DCTF.

The bill also specifies the membership of the task force but is not explicit as to the process for seating specific individuals to the task force. As the only state agency named in the bill, OPC staff reasonably interpreted the bill as authorizing OPC to create and administer the task force, consistent with the bill and pursuant to OPC's existing authority under the California Ocean Protection Act (COPA, Division 26.5 of the Public Resources Code ("PRC")).

Under COPA, the OPC has independent, discretionary authority to convene such a task force. PRC §35615 identifies duties and activities of the council. This includes coordinating activities of state agencies related to the protection and conservation of coastal waters and ocean ecosystems, establishing policies to coordinate the collection of scientific data related to the ocean, transmitting the results of research and investigations to state agencies to provide information for policy decisions, and recommending to the legislature changes in law or identifying changes in federal law. Convening a Dungeness crab task force is consistent with these COPA objectives in that the task force will make fishery management recommendations to the Legislature and other state agencies.

Drawing on this authority, the OPC proceeded with an election for the commercial fishing representatives as defined in the bill. Please see the Frequently Asked Question document related to the election for more details. Because the bill is explicit that commercial fishing representatives be elected, but did not include this stipulation for the other members, it is clear that it was neither expected nor required that an election be held for the non-commercial representatives.

The OPC requested that Sea Grant and the Department of Fish and Game choose their representative to the task force.

The appointment of the remaining representatives was made by the OPC during a public meeting on March 17, 2009. These representatives were selected through an open public nomination

process. In December 2008, OPC staff sent out a public request for nominations for the nongovernmental organization (NGO), sport fishing, processing, and commercial passenger fishing vessel (CPFV) representatives. Nominees were ranked based on: experience and knowledge of the Dungeness crab industry, time availability, support from industry, geographical balance, diversity of views and opinions, the ability and willingness to represent others within their category, and their willingness and ability to work in a group dynamic. After all nominations were reviewed, staff interviewed the top several candidates in each category and provided recommendations to the council members at the public meeting. At the March 17 meeting, the council considered all the public comment, the written comments, and the recommendations of staff, and unanimously decided to approve the representatives recommended by staff.