

Proposed Whale Entanglement Process Design
For Consideration by the California Dungeness Crab Task Force Executive Committee,
National Marine Fisheries Service, and California Department of Fish and Wildlife

Drafted May 15, 2015 by the DCTF Admin Team

In April 2015, the California Dungeness Crab Task Force (DCTF) was informed of recent increases in large whale entanglements, as reported by the National Marine Fisheries Service (NMFS). The DCTF is committed to working in partnership with NMFS, California Department of Fish and Wildlife (CDFW), and others to explore this issue in greater detail.

The following proposed process design was developed by the DCTF Administrative Team to support constructive and collaborative dialogue, and to ensure the Dungeness crab industry is involved at each stage of the discussion. This draft document will be circulated to the DCTF Executive Committee (EC)¹ for review and consideration during its May 2015 conference call, and it will be further updated and refined with any input received. Guidance from NMFS and CDFW will also be solicited to ensure the proposed approach also considers their respective capacities and support for the approach.

Proposed Process Goals

- Create opportunities for members of the Dungeness crab industry to be actively involved in all stages of discussions to understand, explore, and address increased whale entanglements on the West Coast.
- Utilize the DCTF as an open, transparent, and inclusive forum to support creative brainstorming and the generation of mutually agreeable ideas and options from the industry as appropriate, and as DCTF resources are available.
- Establish direct lines of communication between NMFS and the Dungeness crab industry, together with CDFW, to support relationship building and the exchange of information/knowledge.

Proposed Intended Outcomes

- Deeper understanding of the best ways to engage with and encourage participation of the Dungeness crab industry in addressing whale entanglements on the West Coast.
- Clear understanding how input from the Dungeness crab industry will help inform and support NMFS and CDFW approach to address whale entanglements.
- A multi-interest working group that will brainstorm and generate broadly supported ideas in a collaborative, inclusive, transparent, and realistic process.
- Improved knowledge and understanding of how NMFS manages the whale entanglement issue under the Marine Mammal Protection Act (MMPA) (e.g., List of Fisheries classifications), how the Endangered Species Act (ESA) relates to this issue, and the general state of science and NMFS efforts to date related to whale entanglements.

¹The EC is a subcommittee of the DCTF and acts as an advisory body between scheduled DCTF meetings. The EC cannot make decisions on behalf of the DCTF and all discussion topics and ideas generated by the EC must be reported back to the DCTF.

- Establish and strengthen relationships and promote the exchange of information and ideas between the Dungeness crab fishery, NMFS, CDFW, and other interested organizations.

Proposed Approach

If not stated explicitly, it is the intention that the proposed approach will involve the DCTF, NMFS, and CDFW working collaboratively at each step/stage.

EC Conference Calls and DCTF Leads

- May 2015: A conference call on May 19, 2015 to review and refine proposed process design, and identify two (2) DCTF leads to act as primary contacts to help support conversations with NMFS and CDFW between EC conference calls and DCTF meetings.
 - All discussions that involve the DCTF leads will be reported back to the full DCTF via the DCTF Admin Team and direct reporting during DCTF/EC meetings.
- *OPTION*: Utilize anticipated conference calls in July and September to provide progress updates to the EC and interested members of the public, revisit timelines and objectives, etc. This topic will have to be balanced with the EC's need to address other topics as prioritized by the DCTF.

Meetings with Port Associations and Cups of Tea

- Aug/Sept 2015: NMFS accompany the DCTF Admin Team on a "tour" to attend select port association meetings to share information about the MMPA and ESA and how they relate to the Dungeness crab fishery and gain the broader fleet's insights on whale entanglements and other issues. This effort may be complimented by more informal, one-on-one "cups of tea" as time and resources allow.

Workshop

- *OPTION*: Convene a workshop(s) consisting of Dungeness crab fishermen and industry members, NMFS and CDFW staff, ENGO staff (Oceana, Center for Biological Diversity, Earthjustice, etc.), and researchers (as needed) to initiate brainstorming and idea generating. Workshop outcomes can be used to inform DCTF deliberations and potential recommendations from other fisheries. This workshop(s) would not be subject to Bagley Keene constraints. This group will likely need to be independent of the DCTF since it may involve other fisheries. [Note: Unclear who will convene this working group, requires additional discussion with OPC, EC, NMFS, and CDFW.](#)

Collaborate with Oregon and Washington

- *OPTION*: Coordinate with Oregon and Washington to learn about ideas being generated in other states and to build on/support efforts to ensure consistency and continuity. [Note: Unclear who should take the lead on this step, requires additional discussion with OPC, EC, NMFS, and CDFW.](#)

DCTF Meetings

- The DCTF offers a public forum to share information, report out on ideas generated by a working group, and learn from members of the Dungeness crab industry. The DCTF is

charged with making recommendations related to the Dungeness crab fishery to the California legislature and CDFW that are reflective of the priorities and interests of the greater Dungeness crab fishing industry. In addition, DCTF members can act as liaisons with their constituents to help share information about the process and opportunities to participate through the DCTF.

- *OPTION:* Convene a DCTF meeting in late October 2015 to discuss the topic of whale entanglements including discussions and/or proposals developed by the EC and others. As appropriate, the DCTF could potentially provide recommendations for initial voluntary measures and/or as part of the DCTF's legislatively mandated report in January 2017.

Additional Outreach

- NMFS will be pursuing information sharing and discussions with industry and CDFW regarding other CA fixed-gear fisheries to explore ideas, which can be shared back with the Dungeness crab industry.
- As needed, provide updates to decisions makers via existing meetings, such as the Annual Fisheries Forum and the California Fish and Game Commission Marine Resources Committee.
- Share details about all gatherings/conversations/presentations in an inclusive and transparent fashion. Utilize the DCTF listserv and other communications tools to ensure Dungeness crab industry is well informed.

Key Considerations

- *Ensuring Inclusive Engagement:* The process will benefit by having fishermen be involved at each stage of the discussion related to whale entanglements. Additionally, it will be important to take measures to inform and involve the broader Dungeness crab industry beyond the DCTF.
- *Limited DCTF Meetings:* The DCTF has funding available for two (2) in-person meetings through January 2017 and a handful of EC meetings. Currently, the primary discussion topics identified for those meetings do not include the topic of whale entanglements.
- *Legislative Timeline:* The legislative session begins in January of each year. To make regulatory changes to the commercial Dungeness crab fishery to address this issue it will take 2 years for a regular session bill and 1 year for an urgency bill to take affect.
- *Opportunities and Limitations of Bagley Keene:* The DCTF and EC are required to abide by the Bagley Keene Open Meetings Act. The Act requires legislatively appointed bodies to engage in a transparent and inclusive exchange of ideas that considers the general public. The Act (i.e. public meetings) may pose barriers to individuals involved in such bodies to openly brainstorm and generate initial ideas for fear of how information may be perceived and/or used in a destructive manner (see "Confidentiality" below).
- *Confidentiality:* Any engagement approach must consider fishermen's need to have one on one, confidential conversations with NFMS, CDFW, and/or other industry members. This will help build trust between these groups and create a "safe" space to have an open, honest conversation.

- *CDFW enforcement:* CDFW Enforcement will need to be involved in most discussions to ensure ideas that are generated are enforceable and do not conflict with current regulations.
- *Academics/Scientific Community:* It may be valuable, informative, and important to involve scientific expertise as part of the information gathering process.
- *Ability to experiment:* Parties (especially NMFS) may be interested in development of proposals that could lead to experimental efforts to test or validate ideas regarding minimizing entanglement threat and/or facilitating overall management of the issue. Coordination among state/federal partners may be required to successfully conduct and/or permit research.
- *Role of ENGOs:* A number of ENGOs have announced a desire to work with the Dungeness crab fishery on this issue. Although it is unclear what role these organizations will play in these discussions, it will be important to consider opportunities to support collaboration when refining this proposed process approach.

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